

Chapter 164

SUBDIVISION OF LAND

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[HISTORY: Adopted by the Town Board of the Town of New Scotland 4-12-1993 by L.L. No. 1-1993; amended and readopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Highway specifications — See Ch. 110.

Zoning — See Ch. 190.

Sewers — See Ch. 155.

ARTICLE I

General Provisions

§ 164-1. Authority and jurisdiction.

- A. The Town of New Scotland Planning Board has the power and authority to approve plats for subdivision within its corporate limits by virtue of a resolution adopted by the Town Board on the fourth day of May 1962, pursuant to the provisions of Article 16, Chapter 62 of the Consolidated Town Law of the State of New York and as amended thereafter.

- B. The Town of New Scotland Building Inspector is hereby granted the power and authority to approve plats for minor subdivisions within the corporate limits of the Town of New Scotland by virtue of adopted Local Town Law No. 1 by the Town Board on the 12th day of April 1993 and as amended thereafter, provided such approval does not include discretionary interpretations of this chapter, in which case said approval will be passed on by the Inspector to the Town of New Scotland Planning Board for review and approval.
- C. Hereafter, prior to the subdivision of, or boundary line adjustment to, any parcel of land that occurs within the corporate limits of the Town of New Scotland, a subdivision plat shall be submitted to the Town Building Inspector for appropriate distribution and approval. Subdivision approval must be obtained prior to the plat being filed and recorded with the office of the County Clerk.
- D. Pursuant to Municipal Home Rule Law §§ 10 and 22 the Town Board of the Town of New Scotland hereby expressly supersedes all provisions of New York State Town Law § 276 (enacted pursuant to Chapter 964, Section 2, of the Laws of 1972 and as thereafter amended and as the same may hereafter be amended or recodified) and replaces the same with the provisions of this chapter.
- E. Pursuant to Municipal Home Rule Law §§ 10 and 22, the Town Board of the Town of New Scotland hereby expressly supersedes the current provisions of Subdivision 1 of New York State Town Law § 277 (originally enacted pursuant to Chapter 634 of the Laws of 1932 and thereafter amended) and Subdivision 4 of New York State Town Law § 277 (originally enacted pursuant to Chapter 727, Section 2, of the Laws of 1992 and as the same may hereafter be amended or recodified). Such provisions are superseded by §§ 164-12 and 164-13 of this chapter.

§ 164-2. Purpose.

This chapter has been adopted in order to create conditions favorable to the health, safety, morals and general welfare of the citizens of the Town of New Scotland through provision of regulations that will ensure the harmonious development of the community.

§ 164-3. Short title.

This chapter shall be known and may be cited as "The Subdivision Law of the Town of New Scotland."

§ 164-4. Fees.

Subdivision applications shall only be accepted with appropriate application fees as outlined in the Town of New Scotland Fee Schedule, available through the Town Clerk and/or the Building Department.

§ 164-5. Controlling regulation.

Where provisions of this chapter impose greater restrictions than those of any statute, other law or regulation, the provisions of this chapter shall be controlling. When the provisions of any statute, other law or regulation impose greater restrictions than this chapter, the provisions of such statute, other law or regulation shall be controlling.

ARTICLE II
Procedure for Minor Subdivisions

§ 164-6. Designation of minor subdivision.

A minor subdivision of land is any boundary line adjustment, or subdivision of land into at least two but not more than four lots, parcels or sites which do not require the construction of a new street or public utility or expansion or extension of an existing street or public utility. Any subdivision which involves such improvement or which includes more than four lots shall be considered a major subdivision and shall be subject to the review procedures outlined in Article III, Procedure for Major Subdivisions. A minor subdivision of any parcel of land creating more than a total of four lots within any consecutive three-year period must be deferred to the Planning Board for review in accordance with § 164-13 of this chapter.

§ 164-7. Optional preapplication sketch plan procedure.

Prior to the official submission of any minor subdivision plat as outlined in § 164-9, the subdivider may prepare a sketch plan for informal discussion with the Inspector. Said submission shall not be considered an official subdivision, but shall be for the purpose of establishing in advance, insofar as is possible, the extent to which the proposed subdivision conforms with the design standards of this chapter.

§ 164-8. Optional sketch plan submission requirements.

