

Town of Middleburgh
Subdivision Regulations

Adopted by Town Board – August 30, 1988
As Amended December 20, 2007

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Article 1

Declaration of Policy

By the authority of the resolution of the Town Board of the Town of Middleburgh, adopted on August 30, 1988, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Middleburgh is authorized and empowered to approve the plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to approve preliminary Plats, within the Town of Middleburgh.

In order that land subdivisions may be made in accordance with this policy, these regulations which shall be known as, and which may be cited as the "Town of Middleburgh Subdivision Regulations" have been adopted by the Planning Board on August 8, 1988 and approved by the Town Board on August 30, 1988.

It is declared to be the policy of the Planning Board to consider land Subdivisions Plats as part of the plan for the orderly efficient and economical development of the Town. This policy requires, but, is not limited to, meeting the following general standards:

1. 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. That proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
3. 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.
4. That the proposed streets shall compose a convenient system conforming to the Official Map, if such exists and shall be properly related to the proposals shown on the Master Plan, 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 the fire fighting equipment to buildings.
5. That proper provision shall be made for open spaces for parks and playgrounds.

Article II

Definitions

For the purposes of these regulations, certain words and terms used herein are defined as follows:

CLERK – A person designated to perform the duties of clerk of the Planning Board for the purposes of these regulations.

EASEMENT – An authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

ENGINEER or LICENSED PROFESSIONAL ENGINEER – A person licensed as a professional engineer by the State of New York.

LAND USE PLAN or MASTER PLAN – The 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 included any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

OFFICIAL MAP – A 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.

PLANNING BOARD or BOARD – The Planning Board of the Town of Middleburgh.

SKETCH PLAN – Sketch of a proposed subdivision showing the information specified in Article III, Section A of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form and layout and objectives of these regulations.

PRELIMINARY PLAT – A drawing of drawings clearly marked “preliminary plat” showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

STREET – A public or private way which affords the principal vehicular access to abutting property. Public streets are streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

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.

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

STREET-MINOR – A street intended to serve primarily as an access to abutting properties.

STREET-DEAD-END or **CUL-DE-SAC** – A street or a portion of a street with only one vehicular traffic outlet.

STREET-PAVEMENT – The wearing or exposed surface of the roadway used by vehicular traffic.

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

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

SUBDIVISION – The division of any parcel of land into two (2) or more lots, blocks or sites with or without streets or highways. Such divisions shall include resubdivision of parcels of land for which and approved plats has already been filed in the office of the County Clerk and which is entirely or partially undeveloped.

SUBDIVISION-MINOR – Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not in conflict with any provision of portion of the Land Development Plan, Official Map, or Zoning Ordinance if such exists, or these regulations.

SUBDIVISION-MAJOR – Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots.

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 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 the County Clerk or Register.

SURVEYOR – A person licensed as a land surveyor by the State of New York.

TOWN ENGINEER – The duly designed engineer of the Town.

Article III

Procedure in Filing Subdivision Applications

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

Section A: Sketch Plan

1. 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 one hundred (100) feet to the inch) to enable tract to be shown on one sheet. The Sketch Plan shall be submitted, showing the following information:

- (a) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
- (b) Within the portion to be subdivided and within two hundred (200) feet thereof all existing structures, wooded areas, streams and other significant physical features.
- (c) The name of all adjoining property owners.
- (d) The kind of development proposed (such as residential, commercial etc.).
- (e) All the utilities available, and all streets which are either proposed, mapped or built.
- (f) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply (see Article VI) within the subdivided area.
- (g) All existing restrictions on the use of land including easements, covenants, or zoning lines.
- (h) The date, north arrow, map scale, name and address of recorded owner and subdivider.

Section B:

1. Submission of Sketch Plan

Any owner of land shall, prior to subdividing land, submit to the Secretary or Chairman of the Planning board at least ten (10) days prior to the regular meeting of the board, ten (10) copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of Article III, Section A, for the purposes of classification and preliminary discussion.

