

Town of Waterford
Subdivision Law
Adopted _____ 2021

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ARTICLE I General Provisions

§ A166-1 Legislative authority; policy; title.

- A. By the authority of the resolution of the Town Board of the Town of Waterford, adopted on March 8, 1961, and subsequently amended by Local Law ____, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Waterford is authorized and empowered to approve 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 or conditionally approve preliminary and final plats, within that part of the Town of Waterford outside the limits of any incorporated village. The Planning Board is further empowered to place reasonable conditions on a subdivision to meet the purposes of this local law.

- B. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive 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 fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds.

- C. Further purposes of this law are to: Preserve the historical settlement patterns of the Town; Allow for a variety of housing types available to all ages and income levels; Encourage growth and development that supports recreation; Ensure that growth and development is consistent with our historic character; and Protect and preserve its ground and surface water resources including, but not limited to, air quality and habitats.

- D. 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 Waterford Land Subdivision Regulations," were adopted by the Planning Board on July 9, 1984, and

approved by the Town Board on September 4, 1984, and subsequently repealed and replaced by this local law by the Town Board.

- E. No building permit or certificate of occupancy shall be issued for the erection of any building or structure within a proposed subdivision until the Planning Board has approved such subdivision and the final plat filed in the Office of the County Clerk. No excavation of land or construction or any parcel improvements shall take place or be commenced except in conformance with these regulations.

ARTICLE II Definitions

§ A166-2 Definitions.

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

ACCESS - Refers to the following road hierarchy terms:

PUBLIC ACCESS - Any street, road, intersection, curb cut or other location that offers the general public a way or means of approach to provide vehicular or pedestrian physical entrance to a property.

SHARED ACCESS WAY - A means of physical approach for vehicular or pedestrian traffic into or out of a location that is shared and used by one or more different parcels of land

APPLICANT - The person(s), corporation, agency, or other legal entity submitting an application for subdivision approval. See also 'Subdivider'.

BASEMENT - The floor of a building which is partly or entirely below ground level.

BLOCK - An area bounded by streets.

BOARD SECRETARY - That person who shall be designated to perform the duties of the Board Secretary for all purposes of these regulations.

BOND - An obligation in writing, under seal, issued by a surety company satisfactory to the Town Board, binding the obligor to pay a sum of money to the Town if the obliged fails to satisfactorily install and/or maintain improvements as required under § 277, Subdivision 1, of the New York State Town Law, as amended.

BOUNDARY LINE ADJUSTMENT - Also known as a lot line adjustment, it is the changing, altering or moving of the boundary or property line between two or more parcels where no additional parcel(s) is(are) created, where land is taken from one parcel and added to an adjacent parcel, and where there is no requirement for the construction of, nor the extension of, a public street or public utility.

BUFFER AREA - An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

BUILDING - Any structure which is affixed to the land, or has one or more floors, walls and a roof for the shelter, support or enclosure of persons, animals, equipment, materials, or property of any kind. Accessory structures to a building such as, but not limited to decks and pools shall also be considered a part of such building.

BUILDING ENVELOPE - The space within which a structure and its supporting infrastructure is permitted to be built on a lot and that includes the building, driveway, and any lands disturbed for well and septic systems.

BUILDING FOOTPRINT - The area encompassed by a building's outer wall at ground level.

BUILDING INSPECTOR - The individual designated by the Town to enforce the provisions of the New York State and local building codes. The Building Inspector may also be designated by the Town as the Code Enforcement Officer to enforce provisions of the Town of Waterford zoning law, subdivision law, and other local laws.

CLERK OF THE PLANNING BOARD - Synonymous with Board Secretary.

COLLECTOR STREET - A street, including the principal entrance street of a residential development, which carries traffic from minor streets to major streets.

COMMON DRIVEWAY - A driveway serving five or more lots; designed, built or regulated by the Town of Waterford, Saratoga County, or State of New York driveway specifications; and that is maintained by a private entity through an agreement of all interested parties.

COMPLETE APPLICATION - An application for development that includes all required documents and submittals pursuant to this law, has been reviewed under SEQRA Part 617 and has received either a negative declaration by the reviewing board or a draft environmental impact statement

has been accepted by such board.

COMPREHENSIVE PLAN - A Comprehensive Plan, prepared by the Planning Board pursuant to § 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.

CONDITIONAL APPROVAL - The approval of a final plan subject to conditions set forth by the Planning Board in a resolution conditionally approving such plan.

CONSERVATION EASEMENT - A grant of a property right stipulating that the described land will remain in its natural or agricultural state and precluding future or additional development.

CONSERVATION SUBDIVISION - A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

CONSTRUCTION - Refers to the erection of any structure, pavement, utility, signs, fences and other development on private property, public property or in a right-of-way regardless of whether a building permit is required or not.

CONTIGUOUS - When at least one boundary line of one lot touches a boundary line or lines of another lot.

CUL-DE-SAC - A street or a portion of a street with a single common ingress and egress and with a turnaround at the end.

DEAD-END STREET - A street with a single common ingress and egress.

DESIGN CRITERIA - Standards that set forth specific improvement requirements.

DRIVEWAY - An entrance and exit used by vehicular traffic to and from lands abutting a State, County, or Town road, whether public or private as defined herein, built according to Town, County or State driveway specifications; where it is possible to park completely off the street; and which is open only for private use except by permission of the owner of such private property. A driveway remains private property.

DWELLING - A building designed or used as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "multiple dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include automobile courts, rooming houses or tourist homes.

(1) **DWELLING, ONE-FAMILY** - A detached building containing one dwelling unit only.

(2) **DWELLING, TWO-FAMILY** - A detached building containing two dwelling units.

(3) **DWELLING, MULTIPLE** - A building or portion thereof containing three or more dwelling units.

DWELLING UNIT - A room or group of rooms providing complete housekeeping facilities for one family and occupied by a single family unit plus not more than three lodgers.

EASEMENT - The right to use the land of another, obtained through the purchase or acquisition of use rights from a landowner.

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

EROSION and SEDIMENTATION CONTROL PLAN - A plan used to control erosion and stormwater discharges during construction.

ESCROW - A deposit of cash with the Town to secure the promise to perform some act required by the Planning Board.

FINAL PLAT - The map of a subdivision to be recorded after approval by the Planning Board and any accompanying material as described in these regulations.

FINAL PLAT APPROVAL - the signing of a plat in final form by a duly authorized officer of a planning board pursuant to a planning board resolution granting final approval to the plat or after conditions specified in a resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the county clerk or register in the county in which such plat is located.

FLAG LOT - A building lot not meeting the required road frontage and characterized by a narrow strip of property having frontage by which access is gained. The lot is shaped like a pole with a fully extended flag at the upper portion thereof, the bottom of the pole being at the street line, the pole portion of the lot being for use as access to the flag portion of the lot where the principal structure is or will be constructed.

FRONTAGE - That part of a property bounded by either a public or private road, but not a driveway. On corner lots, the frontage may be designated by the owner, but it should be consistent with the orientation of buildings on the other lots and improvements on the same side of the road.

GRADE - The slope of a road, street, or other public way specified in percentage terms.

GRADING - The leveling of land for site development purposes including construction of roads, building construction, drainage areas and parking.

LETTER OF CREDIT - A letter from a bank which guarantees that a specific amount of money will be kept available to ensure the completion of specific segments of subdivision construction, to be drawn on only by the Town.

LOT LINE ADJUSTMENT – See Boundary Line Adjustment. This term is used synonymously with lot line alteration.

LOTS

LOT – A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

DOUBLE-FRONTAGE LOTS - Lots with the rear and front lot lines abutting an existing or proposed street right-of-way.

REVERSE-FRONTAGE LOTS - Lots with the rear lot line abutting an existing or proposed limited access highway or public reservation.

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

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

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

MINOR SUBDIVISION - Any subdivision containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan. Official Map or Zoning Ordinance,^[1] if such exists, or these regulations.

MONUMENT - A term used in surveying denoting a material object placed on or near a boundary line to preserve and identify the location of a boundary line on the ground.

NOTICE of INTENT - (NOI) – A request for coverage under the most current version of the New York State SPDES General Permit for Stormwater Discharges from Construction Activities.

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

OPEN SPACE - Land left in a natural state for conservation and agricultural purposes or for scenic purposes, or devoted to the preservation of distinctive ecological, physical, visual, architectural, historic, geologic or botanic sites. It shall also mean land left in a natural state and that is devoted to active or passive recreation. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, used for playgrounds or manicured recreational lands such as golf courses, ball fields, lawns, or occupied by any structure except agricultural buildings or buildings supporting such open space. In a subdivision, open space may be included as a portion of one or more large lots provided the lot(s) are contiguous to form a larger un-fragmented open space area, or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

OPEN SPACE DEVELOPMENT DESIGN - Also known as conservation subdivision design. A design process that allows for the creation of multiple lots and homes on a parcel while setting aside a percentage of the parcel as permanently undeveloped. The undeveloped area becomes protected and preserved open space. Reduced lot sizes and flexible road standards allow development to take place on the least sensitive parts of the project site. In contrast, a

conventional subdivision divides and develops all the land into roads and house lots with little regard for preservation of open space and natural areas.

OWNER - The owner of the land proposed to be subdivided or his agent.

PERFORMANCE BOND - An obligation in writing, under seal, issued by a Surety Company satisfactory to the town, binding the obligor to pay a sum of money to the Town if the obligator fails to satisfactorily install and/or maintain improvements as required under Section 277 (1) of the New York State Town Law.

PHASED SUBDIVISION - An application for subdivision approval where the applicant proposed to immediately subdivide the property but will develop in one or more individual phases over a period of time.

PLANNING BOARD or BOARD - The Planning Board of the Town.

PRECONSTRUCTION - Any activity disturbing ground except excavation for sewer, water and utility lines; emergencies, site investigations; and customary agricultural activity.

PRELIMINARY PLAT - A drawing or drawings clearly marked "preliminary plat," showing the layout of a proposed subdivision, as specified in § A166-22 of these regulations, 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.

PRIMARY CONSERVATION AREA - The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, agricultural lands, and groundwater recharge areas.

PRINCIPAL BUILDING OR STRUCTURE - A building that is the primary or predominant use of any lot or parcel.