In the case of a minor subdivision only, acceptable sketch plans shall include the following:

- A. Key map. A key map or location map, showing the location of the proposed subdivision within the Town.
- B. A rough-scale sketch of the proposed subdivision and adjoining properties which displays the following information:
 - (1) Name of the Town and county in which the subdivision is located and name and address of record owner and subdivider;
 - (2) North arrow/point;
 - (3) Date of submission;
 - (4) Map scale;
 - (5) Names of all adjoining property owners;

- (6) The specific boundary of the area to be subdivided;
- (7) Zoning district boundaries, if more than one zoning classification applies to the parcel;
- (8) Existing drainage features (i.e., ponds, rivers, streams, marshes, wetlands and culverts);
- (9) Proposed pattern of lots (including approximate lot width, depth and area);
- (10) All setback and frontage requirements of the appropriate zoning district.

§ 164-9. Procedure for approval of minor subdivision plat.

On reaching conclusions informally as recommended in § 164-7, or otherwise regarding general program and objectives, the subdivider shall cause to be prepared a minor subdivision plat together with other supplementary support material as specified in § 164-10.

§ 164-10. Minor subdivision plat submission requirements.

The following plat and data requirements shall apply only to minor subdivision plats as defined in this chapter:

- A. Two copies of the minor subdivision plat and supplementary support material specified shall be submitted to the Inspector with written application, for acceptance. The Inspector must schedule his review to begin at least 14 days after acceptance of the application.
- B. Key map. A key map showing:
 - (1) The boundary lines of zoning districts, and municipal areas.
 - (2) Proposed subdivision boundary line.
- C. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the lot will be located on the ground and marked by monuments as approved by the Inspector, and shall be referenced and shown on the plat.
- D. 911 Requirements. Lot numbering shall be in compliance with Town of New Scotland 911 designations.
- E. A minor subdivision plat prepared on permanent reproducible medium at a scale of not more than 100 feet to the inch (no larger than 30 inches by 40 inches sheet size), containing the following information:
 - (1) Title block including:
 - (a) Name of subdivision, name of Town and county and name and address of record owner and subdivider;
 - (b) North arrow/point;

- (c) Date of original submission and any subsequent submission(s);
 - (d) Map scale;
 - (e) Name, license number, address and seal of the New York State licensed professional who prepared the drawing and supporting documentation;
 - (f) Names and shared boundary limits of adjacent property owners. Adjacent properties which are a part of a recorded subdivision plat may be identified by the subdivision name.
- (2) Existing site condition to be shown:
- (a) Approximate location of tree masses and other significant natural features;
 - (b) Approximate location of marshes, ponds, streams, or any wetlands including area of cover. (NOTE: Federal- and state-regulated wetlands may require additional field survey verification.);
 - (c) Existing buildings, water mains, culverts, utility lines, hydrants, and other significant man-made features;
 - (d) All existing streets on or within 300 feet of the lot, including name, right-of-way width and pavement width and all existing property lines;
 - (e) All, easements and rights-of-way, and the reasons for their establishment.
- (3) Proposed site conditions:
- (a) The dimensions and area of new lots to the nearest 1/100 of a foot;
 - (b) The location and size of any stormwater management improvements to be constructed, if any;
 - (c) Setback and frontage requirement of the appropriate zoning district;
 - (d) A short environmental assessment form with (part one) project information completed;
 - (e) Such other certificates, affidavits, endorsements or agreements as may be required by the Inspector in the enforcement of this chapter.
- F. List the names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision when deferred to Planning Board.

§ 164-11. Open space in minor subdivisions.

The Town of New Scotland Planning Board has determined that a parkland set-aside for recreation purpose is not practical for minor subdivisions, and consistent with the requirements of Article 16, § 277, of the New York State Town Law and Article IV, § 164-43 of this chapter, a fee in lieu of parkland set-aside will be required for minor subdivision approval. Said fee shall be set forth in the Town of New Scotland Fee Schedule.

§ 164-12. Action on minor subdivision plat by Inspector.