2. Discussion of Requirements and Classification

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects as well as the availability of existing services and other pertinent information.

Classification of the Sketch Plan is to be made at this time by the Planning Board as to whether it is Minor Subdivision or a Major Subdivision. If the Sketch Plan is classified as a Minor Subdivision, the Subdivider shall the comply with the procedure outlined in Article IV, Check List, then Article V, Minor Subdivision of these Regulations. If it is classified as a Major Subdivision, the Subdivider shall then comply with the procedures as outlined in Article IV and in Article VI.

3. Sketch Plan Review and Recommendations

The Planning Board, in studying the Sketch Plan, shall take into consideration the requirements of these Regulations and the best use of the land being subdivided. Particular attention will be give to the arrangement, location and width of roads, their relationship to topography of the land, sewage disposal, drainage, lot sizes and arrangements, the further development of adjoining land, as yet unsubdivided, and the goals and objectives of the Town Land Use Plan as it may exist

The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site. If the site falls into areas on the soils map denoted as having "severe" or "very severe" limitations, within flood hazard areas, or areas of steep slope, or areas of unique hydrologic or natural habitat areas (including wetlands), the Planning Board may require the applicant to consult with appropriate technical review or assistance agencies (such as, but not limited to the Soil Conservation Service, Department or Environmental Conservation, Army Corps of Engineers, and State Health Department) to determine appropriate measures to mitigate or eliminate any problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or the Applicant. The Planning Board may require that design techniques, such as clustering, be used to avoid development in these critical areas and shall not approve a preliminary or final plat which has failed to adequately address these critical resource concerns (soils,

flood hazards, steep slopes, hydrologic and natural habitat resources). The Planning Board may transmit copies of the Sketch Plan to other interested officials or agencies of government for review and comment as may be necessary. Written comments, if any, from these officials and agencies shall be required within thirty (30) days of their receipt of Sketch Plan. After reviewing the Sketch Plan and reports, as may be submitted, the Planning Board shall determine whether the Sketch Plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the next submission to the Planning Board. Such recommendations shall be made within forty-five (45) days from the time the Sketch Plan was initially reviewed by the Planning Board.

The applicant shall be responsible for any fee or specialized consultant services deemed necessary by the Town Planning Board in order to properly process the application. The applicant shall be notified by certified mail, return receipt, prior to retaining any specialized services.

Article IV

Check List for Minor and Major Subdivisions

1. Discuss plans with Chairman and Planning Board (bring sketch).
2. Make recommended changes to sketch.
3. Within six (6) months, complete the following:
 - a. Have property surveyed by a Licensed Land surveyor. Minor Subdivision surveys may be waived, at the discretion of the Planning Board.
 - b. Submit application for the Preliminary Plat approval.
 - c. Submit Preliminary Plat (Instructions Article Number V or VI)
 - d. Submit appropriate fees.
 - e. Submit owner certification
 - f. Submit certification of no unpaid taxes (County Treasurer)
 - g. Submit copy of covenants and deed restrictions (Right of ways, etc)
4. Sanitation and water meet current sanitation and water laws (Town, County, and State).
5. Show Subdivision Name and Plat and application.
6. Attend public hearing.
7. Planning Board shall approve, conditionally approve or disapproved.
8. Submit final plat and application for final plat approval
9. If approved or conditionally approved:
 - a. Post completion bond or certified check in amount determined by the Planning Board (payable to: Town of Middleburgh)
 - b. Complete requirements
10. Building inspector O.K.'s completion if required.
11. Planning Board approves final plat.
12. Final Plat is filed with County Clerk.
13. Bond is refunded by Town when work is completed.

Article V

Minor Subdivision Plat

Section A: Application and Fee

Within six (6) months after classification of the Sketch Plan as a Minor Subdivision by the Planning Board, the subdivider shall submit an application for approval of a Subdivision Plat. The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.

All applications for Plat approval for Minor Subdivisions shall be accompanied by a non refundable fee (The amount is to be established by the Town Board.)