PRINCIPAL USE - The primary use of land or buildings as distinguished from a subordinate or accessory use.

RESUBDIVISION - A change in a subdivision plan filed previously in the office of the Saratoga County Clerk which changes any street layout, area reserved for public space or use, or changes the size of any lot shown thereon.

RIGHT-OF-WAY - A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, or utilities (including but not limited to electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer), or other similar uses and that gives the right of one to pass over the property of another.

ROAD - Any vehicular way that is 1) an existing state, county, or municipal roadway; 2) shown upon a plat approved pursuant to law; 3) approved by other official action; 4) shown on a plat duly filed and recorded with Saratoga County prior to the appointment of a planning board in the Town of Waterford and the grant to such board of the power to review plats; 5) shown on the official map or adopted Comprehensive Plan. It includes the land between the street lines, whether improved or unimproved. See also "Street".

PUBLIC ROAD: Any street or road built to meet the Town of Waterford specifications for a public road and dedicated for use by the public; accepted as a public road by official action by the Town Board; shown on a plat approved pursuant to this subdivision law or on an Official Map of the Town of Waterford, if one exists; and that is maintained by the Town.

PRIVATE ROAD: Any street or road not dedicated and not accepted by the Town Board for use by the public; and that is maintained by a private entity through an agreement of all interested parties. A private road remains private property.

RURAL CHARACTER - Describes the features and qualities of the Town's physical and natural landscape that were shaped by current and past economic activities such as agriculture and low-density residential uses. Evidence of current and past agricultural activity is present, including but not limited to farm buildings, stone walls, windbreaks, hedgerows, and woodlots. "Rural character" shall also be defined as the patterns of land use and development:

1. In which open space, the natural landscape, and vegetation predominate over the built environment;
2. That provide visual landscapes that are traditionally found in rural areas and communities;
3. That are compatible with the use of the land by wildlife and for fish and wildlife habitat;
4. That reduce suburban sprawl development patterns;
5. That are consistent with the protection of natural surface water flows and ground water and surface water recharge and discharge areas.

SCREENING - Any landscaping or structure such as walls, landscaped berms, and hedges, used to conceal or reduce the negative visual and audio impacts of certain land uses or activities from

streets or adjacent development. The height of a screen is measured from the highest finished grade abutting the element to be screened.

SECONDARY CONSERVATION AREA - The area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to agricultural lands, healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetation features representing the site's rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

SEQRA (State Environmental Quality Review Act) – A State law establishing the review of an application according to the provisions of 6 NYCRR, Part 617 (Statutory Authority: New York State Environmental Conservation Law, Section 8-0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decision-making processes of state, county and local government agencies.

SKETCH PLAN - A sketch of a proposed subdivision showing the information specified in § A166-20 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.

SPDES - A permit pursuant to the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate certain disturbances of land.

STEEP SLOPE - Any slope with topographic gradient of 15% or higher and measured as sloping fifteen (15) feet or more vertical distance per one hundred (100) feet horizontal distance.

STORMWATER POLLUTION PREVENTION PLAN - A document that describes the erosion and sediment control practices for construction and where required by New York State Department of Environmental Conservation (NYS DEC), for post-construction stormwater management practices. It will be used and/or constructed to reduce the pollutants in stormwater discharges and to assure compliance with the terms and conditions of the most current NYS DEC Permit. In addition, the Stormwater Pollution Prevention Plan (SWPPP) shall identify potential sources of pollution which may reasonably be expected to affect the quality of stormwater discharges. The SWPPP must document the selection, design, installation, implementation and maintenance of the control measures and practices that will be used to meet the effluent limitations in the most current NYS DEC Permit and where applicable, the post-construction stormwater management practice requirements in the most current NYS DEC Permit. See also Chapter 142 of the Town of Waterford Code.

STREET - Includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.

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

STREET TREES - Those trees planted along the frontage of a road or street. .

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

SUBDIVIDER - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others. The subdivider shall be synonymous with the term 'applicant'.

SUBDIVISION - The division of any tract of land into two or more portions or parcels, lots, blocks or sites, with or without streets or highways, and includes resubdivision. That land referred to as a "subdivision" in these regulations shall consist of one or more lots, plots, sites or other divisions of said tract for immediate or future transfer of ownership or for building development. That portion, if any, not intended for transfer of ownership or for building development shall be regarded as an adjacent or contiguous holding. The term "subdivision" shall include a lot line adjustment .

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, may 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 designated Engineer of the Town.

ZONING, ZONING ORDINANCE AND ZONING MAP - The duly adopted Zoning Ordinance and Zoning Map for the Town of Waterford, New York.^[2]

[1] *Editor's Note: See Ch. 161, Zoning.*

[2] *Editor's Note: See Ch. 161, Zoning.*

ARTICLE III Procedures for Filing Subdivision Applications

- § A166-3 **Application for approval required.**
- § A166-4 **Sketch plan.**
- § A166-5 **Minor subdivisions.**
- § A166-6 **Preliminary plat for major subdivisions.**
- § A166-7 **Final plat for major subdivisions.**
- § A166-8 **Required improvements.**
- § A166-9 **Filing of approved final plat.**
- § A166-10 **Street acceptance; recreation areas.**
- § A166-10.1 **Waiver for lot line adjustments.**

§ A166-3 Application for approval required.

A. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures. Where an application also requires site plan review or special use permit approval, the Planning Board shall integrate, to the extent reasonably practicable, all site plan and special use review requirements with the procedural and submission requirements for compliance with this Regulation so as not to delay review and decision-making.

B. Future resubdivision. Where a parcel or tract of land is substantially larger than the minimum size required in the zoning district in which the parcel or tract is located, it may only be subdivided twice into lots meeting the minimum district requirements prior to seeking approvals as for a major subdivision according to this chapter. Upon the third subdivision application and any and all applications thereafter relative to any parcel or tract of land, a subdivision plan for the entire parcel or tract shall be required indicating plans for roadways, utilities, lot arrangements and such other specifics so as to permit future resubdivision in accordance with the requirements of this chapter.

§ A166-4 Sketch plan.

A. Sketch Plan Conference with Planning Board.

Prior to submitting an application for a subdivision, the subdivider, or his duly authorized representative, shall attend a sketch plan meeting with the Planning Board to discuss the requirements of these regulations and consistency of the sketch plan with the Town of Waterford Zoning and Subdivision laws. The intent of the sketch plan conference is to enable the applicant to discuss the proposal with the Planning Board prior to the preparation of a detailed subdivision plan. It is also a meeting for the Planning Board to review the basic site design concept, advise the applicant as to potential problems or concerns, and to generally determine the information to be required on the subdivision plat.

B. Submission of sketch plan.

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Board Secretary, at least fourteen (14) days prior to the regular meeting of the Board, eight (8) copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § A166-20 for the purposes of classification and preliminary discussion. Electronic submissions are preferable.

C. Discussion of requirements and classification.

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

(2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a boundary line adjustment, or a minor or major subdivision, as defined in these regulations. The Board may require, however, when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a boundary line adjustment, the applicant shall then comply with the procedure outlined in Article III, Section 2 of these Regulations. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in §§ A166-5 and A166-9 of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in §§ A166-6, A166-7, A166-8, A166-9 and A166-10.

D. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems it necessary, make specific

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

- (1) The Planning Board's review of the sketch plan shall consider, but not be limited to:
 - a. evaluation of the building envelope, setbacks, build-to-lines, required buffers, if any;
 - b. the location of all areas proposed for land disturbance with respect to natural, cultural, and historic features;
 - c. street connections and road network;
 - d. proposed building density and lot coverage as prescribed by the Town Zoning Law;
 - e. consistency with all other requirements of the Town Zoning Law; and
 - f. whether any escrow account shall be established to fund review of the project.
 - g. whether the proposed subdivision is located within the Town of Waterford LWRP Waterfront Area.

- (2) Site Visits. The Planning Board may schedule a site visit with the subdivider to develop a mutual understanding of the general nature of the site and the approach for subdividing the land. At any phase of the subdivision review, the Planning Board may require additional site visits.

- (3) The Planning Board shall have the authority to forward the sketch plan to other Town agencies or consultants for advisory comment. This includes the Department of Public Works, Police, Fire Department, Emergency Medical, Water, Sewer, or any other agency who may have jurisdiction.

- (4) The Planning Board shall advise the subdivider of any general recommendations on layout, arrangement of lots, or required improvements, taking into consideration the requirements of these Regulations, the Town of Waterford Zoning Law (Chapter 161) and the Town of Waterford Comprehensive Plan. In particular, the Planning Board shall ensure that the proposed subdivision is consistent with all design requirements, planning principles, environmental considerations and community concerns of the Town of Waterford Zoning Law (Chapter 161 Article II, III and V), and Article VI (Design Standards) of these Regulations. It shall informally advise the subdivider of the extent to which the proposed subdivision conforms to the relevant standards and may suggest possible plan modifications that would increase its degree of conformance. The subdivider shall not be bound by any sketch plan, nor shall the Planning Board be bound by any such review, however.

- (5) The Planning Board need take no further action until the application has been classified as a minor or major subdivision or boundary line adjustment. The Planning Board shall make a notation regarding classification directly on the sketch plan or in the minutes of the Planning Board meeting. Upon designation of the sketch plan, the subdivider may proceed with procedures for subdivision review or boundary line adjustment outlined in these Regulations.

§ A166-5 *Minor subdivisions.*

A. Application and fee. Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § A166-21.

All applications for plat approval of a minor subdivision shall be accompanied by a fee as noted in a fee schedule adopted by the Town Board. Fees may be waived in special circumstances at the discretion of the Planning Board.

B. Number of copies. Nine copies of the minor subdivision plat shall be presented to the Board Secretary at the time of submission of the subdivision plat.

C. Subdivider to attend Planning Board meeting. The subdivider or the duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plat.

D. 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, deemed complete and accompanied by the required fee and all data required by § **A166-21** of these regulations, has been filed with the Board Secretary at a regular meeting of the Planning Board. A determination by the Planning Board that it has received a complete application shall initiate all time frames as set forth in these Regulations.

E. Referrals and Coordination with SEQRA.

- (1) The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA).

