

Subdivision Regulations

# Subdivision Regulations

PORTER, NEW YORK

Adopted November 8, 2010

Prepared By

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# Town of Porter Subdivision Regulations

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## Article I. General Provisions

### § 1 Purpose

The policy of the Town of Porter is declared to be that the Planning Board considers land subdivision plats as part of a plan for the orderly, economic and efficient future growth and development of the Town, consistent with its character and the continuing needs of its people for enjoyable open space. The following objectives shall guide the Planning Board's decisions as related to the public health, safety and welfare:

- A. Proper provisions shall be made for drainage, water supply, sewerage, and other appropriate utility services in accordance with Town Law and General Municipal Law.
- B. The proposed streets shall provide a safe, convenient, and functional system for vehicular circulation; they shall be properly related to the Comprehensive Plan.
- C. Streets shall be of such width, grade, and location as to accommodate prospective traffic as determined by existing and probable future land and building uses and shall meet all applicable Town Standards and, if appropriate, NYS Department of Transportation Standards.
- D. Where appropriate, sidewalks shall provide a safe, convenient and functional system for pedestrian circulation.
- E. Buildings, lots, blocks, and streets shall be arranged to afford adequate light, view, and air; to facilitate fire protection; and to provide ample access for fire-fighting equipment to buildings.
- F. Adequate land is preserved for agricultural uses to preserve the rural character of the community.
- G. Adequate sites and/or resources for parks, playgrounds and forever-green areas, shall be provided so that residents of all neighborhoods have convenient and safe access to such facilities.

### § 2 Authority

This local law shall apply to all subdivisions within the Town of Porter, New York, excluding the Village of Youngstown, and supersedes earlier laws and amendments of the subdivision regulations in the Town of Porter. The Town Board authorizes and empowers the Planning Board of the Town of Porter to:

- A. Approve or disapprove subdivisions as prescribed by Town Law, Article 16 – §276-279, Public Health Law, Article 11 – Title 11 and Environmental Conservation Law Article 17 – Title 15.
- B. Approve plans for subdivisions of land.
- C. Approve or disapprove all plats or changes to plats showing lots, blocks or sites with or without streets or highways.

**§ 3 Interpretation, Conflict, and Separability**

- A. The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation, statute or provision of law. Where any of the provisions of these regulations impose restrictions different from any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board on June 11, 1979 including all amendments thereto preceding the enactment of this Law as local law.
- C. If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

**§ 4 Amendments**

- A. Amendments to this Law shall be made pursuant to the New York State Municipal Home Rule Law.
- B. Should provisions of New York State Town Law be amended to require actions different from those specified herein, the State requirements shall prevail.

**§ 5 Effective Date**

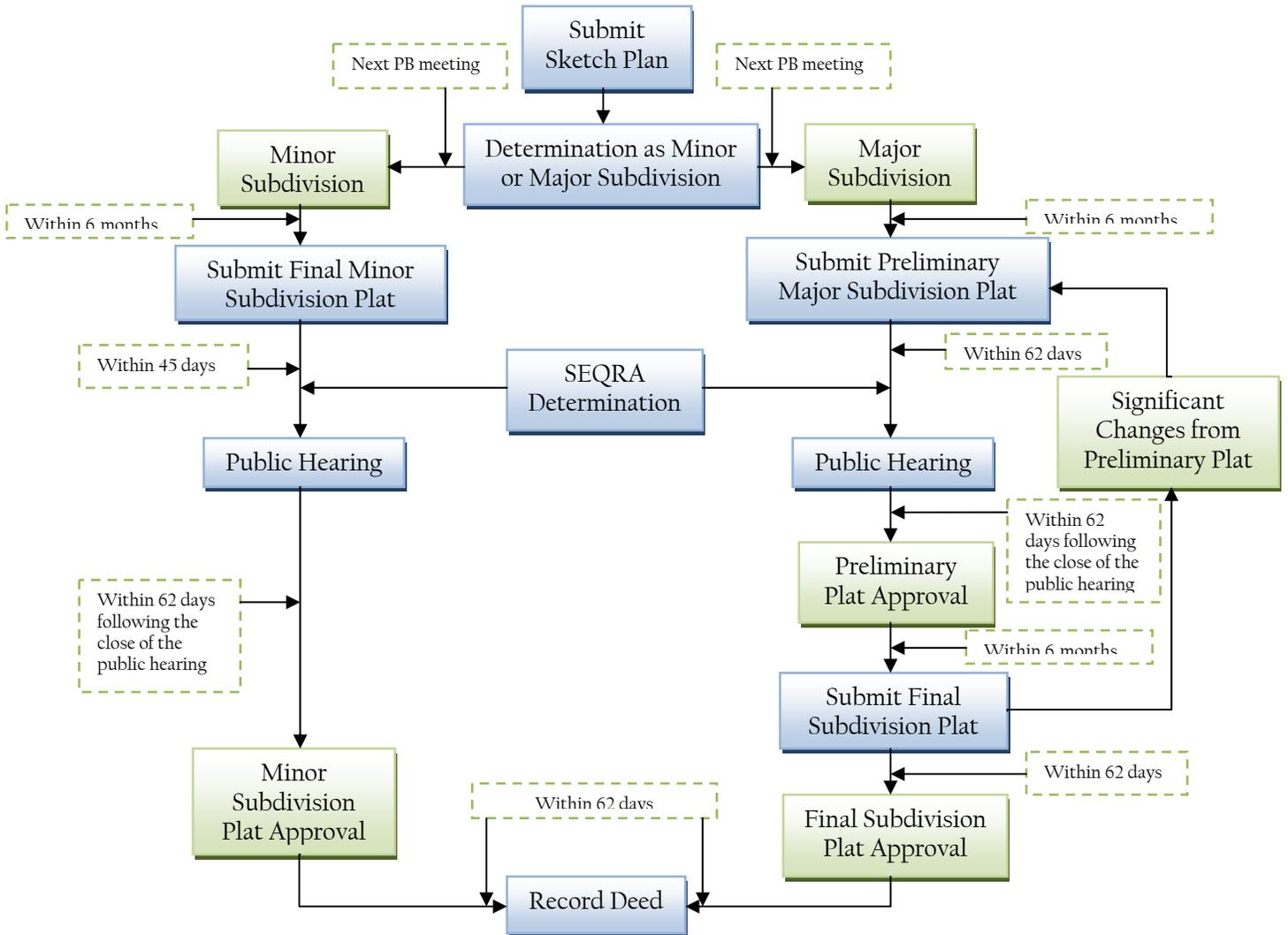
This Law shall take effect immediately on approval by the Town Board. Whenever used in this Law, the term "effective date" shall mean November 8, 2010.

## Article II. Submission Requirements

### § 6 General

- A. When any subdivision of land is proposed and before any contract for the sale of, or any offer to sell such subdivision or any part thereof is made, and before a building permit shall be granted, the procedure outlined herein shall be observed.
- B. All subdivisions in the Town of Porter shall conform to the requirements of 6 NYCRR PART 617 (SEQRA) and GML Article 12-B §239-n (County Planning Referral) of this Subdivision Law.
- C. Applications for subdivisions within an Agriculture District shall contain a provision that each and every deed conveying all or portions of the land subdivided as well as the final subdivision plat express the following notice: "You are buying a piece of property in an Agricultural District where there might be noise, fumes, vibrations associated with agricultural activities."