Section B: Submission Requirements for a Plat for Minor Subdivision

1. One (1) original of the minor plat prepared at a scale of not more than one hundred (100) feet to the inch. The plat application shall include the following information”
 - a. A certificate by the owner stating: “As owner I hereby certify that I have caused the land described on this plat to be surveyed, divided, mapped, dedicated and access rights reserved as represented on the plat.” This certificate shall be executed as a conveyance is executed.
 - b. A certificate issued by the authorized town and county officials to the effect that there are no unpaid taxes and special assessments have been paid on all property dedicated to public use.
 - c. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
 - d. And 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 and each lot shall also be located on the ground and marked by an iron rod, concrete post of other suitable permanent marker.
 - e. All on-site sanitation and water supply facilities shall be designed to meet the minimum of the current Sanitation Laws and a note to this effect shall be stated on the plat and signed by a duly appointed agent of the Town.
 - f. Proposed subdivision name, name of the Town and County in which it is located.
 - g. The date, north point, map scale, name and address of recorded owner and subdivider.
 - h. The Plat to be filed with the County Clerk shall be printed upon mylar or an acceptable equal or be clearly drawn in India ink upon tracing cloth. The size of the sheet shall be no larger than twenty-two (22) inches by thirty-five (35) inches.

- i. The width and location of any streets of public ways or places shown on the Official Map or the Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and streets profiles of all streets or public ways proposed by the developer.

Section C: Procedure

1. **Number of Copies**
Ten (10) copies of the original Subdivision Plat shall be presented to the Clerk or Chairman of the Planning Board at the time of submission of the Subdivision Plat.
2. **Subdivider to Attend Planning Board Meeting**
The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Subdivision Plat.
3. **When Officially Submitted**
The time of submission of the Subdivision Plat shall be considered to be the date on which the application for Plat approval, complete and accompanied by the required fee and all data required by Article V of these regulations, has been filed with the Clerk or Chairman of the Planning Board.
4. **Public Hearing**
A public hearing shall be held by the Planning Board within sixty (60) days from the time of submission of the subdivision plat for approval. Said hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing. The applicant shall notify by Certified Mail, at least five (5) days prior to the public hearing, the owners of property abutting the proposed subdivision and directly across from any adjoining road and shall furnish the Planning Board with post office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.
5. **Action on a Subdivision Plat**
The Planning Board shall, within forty-five (45) days from the date of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove or grant final approval and authorize the signing of the subdivision plat. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within such time shall constitute approval of the plat.

Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, and a copy filed in his office,

and a certified copy mailed to the subdivided. The copy mailed to the subdivider shall include an authorized statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a plat shall expire one hundred and eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two (2) additional periods of ninety (90) days each.

Article VI

Major Subdivision Plat

Section A: Preliminary Plat for Major Subdivision

1. Application and Fee

Prior to the filing of an application for the approval of a Major Subdivision Plat, the subdivider shall file an application for the approval of a Preliminary Plat of the proposed subdivision. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall be in the form described in Article VI, Section C hereof. The Preliminary Plat shall, in all respects, comply with the requirements set forth in the provisions of sections 276 and 277 of the Town Law, and Article VI, Section C of these regulations, except where a waiver may be specifically authorized by the Planning Board. A non-refundable fee is to be established by Town Board, and submitted to the Clerk of Planning Board with Preliminary Plat.

2. Number of Copies

Ten (10) copies of the Preliminary Plat shall be presented to the Clerk or Chairman of the Planning Board at the time of submission of the Preliminary Plat.

3. Subdivider to Attend Planning Board Meeting

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

4. Study of Preliminary Plat

The Planning Board shall study the practicability of the Preliminary Plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relations to the topography of the land, water supply, sewerage disposal, drainage, lot sizes and arrangement, the future development of the adjoining lands as yet unsubdivided, and the requirements of the Master Plan, the Official Map, and Zoning Regulations, if such exist. The Planning Board shall schedule a field trip to the proposed subdivision site accompanied by the applicant or his agent. In order to facilitate field inspection and review of the site, temporary staking along the centerline of all proposed roads at fifty-foot (50') intervals on curves and at one hundred-foot (100') intervals on tangents and proposed front lot corners is required.