- (2) Prior to taking the final action on the minor subdivision, and at least ten (10) days prior to the Public Hearing, the Planning Board shall refer the plan to the Saratoga County Planning Board for their review and recommendation pursuant to Section 239-m of the New York State General Municipal Law. County Planning Board referral shall be required if they apply to real property within five hundred feet of the following:
- a. the boundary of any city, village or town; or
 - b. the boundary of any existing or proposed county or state park or any other recreation area; or
 - c. the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - d. the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - e. the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or
 - f. the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.(3) The Planning Board may request an advisory opinion from any Town of Waterford department, agency, consultant, attorney or employee related to the application being considered for subdivision approval. Any advisory opinion must be submitted to the Planning Board so that all procedural time frames shall be met. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant.

F. Public hearing. A public hearing shall be held by the Planning Board within sixty-two (62) days from the time the minor subdivision application is deemed complete. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened. The period within which the Planning Board shall hold a public hearing on the minor subdivision plan shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA and New York State Town Law Section 276. Said hearing shall be advertised in a newspaper of general circulation in the town at least five days before such hearing unless a hearing is held jointly on both the subdivision and a draft environmental impact statement, the notice shall be published fourteen (14) days prior to the public hearing as per subsection (1), below. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

- (1) When the Planning Board serves as the lead agency under SEQRA, the time within which the Planning Board shall hold a hearing on the subdivision shall be coordinated with any hearings the Planning Board may be scheduled pursuant to SEQRA. If the

Planning Board determines that no environmental impact statement is required, the hearing shall be held within 62 days after the filing of a complete application. Where such Board determines that an environmental impact statement is required, the public hearing on both the subdivision and draft environmental impact statement shall be held jointly within 62 days after filing of a complete application. When a hearing is held jointly on an environmental impact statement, the legal notice for the public hearing shall be published fourteen (14) days prior to the public hearing.

- (2) Consistent with the requirements of Section 239-nn of the New York State General Municipal Law, the Planning Board shall give notice to an adjacent municipality when a hearing is held relating to a minor subdivision review on property that is within 500 feet of the adjacent municipality. Such notice shall be sent by mail or via electronic submission to the Town Clerk in the adjacent municipality at least ten days prior to the hearing. The adjacent municipality may appear and be heard.
- (3) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board in connection with granting or denying a subdivision application

G. Action on subdivision plat.

- (1) The Planning Board shall, by resolution, within sixty-two (62) days from the close of the public hearing, or, within thirty (30) days after the adoption of findings on an environmental impact statement by the lead agency for SEQRA, whichever is longer, act to conditionally approve with modification, disapprove, or grant final approval. If approved, the Planning Board will 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.
- (2) Prior to obtaining the Planning Board officer's signature of approval, the Planning Board may require that the applicant provide proof of compliance with the New York State Department of Health, the Saratoga County Department of Health, or both as the case may be, standards and approval of the plan for water supply and sewage disposal and with all other required local, state, and federal permits and approvals including, but not limited to: stream disturbance, wetland and wetland buffer

disturbance, highway work, curb cuts, storm water connections, SPDES permit discharges, or dams and impoundment.

- (3) If approved, at least five copies of the Minor Subdivision Plat must be officially endorsed by the Planning Board Chair, or designee. If the Final Submission is approved by the Board, an appropriate notation to that effect shall be made on the Final Plat submitted to the Board. At least one copy shall be returned to the Owner and one copy shall be retained by the Board for its records.
- (4) In the event of disapproval of a Minor Subdivision Plat, the Planning Board shall fully set forth the reasons for such disapproval in its resolution and formally notify the applicant, in writing, of the reason(s) for disapproval.
- (5) Upon granting conditional approval with or without modification to the plat, the Chairman and Planning Board Secretary shall sign the plat upon compliance with such conditions and requirements as may be stated in the Planning Board's resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be certified by the Board Secretary as conditionally approved, a copy shall be filed in the Town Clerk's office and a copy returned to the subdivider. The copy returned to the subdivider shall include a 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 Chairman and Board Secretary. Conditional approval of a plat shall expire 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 additional periods of 90 days each.
- (6) Filing shall be completed pursuant to 166-9 of these Regulations.

§ A166-6 Preliminary plat for major subdivisions.

A. Application and fee. Subsequent to the sketch plan meeting, and 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 major subdivision. Such preliminary plat shall be clearly marked "Preliminary Plat" and shall be in the form described in § A166-22 hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law and § A166-22 of these regulations, except where a waiver may be specifically authorized by the Planning Board.

(1) The application for approval of the preliminary plat shall be accompanied by a fee as noted in a fee schedule adopted by the Town Board. Fees may be waived in special circumstances at the discretion of the Planning Board.

B. Number of copies. Nine copies of the preliminary plat shall be presented to the Board Secretary fourteen (14) days prior to the meeting at which it is to be considered. An application that does not include all the required submissions shall be deemed incomplete and may not be considered by the Planning Board until such time as it is deemed complete. Additional copies of the proposed preliminary plat and such further information as is required by the Planning Board may be requested for the purposes of coordinated review under SEQR.

C. Subdivider to attend Planning Board meeting. The subdivider or the duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat. No action will be taken unless a duly authorized representative is present.

D. 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 relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, consistency with the design standards of these Regulations, and the requirements of the Comprehensive Plan, the Official Map and Zoning Regulations,^[1] if such exist. Every preliminary plat shall conform to existing zoning regulations and subdivision regulations applicable at the time that the proposed preliminary is submitted for approval of the Planning Board.

E. When officially submitted. The time of submission of the 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 § **A166-22** of these regulations, has been filed with the Planning Board Secretary at a regular meeting of the Planning Board. A determination by the Planning Board that it has received a complete application, which includes a negative declaration, or a draft environmental impact statement, shall initiate all time frames as set forth in these Regulations.

F. Referrals and Coordination with SEQRA. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA). Prior to taking the final action on the preliminary plat, and at least ten (10) days prior to the Public Hearing, the Planning Board shall refer the plan to the Saratoga County Planning Board for their review and recommendation pursuant to Section 239-m of the New York State General Municipal Law. County Planning Board referral shall be required if they apply to real property within five hundred feet of the following:

- (1) the boundary of any city, village or town; or
- (2) the boundary of any existing or proposed county or state park or any other recreation area; or
- (3) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
- (4) the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
- (5) the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or
- (6) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

The Planning Board may request an advisory opinion from any Town of Waterford department, agency, consultant, attorney, or employee; related to any application being considered for subdivision approval. All costs incurred by any department, agency or employee for providing assistance in a particular proceeding shall be borne by the applicant.

G. Public Hearing. A public hearing shall be held by the Planning Board within sixty-two (62) days from the date a preliminary plat application is deemed complete, or if an environmental impact statement is prepared and a public hearing held on it, within sixty-two (62) days after the filing of the notice of completion of such impact statement. The period within which the Planning Board shall hold a public hearing on the major subdivision plan shall be coordinated

with any hearings the Planning Board may schedule pursuant to SEQRA and New York State Town Law Section 276.

Said hearing shall be advertised in the official Town newspaper at least five (5) days before such hearing, or if the hearing is held jointly on an environmental impact statement, the notice shall be for fourteen (14) days. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

- (1) Consistent with the requirements of Section 239-nn of the New York State General Municipal Law, the Planning Board shall give notice to an adjacent municipality when a hearing is held relating to a major subdivision review on property that is within 500 feet of the adjacent municipality. Such notice shall be sent by mail or via electronic submission to the Town Clerk in the adjacent municipality at least ten days prior to the hearing. The adjacent municipality may appear and be heard.
- (2) All adjoining landowners shall be notified about the hearing by certified mail. The applicant shall prove by affidavit or receipt that all such adjoining landowners were notified no later than ten (10) days prior to the public hearing by certified mail.

H. Approval of the preliminary plat.

- (1) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision by resolution within sixty-two (62) days after the close of such hearing with or without modification, or the ground for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such sixty-two (62) day period shall constitute approval of the preliminary plat. The time in which the Planning Board must act on such plat, may be extended by mutual consent of the subdivider and the Planning Board
- (2) Pursuant to New York State Town Law 276 (5)(iii), if an environmental impact statement is required, the Planning Board shall make its decision on the preliminary plat within thirty days of the filing of the final environmental impact statement and issuance of findings.

- (3) 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.
- (4) Within five (5) business days of the approval of such preliminary plat it shall be certified by the Planning Board as granted Preliminary approval and a copy filed in the Board Secretary's office and a certified copy mailed to the owner.
- (5) 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 days of the approval of such preliminary plat, it shall be certified by the Board Secretary as granted preliminary approval and a copy filed in the Town Clerk's office, and a certified copy mailed to the owner.
- (6) 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; and (3) The amount of improvement or the amount of all bonds therefor which it will require as prerequisite to the approval of the subdivision plat.
- (7) Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final 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.

§ A166-7 Final plat for major subdivisions.

A. Application for approval and fee. The subdivider shall, within six 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 Board Secretary. If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the preliminary plat.

B. Number of copies. A subdivider intending to submit a proposed subdivision plat for the final approval of the Planning Board shall provide the Board Secretary with a copy of the application and eight copies. The application shall include a copy of all offers of cession, covenants and agreements and two prints of all construction drawings and shall be submitted fourteen (14) days prior to the meeting at which it is to be considered.

C. When officially submitted. The time of submission of the final subdivision plat shall be considered to be the date on which the applications for approval of the subdivision plat, complete and accompanied by the required fee and/or escrow and all data required by § A166-23 of these regulations, has been filed with the Board Secretary at a regular meeting of the Planning Board. A determination by the Planning Board that it has received a complete application, which includes a negative declaration, or a draft environmental impact statement shall initiate all time frames as set forth in these Regulations.

D. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the State 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 the State Department of Health shall be secured by the subdivider before official submission of subdivision plat.

E. Public hearing. Within 62 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 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 § A166-6 and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

F. Action on proposed subdivision plat.

(1) 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 62 days of its receipt by the Board Secretary if no hearing is held or, in the event that a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to act on a final plat within the time prescribed therefor shall be deemed approval of the plat. If a draft environmental impact statement (EIS) was

required, the Planning Board's action on the Final Plat shall include either a negative declaration or the Final EIS and a statement of findings on the subdivision as required by Article 8 of the New York State Environmental Conservation Law.