- A. The Inspector, within 45 days from the date of submission of a minor subdivision plat, shall act to approve, disapprove or defer decision to the Planning Board for review and determination. Whenever a plat is not approved, reason for such action shall be explicitly stated. The provisions of this article shall not provide the Inspector with the option of granting conditional approval of any minor subdivision.
- B. The time in which the Inspector must take action on such plat may be extended by mutual consent of the subdivider and the Inspector. Failure of the Inspector to act within such time, absent any mutually agreed extension, shall constitute approval of the plat.
- C. Following initial review by the Inspector of the minor subdivision plat for conformity thereof to this chapter and, absent resolution of any negotiations with the subdivider on changes deemed advisable, the Inspector may defer action on the minor subdivision to the Planning Board for review and decision. Said deferral may include recommendations for conditional approval deemed appropriate by the Inspector for guidance during Planning Board review and determination. The official submittal date to the Planning Board will be considered the date of referral by the Inspector provided such date falls at least 14 days prior to a regularly scheduled Planning Board meeting.
- D. At least once monthly, the Inspector shall provide the Planning Board with a listing of all minor subdivisions approved under the provisions of this § 164-12 during the previous monthly period. A copy shall also be forwarded to the Town Clerk for recordkeeping purposes.

§ 164-13. Action on minor subdivision plat by Planning Board.

- A. The Planning Board, upon deferment by the Inspector, may review and determine appropriate action on any minor subdivision plat.
- B. A deferred minor subdivision plat must be received at least 14 days prior to a regular, scheduled Planning Board meeting in order to be considered officially submitted.
- C. A public hearing shall be held by the Planning Board within 45 days from the date of official submission of the minor subdivision plat to the Planning Board. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. Should a SEQR hearing be required, the review period requirements of 6 NYCRR Part 617 shall supersede the requirements of this section and said hearings shall be held simultaneously.
- D. Within 45 days after the date of the public hearing, the Planning Board shall, by resolution, approve, conditionally approve, or disapprove such minor subdivision and authorize the signing of such plat. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.
- E. In the event that the Planning Board fails to take action within the time prescribed, the plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such

prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Clerk's request.

§ 164-14. Final approval and certification of minor subdivision plat.

- A. Within five days of approval by the Inspector, or in the case of deferment to the Planning Board, of the resolution granting approval by the Planning Board, the plat shall be certified by the Inspector as approved, a copy shall be filed in the office of the Inspector and a copy forwarded to the subdivider, via registered, certified or return receipt mail.
- B. If, upon deferment, the Planning Board elects to conditionally approve the plat, within five days of the resolution granting conditional approval, the plat shall be certified by the Inspector as conditionally approved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such conditions which, when completed, shall authorize the signing of the conditionally approved plat. Upon completion of such requirements the plat shall be signed by the Inspector. The subdivider shall have 180 days to meet the conditions set forth by the Planning Board for plat approval. The Planning Board may extend this time for not more than two additional consecutive ninety-day periods.
- C. If the plat is disapproved by the Inspector, or in the case of a deferment, disapproved by the Planning Board, the subdivider shall be notified in writing by the Inspector of such disapproval. Within five days of such disapproval, the plat shall be certified by the Inspector as disapproved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such reasons for which the plat was disapproved.

§ 164-15. Compliance with state and county regulations.

- A. If said subdivision is located within a distance of 500 feet from any of the following, the subdivision must also be referred to the Albany County Planning Board for its review as required under General Municipal Law § 239-n:
 - (1) The boundary of any city, town or village; or
 - (2) The boundary of any existing or proposed county or state park or 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 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 25AA of the Agriculture and Markets Law.
- B. Pursuant to 6 NYCRR Part 617.13 (b) of the New York State SEQRLaw, all minor subdivision reviewed and approved under the purview of the Building Inspector are considered Type II actions and do not require environmental determination or procedures. Approval of a minor subdivision plat deferred to the Planning Board shall not be deemed final until the subdivider has fulfilled all requirements of this chapter, 6 NYCRR Part 617 SEQRLaw and any other appropriate state and county requirements. The time requirements of this section shall be superseded by any time requirements of 6 NYCRR Part 617 SEQRLaw, and if needed, time requirements for any Zoning Board of Appeals review and decisions shall also prevail. No minor subdivision plat, deferred to the Planning Board, may be approved prior to full compliance with 6 NYCRR Part 617 SEQRLaw. After completion of these details and notation to that effect upon the plat, it shall be deemed as having final approval.

§ 164-16. Minor subdivision plat filing requirements.