5. When Officially Submitted

The time of submission of a Preliminary Plat shall be considered to be the date on which the application for approval of the Preliminary Plat, complete and accompanied by the required fee and all data required by Article VI, of these regulations, has been filed with the Clerk or Chairman of the Planning Board.

6. Approval of the Preliminary Plat

Within sixty (60) days after the receipt of such Preliminary Plat by the Clerk or Chairman of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such 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 applicant shall notify by Certified Mail, at least five (5) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with post office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

Within forty-five (45) days after the date of such hearing, the Planning Board shall approve with or without modification or disprove such Preliminary Plat, and the reason for a modification, if any, or the reason for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat, may be extended by mutual consent of the subdivider and the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form. Within five (5) days of approval of such Preliminary Plat, it shall be certified by the clerk of the Planning Board as granted preliminary approval and a copy filed in their office, a certified copy mailed to the owner, and a copy forwarded to the Town Board. Failure of the Planning Board to act within such forty-five (45) day period shall constitute approval of the Preliminary Plat.

When granting approval to a Preliminary Plat, the Planning Board shall state the terms of such approval, if any, with respect to (1) the modifications to the Preliminary Plat, (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare, (3) the amount of improvement or the amount of all bonus therefore which it will require as prerequisite to the approval of the Subdivision Plat. Approval of a Preliminary Plat shall not constitute approval of the subdivision plat, but rather it shall be deemed and expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Plat, which will be submitted for approval of the Planning Board and for recording

upon fulfillment of the requirements of these regulations. Prior to approval of the Subdivision 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 at the public hearing.

Section B: Major Subdivision Preliminary Plat and Accompanying Data

The following documents shall be submitted for approval:

1. Ten (10) copies of the Major Preliminary Plat prepared at a scale of not more than one hundred (100) but preferably less than (50) feet to the inch, showing:
 - a. 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.
 - b. The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
 - c. Zoning District, including exact boundary lines of district, if more than one district and any proposed changes in the zoning ordinance text applicable to the area to be subdivided
 - d. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
 - e. Location of existing property lines, easements, building, water courses, marshes, rock outcrops, wooded areas and other significant existing features for the proposed subdivision and adjacent property.
 - f. Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes and grades and direction of flow
 - g. Contours with intervals of twenty (20) feet or less as required by the board including elevations of existing roads. Approximate grading plan if natural contours are to be changed more than two (2) feet.
 - h. The width and location of any streets or public ways or places shown on the Official Map or the 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 developer.
 - i. The appropriate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes. Connections to existing lines or alternate means of water supply or sewerage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.
 - j. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connections to existing lines or alternate means of disposal.

- k. Plans and cross-sections showing the proposed location and type of 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 and basins and underground conduits.
 - l. Preliminary designs of any bridges or culverts which may be required.
 - m. The proposed lot lines with approximate dimensions and area of each lot.
 - n. Where 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 twenty (20') feet in width and which shall provide satisfactory access to an existing public highway or other public high way or public open space shown on the subdivision or the official map.
 - o. And 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 Planning Board and shall be referenced and shown on the Plat.
2. 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 three hundred (300') 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 holding submitted shall be considered in the light of the entire holdings
3. A certificate issued by the owner stating: "As owner, I hereby certify that I have caused the land described on this plat to be surveyed, divided, mapped, dedicated and access of rights reserved as represented on the plat." This certificate shall be executed as a conveyance is executed.
4. A certificate issued by the authorized town and county officials to effect that there are no unpaid taxes due and payable at the time of plat approval and no unpaid special assessments, whether or not due and payable at the time of plat approval, on any of the lands included in the plat, and that all outstanding taxes and special assessments have been paid on all property dedicated to public use.