- (2) Upon resolution of conditional approval of such final plat, the Chairman and Board Secretary shall sign the plat upon completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Board Secretary as conditionally approved and a copy filed in the Town Clerk's 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 completed, 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 a final plat shall expire 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 additional periods of 90 days each.
- (3) Prior to obtaining the signature, the subdivider shall provide proof of compliance with Department of Health standards and approval for water and sewage disposal. Additionally, they shall provide proof of compliance with other local, state and federal agency permits and approvals as may be required, provide at least four (4) copies of the Plat and paper copies of the final subdivision plan in such quantity as specified by the Planning Board for the endorsement of the Chairperson, and pay all outstanding escrow, recreation, and inspection fees, if any.

§ A166-8 Required improvements, Performance Bonds, and Inspections.

A. After the Planning Board grants final approval of the subdivision plat, and before any building permits are issued, the subdivider shall follow the procedure set forth in either Subsection A(1) or (2) below:

- (1) Performance bond or other security.
 - (a) As an alternative to the installation of infrastructure and improvements, prior to planning board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board or the Town Engineer

of other town-designated consultant(s), where such estimate is deemed to be acceptable by the Planning Board, shall be furnished to the town by the owner.

1. Security where plat approved in sections. In the event that the owner shall be authorized to file the approved plat in sections, approval of the plat may be granted upon the installation of the required improvements in the section of the plat filed in the office of the county clerk or register or the furnishing of security covering the costs of such improvements. The owner shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the county clerk or register and the required improvements have been installed in such section or a security covering the cost of such improvements is provided.
2. Form of security. Any such security must be provided pursuant to a written security agreement with the town, approved by the Town Board and approved by the Town Attorney as to form, sufficiency and manner of execution, and shall be limited to:
 - (i) a performance bond issued by a bonding or surety company;
 - (ii) the deposit of escrow funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state;
 - (iii) an irrevocable letter of credit from a bank located and authorized to do business in this state;
 - (iv) obligations of the United States of America; or
 - (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.
3. Term of security agreement. Any such performance bond or security agreement shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three (3) years, provided, however, that the term of such performance bond or security agreement may be extended by the Planning Board with consent of the parties thereto. If the planning board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided

in this section and by the Planning Board in sufficient amount to warrant reduction in the amount of said security, and upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.

4. Default of security agreement. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Town Board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.
 5. Costs of Improvements. The costs of all required improvements shall be borne by the subdivider without reimbursement by the Town of Waterford.
 6. Acceptance of Dedication Offers. Acceptance of formal offers of dedication of streets, public areas, easements and parks may be made at the sole discretion of the Town Board. The Town Board shall have no obligation whatsoever to accept such offers. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or imply the acceptance by the Town of any roads, public areas, easements or parks shown on said plan. The Planning Board shall require any dedication offer to be endorsed with notes on the Plan to this effect.
- (2) The subdivider shall complete all required improvements to the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a letter of credit or certified check covering the costs of such improvements and the costs of satisfactorily installing any improvement not approved by the Town Engineer. Any such letter of credit shall be satisfactory to the Town Board and Attorney for the town as to form, sufficiency, manner of execution and surety.

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

B. Inspection of improvements. At least 10 days prior to commencing construction of required improvements, the subdivider shall notify the Board Secretary, in writing, of the time when construction of such improvements is to be commenced so that the Planning Board may cause inspection to be made by a professional engineer 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. The subdivider shall pay the fees required for the inspection by the professional engineer. If the inspection finds that any of the required improvements have not been constructed in accordance with the approved drawings, the subdivider and the bonding company or other provider of the subdivider's security will be severally and jointly liable for the costs of completing said improvements.

C. Proper installation of improvements. If the Engineer 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 report to the Town Board, Building Inspector and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board if the subdivider is in default on a previously approved plat.

§ A166-9 *Filing of approved final plat.*

A. Final approval and filing. Upon completion of the requirements in §§ A166-7 and A166-8 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 Chairman and Board Secretary and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 62 days of the date upon which such plat is approved or considered approved by

reasons of the failure of the Planning Board to act shall become null and void. If the final plat is not filed within this time, the approval shall expire as provided in Section 276 of the New York State Town Law. The owner may obtain building permits and begin building construction only after filing of the final plat and receipt by the Town of proof of filing.

If the Final Submission is disapproved, resubmissions may be made within 180 days of the date of disapproval. A resubmission made after 180 days from the date of disapproval may be treated like a new submission and require Final Review and all fees.

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 said plat is first resubmitted to the Planning Board and such Board approves any modifications. If 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.

C. The subdivider shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks if required, until acceptance of the improvements by the Town Board. If a certificate of occupancy has been issued for a lot on a road not dedicated to the Town, the Town may on twelve (12) hours' notice plow the street or effect emergency repairs and charge same to subdivider. Any sum remaining unpaid after thirty (30) days shall be added to the tax levy for the affected properties still owned by the subdivider.

D. The subdivider may be required to file with the Town, a maintenance bond in an amount determined by the Town Engineer to be adequate to assure the satisfactory condition of the initial public improvements for a period of one year following their completion and acceptance by the Town. Such bond shall be satisfactory to the Town Attorney as to form, manner of execution and surety.

§ A166-10 Street acceptance; 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, a third party, or a Home Owners Association, if one exists, and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such street, easement, recreation area, or other open space.

§ A166-11 *Boundary Line Adjustment.*

A. Submission Requirements. Seven (7) copies of a Sketch Plan map, as defined in these Regulations, and an Application for Boundary Line Adjustment as available from the Board Secretary shall be submitted. The line or lines to be changed in the boundary line adjustment shall be surveyed. The Planning Board may require the entire portion of the parcel or parcels on which the Boundary Line Adjustment is to take place to be surveyed in order to meet Saratoga County requirements.

B. Review. When a boundary line adjustment is proposed, the Planning Board must determine if the adjustment will adversely affect or change the character of any parcel involved. A boundary line adjustment is permitted for lots with pre-existing nonconformities related to lot size, setbacks or other dimensions only with an area variance from the Zoning Board of Appeals. provided the degree of nonconformity is not increased, or a new nonconformity is not created.

- (1) A boundary line adjustment shall not create any new lot and shall not impede the maintenance of existing or future access or utility service to any lot that is the subject of a boundary line adjustment.
- (2) A boundary line adjustment that creates a conforming lot from a non-conforming lot is acceptable.
- (3) Any boundary line adjustment on an existing non-conforming lot that continues that non-conformity, or that increases a non-conforming lot shall be required to seek an

area variance from the Town of Waterford Zoning Board of Appeals prior to Planning Board review.

(4) No public hearing is required for a boundary line adjustment.

C. Action on a Boundary Line Adjustment. Within sixty-two (62) calendar days of classification, the Planning Board shall act to approve, conditionally approve with or without modifications, or disapprove the proposed Boundary Line Adjustment and so indicate on the surveyed plat. Failure by the Planning Board to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the boundary line adjustment. The Planning Board's decision granting conditional approval, with or without modification of the plat, shall also empower the Planning Board Chair to sign the plat, upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. This approval authorizes filing of the approved map with the Saratoga County Clerk.

D. Filing. The survey map must be filed with the Saratoga County Clerk within sixty-two (62) calendar days of the Planning Board's endorsement or the approval shall become null and void and the applicant will have to reapply. The applicant shall draft and file new deeds with the County Clerk within ten days of the filing of the approved boundary line survey with the County Clerk. The deed shall contain the survey descriptions of the affected parcels as per the approved boundary line adjustment approved by the Planning Board.

E. Fees. A fee, as may be established by the Town Board, shall be paid prior to Planning Board approval of a boundary line adjustment.

ARTICLE IV Design Standards

§ A166-12 General provisions.

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

§ A166-13 General requirements.

A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Land which the Planning Board finds to be unsuitable for subdivision or

development due to flooding, improper drainage, steep slopes, shallow depth to bedrock, utility easements, or other features which will reasonably be harmful to the safety, health or general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the subdivider, and approved by the Planning Board, to remediate the harmful conditions imposed by the unsuitable land conditions.

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

C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the town specifications, which may be obtained from the Town Engineer.

§ A166-14 Street layout.

A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Comprehensive Plan and Official Maps of the town and county, if such exist, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated as to compose a convenient system.

B. 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.

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

D. Special treatment along major arterial streets. When a 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 nonaccess reservation along the rear

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

E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations. Regarding conservation subdivision in rural areas, the number of future lots created shall be determined from the size of the parent parcel as existing, and from the density of the Town of Waterford zoning law.

F. Dead-end streets. The creation of dead-end or loop residential streets will be encouraged only 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-footwide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 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.

G. Block size. Blocks, generally, shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot-wide paved footpath be included.

H. Intersections with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.

I. Street jogs. Street jogs with center-line offsets of less than 150 feet shall be avoided.

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

K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged to obtain as

many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

L. Other required streets and street improvements. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

M. The Planning Board may require the installation by subdivider of fencing, vegetated berm, or other suitable barricade for the protection of residents in the general vicinity. All such fences or barriers shall be designed to provide adequate safety but also to ensure that it is of appropriate style and design to be consistent with the neighborhood and character of the land. The Planning Board may also require other street improvements to promote complete streets that incorporate all modes of transportation including walking, biking, and public transportation.

N. Reserve strips. Reserve strips controlling access to streets, water or sewage treatment plants or to other land dedicated or to be dedicated to public use shall be prohibited except where their control is definitely placed in the town under conditions approved by the Planning Board.

O. Cross streets. Cross (four-cornered) streets shall be avoided insofar as practicable.

P. Reverse curves. A tangent shall be introduced between reverse curves and shall be of at least 100 feet in length on minor and collector streets and of such length as may be deemed necessary by the Planning Board for arterial streets.

Q. Curve radii. When continuing lines of collector streets deflect from each other at any one point by more than 10° , they shall be connected by a curve with a radius at the inner street right-of-way line of not less than 350 feet; where continuing street lines of arterial streets deflect from each other by more than 5° , they shall be connected by a curve of not less than 800 feet in radius.