Within 60 days after final approval and endorsement of the minor subdivision plat, and in compliance with the requirement of Article 9, § 334, of the New York State Real Property Law, the subdivider must file the plat for recording with the County Clerk. One Mylar or linen and one paper copy, properly endorsed, of the approved subdivision shall be filed. Should the final plat not be offered for recording within such period, final approval of the plat shall expire and become null and void.

**ARTICLE III
Procedure for Major Subdivisions**

§ 164-17. Optional preapplication procedure.

Prior to the official submission of any major subdivision plat discussed in §§ 164-19 and 164-24, the subdivider may prepare a sketch plan for informal discussion with the Planning Board. Except when submitted voluntarily by the subdivider in association with the cluster development procedure in Article VI, this submission shall not be considered an official submission, but shall be for the purpose of establishing in advance, insofar as is possible, the extent to which the proposed subdivision conforms with the design standards of this chapter.

§ 164-18. Optional sketch plan submission requirements.

In the case of a major subdivision only, an acceptable sketch plan shall include the following:

- A. Key map. A key map or location map, showing the location of the proposed subdivision within the Town.

- B. A rough-scale sketch of the proposed subdivision and adjoining properties which displays the following information:
- (1) Title block:
 - (a) Subdivision name, name of the Town and county in which the subdivision is located, name and address of record owner(s) and the subdivider;
 - (b) True or magnetic North point and date taken;
 - (c) Date of original submission and each subsequent submission(s);
 - (d) Map scale;
 - (2) Names of all adjoining property owners.
 - (3) The specific boundary of the area to be subdivided including existing lot lines and easements.
 - (4) Zoning district boundaries, if more than one zoning classification applies to the parcel.
 - (5) Site conditions:
 - (a) Topographic contours. United States Geological Survey (USGS) and/or New York State Department of Transportation Geological Survey Maps will be acceptable;
 - (b) Existing drainage features (e.g., ponds, rivers, streams, marshes and culverts);
 - (c) Existing utilities, structure, streets and street names;
 - (d) Present and proposed means of sewage disposal, water supply and storm drainage;
 - (e) Tree masses, bedrock outcroppings and other physically limiting and/or visually unique features;
 - (f) Existing easements and lot lines.
 - (6) Proposed site conditions:
 - (a) The proposed pattern of lots (including approximate lot width, depth and area);
 - (b) Proposed utilities (including sewer, water, storm drainage, subsurface drains, stormwater and dewatering detention, infiltration and/or retention basins);
 - (c) All setback and frontage requirements of the appropriate zoning district;
 - (d) A written statement addressing how open space and shared facilities will be owned and maintained;

- (e) Proposed street and block layout, with reference to surrounding proposed rights-of-way for access to other land through the subdivided property.

§ 164-19. Major subdivision preliminary plat procedure.

On reaching conclusions informally as recommended in § 164-17, or otherwise regarding general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with any other supplementary support material. Said preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in § 164-20. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of New York State Town Law, and § 164-20 of this chapter except where a waiver of the requirements of this chapter is specifically authorized by the Planning Board.

§ 164-20. Major subdivision preliminary plat submission requirements.

- A. Twelve copies of the preliminary plat and supplementary material specified, shall be submitted to the Inspector with written application for acceptance at least 14 days prior to the Planning Board meeting at which it is to be considered.
- B. The subdivision plat submitted for preliminary plat approval shall be clearly legible on white background drawings.
- C. The preliminary plat shall be on sheets not larger than 30 inches by 40 inches overall. It is recommended that as far as practicable preliminary plat sheets be held to the following overall standards sizes: 17 inches by 22 inches; 22 inches by 34 inches; 24 inches by 36 inches; 30 inches by 40 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, preliminary plats shall be drawn in two or more sections accompanied by a key diagram showing relative location of the sections.
- D. The preliminary plat shall be at scale of not more than 100 feet to the inch. All dimensions shall be shown in feet and in hundredths of a foot. The preliminary plat shall include the following information:
 - (1) Key map. A key map at a scale of one inch equals 800 feet showing the following information for the proposed subdivision and areas extending 200 feet beyond the subdivision:
 - (a) The relationship of the proposed subdivision to the primary and secondary highway system and main intersections; the boundary lines of zoning districts, special districts and municipal areas;
 - (b) Match lines, as needed when there are two or more drawings showing the complete subdivision;
 - (c) Boundary data. The proposed subdivision area shall be shaded or significantly outlined;