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

Section C: Plat for Major Subdivision

1. Application for Approval and Fee

The subdivider shall, within six (6) months after the approval of the Preliminary Plat, file with the Planning Board an application for approval of the Subdivision Plat in final form, using the approved application blank available from the Clerk or Chairman of the Planning Board. All shall be accompanied by a fee to be set by the Town Board. If the Final Plat is not submitted within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to accept the Final Plat and may revoke approval of the Preliminary Plat and require resubmission of the Preliminary Plat.

2. Number of Copies

A subdivider intending to submit a proposed subdivision Plat for the approval of the Planning Board shall provide the Clerk or Chairman of the Board with a copy of the Application and ten (10) copies (one (1) copy in ink on mylar or an acceptable equal) of the Plat, the original and one true copy of all offers of cession, covenants, and agreements and two (2) prints of all construction drawings.

3. When Officially Submitted

The time of submission of the Subdivision Plat shall be considered to be the date on which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article VI, of these regulations, has been filed with the Clerk or Chairman of the Planning Board.

4. Endorsement of State and County Agencies

Water and sewer facility proposals contained in the subdivision Plat shall be properly endorsed and approved by the New York State Department of Environmental Conservation and/or County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County, and State agencies. Endorsement and approval by Schoharie County Department of Health shall be secured by the Subdivider before official submission of Subdivision Plat.

5. Public Hearing

Within sixty (60) days of the submission of a plat in final form for approval a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before such hearing, provided however, that when the Planning Board deems the final plat to be in substantial agreement with a Preliminary Plat approved under Section C of this article, and modified on accordance with requirements of such approval if such Preliminary Plat has been approved with modification, the Planning Board may waive the requirements for such public hearing. The applicant shall notify by Certified Mail, at least five (5) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with post office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

6. Action on Proposed Subdivision

The Planning Board shall by resolution conditionally approve, conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within forty-five (45) days of its receipt by the Clerk or Chairman of the Planning Board if no hearing is held or in the event a hearing is held, within forty-five (45) after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.

Upon resolution of conditional approval of such final plat the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five (5) days of such resolution the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements, which, when complete, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of the final plat shall expire one year from the date of conditional approval.

Section D: Major Subdivision Plat and Accompanying Data

The following documents shall be submitted for plat approval:

1. The plat to be filed with the County Clerk shall be printed upon linen or an acceptable equal or be clearly drawn in India Ink upon tracing cloth. The size of the sheets shall be no larger than twenty-two (22) inches by thirty-five (35)

inches, including a margin for binding of two (2) inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The plat shall be drawn at a scale of not more than one hundred (100) feet to the inch and oriented with the north point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.

The Plat shall show:

- a. 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 the record owner and subdivider, name, license number and seal of the licensed land surveyor.
- b. Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- c. Sufficient data acceptable to the Planning Board 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.
- d. 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 plat shall show the boundaries of the property, location, graphic scale and true north point.
- e. The 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 developer. For any of the latter, there shall be submitted with the Subdivision Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions are made therefore.
- f. All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of town Attorney as to their legal sufficiency.
- g. Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Town practice.
- h. Permanent reference monuments shall be shown, and shall be constructed in accordance with specifications of the Planning Board. 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 Planning Board and their location noted and referenced upon the plat.

- i. All lot corner markers shall be permanently located satisfactorily to the Planning Board, marked by an iron rod, concrete post or other suitable permanent marker.
- j. Monuments of a type approved by the Planning Board shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; each lot corner and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Planning Board.
- k. A map shall be submitted to the satisfaction of the Planning Board, indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Article VIII, then said map shall be submitted prior to final approval of the Subdivision Plat.

However, if the Subdivider elects to provide a bond or certified check for all required improvements (as specified in Article VIII) such bond shall not be released until such a map is submitted in form satisfactory to the Planning Board.