### § 7 Procedure Process Summary Chart



**§ 8 Sketch Plan**

**A. Submission of Sketch Plan.**

Any owner of land shall, prior to subdividing or re-subdividing land, submit to the Chairman of the Planning Board, at least ten (10) days prior to the regular meeting of the Board, two (2) copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of §8(B).

**B. Sketch Plan Requirements**

The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one (1) sheet. If phasing of the subdivision is anticipated, a conceptual drawing of the planned division of the entire plat is to be submitted. At a minimum, the sketch plan shall be submitted showing the following information:

- (1) 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.
- (2) All existing structures, wetlands, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200 feet thereof. If slopes exist on the property in excess of 5%, contours shall also be indicated at intervals of not more than ten (10) feet.
- (3) The name of the owner and of all adjoining property owners, as disclosed by the most recent municipal tax records.
- (4) The Tax Map sheet, block and lot numbers, if available.
- (5) All the utilities available and all streets which are either proposed, mapped or built.
- (6) The proposed pattern of lots, including lot width and depth; street layout; recreation areas; proposed open areas; and systems of drainage, sewerage and water supply within the subdivided area.
- (7) All existing restrictions on the use of land, including easements, covenants or zoning lines.

**C. Discussion of Requirements and Classification.**

- (1) The subdivider or his/her duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
- (2) Classification of the sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision, as defined in Article VII of these regulations. The Board may require, however, when it deems it necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions.
- (3) 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.

**§ 9 Minor Subdivisions.**

**A. Final Minor Subdivision Plat Application**

- (1) Within six (6) months after the Sketch Plan determination by the Planning Board, the applicant shall submit an application for review and approval of a Final Minor Subdivision Plat to the Chairman of the Planning Board.
- (2) The plat shall conform to the layout shown on the Sketch Plan, plus any recommendations made by the Planning Board. The application shall also conform to the requirements listed in §9(B).
- (3) Five (5) copies of the Final Minor Subdivision Plat shall be presented to the Chairman at the time of submission.
- (4) The sub-divider shall submit an Environmental Assessment Form, duly prepared as prescribed in the regulations under the State Environmental Quality Review Act (6NYCRR Part 617). Subsequent procedures under SEQRA shall coincide as closely as possible with the procedures under this Chapter.
- (5) The time of submission of the Final Minor Subdivision Plat shall be considered to be the date on which the application for plat approval, complete and accompanied by the required fee and all data required by these regulations, has been filed with the Chairman of the Planning Board.

**B. Final Minor Subdivision Plat Requirements**

- (1) Any person proposing to create a minor subdivision shall submit, along with plans required below, an application for minor subdivision approval. This application shall specify and/or be accompanied by:
  - (a) The name, address and telephone number of the property owner of record and those of the applicant, if different.
  - (b) The name or number of the road where the proposed subdivision is to be located.
  - (c) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
  - (d) The type of sewer system proposed.
  - (e) The required fee or receipt for the same.
  - (f) A completed Environmental Assessment Form, Part I as required by SEQRA. A determination of the environmental significance of this action shall be made prior to the public hearing. Subsequent procedures under SEQRA will coincide as closely as possible with the procedures under this chapter.
- (2) The applicant shall submit a Final Plat and required supplementary data for the proposed subdivision. This plat shall be prepared by a Professional Engineer or Surveyor and shall show all the lots proposed to be created. The Final Plat shall meet the following requirements:
  - (a) The subdivision plat shall be 24" X 36" in size.
  - (b) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.

- (c) The plat shall show the name of the municipality, name of the owner of record, North Point, graphic scale, and date.
  - (d) Soil types found on the site shall be shown unless the lots involved are lot improvements or contain existing sewage systems. Soil Conservation Service Classifications shall be used.
  - (e) Existing public roads shall be identified by their posted names and numbers.
  - (f) Proposed lot or parcel lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The plat shall depict the proposed subdivision as a part of the contiguous holdings of the applicant, and show adjacent lots already taken from the parcel.
- (3) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
  - (4) Documentation as may be required by the New York State Department of Health, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted.

C. Public Hearing

- (1) A public hearing shall be held by the Planning Board within 45 days from the time of submission of the subdivision plat for approval.
- (2) A Subdivision Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act.
- (3) The Town shall advertise the hearing at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith and provide such other notice to property owners within a minimum of 500 feet of the applicant's property boundary at the expense of the applicant.
- (4) The hearing shall be closed on motion of the Planning Board within 120 days after it is opened and shall be used to guide the Planning Board in acting upon the Preliminary Plat.

D. Planning Board Action

- (1) After the SEQRA process has been completed and within 62 days after closing the public hearing, the Planning Board shall take one (1) of the following actions on the Final Minor Subdivision Plat:
  - (a) Approval;
  - (b) Approval with modifications; or
  - (c) Disapproval.
- (2) The Board shall notify the applicant, in writing, of its action on the Final Minor Subdivision Plat.
  - (a) If the Planning Board grants approval, the Chairman shall notify the applicant of their decision.

- (b) If approved with modifications, the Board shall state the modifications of such approval in writing to the applicant.
  - (c) If disapproved, shall notify the applicant of the reasons for the disapproval in writing.
- (3) Failure to act on the Final Minor Subdivision Plat, within 62 days following the close of the public hearing, shall be considered an approval.

E. Signature and Notice

- (1) If the Planning Board grants final approval, the Chairman or his/her designee shall sign the subdivision plat constituting Final Plat approval. The Planning Board shall forward a letter to the applicant specifying the Board's action of approval.
- (2) If the Planning Board grants approval with modifications, the Chairman of the Planning Board, within five (5) days, shall forward a letter to the applicant specifying the Board's action and the modifications that must be met prior to Final Minor Subdivision Plat approval. The plat will be certified by the Chairman as approved with modifications and a copy mailed to the applicant with the original maintained by the Town Clerk.
- (3) Upon completion of such requirements, the plat shall be signed by the Planning Board Chairman or his/her designee.
- (4) An approval with modifications shall expire 180 days after the date of the letter granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which an approved plat shall be submitted for signature if, in their opinion, such extension is warranted in the circumstances, not to exceed two (2) additional periods of 90 days each.
- (5) In the event the Planning Board fails to act, the applicant may obtain a certificate from the Town Clerk stating the submission date and the Planning Board's failure to act as proof of approval.

**§ 10 Major Subdivisions.**

A. Preliminary Major Subdivision Plat Process

- (1) Within six (6) months after the Sketch Plan determination by the Planning Board, the applicant shall submit an application for review and approval of a Preliminary Plat to the Chairman of the Planning Board.
- (2) Five (5) copies of the Preliminary Plat, clearly marked "preliminary plat" and supplementary material shall be submitted to the Planning Board with written application for preliminary approval.
- (3) The application shall be submitted not less than ten (10) days prior to a regularly scheduled meeting of the Planning Board.
- (4) The sub-divider shall submit an Environmental Assessment Form, duly prepared as prescribed in the regulations under the State Environmental Quality Review Act (6NYCRR Part 617). Subsequent procedures under SEQRA shall coincide as closely as possible with the procedures under this Chapter.
- (5) The subdivider or his/her duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

- (6) The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the application for approval of the Preliminary Plat, complete and accompanied by the required fee and all data required by these regulations, has been filed with the Chairman of the Planning Board.