§ A166-15 *Street design.*

A. Widths of rights-of-way. Streets of each type shall have the minimum widths for rights-of-way and pavement prescribed by current town highway specifications but in no case shall have less than the following:

	Minimum Right-of-Way	Minimum Pavement
Type of Street	(feet)	(feet)
Major streets	66	28
Collector streets	60	24
Local minor streets	50	20

B. Improvements. Streets shall be graded and improved in accordance with town highway specifications and with curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, 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 Town Engineer. Such grading and improvements shall be approved as to design and specifications by the Town Engineer.

(1) Fire hydrants. Installation 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 Division of Fire Safety of the State of New York. The Planning Board may require the provision of a supply of water for fire-fighting purposes consisting of dry hydrants and a water source. This supply may be provided through fire hydrants connected to a community water supply system or by means of fire ponds. The design, location and capacity of fire ponds and hydrants shall conform to standards and specifications of the National Fire Protection Association and be acceptable to the Chief of the fire department in whose district the subdivision is located. Hydrants shall be of size, type and location specified by the Insurance Services Organization.

(2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Inspector.

C. Utilities in streets. The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install

underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

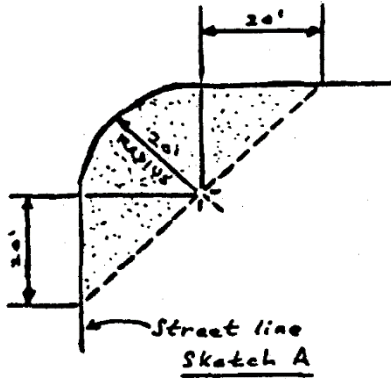
D. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous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

E. Grades. Grades of all streets shall conform, in general, to the terrain and shall not be less than 1/2% nor more than 6% for major or collector streets or 8% for minor streets in residential zones, but in no case more than 3% within 50 feet of any intersection.

F. Changes in grade. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.

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

H. Steep grades and curves; visibility of intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown shaded on Sketch A shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility. No obstructions to vision, such as shrubbery, brush, trees, earth or structure, shall be permitted at road intersections within the triangle formed by the intersections of road center lines and a line drawn between points along such lines 20 feet distance from their point of intersection.



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

J. Watercourses.

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

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

L. Service streets or loading space in commercial developments. Paved rear service streets of not less than 20 feet in width or, in lieu thereof, adequate off-street loading space, suitability surfaced, shall be provided in connection with lots designed for commercial use.

M. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through

traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.

§ A166-16 Street names.

A. Type of name. All street names shown on a preliminary plat or subdivision plat shall be approved by the Planning Board and the Saratoga County Office of Emergency Services. In general streets shall have names and not numbers or letters.

B. 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 90° without a change in street name.

C. The cost of street name and traffic signs in future developments shall be the responsibility of the developer, and further, for public convenience and safety, the developer shall be required to install the street name and traffic signs before any building permits shall be issued for that development.

§ A166-17 Lots.

A. 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. Lot dimensions and lot area shall conform to the standards and regulations set forth in the Town Zoning Law, unless a variance has been granted by the Zoning Board of Appeals. Where variances have been granted, the subdivision plan shall include notes stating the date any variance was approved and a description of said variance. Flag lots shall not be permitted.

B. 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 or unless part of a conservation subdivision layout.

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

D. Driveway access. Driveway access and grades shall conform to specifications of the Town Driveway Ordinance, if one exists. Driveway grades between the street and the setback line shall not exceed an average maximum slope of 8% measured from the street pavement edge to the top of the driveway, which is usually the garage if one exists, or the endpoint of the driveway if no garage exists.

E. 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.

F. Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat. Monuments shall be located in sufficient number to control the subdivision but as minimum they shall be located at every point of tangency, point of curvature, point of deflection, and all intermediate points necessary to provide visibility between adjacent monuments along one right-of-way line of each street. All easements shall be similarly monumented. Iron pipes shall be located at all lot corners and shall be located by reference to monuments. Benchmarks shall be set and marked with U.S.G.S. elevation unless an assumed datum is allowed by the Board. One benchmark shall be required for every 25 acres developed. Monuments and benchmarks shall be carried from existing monuments or benchmarks and their origin noted on the subdivision plat. Suitable primary control points shall be shown on the plat and all other dimensions, bearings, angles and similar data shall be referred to them.

§ A166-18 Drainage.

A. 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 before or as a result of the subdivision. Such drainage facilities shall be in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width. Further, such drainage facilities shall be consistent with any required stormwater pollution prevention plan pursuant to 166-18 (F) and any stormwater management agreements the subdivider maintains with the Town of Waterford.

B. Street drainage. Street drainage ditch grades shall not be less than 1%. Drainage structures and adequate ditches shall be provided by the owner to prevent ponding or damage to public or private property.

C. 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 Engineer shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Zoning Ordinance in the watershed.

D. Responsibility for 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 Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five- year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

E. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions. Proposed subdivisions must conform with Town Law Chapter 91: Flood Damage Prevention.

F. Stormwater Management Facilities. The Planning Board shall not approve any plan which does not include adequate provision to manage post-construction stormwater runoff. Stormwater management facilities, where required, shall be approved by the Planning Board. All stormwater drainage shall be designed in accordance with the New York State Stormwater Management Design Manual, latest edition including any standards required by NYS DEC under the General Permit for Stormwater Discharges from Construction Activities. In particular, green infrastructure practices detailed in Chapter 5 of the New York State Stormwater Management Design Manual shall be incorporated into the subdivision design and layout to the maximum extent practical.

In addition, all stormwater management facilities shall be regulated and designed in accordance with Town Law Chapter 142: Stormwater Management and Erosion and Sediment Control) of the Town of Waterford Zoning Law, Article XI. Nothing herein shall limit the Planning Board from requiring drainage improvements to be installed in a subdivision which may disturb less than one acre, and where the Board determines that said improvement is

necessary to mitigate potential drainage impacts. The Planning Board shall have the option to also require that the proposed stormwater system shall collect and manage not only the increase in peak rate of runoff but also any increase in the total volume of runoff.

G. Grading. Lots shall be graded so that runoff from roofs, drives and other impervious surfaces flows toward a street except that such runoff may flow to the rear where a watercourse abuts the rear of a lot. If it is not practicable to direct runoff to the street, a grading plan for the area may be required by the Planning Board. Such grading plan shall show that grading is designed to prevent ponding and to direct water away from all buildings. Lots having driveways sloping away from streets shall have driveways graded to provide a "high-point" at or near the R.O.W. It is intended that this high point prevent street runoff from entering the lot.

H. Snow storage. Snow storage areas shall be constructed to minimize threats to groundwater quality. Where the recharge areas for wells are downhill of snow storage areas, the snow storage areas shall be impervious and drain to controlled stormwater outlets.

I. Dedication of drainage easements.

(1) General requirements. Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, the Planning Board may require that an easement or right-of-way be established conforming substantially to the lines of the watercourse, and of such width and construction or both as will be adequate for the purpose of obtaining access and maintaining same. Watercourses should be maintained in a natural state wherever possible, unless improvements are necessitated to protect the health, safety and welfare of residents from flooding.

(2) Standards.

(a) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plan. Such easements shall be centered on rear or side lot lines to the maximum extent practicable. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

- (b) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage easements must be secured and indicated on the plan.
- (c) The subdivider shall dedicate in fee or restrict by drainage easement, land on both sides of existing watercourses, to a distance to be determined by the Planning Board.
- (d) Stormwater management facilities not within a dedicated right of way shall be within an easement area, the boundary of which shall be a minimum of 10 feet outside of the facility grading limits, and which shall include within the easement a maintenance access with a minimum 20-foot width from a public or private road. The stormwater management facility discharge shall also be within the easement, and the easement shall extend to the edge of the receiving water course, water body or wetland.

J. The Planning Board may recommend to the Town Board that a drainage district be created to own and/or maintain stormwater management facilities. The Planning Board may conditionally approve a subdivision plan on the formation of a drainage district, where the Town Board has agreed to establish such a district. Establishment of a drainage easement in no manner creates an obligation on the part of the Town to accept or maintain the easement. In the alternative, the Planning Board may require, as a condition of approval, that a homeowner's association be established to maintain said facilities.

§ A166-19 Parks, open space and natural features.

A. Recreation areas shown on Town Plan. Where a proposed park, playground or open space shown on the Town Plan is located in whole or in 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 Subsection B below. Such area or areas may be dedicated to the town by the subdivider if the Town Board approves such dedication.

B. Parks and playgrounds not shown on Town Plan.

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

- (2) The Board shall require that not less than three acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount be less than 5% nor more than 10% of the total area of the subdivision. Such areas shall be dedicated to the town by the subdivider on approval by the Town Board. Appropriate legal measures should be taken to assure that such land can never be developed for other than recreational purposes.
- (3) The owner shall offer to the town usable land. This land shall be used by the town for parks, playgrounds or other specific public recreational uses as deemed desirable by the town when deemed desirable by the town.
- (4) However, if the Planning Board should consider that the required portion of the total area would not be useful for a public purpose or if the dedication of land within the subdivision would not conform to the Comprehensive Plan or Official Map, the owner shall pay to the town an amount equal to 150% of the application fee required for the subdivision. This payment shall not be used by the town for any purpose other than the purchase of land to be used for public recreational uses serving the neighborhood as indicated above.
- (5) The Planning Board shall require that more than 5% of the subdivider's tract be offered to the town if such is required to comply with the Comprehensive Plan or Official Map. In this case, the owner shall be reimbursed at fair market value, determined at the time of final submission with the Planning Board, for land taken in excess of the minimum normally required.
- (6) Unique and scenic areas and those areas bordering streams, lakes or other watercourses, wetlands and greenspace, may be given special consideration by the Planning Board should they be desirable for public open spaces. Where such sites and open spaces are not shown on the Comprehensive Plan and where deemed essential by the Planning Board upon consideration of the particular type of development proposed in the subdivision and especially in large-scale neighborhood unit developments, the Planning Board may recommend that the Town Board require the offering or reservation of areas in excess of the minimum. Under such conditions, a money payment, at a fair market value determined at the time of the application for approval of the final subdivision plat is made to the Planning Board, shall be made to the owner to compensate his loss in excess of the minimum contribution.