Article VII

Filing of Approved Subdivision Plat

A. Final Approval and Filing

Upon completion of the requirements in Articles V or VI above and notation to that effect upon the Subdivision Plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and shall be filed by the applicant in the Office of the County Clerk. Any subdivision Plat not so filed or recorded within sixty (60) days of the date upon which such plat is approved or considered approved by reasons of the failure of the subdivider to act, shall become null and void.

B. Plat Void if Revised After Approval

No changes, erasures, modifications or revisions shall be made in any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said 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.

Article VIII

Required Improvements

A. Improvements and Performance Bond

Before the Planning Board grants final approval of the Subdivision Plat, the subdivider shall follow the procedure set forth in either subparagraph below:

1. In an amount set by the Planning Board the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements OR the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law as the same now exists or may exist hereafter be amended and shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one (1) year (or such other period as the Planning Board may determine appropriate, not to exceed three (3) years) shall be set forth in the bond within which required improvements must be completed.
2. The subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so complete the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution, and surety.

B. Modification of Design Improvements

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Planning Board may, upon approval by a majority of the members of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Planning Board shall issue any authorization under this Section in writing.

C. Review of Improvements

At least five (5) days prior to commencing construction of required improvements the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause review to be made

to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

D. Proper Installation of Improvements

If the Planning Board 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 plans and specifications filed by the subdivider, he shall so report to the Town Board and Building Inspector. 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 of a previously approved plat.

Article IX

General Requirements and Design Standards

Subdivision means the division of any parcel of land into two (2) or more lots, blocks, or sites, with or without any streets or highways and includes resubdivisions. Such division shall include resubdivision of parcels of land for which an approved plat has already been filed in the office of the County Clerk and which is entirely or partially undeveloped.

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

Section A: General

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 Land Use Plan

Subdivisions shall conform to the Official Map of the Town and shall be in harmony with the Land Use plan, if such exists.

3. Specifications for Required Improvements

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

Section B: Street Layout

1. Width, Location and Construction

Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Land Use Plan, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment and shall conform to the Town of Middleburgh highway standards & specifications, copies of which can be obtained either from the Town Clerk or the Town Highway Superintendent.

The arrangement of streets shall be such as to cause no undue hardship to adjoining properties, and shall be coordinated so as to compose a convenient system. When deemed necessary, the Planning Board may require easements for street right of ways (in order to insure accessibility to undeveloped lands) from both Minor and Major subdividers.

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. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

3. Minor Streets

Minor streets shall be curved or otherwise designed such that their use by through traffic will be discouraged.

4. Special Treatment Along Major Arterial Streets

When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require service 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 of residential properties and to afford separation of through and local traffic.

5. Provision for Future Resubdivision

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

6. Dead-End Streets

The creation of dead-end streets 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 the reservation of a twenty (20) foot wide easement to provide for the continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more should have at least two (2) 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. Walks

Within hamlet areas, as designated on the Land Development Plan, curbs and pedestrian walks shall be provided on both sides of major and minor streets.

8. Block Size

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

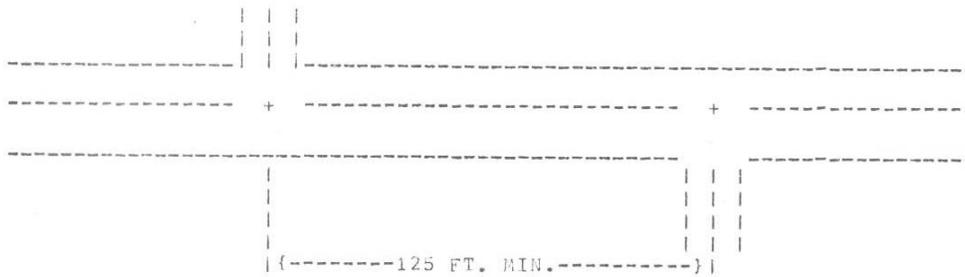
9. Intersections with Collector or Major Arterial Roads

Minor or secondary street openings into such roads shall, in general, be at least five hundred (500) feet apart