B. Preliminary Major Subdivision Plat Requirements

- (1) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract shall be provided.
- (2) The Preliminary Plat shall be clearly and legibly drawn, 24" X 36" in size, and should, when possible, show the entire tract to be divided.
- (3) The Plat shall be based on the concepts presented in the Sketch Plan and contain the following information:
  - (a) Proposed name of the subdivision, which shall not duplicate in spelling or pronunciation any recorded subdivision within Niagara County;
  - (b) The name and address of landowner and applicant;
  - (c) Location by Town, County and State including tax map numbers and addresses of affected and adjacent parcels and a 1" = 2000' location map;
  - (d) North point, date and graphic scale;
  - (e) Boundaries of total tract and acreage contained within;
  - (f) Approximate location and acreage of NYSDEC wetlands;
  - (g) Location of any FEMA flood hazard areas;
  - (h) Location of existing water courses;
  - (i) Boundaries of naturally wooded areas;
  - (j) Locations, and where appropriate, dimensions of parks and public grounds, permanent buildings in or adjacent to the subdivision, open space easements and other significant existing site features;
  - (k) Locations of existing sanitary sewers, public water mains, storm sewers and existing easements for utilities;
  - (l) Approximate location and acreage of disturbances for post subdivision construction;
  - (m) Names of owners of abutting properties, and lines showing where they intersect;
  - (n) Existing and proposed contours at intervals of at least every five (5) feet; U.S.G.S. maps may suffice for the basis of this item. The Town reserves the right to require greater detail;
  - (o) Layouts of proposed streets, alleys and other public rights-of-way, including widths and proposed names, which shall not duplicate existing names by spelling or pronunciation. The proposed streets shall be accompanied by a submission of plans, which shall include at a minimum, profiles, cross-sections, and preliminary designs for bridges and culverts;
  - (p) The proposed layout and approximate dimensions and acreage of lots;

- (q) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such;
  - (r) Building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown;
  - (s) All drainage easements shall be shown and marked as such;
  - (t) Approximate final grades in areas of cut or fill shall be shown;
  - (u) Any lots designated for uses other than residential shall be indicated;
  - (v) Letters from each utility servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision;
  - (w) An Erosion and Sedimentation Control Plan, as per DEC and based on the Phase II requirements, indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments;
  - (x) A storm water pollution prevention plan prepared in accord with the requirements hereof and DEC Phase II requirements.
  - (y) Documentation as may be required by the New York State Department of Health or the Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal;
  - (z) All applicable zoning data;
  - (aa) Preliminary landscaping plans.
- (4) A completed Environmental Assessment Form, Part I as required by SEQRA. A determination of the environmental significance of this action shall be made prior to the public hearing. Subsequent procedures under SEQRA will coincide as closely as possible with the procedures under this chapter.
  - (5) All submission requirements shall be submitted in an electronic format as well prior to the public hearing.

C. Agency Review

Prior to the Public Hearing, the Planning Board shall circulate the application to all relevant departments for their review and recommendations. Comments from the various departments may be entered into record at the Public Hearing.

D. Public Hearing

- (1) Within 62 days of the Planning Board meeting at which the Preliminary Plat is considered by the Board, the Planning Board shall hold a public hearing on this Preliminary Plat.
- (2) A Preliminary Plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act.

- (3) The Town shall advertise the hearing at least once in a newspaper of general circulation in the Town at least five (5) days before such hearing if held independently of the hearing on the draft environmental impact statement or 14 days before a hearing held jointly therewith and provide such other notice to property owners within a minimum of 500 feet of the applicant's property boundary at the expense of the applicant.
- (4) The hearing shall be closed on motion of the Planning Board within 120 days after it is opened and shall be used to guide the Planning Board in acting upon the Preliminary Plat.

E. Planning Board Action on Preliminary Plat

- (1) After the SEQRA process has been completed and within 62 days after closing the public hearing, the Planning Board shall take one (1) of the following actions on the Preliminary Plat:
  - (a) Approval;
  - (b) Approval with modifications; or
  - (c) Disapproval.
- (2) The Board shall notify the applicant, in writing, of its action on the Preliminary Major Subdivision Plat.
  - (a) If the Planning Board grants approval, the Chairman shall notify the applicant of their decision.
  - (b) If approved with modifications, the Board shall state the modifications of such approval in writing to the applicant.
  - (c) If disapproved, shall notify the applicant of the reasons for the disapproval in writing.
- (3) Failure to act on the Preliminary Major Subdivision Plat, within 62 days following the public hearing, shall be considered an approval.

F. Final Major Subdivision Plat Submission

- (1) Within six (6) months after approval or approval with modifications of the Preliminary Plat, five (5) copies of the Final Plat and other material required for approval shall be submitted to the Board. Such approval shall become null and void unless an extension of time is applied for and granted by the Board.
- (2) The Final Plat shall conform substantially to the Preliminary Plat as approved or as approved with modifications.

G. Final Major Subdivision Plat Requirements

The following documents shall be submitted for Final Major Subdivision Plat approval:

- (1) The Final Plat shall be prepared on one (1) or more sheets of a uniform size coinciding with requirements of the Town of Porter.
- (2) Final Plat attachments and exhibits shall be numbered and labeled in accordance with the requirements of this Section.

- (3) The Final Plat shall include, in addition to the information required for the Preliminary Plat submission, the following:
- (a) Exact locations, widths and names of all streets and all crosswalks within the subdivision;
  - (b) Complete curve data for all curves included in the Plat;
  - (c) Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements;
  - (d) Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation or drainage easements;
  - (e) Building footprint, shown graphically with dimensions;
  - (f) A final version of any Town mandated restrictions and covenants, if any, the applicant intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included;
  - (g) The total tract boundary lines of the parcel/parcels with the area being subdivided, with accurate distances to hundredths of a foot and bearings to one (1) minute. These boundaries shall be determined by accurate survey in the field. The location of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the licensed surveyor shall certify the placement of the monuments;
  - (h) A key map for the purpose of locating the site to be subdivided, at a scale of not less than 1"=2000', showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 4000 feet or any part of the property proposed to be subdivided. U.S.G.S. quadrangle maps may suffice as a base for such a key map;
  - (i) Each Final Plat submission shall, in addition to the items required above, include new submissions of Preliminary Plat data in any instance where there has been a change in the plans or the circumstances surrounding them.
- (4) Additional Submission Requirements
- The following additional information shall be submitted where applicable.
- (a) Public and access road cross-sections – typical details – with locations of water, sewer, sidewalks, streetlights, curbs, ditches, and catch basins;
  - (b) A traffic study if requested by the Planning Board as a condition of Preliminary Plat Approval.
  - (c) Public and access road cross-sections at 100 foot stations;
  - (d) Water and sewer trench cross-section details;
  - (e) Water and sewer service lateral connections to main;
  - (f) Water and sewer service lateral trench details (main to property line);