- (7) The determination of the value of the land upon which money payments shall be based shall be made by a board of three, consisting of a representative of the Town, a representative of the owner and a third person acceptable to the other two parties. All costs involved shall be borne equally by the Town and the owner.

C. Reserve strips prohibited. 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 be prohibited.

D. 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 spots, vistas and a similar irreplaceable asset. No tree with a diameter of eight inches or more, as measured three 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 eight inches or more, as measured three feet above the base of the trunk, be removed without prior approval by the Planning Board. The provisions of this section concerning tree removal requiring prior Planning Board approval are hereby waived as to property transferees following subdivision approval.

- (1) The subdivision shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through careful planning of vegetation and land disturbance activities;
- (2) The Planning Board shall assess potential impacts of a major subdivision on groundwater supplies to neighboring properties. The Planning Board may require a groundwater study to consider the location, yield and quality of wells, if deemed necessary;
- (3) Disturbance to streams, wetlands, and areas with seasonally high water tables shall be avoided;
- (4) Subdividers of major subdivisions shall evaluate existing biodiversity of flora and fauna to determine the extent to which ecological habitat should be conserved;
- (6) Disturbances to steep slopes shall be avoided;

- (7) The Planning Board may require visual impact analysis pursuant to the New York State DEC Visual Assessment Policy.
- (8) Natural vegetative covers existing within the buffer area shall be encouraged to be preserved as part of that buffer to the maximum extent practical.

E. Utilities

- (1) It shall be the responsibility of the subdivider, where required, to provide waterlines, storm drains sanitary sewers, bridges and street pavement to the limits of the Subdivision. It shall also be the responsibility of the subdivider to provide appropriate street lighting at the intersection of proposed street with an existing arterial street. These facilities shall be constructed as required for inclusion in future Town systems. Each subdivider shall be responsible for the complete construction even though larger than normal sizes may be required.
- (2) If individual lot water supply and sanitary waste disposal are proposed, it shall be the responsibility of the subdivider to provide dry waterlines and sanitary sewers to the limits of the subdivision where required by the Board for the purpose of serving the subdivision when these services become available. The facilities shall be constructed as required for inclusion in existing or future Town systems.
- (3) If it will be necessary to construct utilities within the right- of-way of an existing Town road, it will be the responsibility of the subdivider to apply for a Permit for Construction of Utilities from the Town Highway Department. It shall be the responsibility of the subdivider, following approval of the application, to comply with all conditions and restrictions set forth in the permit.

F. Subdivision Located Within the Town and Village of Waterford Local Waterfront Area.

- (1) The Planning Board, prior to approving any subdivision, shall make a determination that such action is consistent with the Town of Waterford LWRP policy standards and conditions pursuant to Chapter 159 of the Town of Waterford Code.

ARTICLE V Conservation Subdivision Design

A. Purposes

- (1) A purpose of this section is, through regulation of the subdivision of land, to plan for the orderly, economic, aesthetic, environmentally sound and efficient development of the Town consistent with its community character and the continuing needs of its people for conservation of natural and cultural resources, quality residential building sites and enjoyable open space. The Town of Waterford is home to important agricultural lands, significant scenic viewsheds, historic architecture, natural beauty, and rural landscapes. This section has been carefully designed in recognition of the need to protect such resources as part of the land development process.
- (2) A purpose of this section of the Subdivision Law is to uphold the Town of Waterford Comprehensive Plan and achieve the following goals and policies of the Comprehensive Plan:
 - (a) To conserve open land, including those areas containing unique and sensitive natural features.
 - (b) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads and the amount of paving required.
 - (c) To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
 - (d) To conserve a variety of resource lands as established in the Town of Waterford Comprehensive Plan.
 - (e) To protect agricultural areas for continued agricultural operations.
 - (f) To create neighborhoods with direct visual or physical access to open space.
 - (g) To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.

B. Applicability

- (1) This sub-section of the Subdivision Law shall apply to all “major subdivisions” in accordance with the definition of that term these regulations and all major subdivisions shall be designed as an open space conservation subdivision in accordance with the requirements and provisions of this law.

- (2) In approving a Conservation Subdivision, the Planning Board has the authority to impose such additional conditions and restrictions as are directly related to the proposed subdivision and protection of resources.
 - (3) Compliance with other laws. Should the requirements of this section conflict with, or otherwise be inconsistent with, any provision of the Town of Waterford Land Zoning Law or other local law, the provisions of this section shall prevail.
 - (4) Procedures and integration. All major subdivision submittals, procedures, and time frames pursuant to these regulations shall be met. Whenever the circumstances of a proposed development or application requires compliance with this Conservation Subdivision Article, the Planning Board shall integrate or run in parallel as many of the applicable procedures and submission requirements as is reasonably practicable so as not to delay review and decision-making.
- C. Dimensional standards. The permitted number of dwelling units in a conservation subdivision shall not exceed the number of units that would be permitted according to the density requirements of the Town of Waterford Zoning Law. The Planning Board shall allow alteration of lot dimensions within a conservation subdivision in order to properly accomplish the purposes of the Town of Waterford Comprehensive Plan and this law to preserve the maximum amount of open space when a major subdivision is planned. Lots shall be arranged in a way that preserves open space and promotes land conservation as described in this section.
- (1) A major subdivision must preserve at least fifty percent (50%) of the parcel's acreage as open space land.
 - (2) Minimum street frontage per lot shall be twenty-five (25) feet.
 - (3) Minimum lot size. The minimum lot size in major subdivisions where individual wells are required shall be equal to that required by the Saratoga County Department of Health to meet standards for water system approvals when on-site well systems are required. For lots in major subdivisions that do not need individual wells, the minimum lot size shall be fifteen thousand (15,000) square feet, on average. Up to twenty percent (20%) of the lots may be reduced to a minimum of ten thousand (10,000) square feet.
 - (4) Maximum impervious surface shall be thirty (30%) on each lot.

- (5) Maximum height of any building or structure to be placed on a lot shall be thirty-five (35) feet.
- (6) Setbacks from an existing active agricultural operation shall be 100'.
- (7) Stream setbacks. There shall be a minimum 25' undisturbed vegetated buffer along all streams within a conservation subdivision. If native vegetation is not present within the minimum 25' streamside vegetated buffer areas, then a planting plan to establish native vegetation, preferably trees, to create a vegetated buffer is required. There shall be a 100' buffer established along all streams, wetlands, and other hydrologically sensitive areas where there shall be no structure, soil removal or disturbance, clearing, filling or vegetation disturbance.

D. Sketch plan and site analysis

- (1) All requirements and procedures of A166- 4 (Sketch Plan) shall be followed in addition to this Article when a conservation subdivision is proposed.
- (2) Sketch Plan. In addition to requirements for a sketch plan of A166-4, the following additional information shall be submitted by the applicant as a basis for informal discussions with the Planning Board regarding the design of a proposed major subdivision. The Planning Board shall evaluate the proposed subdivision during the sketch meeting. The Planning Board shall determine whether the Sketch Plan meets the purposes of this section. Complete and complex engineered plans and architectural drawings are premature and not required at this phase. The sketch plan shall contain:
 - (a) The subdivision name or title, if any; the scale, which shall be no less than one (1) inch equals one hundred (100) feet; North direction, which shall be oriented toward the top of the plan; the plan date; and the label "Concept Plan."
 - (b) The subdivision boundaries and the owners of all contiguous properties.
 - (c) The zoning classification and tax map number(s) of the property to be subdivided.
 - (d) The total acreage of the subdivision and the proposed number and locations of lots.
 - (e) All existing streets, either mapped or built, adjacent to the tract.
 - (f) All existing restrictions on the use of land, including easements and covenants, if any.

- (g) All existing structures, general location of agricultural fields and wooded areas, watercourses, and other significant physical features of the parcel and within two hundred (200) feet of the parcel boundaries.
- (h) If applicable, the location and required setbacks, if any, as may be required by this Law, the Town of Waterford Floodplain Law, or State or Federal laws from watercourses, wetlands, and floodplains.
- (i) Site Analysis. The following site analysis shall be submitted by the applicant pursuant to this law in addition to requirements of A166-4 of the Town of Waterford Subdivision Regulations. A site analysis shall include an identification of primary and secondary conservation lands within a parcel(s). The site analysis shall include a Site Analysis Map that includes the information listed below. Conditions beyond the parcel boundaries may be generally described based on existing published data available from governmental agencies, or from aerial photographs. The applicant may obtain advice and assistance from an accredited land trust or environmental organization when preparing the site analysis. The site analysis is not intended to be a highly engineered or exact document, but a general sketch and description illustrating the location and type of environmental features that are present on the site including:

1. Areas where the slope exceeds fifteen percent (15%).
2. Wetlands, areas of hydrological sensitivity including but not limited to aquifer and aquifer recharge areas, municipal water supply recharge areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any. The Site Analysis Map shall delineate the 100' required stream buffer and the minimum 25' required streamside vegetated buffer.
3. Agricultural lands, if any.
4. Sites where community sewer, community water, or community water and sewer are available or planned, if any.
5. Lands within, or contiguous to, a Critical Environmental Area designated pursuant to Article 8 of the New York State Environmental Conservation Law, if any.
6. Lands contiguous to publicly owned or designated open space areas, or

privately preserved open spaces, if any.

7. Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.

8. Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, if any.

9. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any.

10. General description and locations of the vegetative cover on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and showing the actual line of existing trees and woodlands.

11. Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any.

12. Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.

13. Location of all existing streets, roads, buildings, utilities and other man-made improvements.

14. All easements and other encumbrances of property which are or have been filed of record with the Saratoga County Clerk's Office.

E. Site design of major subdivisions

(1) Subsequent to the Sketch Plan meeting and submission of the site analysis, a preliminary plat shall be developed. The submission requirements for a Preliminary Plat include the site analysis and the submission requirements pursuant to both this section and the Town of Waterford Land Subdivision Regulations.