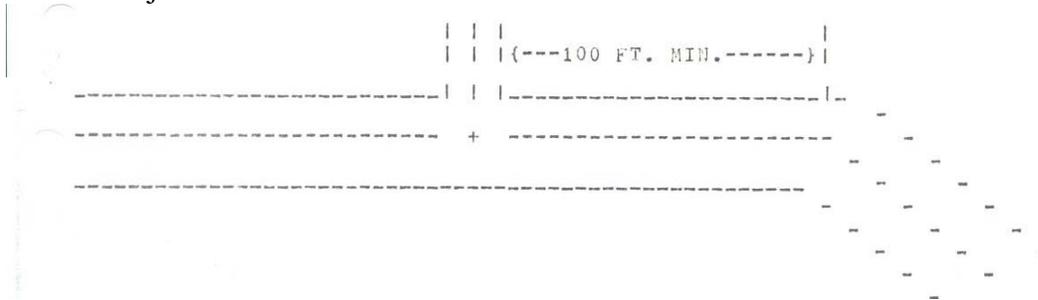
10. Street Jogs

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



11. Angle of Intersection

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



12. 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 such that as many of the building sites as possible are at or above the grade of the streets.

13. Grades

Grades of all streets shall conform in general to the terrain and to the Town of Middleburgh highway standards & specifications.

Section C: Street Design

1. All streets must meet the Town of Middleburgh highway standards & specifications.
2. Improvements

Streets shall be graded and improved in accordance with Town specifications. Storm drainage facilities, water mains, sewers, street lights and signs, street trees, and fire hydrants shall be provided except where waivers may be requested, and the Planning Board may waive, subject to appropriate

conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Planning Board. Such grading and improvements shall be approved as to design and specification by the Highway Superintendent.

- (a) FIRE HYDRANTS – Spacing and installations of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Office of Fire Prevention and Control of the State of New York. An official form the local fire district shall review the plat design for proper fire protection facilities.
- (b) STREET LIGHTING FACILITIES – Street lighting facilities and fixtures shall be installed after approval by the appropriate power company.

3. Utilities in Streets

The Planning Board shall, whenever possible, require that underground utilities be placed in the street right of way between the paved roadway and the street line to simplify location and repair of lines when they require attention. The subdivided shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

4. Utility Easements

Where topography is such as to make impracticably the inclusion of utilities within the street right-of-way, perpetual unobstructed easements at least twenty (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.

5. Watercourse

When 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 Highway Superintendent.

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Town Planning Board, and in no case less than twenty (20) feet in width.

Section D: Street Names

1. Type of Name

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

2. Names to be Substantially Different

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

Section E: Lots

1. Lots to be Buildable

The lot size, width, depth, shape and arrangement shall be such that there will be no foreseeable difficulty for reasons of topography or other natural conditions in securing building permits to build on all lots in compliance with these Regulations, the New York State Health Department, Town Law 280(a) and other Town Ordinances as they may exist.

2. Side Lines

All side lines of lots shall be at right angles to straight street lines and radial to curved lines, unless a waiver from this rule will give a better street or lot plan.

3. Corner Lots

In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.

4. Driveway Access

Driveway access and grades shall conform to the Town of Middleburgh highway standards & specifications.

5. Access from Private Streets

Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.

Section F: Drainage Improvements

The Planning Board may require that the applicant make adequate provision for storm or flood water runoff channel or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system.

1. Removal of Spring and Surface Water

The applicant 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 road right-of-way where feasible, or in perpetual unobstructed easements or appropriate width, and shall be constructed in accordance with the town construction standards and specifications.

2. Accommodation of Upstream Drainage Areas

Drainage facilities shall be in each case be large enough to accommodate potential runoff from their entire upstream drainage area, whether inside or outside of the subdivision, based on a fifty (50) year storm and assuming conditions of maximum potential development within the water shed. The applicant shall be responsible for submitting such computations to the Planning Board in sufficient detail to make possible the ready determination of the adequacy of the proposed drainage installations. Concentrated drainage from lots onto the road right-of-way shall not be permitted.