- (g) Fire hydrants - type and location including connection to water main;
  - (h) Streetlight detail;
  - (i) On-site sanitary disposal system;
  - (j) Open drainage detail;
  - (k) Paved swale detail;
  - (l) Typical lot layout with zoning setbacks;
  - (m) Sanitary sewer manhole with ring and cover cross-section details;
  - (n) Sanitary sewer manhole base plan view invert detail;
  - (o) Sanitary sewer drop manhole cross-section detail;
  - (p) Detention pond cross-section detail at stations at 50 foot intervals, with area and volume calculations; and
  - (q) Typical driveway detail with culvert pipe in ditch line.
  - (r) Public and access roads – full length center line profiles with existing and proposed grades numerically represented at stations at 50 foot intervals;
  - (s) Open drainage ditch full length profiles with existing and proposed grades numerically represented at stations at 50 foot intervals;
  - (t) Paved swale/drainage ditch full length profiles with existing and proposed grades numerically represented at stations at 50 foot intervals;
  - (u) Sanitary sewer line profiles with existing and proposed grades numerically represented at stations at 50 foot intervals and at all manhole locations;
  - (v) Detention pond center line profiles;
  - (w) Detention pond drainage line profiles;
  - (x) Sanitary pump station;
  - (y) Water pump station; and
  - (z) All final plans, profiles and sections of proposed stormwater management facilities.
- (5) Approval Blocks
- (a) Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plat;
  - (b) All involved agencies that require a signature shall be on the cover sheet.
- (6) Reports and Specifications
- (a) Engineering report for water supply system;
  - (b) Engineering report for sewage treatment system;
  - (c) Engineering report for stormwater collection system;

- (d) Detailed specifications for installation and materials for:
  - (i) Sewer main;
  - (ii) Water main;
  - (iii) Water service lateral;
  - (iv) Sewer service lateral;
  - (v) Sanitary manholes;
  - (vi) Storm sewers;
  - (vii) Road gravel and pavement;
  - (viii) Fire hydrants;
  - (ix) Street lights;
  - (x) Catch basins;
  - (xi) Culverts;
  - (xii) Others as Planning Board identifies; and

- (7) Schedules
  - (a) Project construction cost schedule; and
  - (b) Project schedule.

H. Planning Board Action on Final Plat

- (1) When the final plat is in substantial agreement with the preliminary plat, the Planning Board shall conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such plat within 62 days of its receipt. No additional public hearing shall be required.
- (2) When the final plat is not in substantial agreement with the preliminary plat, the preliminary plat procedures shall apply to a final plat insofar as SEQRA review, public hearing, notices and decision.
- (3) Within 62 days after receipt of the Final Major Subdivision Plat, the Planning Board shall take one (1) of the following actions on the Final Major Subdivision Plat:
  - (a) Approval;
  - (b) Approval with modifications; or
  - (c) Disapproval.
- (4) The Board shall notify the applicant, in writing, of its action on the Final Major Subdivision Plat.
  - (a) If the Planning Board grants approval, the Chairman shall notify the applicant of their decision.
  - (b) If approved with modifications, the Board shall state the modifications of such approval in writing to the applicant.
  - (c) If disapproved, shall notify the applicant of the reasons for the disapproval in writing.

- (5) Failure to act on the Final Major Subdivision Plat within 62 days shall be considered an approval.

I. Signature and Notice

- (1) If the Planning Board grants final approval or if the Planning Board fails to act, the Chairman or his/her designee shall sign the subdivision plat constituting Final Plat approval. The Planning Board shall forward a letter to the applicant specifying the Board's action of approval.
- (2) If the Planning Board grants approval with modifications, the Chairman of the Planning Board, within five (5) days, shall forward a letter to the applicant specifying the Board's action and the modifications that must be met prior to Final Major Subdivision Plat approval. The plat will be certified by the Chairman as approved with modifications and a copy mailed to the applicant with the original maintained by the Town Clerk.
- (3) Upon completion of such requirements, the plat shall be signed by the Planning Board Chairman or his/her designee.
- (4) An approval with modifications shall expire 180 days after the date of the letter granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which an approved plat shall be submitted for signature if, in their opinion, such extension is warranted in the circumstances, not to exceed two (2) additional periods of 90 days each.
- (5) In the event the Planning Board fails to act, the applicant may obtain a certificate from the Town Clerk stating the submission date and the Planning Board's failure to act as proof of approval.

**§ 11 Filing Requirements**

The following filing requirements apply to both minor and major subdivisions in the Town of Porter:

- A. Upon signature of the plat by the Planning Board Chairperson, the Final Plat shall be filed by the applicant in the office of the County Clerk, which shall meet the filing requirements of the County Clerk's office, and an original Mylar reproducible filed with the Town.
- B. Any Final Plat, either minor or major, or Lot Line Adjustment not so filed or recorded within 62 days from the date upon which such plat is approved shall become null and void.
- C. A copy of the certification from the County Clerk on the filing shall be submitted to the Town within 90 days of filing with the County Clerk. Failure to submit this certification will render the approval null and void and the application shall require re-filing.
- D. A copy of the approved Final Plat shall be submitted to the Town in digital format that is compatible with the Town's computer system.
- E. The Town takes no responsibility for and does not recognize any plat map filed with the County Clerk's office that lacks the signature of the Planning Board Chairperson.

**§ 12 Plat Void if Revised after Approval**

- A. No changes, erasures, modifications or revisions shall be made in any Final Plat after approval has been given by the Planning Board Chairman or 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.
- B. In the event that any such Final Plat is recorded without complying with these requirements, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

**§ 13 Public Improvement Retainer**

- A. The Applicant shall construct all required improvements as shown on the approved Final Plat.
- B. The Applicant shall file a public improvement permit stating the type and description of all public improvements, the estimated cost of such improvements, and the contractor who will be responsible for completing such improvements. The public improvement permit shall be signed by the applicant in the presence of a notary public.
- C. The Applicant shall furnish a retainer or cause a deposit sufficient to cover the full cost of the construction of utilities and street improvements as may be required by the Planning Board in accordance with §277 of the Town Law.
  - (1) The retainer must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
    - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Board and Town Attorney and meets Town Law §277 requirements.
    - (b) Be payable to the Town of Porter.
    - (c) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee.
    - (d) Costs shall be assumed to escalate a minimum of 10% per year for purposes of determining the amount of a guarantee.
    - (e) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Porter.
    - (f) Specify a satisfactory completion date for improvements, which shall, unless extended by mutual consent of the applicant and the Planning Board, be not more than three (3) years from the date of the Final Plat approval. Should an extension be granted, the amount of the guarantee shall be increased as may be required to cover further cost increases as provided above. Provisions may also be made, pursuant to the Town Law §277, for completion of improvements in phases.

- (2) When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements, may be released and returned.
  - (a) In the event of default, the obligor and surety shall be liable thereon to the Town of Porter for the cost of the improvements or parts thereof not installed. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the applicant, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.
  - (b) Prior to the certification of any improvements or release of any guarantee, the applicant shall pay all inspection and related costs (for professional services, meetings, advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this Law. Said payment shall be made to the Town of Porter
- (3) Where improvements are being dedicated to the Town, the applicant shall comply with the applicable requirements of any other Town Laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to ensure maintenance and repair of those improvements for two (2) years from the date of dedication. The maintenance bond shall generally be a maximum of 50% of the costs of improvements, subject to approval of the Town Board. Similar maintenance agreements may be required for private streets and nothing herein shall be deemed to require acceptance of dedication by the Town under any circumstances.

**§ 14 State Environmental Quality Review (SEQRA) Process**

- A. Subdivision of land shall be subject to the provisions of the State Environmental Quality Review Act (SEQRA) process.
- B. The Planning Board should identify the type of action the subdivision is according to SEQRA regulations. Depending upon the size of the subdivision and several other factors, it may be a Type I or an unlisted action. To make a decision, the Planning Board should consult 6 NYCRR PART 617 of the Environmental Conservation Law (New York).
- C. If it is determined that any provision of SEQRA must be followed or that an environmental impact statement has to be prepared for the application, all time frames and deadlines are delayed until such process is complete and a draft environmental impact statement has been filed.