- (2) All preliminary plans in a major subdivision shall include documentation of the following four-step design process in determining the layout of proposed conserved lands, house sites, roads, and lot lines. Applicants may be required to submit four separate sketch maps indicating the findings of each step of the design process if required by the Planning Board:
- (3) Step 1. Delineate Open Space Areas. Proposed open space areas shall be designated as follows:
 - (a) Primary Conservation Areas shall be delineated and designated on a map.
 - (b) Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated based on those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.
 - (c) Building envelopes are the locations where all buildings, structures, water or septic infrastructure shall be placed on the lot, and such envelopes shall not encroach upon Primary Conservation or Secondary Conservation areas. The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area. The house site is a specific location within the building envelope.
- (4) Step 2. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas in a manner so that house sites should generally be not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.
- (5) Step 3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each lot, complying with the standards

identified in this Zoning Law and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from lots in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian linkages. All applicable requirements of the Town of Waterford Highway Law shall be met.

- (6) Step 4. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.

- (7) Alternate Design Process. The Planning Board is authorized to require use of traditional neighborhood design (TND) if such layout is appropriate for the parcel proposed to be developed and if it will result in a more effective open space design. For those subdivisions designed to be a TND, the design process shall be a variation on a conservation subdivision outlined in this local law. Just as with non-TND developments, the first step is to identify open space lands, including both Primary and Secondary Conservation Areas. However, in TND's, where traditional streetscape is of greater importance, steps 2 and 3 above may be reversed, so that streets and squares are located before lot lines specified. TND's typically have higher density of development, reduced lot sizes, narrow front setbacks, narrow streets, sidewalks, and have a clear demarcation between built and unbuilt lands at the edge of the neighborhood.
 - (a) A TND shall have a neighborhood or series of neighborhoods, and parks and open space. Where allowed by zoning, a TND may also have a center plaza consisting of civic, retail, service and multi-family uses.

 - (b) A TND neighborhood shall have a continuous system of sidewalks to connect all streets and to provide access to dwelling units.

 - (c) All lots shall include frontage abutting a street. Minimum frontage shall be 20', with a 5' minimum front setback, a 30' maximum front setback, a 5' minimum side setback and a 20' minimum rear setback. Accessory structures shall have the same setback requirements as the principal structures on the lot.

- (d) Blocks shall have an average perimeter not exceeding 1,200 square feet with no perimeter block exceeding 1,600 feet.
- (e) All residential, and commercial structures if allowed, shall have the principal entrance facing the road frontage, or if adjacent to parks or open spaces, shall be oriented to such parks or open spaces.
- (f) Parking lots for commercial uses or multi-family dwellings, where allowed, shall be located at the rear or side of principal buildings.

F. Site design criteria for a Conservation Subdivision

- (1) Residential buildings in a major subdivision should be located according to the following guidelines. If any of the guidelines below conflict with each other on a particular site, the Planning Board may use its discretion to resolve such conflicts. The proposed subdivision shall avoid or minimize adverse impacts by being designed:
 - (a) To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
 - (b) To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Native vegetation shall be maintained to create a buffer of at least 25' and no other disturbance shall take place within 100' of wetlands and surface waters, including creeks, streams, vernal pools, springs and ponds.
 - (c) All grading and earthmoving on slopes greater than fifteen percent (15%) shall be minimized and shall only be to create a house site, driveway and other structures. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
 - (d) To avoid disturbing existing cultural and scenic features. Views of new buildings from exterior roads and abutting properties shall be minimized using changes in topography, existing vegetation, or additional landscaping. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-

vegetated buffer is recommended along the road where those views or vistas are prominent or locally significant.

- (e) To be as visually inconspicuous as practicable when seen from state, county and local roads. The subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties. Preservation shall include ground, shrub, understory and canopy vegetation.
- (f) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads. New lots shall generally be accessed from interior streets, rather than from roads bordering the parcel. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more residential dwelling units are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- (g) On suitable soils for subsurface sewage disposal (where applicable).
- (h) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to enable new residential development to be visually absorbed by the natural landscape.
- (i) Around and to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
- (j) To protect biodiversity and wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation, or critical habitats listed on the DEC Waterford Habitat Summary or the Waterford Biodiversity Map.
- (k) Where agricultural operations exist on or adjacent to the proposed subdivision, building envelopes should be located in a manner which maximizes the ability for continued agricultural use and away from the boundaries of any farm to the maximum extent feasible to reduce conflicting uses.

(2) Open space standards:

- (a) The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan.
- (b) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site.
- (c) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the parcel.
- (d) Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation.
- (e) Open space lands shall be designated as one or more individual conservation lots owned in common or designated and included as part of one or more lots. A portion of any lot that is two (2) acres or more in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use shall be restricted to open space such as undisturbed wildlife habitat, managed agricultural field, or managed forest, and that prevents development of, or use as, a mowed lawn on that portion of the parcel, and that is contiguous to other lands to form unfragmented open spaces.
- (f) Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be included in the preserved open space lands.
- (g) The required open space may be used for community septic systems and other underground infrastructure.

- (h) Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may be included as part of the minimum required open space.
- (i) Recreation lands such as ball fields, golf courses, and parks shall not be considered part of the required open space unless such land is open to the public. Such recreational lands with access only to residents shall not be counted towards the open space requirements but shall be counted towards any recreation land requirement as per the Town of Waterford Land Subdivision Regulations.
- (j) Open space shall be directly accessible or viewable from as many lots as possible.

G. Streets, driveways and trails

- (a) Common driveway access may be provided for. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.
- (b) New streets shall meet all the Town Highway Specifications as may exist. Where appropriate, the Planning Board shall work with the Highway Department to ensure that highway specifications do not impact or detract from the character of a conservation subdivision. Street naming shall follow all requirements of Chapter 166-16.
- (c) From an aesthetic and speed control perspective, curving roads are preferred in an informal cluster to avoid long straight segments. Shorter straight segments connected by ninety-degree (90°) and one hundred thirty-five-degree (135°) bends are preferred in a more formal or traditional arrangement.
- (d) Use of reverse curves should be considered for local access streets in conservation subdivisions in conjunction with long horizontal curve radii [at least two hundred fifty (250) feet] and where traffic speeds will not exceed thirty (30) mph. Further, use of single-loaded streets is encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- (e) Bike paths and other pedestrian trails or sidewalks are encouraged.

H. Protection of open space

- (1) All required open space shall be depicted and noted on the site plan as protected open space and restricted from further subdivision through one of the following methods to be proposed by the applicant and approved by the Planning Board:
 - (a) A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the enforcement responsibilities carried out by easement grantees, this is the preferred method of ensuring permanent protection.
 - (b) A declaration of covenants or deed restriction, in a form acceptable to the Town, and recorded in the County Clerk's Office.
 - (c) A fixed-term conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office.

I. Record Keeping of Lots in a Conservation Subdivision

- (1) As part of the subdivision approval, the following shall be accomplished:
 - (a) An official register shall be established indicating
 1. a record of the size of the parent parcel being subdivided;
 2. the total number of lots and the total number of dwelling units approved as per the Town of Waterford Zoning Law Density Control Schedule;
 3. specification of which lot or lots carry with them the right to erect or place any unused allocation of dwelling units the parent parcel may have; and
 4. which lands shall be reserved as open spaces and upon which no further allocation of dwelling units shall be made.
 - (b) For subdivisions having an unused allocation of dwelling units, the official register shall be updated as development allotments are used up to reflect these changes.
 - (c) The Planning Board shall require a plat note to be added to the final approved plat that includes all the information in sub-section 10 (a) (4) (a).

(d) The official register shall also be maintained by the Planning Board upon final approval of each subdivision and copies made available for inspection by the public.

J. Ownership of Open Space Lands.

Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowner's association (HOA).

- (1) Open space may also be dedicated to the Town, County or State governments, transferred to a qualified non-profit organization including a land trust, or held by single or multiple private owners. The applicant shall provide proof that the receiving body agrees to accept the dedication.
- (2) The Town seeks to ensure long-term maintenance of privately-owned lots dedicated to open space. When open space lands are proposed to be privately owned on a lot dedicated for open space use, and such lands are not subject to a conservation easement or are not to be transferred to a qualified non-profit organization or municipality, such lands shall be owned by an HOA, or shall be designated as a lot allowing only one dwelling unit. This lot shall be considered part of, and not in addition to, the allowed density the parent parcel is eligible for. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
- (3) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
 - (a) If land is held in common ownership by a homeowner's association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes, maintenance of any stormwater management systems as agreed upon by the Town of Waterford, and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs. The Planning Board shall find that the HOA documents satisfy the conditions above.

- (b) The homeowner's association shall be operating before the sale of any dwelling units in the development. The proposed homeowners association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law, and have an offering plan for the sale of lots in the subdivision approved by the New York State Department of Law, if required. In the event that the NYS Department of Law grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.
 - (c) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.
 - (d) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
 - (e) The association shall have adequate resources to administer, maintain, and operate such common facilities.
- (4) The conservation easement, declaration of covenants or deed restriction, or approved subdivision plan shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, restriction, or subdivision plan. Regardless of which method of protecting the required or designated open space is selected, the restriction shall be made a condition of the final plat approval.
- (5) A conservation easement will be acceptable if:
- (a) The conservation organization is acceptable to the Town and is a *bona fide* conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
 - (b) The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.

(c) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.

(d) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

K. Maintenance standards

(1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.

(2) Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Zoning Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

L. Future subdivisions

When an applicant includes only a portion of landowner's entire parcel, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner and allocation of density. The Planning Board shall monitor such lot splits as follows to ensure that subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

(1) Monitoring Lot Splits. Whenever a subdivision occurs on parcels that are not subdivided into the maximum number of lots allowed pursuant to the Town of Waterford Zoning Law at one time, the Planning Board shall require a notation to be placed on all plat maps to clearly inform the landowner(s) how many additional lots remain eligible to be created in a future subdivision. When a conservation subdivision has been proposed and the maximum number of lots allowed is not subdivided, an additional plat note shall be required stating that future lots or open space

requirements may be triggered if, in the future, a major subdivision is created from cumulative multiple minor subdivisions. In such case, all major subdivision requirements and/or conservation subdivision requirements, including maintaining the required percentage of the parcel as open space shall be met.

ARTICLE VI Required Documents

§ A166-20 Sketch plan.

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale, preferably not less than 200 feet to the inch, to enable the entire tract to be shown on one sheet. The sketch plan shall 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. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
- C. The name of the owner and of all adjoining property owners within 500 feet of any perimeter boundary of the subdivision, as disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers.
- 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 § A166-20C) within the subdivided area.
- G. All existing restrictions on the use of land, including easements, covenants or zoning district lines.
- H. The date, north arrow, map scale, name and address of record owner and subdivider.