3. Effect on Downstream Drainage Area

The Planning Board may also require a study of the effects of the subdivision on existing downstream drainage facilities. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board shall notify the owner of such downstream facility and the Town Board of such potential condition and may withhold approval of the subdivision until provision has been made for the correction of said potential condition.

4. Wetlands

Areas shown on DEC maps as official freshwater wetlands shall be regulated according to the provisions contained in Article 24 of the NYS Environmental Conservation Law, including subsequent amendments, which is adopted herein by reference. A letter of compliance from DEC in regards to wet lands, shall be required where applicable.

5. Land Subject to Flooding

Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

6. Drainage Easements

Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose as required by the Road Review Committee, and in no case less than twenty (20) feet in width.

Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road right-of-way, perpetual unobstructed easements shall be provided for such across properties outside the road lines and with satisfactory access to the road.

A note to this effect shall be shown on the Final Plat.

Section G: Parks, Open Spaces, and Natural Features (can apply to all subdivision)

1. Recreation Areas Shown on Town Plan

Where a proposed park, playground or open space shown on the Town Plan is located in whole or part in a subdivision, the Board shall require that such area or areas be shown on the Plat in accordance with the requirements specified in paragraph two (2) below. Such area or areas may be dedicated to the Town or County by the Subdivider if the Town Board approves such dedication.

2. Parks and Playgrounds Not Shown on the Town Plan

The Planning Board shall require that the Plat show sites of a character, extent, and location suitable for the development of a park, playground, or other recreation purpose. The Planning Board may require that the developer satisfactorily grade any such reaction areas shown on the Plat.

The Board may require up to ten (10%) per cent of total subdivision land for recreation space be shown on the plat. Such area or areas may be dedicated to the Town or County by the subdivider if the Town Board approves such dedication.

3. Information to be Submitted

In the event that an area to be used for a park or playground is required to be shown, the subdivider shall submit to the Board, prior to final approval, ten (10) prints drawn at a scale of not less than thirty (30) feet to the inch, showing such area and the following features thereof:

- (a) Boundaries, including lengths and bearings of all straight lines; radii, lengths, central angles and tangent distance of all curves.
- (b) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
- (c) Existing, and, if applicable, proposed changes in grade and contours of the said area and of area immediately adjacent.

4. Waiver of Plat Designation of Area for Parks and Playgrounds

In cases where the Planning Board finds that due to the size, topography, or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or, if in the opinion of the Board it is not desirable, the Board may waive the requirement that the Plat show land for such purposes.

5. Reserve Strips

Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall require Planning Board approval.

6. Preservation of Natural Features

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

Article X

Public Streets, Recreation Areas

A. Public Acceptance of Streets

The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such Subdivision Plat.

B. Ownership and Maintenance of Recreation Areas

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

Article XI

Waivers

Section A

Where the Planning Board finds that, due to the special circumstance of a particular Plat, the provision of certain requirements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Zoning Ordinance, if such exists.

Section B

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

Article XII

Separability

If any clause, sentence, subdivision, paragraph, section or part of this ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

Article XIII

Procedure for Lot Line Adjustments

If the Planning Board determines that the proposed plat is a Lot Line Adjustment, it shall recommend any changes to the new lot lines and determine by majority vote that the proposed action does not constitute a Subdivision as defined in these regulations. The applicant shall then provide the following to the Planning Board before final approval:

1. A survey of the land to be transferred including language to clarify which parcel the adjusted land will be conveyed to and that it does not constitute a separate parcel;
2. Written permission signed by all impacted property owners;
3. New deeds for each property that is impacted by a boundary change. This change may involve a loss of property or a gain of property.

Once all required information is provided or waived in writing by the Planning Board, the Planning Board shall empower a duly authorized officer to sign the plat and make a notation upon the plat that it constitutes a Lot Line Adjustment.

Any new deeds and the plat must be filed in the Schoharie County Clerk's Office.