- D. An application is not complete and the review clock does not start until a determination of no significance has been made or until a draft environmental impact statement has been completed.

**§ 15 Required Referral to Niagara County Department of Planning**

- A. Prior to the Planning Board making a preliminary recommendation on minor and major subdivision plats, the Town shall refer the plat to the County Planning Department for advisory review and a report in accordance with Article 12-B §239-n of the General Municipal Law, where the proposed action is within a distance of 500 feet from the boundary of any village or town, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, or from 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 from the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.
- B. All time frames are delayed until a response is returned from the various county agencies. If a response from all county agencies is not received within 30 days, the Town shall proceed with the subdivision process.

**§ 16 Subdivision Filing Fees**

- A. Fees for subdivision applications and SEQRA fees shall be in accordance with the fee schedule for the Town of Porter as amended from time to time.
- B. In addition, should the Town or its agents require independent construction inspection services for site work and exterior utilities and appurtenances to comply with the requirements of the Town Planning Board, an additional fee will be assessed to the applicant to compensate for the charge incurred by the Town. Based on the current hourly inspection rate schedule approved by the Town Board, a prepaid fee will be established by the Town.
- C. In addition, should the Town require special studies to comply with the requirements of the Town Planning Board, an additional reasonable, non-refundable and non-transferable fee will be assessed to the applicant to compensate for any and all charges incurred by the Town in this regard.
- D. Should the project for which application is made be subject to other monies being due the Town, the applicant shall be solely responsible for payment of the same, and the monies shall be in addition to all other fees or charges associated with said application. Prior to final approval by the Planning Board, the applicant and the applicant's engineer shall sign a Pre-Development Agreement with the Town stating the amount of monies due for costs that may be incurred by the Town for engineering and inspection of the completed site improvements and a schedule for completing the improvements.
- E. No building permit shall be issued prior to the execution of the Pre-Development Agreement by the Town Board.
- F. For projects that the applicant chooses to mitigate issues of environmental significance off site through "fees in lieu of mitigation", no building permit shall be issued until the applicant complies with the schedule of payments.
- G. No Certificate of Occupancy shall be issued until and unless all required mitigation is complete according to the schedule outlined in the Pre-Development Agreement.



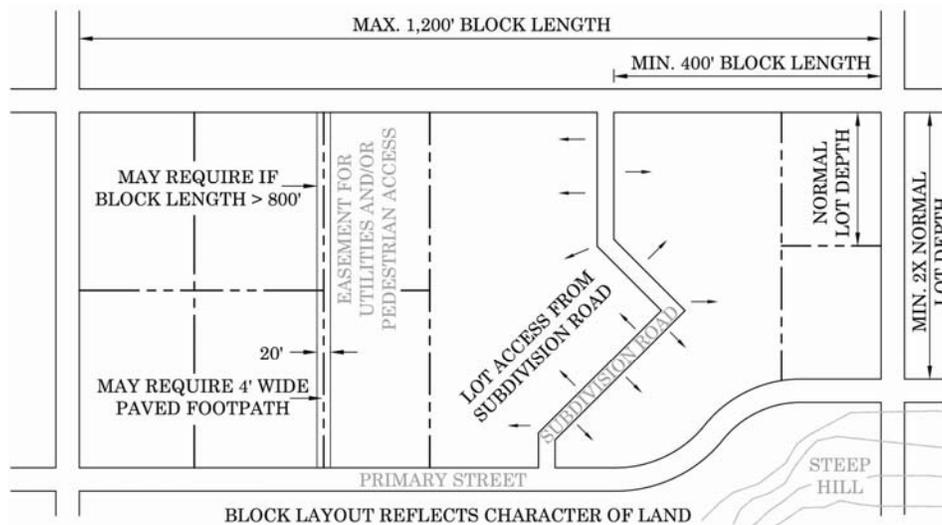
## Article III. Design Standards

### § 17 General

- A. Applicants shall comply with the following general planning and design standards.
- B. No higher standard shall be required by the Planning Board except where it finds that, because of exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development, the minimum standards specified herein would not reasonably protect or provide for public health, safety and welfare.
- C. Any higher standard that is required shall be reasonable and shall be limited to the minimum necessary to protect the public health, safety and welfare.

### § 18 Blocks

- A. Blocks shall be laid out with regard and consideration for the landscape character of land, topography, and natural features.
- B. 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.
- C. 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 (4)-foot-wide paved footpath be included.
- D. Blocks parallel or adjacent to a primary street providing access in the subdivision shall be organized in a manner that lots are accessed internal to the subdivision and not the primary street.

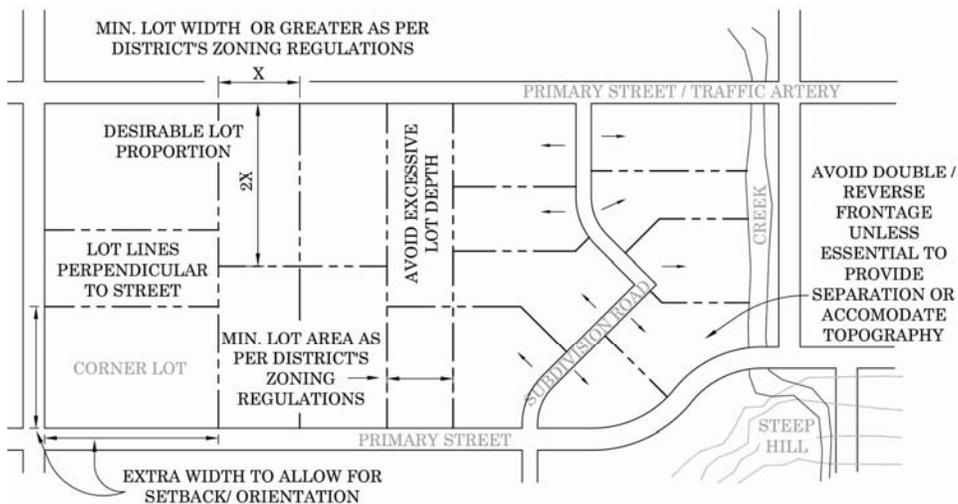


§ 19 Easements

- A. Where required, adequate easements centered on rear or side lot lines shall be provided for utilities where they are planned or anticipated. An easement width of 15 feet is required. Exceptional circumstances may require additional width, as determined by the Planning Board.
- B. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way in accordance with §24B(6).
- C. Easements or right-of-ways that link adjacent properties shall not be required but may be included in the subdivision plat.

§ 20 Lots

- A. The regulations set forth in the Town's Zoning Law (lot size, width, depth, shape and orientation and the building setback lines) shall be appropriate for the location of the subdivision, topographical conditions and for the type of development and use contemplated, as determined by the Planning Board.
- B. No lot shall have less area or width than the minimum requirements of the zoning regulations applying to the district in which it is located. No area variances shall be granted for new subdivisions.
- C. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.
- D. Each lot shall have the minimum required frontage to an existing or proposed public street. Flag lots shall not be permitted in the Town of Porter.
- E. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and/or orientation.
- F. Side lot lines shall be at a right angle or radial to street lines to the greatest extent possible. Irregular lot shapes should be avoided.
- G. Excessive depth in relation to the width should be avoided. A proportion of two (2) depth to one (1) width is considered to be desirable.