I. Zoning and Overlay District identification, including boundary lines of district and any proposed changes in the zoning district lines and/or the zoning ordinance text applicable to the area to be subdivided. This shall include identification whether the proposed subdivision is located within the LWRP Waterfront Area pursuant to Chapter 159 of the Town of Waterford Code.

J. Identification of any active agricultural operations existing on or within five hundred (500) feet of the proposed project.

K. All Sheets shall be 30" x 42", 22" x 34", 17" x 22", or 8 1/2" x 14" in size. When more than one sheet is required, all shall be the same size and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.

§ A166-21 Minor subdivision plat.

In the case of minor subdivision only and in addition to the sketch plan required information (A166-20), the subdivision plat application shall include the following information:

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

B. All newly created lots require an actual field survey of the boundary lines of the tract(s) and all proposed parcels, giving complete description data by bearings and distances, made and certified by a licensed land surveyor at a scale of not more than one-inch equals 100 feet. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Planning Board and shall be referenced and shown on the Plat.

C. Location of existing water and sewer infrastructure and proposed connections to same.

D. The proposed subdivision name and the name of the town and county in which it is located.

E. Proposed use of each lot (single-family, two-family, multi-family) and all other uses, other than residential, proposed by the subdivider.

F. Minimum setback lines on all lots as required by the Town of Waterford Zoning Law.

G. A stormwater management plan as required by these Regulations and Article XI of the Town of Waterford Zoning Law.

H. All regulated wetlands, classified streams and one-hundred-year floodplain boundaries shall be included where appropriate.

I. The date, North point, map scale, name and address of the record owner and subdivider.

J. Contour lines at two (2) foot intervals tied to a USGS Datum. Contour intervals may be increased to five (5) or ten (10) feet at the discretion of the Board. The Board may waive this requirement for field topography. In these cases, the applicant will be required to submit at a minimum contour information as interpolated from USGS mapping.

K. An Environmental Assessment Form (EAF) – Part 1 completed by the applicant. The Planning Board shall determine during Sketch Plan Review if a Full or Short EAF is required.

L. Soil tests (percolation tests and soil profile analyses) must be performed on each proposed lot when on-site waste treatment is proposed. In such case, the applicant must submit a copy of the results for all soils analyses for the Board's review. All individual onsite sanitation shall be designed to meet the minimum specifications of any applicable State, County, or Town agencies having jurisdiction. The results of soil tests must accompany the Minor Subdivision application and the test pit sites must be located on the map.

M. The plat to be filed with the County Clerk shall be printed on material acceptable to the County Clerk and in the size required by the County Clerk.

N. A fee, according to the most recent fee schedule established by the Town Board.

O. The Planning Board may require additional information to be submitted as it deems necessary to adequately review the application.

§ A166-22 Major Subdivision Preliminary Plat and Accompanying Data.

The following documents shall be submitted for approval:

A. Ten copies of the preliminary plat prepared at a scale of not more than 100 but preferably not less than 50 feet to the inch, showing the following in addition to all required information from A166-20 and 21:

- (1) The proposed subdivision name, name of the town and county in which it is located, date, true North point, scale and name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
- (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
- (3) The zoning district, including exact boundary lines of the district, if more than one district, and any proposed changes in the zoning district lines and/or the Zoning Ordinance text applicable to the area to be subdivided.
- (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (5) The location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
- (6) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and directions of flow.
- (7) Contours with intervals of five feet or less as required by the Board, including elevations on existing roads; approximate grading plan if natural contours are to be changed more than two feet.
- (8) The width and location of any streets or public ways or places shown on the Official Map or the Comprehensive Plan, if such exists, within the area to be subdivided, and the widths, locations, grades and street profiles of all streets or public ways proposed by the developer.
- (9) Any proposed street names pursuant to 166-16.
- (10) Completed Part 1 of the Long Environmental Assessment Form.
- (11) The approximate location and size of all proposed waterlines, valves, hydrants and sewer lines and fire alarm boxes; connections to existing lines or alternate means of

water supply or sewage disposal and treatment as provided in the Public Health Law; profiles of all proposed water and sewer lines.

- (12) A storm drainage plan indicating the approximate location and size of proposed lines and their profiles; connections to existing lines or alternate means of disposal.
- (13) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase and the location of manholes, basins and underground conduits.
- (14) Preliminary designs of any bridges or culverts which may be required.
- (15) The proposed lot lines with the approximate dimensions and area of each lot.
- (16) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the Official Map.
- (17) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer and shall be referenced and shown on the plat.
- (18) The Planning Board may also require additional studies including, but not limited to a traffic impact analysis, public water capacity analysis, hydrogeological sensitivity analysis, and visual impact analysis.

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

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

D. Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI, shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 161, Zoning, Article XI. The approved preliminary subdivision plat shall be consistent with the provisions of this Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI.]

§ A166-23 Major Subdivision Final Plat and Accompanying Data.

The Final Plat shall comply with the preliminary plan as approved and shall comply with the improvement requirements of these Regulations and of the Town of Waterford Zoning Law. The major subdivision final plat application shall include all information that is also required from both the Sketch Plan, and Minor Subdivision applications as detailed above and the following:

A. Plat; offers of cession; numbering of lots and blocks; monuments.

(1) The plat to be filed with the County Clerk shall be seven (7) copies of the following documents submitted for approval with the words "Final Plat" clearly marked, the plat shall be prepared at a scale of not more than one hundred (100) feet to the inch, but preferably not less than fifty (50) feet to the inch (unless waived by the Planning Board), and oriented with a North point at the top of the map, on sheets 30 x 42, when more than one sheet is required, an additional index sheet of the same size shall be filed, showing, to scale, the entire subdivision with lot and block numbers clearly legible, showing:

(a) The 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 and the name, license number and seal of the licensed land surveyor.

(b) The street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.

- (c) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line and 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.
- (2) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall 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.
- (3) 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 made therefor.
- (4) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency. When a conservation subdivision design is utilized, all requirements for protection of open spaces pursuant to the Town of Waterford Open Space Conservation Subdivision Article V shall be met.
- (5) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing town practice.
- (6) Monuments. 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 166-15, 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 166-8], such bond shall not be released until such a map is submitted in a form satisfactory to the Planning Board. Ensure inclusion of the following:
 - (a) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Town Engineer. When referenced to the state

system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.

(b) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least 3/4 of an inch (if metal) in diameter and at least 24 inches in length and located in the ground to existing grade.

(c) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.

B. Construction drawings, including plans, profiles and typical cross sections, as required, of each street and utility easement, with a horizontal scale of fifty (50) feet to the inch and vertical scale of five (5) feet to the inch showing the following: the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities; including all pavement, gas lines and water lines with appurtenances in final, designed form, as well as pavement and utility stationing including all horizontal and vertical control points and grades.

C. Stormwater pollution prevention plan. A stormwater pollution prevention plan consistent with the requirements of Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI, and with the terms of preliminary plan approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 161, Zoning, Article XI. The approved final subdivision plat shall be consistent with the provisions of this Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI.

D. Signature and raised seal of a professional engineer and of a land surveyor, both registered in New York State, or a qualified land surveyor under Section 7208 paragraph (n) of the Education Law with the following certification: "I hereby certify this map to be substantially correct and in accordance with the accuracy required by the New York State Education Department."

E. Street name signs, as approved of pursuant to 166-16, shall be delivered to the Town. A letter of intent to install signs in locations approved by the Town may be accepted as a substitute.

F. Offer of cession in a form approved by the Board of all land included in streets, walks, easements, recreation areas and passive open spaces not specifically reserved by the Owner. There may be a payment in lieu of the offer of recreation or open areas as determined by the Board. Approval of the plat does not constitute acceptance of the offer or cession.

G. Statement by the appropriate Town representative certifying that certain improvements have been installed and approved.

H. Deed description and proof of ownership of the land to be subdivided;

I. Protective covenants in form for recording, including covenants governing the maintenance of public spaces or reservations.

J. Final design of bridges and culverts, unless included in Preliminary Submission.

K. Final Homeowners Association by-laws, offering plan or prospectus, if proposed, along with proof of approval of same by the Attorney General of The State of New York.

L. A fee shall be paid with the Final Submission in accordance within the most recent Town of Waterford fee schedule.

M. More detailed information may be required by the Planning Board as a part of the Final Submission.

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

ARTICLE VII Waivers, Separability, Liability, Fees, Effective Date

§ A166-24 Grant authorized.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive 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 Comprehensive Plan or the Zoning Ordinance¹, if such exists.

§ A166-25 Conditions for waivers.

Procedure. 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. The Planning Board must state, in writing, its grounds for electing to waive such requirements and file such statement along with the subdivision application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. A petition for any waiver shall be submitted in writing by the subdivider at the time the sketch plan is filed for the consideration of the Planning Board. The subdivider must set out in his/her petition all the grounds for the application and all the facts pertinent to the request.

§ A166-26 Separability.

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

§ A166-27 Liability.

Nothing in these Regulations, including the approval and signature of any subdivision plat, shall be construed to ensure or in any way guarantee any subdivision or building, structure,

¹ Editor's Note: See Ch. 161, Zoning.

improvement, installation or use therein against defect, failure or other shortcoming, and the Town shall not be held liable for the same.

§ A166-28 Repealer

The adoption of this Local Law shall repeal and replace the entirety of the “Town of Waterford Land Subdivision Regulations which were adopted as Town of Waterford Local Law in 1984. This Local Law # 4 of 2021 shall entirely replace Local Law of 1984. Upon the adoption of this Local Law, Town of Waterford Land Subdivision Regulations of 1984 shall no longer be in force and effect.

§ A166-29 Professional Fees.

The Planning Board reserves the right to hire professional consultants, at the applicant’s expense, to assist the Planning Board in its review of any information filed by the applicant including that filed under the SEQRA process. All costs related to the review of a subdivision, site plan or special use permit, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account, funded by the applicant, may be established to cover all costs related to the review of the subdivision. The applicant shall supply the Planning Board information as may be required to calculate the dollar amount required for the escrow account.

§ A166-30 Effective Date.

This law shall become effective upon filing with the New York State Department of State.