## § 21 Parkland and Open Space

### Parks and Open Space Requirements

- (1) All major subdivisions, including all phases, shall be required to provide open space. Developed open space shall be designed to provide active recreational facilities to serve the residents of the development. Undeveloped open space shall be designed to preserve important site amenities and environmentally sensitive areas.
- (2) When a proposed park or recreational facility shown in the Comprehensive Land Use Plan or Parks and Recreation Master Plan is located in whole or in part in a proposed subdivision, the Planning Board shall require the dedication or reservation of such area within the subdivision in those cases in which the Planning Board deems such requirements to be reasonable.
- (3) A minimum of 10% of the tract proposed for development shall be set aside for developed and/or undeveloped open space. Street right-of-ways, drainage, or other easements shall not satisfy any part of this requirement. The Town Board will not require open space of more than 10% of the tract proposed for development; however, this shall not preclude the subdivider from providing additional open space at his/her discretion.
- (4) Where a subdivision is designed using clustering or density averaging in accordance with §278 of Town Law; 10% of the total subdivision area, in addition to the land accrued by reducing lot sizes, shall be set aside for developed and or undeveloped open space pursuant to §21(3) above.
- (5) The area of each parcel of open space designed for active recreational purposes shall be of such minimum dimensions as to be functionally usable.
- (6) Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generation, they shall be sited with sensitivity to surrounding development.
- (7) Reserve strips of land which might be used to restrict access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.

### B. Payment in lieu of dedication

- (1) In cases where the Planning Board finds that, due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein or, if in the opinion of the Planning Board, it is not desirable, the Planning Board may then require a payment of a fee in lieu of dedication or reservation of area or sites for the above purposes. The fee shall be in accordance with the fee schedule for the Town of Porter as amended from time to time.
- (2) Such payment shall be a condition of approval of the Final Plat. No Final Plat shall be signed by the Chairman of the Planning Board until such payment has been received by the Town of Porter.
- (3) Monies received from such payments shall be placed in a recreation fund, such monies to be expended for the development of parks or recreation facilities and/or the acquisition of parkland within the Town.

- C. Improvements of open space parcels
  - (1) Developed open space.

The Planning Board may require the installation of recreational facilities, taking into consideration:

    - (a) The character of the open space land.
    - (b) The estimated age and the recreation needs of persons likely to reside in the development.
    - (c) Proximity, nature and excess capacity of existing municipal recreation facilities.
    - (d) The cost of the recreational facilities.
  - (2) Undeveloped open space.

Undeveloped open space should be left in its natural state. A developer may make certain improvements, such as the cutting of trails for walking or jogging or the provision of picnic areas, etc.
- D. Deed restrictions.
  - (1) Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the Town Attorney ensuring that:
    - (a) The open space area will not be further subdivided in the future.
    - (b) The use of the open space will continue in perpetuity for the purpose specified.
    - (c) Appropriate provisions will be made for the maintenance of the open space.
  - (2) Parkland and open space areas may be dedicated to the Town. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same.

## § 22 Pedestrian Circulation

The following requirements only apply to major subdivisions.

- A. Pedestrian sidewalks shall be provided through the subdivision in a manner that promotes walkability and provides a safe and secure pedestrian environment.
- B. Pedestrian sidewalks shall be designed to promote connectivity through the subdivision.
- C. Pedestrian sidewalks shall be developed to link the subdivision to adjacent lands and uses and shall accommodate future linkages.
- D. All pedestrian sidewalks shall comply with the requirements of Americans with Disabilities Act (ADA).
- E. Sidewalk design shall be approved by the Town Engineer.

## § 23 Sanitary Sewer Facilities

- A. All residential lots shall contain suitable areas for on-site sewage disposal systems or be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Environmental Conservation ("DEC"), shall be submitted with all preliminary subdivision plats and design standards shall meet DEC requirements. Formal approval of DEC shall be required prior to final plat approval.
- B. When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivision and land developments shall be provided with an adequate sewage disposal system(s). Central sewage disposal systems shall also be required for all residential lots and non-residential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- C. Where connection to a central sewage disposal system is not required, on-site systems shall be provided in accordance with criteria set forth by the New York Department of Health. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for on-site subsurface sewage disposal.
- D. Sanitary sewers shall not be used to carry storm water.

## § 24 Storm Drainage

- A. Stormwater drainage facilities shall be designed to accommodate storms of a 25 year frequency unless a more stringent standard shall be required by the Planning Board. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Town may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances. The subdivider shall provide full information, prepared by a professional engineer, regarding the pre-development stormwater flows and estimates at the time of application.
- B. The following additional requirements shall apply:
  - (1) Lots shall be laid out and graded to drain away from proposed building areas and prevent cross-lot drainage. Natural drainage courses shall be maintained.
  - (2) The existing points of natural drainage discharge onto adjacent property shall not be altered, nor shall the rate of water runoff be increased because of development.
  - (3) No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands.
  - (4) Stormwater calculations and design shall be prepared by a professional engineer, land surveyor, landscape architect or others certified to perform such work.
  - (5) Storm drainage facilities should be designed to handle the anticipated peak discharge from the property being subdivided.

- (6) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be a storm easement or drainage right-of-way conforming substantially with the lines of such watercourse of such width as to encompass a one hundred year storm event. The easement or right-of-way shall be a minimum of 25 feet on each side to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, improving or protecting such drainage facilities.
- (7) Drainage structures that are located on State highway rights-of-way shall be approved by the New York State Department of Transportation, and evidence of the same shall be provided to the Town prior to final plan approval.
- (8) All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way. The slope of the crown on proposed streets shall be 1/4" per foot away from the center line.
- (9) All proposed surface drainage structures shall be indicated on the preliminary plan.
- (10) Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
- (11) Whenever storm drains are required by the Town, such storm sewer systems shall be separate from the sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Planning Board determines that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
- (12) Drainage systems shall be designed in accordance with engineering practice, using hydraulic computations to show effects of the flow of water. The general standard shall be that the amount of stormwater leaving the site along any property line after development shall not exceed pre-development stormwater flows for that area. In no case shall any pipe system of less than 15" in diameter be used underneath a street or driveway.
- (13) All drainage systems and structures shall be subject to the approval of the Town Engineer, or any such other qualified person as may be appointed for this purpose by the Planning Board.

## § 25 Streets

The arrangement, character, extend, width, grade and location of all streets shall conform to the Comprehensive Land Use Plan and to the Official Map and shall be considered in its relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by such streets.

### A. Arrangement

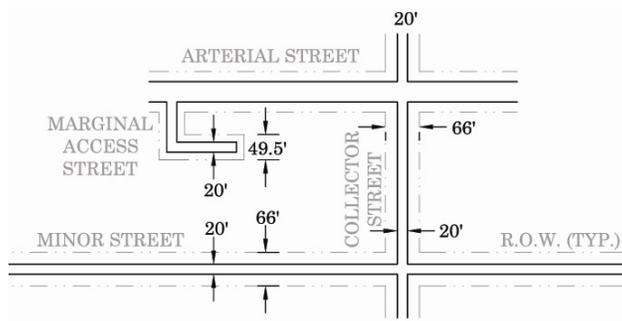
- (1) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided in order to make possible necessary fire protection, movement of 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.

- (2) Where property depth permits, residential street patterns such as U-shaped courts, and loop streets are strongly suggested as alternatives to strip development.

B. Steet Widths

Streets shall have the following widths. (When not indicated on the Comprehensive Plan or Official Map, the classification of streets shall be determined by the Planning Board.)

- (1) Arterial streets shall be determined by the State or County Road Authority.
- (2) Collector streets and minor streets shall have a pavement width of 20 feet and a Right-of-way width of 66 feet.
- (3) Marginal access streets shall have a pavement width of 20 feet and a Right-of-way width of 49.5 feet.



C. Street Construction Standards

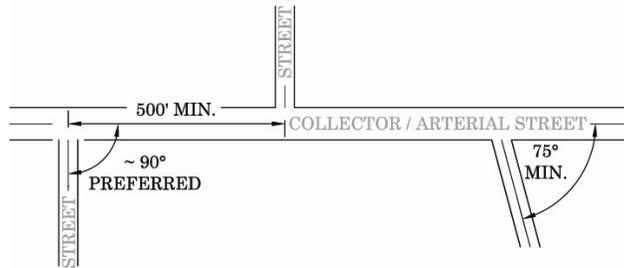
Street construction standards shall be approved by the Town Engineer

D. Cul-de-sacs

Cul-de-sacs shall not be permitted for any new subdivisions in the Town of Porter.

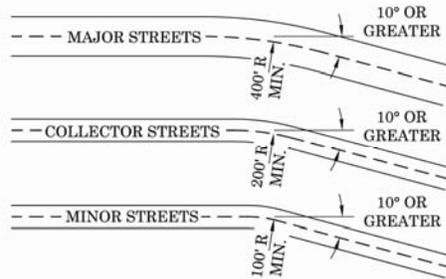
E. Intersections

- (1) Intersections with collector or arterial streets shall, in general, be at least 500 feet apart.
- (2) Street jogs with center line offsets of less than 125 feet shall be avoided.
- (3) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than 75°.



F. Curve Radii

In general, street lines within a block, deflecting from each other at any one (1) 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.



G. Gradient

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 10% for minor streets in residential zones, but in no case more than 3% within 50 feet of any intersection.

H. Naming

- (1) Street names shall not duplicate or be similar to existing street names in the Town of Porter.
- (2) Streets have full names and not numbers or letters.
- (3) Streets that are extensions of or in alignment with existing streets shall bear the names of the existing streets.
- (4) Street name signs shall be installed at each street intersection by the subdivider according to the standards and location required by the Town and approved by the Highway Superintendent.

I. Monuments and Lot Corner Markers

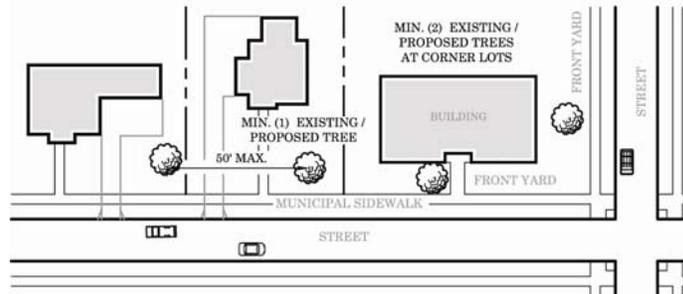
Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.

§ 26 Trees and Natural Features

Reasonable requirements for the preservation of outstanding natural features may be specified. These include large trees or groves, watercourses and falls, state and federally regulated wetlands, significant habitats, historic spots, exceptional views, and similar irreplaceable assets in which there is general public interest. Some of these locations are identified in the Comprehensive Land Use Plan. The Planning Board may also reasonably identify such locations.

A. Trees

- (1) No tree with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final subdivision plat. Removal of additional trees shall be subject to the approval of the Planning Board.
- (2) Naturally wooded areas with more than 20% of the trees with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk should be preserved as open space to the greatest extent practicable.
- (3) There shall be at least one (1) existing or proposed tree per residential lot, along the street frontage, spaced at intervals of not more than 50 feet. On corner lots, there shall be two (2) trees per lot.



- (4) No trees shall be planted within the street right-of-way. New trees shall be located a minimum of five (5) feet outside the right-of-way.
- (5) New trees shall measure at least 2 ½ inches in diameter as measured at a point three (3) feet above finished grade level.
- (6) Street trees shall be planted by the developer, with the location and type of trees to be approved by the Board.

B. Wetlands

- (1) All subdivisions or land developments shall include a Wetland Delineation Report prepared by a qualified professional
- (2) A minimum 100 foot buffer shall be established from the limit of the wetland, no construction or development shall occur within the buffer. If it is determined that construction or development outside the established buffer may impact the bio-diversity and environmental quality of the wetland, mitigation measures may be required as determined and approved by the municipality and/or regulating authorities.

**§ 27 Water Supply and Fire Hydrants**

- A. A public water line shall be extended to service the subdivision.
- B. The public water system shall have adequate main sizes, valving, fire hydrants, and water supply designed to meet the Association of Fire Underwriters' specifications for a protected area.
- C. Such system shall be approved by the public agency or authority operating the central water system and the Fire Department responsible for providing the fire protection.

## Article IV. Site Preparation

### § 28 Dust, Dirt and Noise Control

During construction:

- A. Take all necessary measures to control dust migration including but not limited to watering, mulching and seeding. No chemical applications for dust control are allowed. Water used to control dust shall be non-potable.
- B. Keep all approach roads to the development site used by constructors or material suppliers clean and free of mud.
- C. Adhere to and obey all applicable bylaws regulating noise levels, work days and work hours.

### § 29 Erosion and Sedimentation

In the event that any subdivider shall intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include hay bales, silt fences or other provisions or combinations thereof.

### § 30 Materials and Equipment Storage

- A. All construction materials and equipment stored at the site shall be protected and made safe.
- B. Storage of any material or equipment in areas to be preserved, protected or that are environmentally sensitive is prohibited.
- C. Spills or discharges of pollutants or contaminants that cause or are likely to cause adverse effects shall be reported immediately to the appropriate agency having jurisdiction over such matters. Reporting, clean up and remediation shall be undertaken as required by regulating authorities.

### § 31 Utilities

- A. Electrical service, gas mains and other available utilities shall be installed by the developer within each subdivision at no cost to the Town.
- B. Utilities shall be located within the right-of-way, but not under pavement except when necessary for crossings, and shall be below grade, wherever feasible.
- C. The Applicant shall install such utility and street improvements at his/her own expense.



## Article V. Exceptions

### § 32 Cluster Developments

The Planning Board, in its discretion, is hereby empowered to approve cluster-type subdivisions, when permitted under the Zoning Law of the Town of Porter. Such subdivisions shall conform with §19 (Cluster Developments) of the Zoning Law of the Town of Porter.

### § 33 Modifications and Waivers

- A. The Planning Board may waive the requirements for subdivision improvements if, in its judgment of the special circumstances of a particular plat or plats, they are not requisite in the interest of the public health, safety and general welfare.
- B. The Planning Board may also waive the requirements for such subdivision improvements if, in its judgment of the special circumstances of a particular plat or plats, they are inappropriate because of inadequacy or lack of connecting facilities adjacent to, or in proximity to the subdivision.
- C. No such modification(s) may be granted if it/they would have the effect of nullifying the intent and purpose of the Zoning Law, the Comprehensive Land Use Plan, or this Law.
- D. In granting waivers or modifications, the Planning Board may require such reasonable modifications as will, in its judgment, substantially secure the objectives of the standards or requirements so waived or modified.



## Article VI. Enforcement, Violations and Penalties

### § 34 Enforcement

- A. The Code Enforcement Officer of the Town of Porter shall enforce this Chapter.
- B. No permit for the erection of any building or structure in a subdivision shall be issued by the Code Enforcement Officer until a copy of the Final Subdivision Plat, certified by the Chairman of the Planning Board to be a true copy of the recorded plat, is filed with the Planning Board by the Applicant or his/her authorized agent.
- C. The Planning Board shall notify the Code Enforcement Officer, by letter, that the Planning Board has, in fact, received the required certified copy.
- D. No Building Permit shall be issued unless the street or highway that accesses the parcel has been suitably improved and accepted by the Town.

### § 35 Violations and Penalties

- A. Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a final plat has been prepared, approved and recorded in full compliance with the provisions of this Law, shall be deemed to have committed a violation of this Law and shall be liable for such violation.
- B. Any person found in violation of this Law shall be subject to a fine not exceeding \$350 per lot, parcel or dwelling. All fines collected for such violations shall be paid over to the Town of Porter.
- C. Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- D. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- E. The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.



## Article VII. Definitions

**APPLICANT (OWNER)** – A person who is the reputed owner, or authorized agent of the reputed owner, of land proposed for subdivision and/or other site improvement.

**CLUSTER DEVELOPMENT** – A form of residential subdivisions that permits a reduction in lot area and other development standards, provided there is no increase in the number of lots permitted under a conventional subdivision.

**COMPREHENSIVE PLAN** – The written and graphic materials adopted by the Town Board that identify the goals, objectives, principles, policies, standards, devices, and instruments for the immediate and long-range protection, enhancement, and growth and development of the Town.

**CONSERVATION EASEMENT** – An easement precluding additional development of certain lands often used by landowners to protect certain environmental qualities of the property.

**CULVERT** – A structure, less than 20 feet in diameter or width, designed to convey a watercourse under a road or pedestrian walk.

**DENSITY** – The permitted number of dwelling units per gross acre of land to be developed on developable land.

**DETENTION POND** – A man-made or natural water collector facility designed to collect surface and sub-surfaced water in order to impede its flow and to release same gradually and at a rate not greater than that which existed prior to the development of the property, into natural or man-made outlets.

**DRAINAGE** – The removal of surface water or groundwater from land by drains, grading, ditches or other means.

**DWELLING UNIT** – Any dwelling, building or complex of structures used or intended to be used by one (1) family, and providing complete housekeeping facilities.

**EASEMENT** – A right-of-way, granted but non-dedicated, for limited use of private land for public or quasi-public purposes and within which the owner of the property shall not erect any permanent structures.

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

**EROSION** – The wearing away of natural (earth) and unnatural (embankment, slope protection, structure, etc.) surfaces by the action of external forces. In the case of drainage terminology, this term generally refers to the wearing away of the earth's surface by flowing water.

**FINAL SUBDIVISION PLAT/FINAL PLAT** – A plan or drawing in final form for recording prepared by a licensed professional engineer or surveyor, showing existing features of the land and proposed suitable design data for the construction of streets, utilities, lot layout and the provision of suitable access connections to adjacent properties.

**FINISHED GRADE** – The average level of the finished surface adjacent to the building or structure.

**HIGHWAY SUPERINTENDENT** – The duly elected highway superintendent of the Town of Porter.

**IMPERVIOUS SURFACE** – A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

**IMPROVEMENT** – Physical changes to the land including grading, pavement, curbs, gutters, storm sewers, drains, alterations to existing watercourses, sidewalk, traffic signage, crosswalks, shade trees, sodding or seeding, street name signs, street light facilities, stormwater detention/retention facilities with control structures and property monuments.

**LETTER OF CREDIT** – See RETAINER.

**LOT** – A parcel of land 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.

**LOT DEPTH** – The mean horizontal distance between the front and rear lines of a lot.

**LOT LINE ADJUSTMENT** – A lot line adjustment is required to move a property line between two (2) or more existing adjacent lots or parcels without creating a new lot.

**OFFICIAL MAP** – The map established by the Town of Porter pursuant to §270 of the Town Law showing the streets, highways and parks theretofore, laid out, adopted and established by law and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Board and the subsequent filing of such approved plats. Streets not accepted by the Town Board as public streets shall be shown thereon but shall be marked as private streets.

**PARENT PARCEL** – Any parcel that is large enough to be subdivided into two or more lots which meet the minimum lot requirement of the zoning district that it is located in.

**PERFORMANCE GUARANTEE** – See Retainer.

**PLANNING BOARD (BOARD)** – The Planning Board of the Town of Porter.

**PRE-DEVELOPMENT AGREEMENT** – An agreement between the Town and a developer, where the developer agrees to pay all engineering and inspection costs of a subdivision and associated improvements along with a schedule to complete such improvements.

**PRELIMINARY SUBDIVISION PLAT/PRELIMINARY PLAT** – The maps, drawings and other data, prepared by a licensed professional engineer, surveyor or a qualified site planner, showing the layout of a proposed subdivision, as specified in these Regulations, submitted to the Planning Board for approval prior to submission of the Final Plat, and of sufficient detail to apprise the Planning Board of the layout and improvements within such proposed subdivision including, but not limited to, design data for the construction of streets, utilities, lot layout and the provision of suitable access connections to adjacent properties.

**RETAINER** – A surety bond, certified check, letter of credit or other security meeting the requirements of §277 of the Town Law, and the terms of which are satisfactory to the Town Attorney, guaranteeing the applicant will install all approved, required and planned improvements. The Bond and Letter of Credit shall be issued from a financial institution having offices of business in New York State.

**RIGHT-OF-WAY** – A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a street, crosswalk, railroad, utility, or other similar use.

**SEDIMENTATION** – A deposit of soil that has been transported from its site of origin by water, ice, wind, gravity, or other natural means as a product of erosion.

**SEQRA** – The NYS State Environmental Quality Review Act as outlined in 6 NYCRR PART 617.

**SKETCH PLAN** – A preliminary presentation of a proposed subdivision or site plan and of sufficient accuracy to be used for the purpose of discussion and classification.

**STORM WATER RETENTION** – A permanent storage facility accommodating storage of storm water runoff without release of such runoff.

**STREETS** – A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, drive, place, or other similar designation. The following functional classifications are used in this Law.

**ARTERIAL STREETS** – Those that are used primarily for fast or heavy traffic, usually with complete or partial control over access from abutting property.

**COLLECTOR STREETS** – Those that carry traffic from minor streets at major system or arterial streets and highways.

**MINOR STREETS** – Those that are used primarily for access to the abutting properties.

**MARGINAL ACCESS STREETS** – Minor streets that are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

**SUBDIVISION** – The division or re-division of a lot, tract or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, transfer of ownership or building or lot development.

**MAJOR SUBDIVISION** – Any size subdivision not classified as a minor subdivision, including, but not limited to, a subdivision of five (5) or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

**MINOR SUBDIVISION** – Any subdivision containing not more than four (4) lots fronting on an existing street or not involving any new street, road or the extension of municipal facilities beyond the frontage requirements of a single lot within the designated zone 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 Land Use Plan, Official Map or Zoning Law of the Town of Porter. A minor subdivision may be deemed a major subdivision if it is part of or contiguous to a previously approved subdivision. Application for further subdivision of any portion of a minor subdivision or for a further subdivision of the parent parcel shall constitute application for a major subdivision.

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

**TOWN CODE ENFORCEMENT OFFICER** – The duly designated codes officer of the Town.

**UTILITIES** – The provision of services to include gas, electric, telephone, cable, water, fiber optics and storm sewers. Utilities shall not include sanitary sewers.