- (d) Boundaries of adjacent properties and property owners' names. Adjacent properties which are a part of a recorded subdivision plat may be identified by the subdivision name.
- (2) Title block including:
- (a) Subdivision name, name of the Town and county in which the subdivision is located and name and address of record owner(s) and the subdivider;
 - (b) True or magnetic North point and date taken;
 - (c) Date of original submission and each subsequent submission(s).
 - (d) Map scale;
 - (e) The name, address, license number and seal of the New York State licensed professional (including but not limited to an engineer, architect or landscape architect) who prepared the drawing and support documentation.
- (3) Existing site conditions to be shown:
- (a) Topographic contours:
 - [1] Contours existing on the tract, and extending 50 feet beyond the subdivision boundary, at vertical intervals of five feet or, in the case of relatively level tracts, at such lesser interval as may be necessary for satisfactory study and planning of the tract;
 - [2] Datum to which contour elevations refer shall be presented. Where reasonably practicable, data shall refer to known, established elevations;
 - [3] The extent to which existing contours will be altered during the course of subdivision development for street and driveway placement, storm control, sewage disposal, etc., including identification of all grading and clearing limits.
 - (b) Natural features:
 - [1] The location and area of all existing watercourses, tree masses and other significant natural features;
 - [2] All areas designated as wetlands by the NY State Department of Environmental Conservation as freshwater wetlands and/or jurisdictional federal wetlands, flagged as necessary;
 - [3] A map of soils interpretation of existing soils, indicating type, percolation, soil bearing and depth to groundwater.
- (4) Existing conditions:
- (a) All existing buildings, water mains, culverts, sewer and gas mains, power lines, fire hydrants and other significant man-made features shall be identified by size, type of structure, location and, as applicable, elevation;

- (b) All existing streets or highways on or adjacent to the tract, including name, right-of-way width and pavement width;
 - (c) All existing property lines, easements and rights-of-way, and the reason for their establishment.
- (5) Proposed site improvements and descriptions:
- (a) Location, width, grades, names and restrictions, if any, of all proposed streets, highways, rights-of-way and easements;
 - (b) Municipal or public lands designated as parks or open spaces, or for some other public or community use, including community facilities;
 - (c) The location of playgrounds, public buildings, public areas and open space;
 - (d) Building and other structures on the subdivision which are to remain;
 - (e) Limits of clearing for all vegetated areas.
 - (f) Lot layout:
 - [1] The dimensions and area of lots to the nearest 1/100 foot. Blocks and lots shall be numbered and lot drainage shall be shown;
 - [2] Identification of lots or parcels for special use and whether they are to be offered for dedication;
 - [3] Easements and restricted areas, with notation as to purpose, shall be shown;
 - [4] Street access to adjoining property;
 - [5] 911 requirements. Lot numbering shall be in compliance with Town of New Scotland 911 designations.
 - (g) Utilities:
 - [1] The location of any proposed on-site water systems or connection to existing system; sanitary disposal system, showing depth to water table, soil boring data (as necessary), treatment area, connection points and line size, or connection to existing system;
 - [2] Evidence that the proposed methods for water supply and sanitary sewage disposal have been reviewed and approved by the New York State Health Department, the New York State Department of Environmental Conservation, and the Albany County Department of Health, as required;
 - [3] Stormwater management and erosion control. The location and size of stormwater management improvements and/or erosion control measures, to be constructed;

- [4] Cross-sections showing the proposed location and type of water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.

(h) Test hole data, if required:

- [1] Date and location;
- [2] Graphic representation of findings for all test holes.

- E. Protective covenants. A draft of any protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development, including those required to preserve open space and those required for maintenance and care of shared open space and facilities shall be provided.
- F. Submission of State Environmental Quality Review Act¹ full environmental assessment form, part one, completed with documentation.
- G. An engineering project narrative outlining the design intent of the subdivision layout, and compliance issues with appropriate federal, state, county and local laws, ordinances and regulations.
- H. List of names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision.

§ 164-21. Action on preliminary plat submission.

- A. Application must be received by the Inspector at least 14 days prior to a regularly scheduled Planning Board meeting in order to be considered officially submitted at that meeting. Applications received by the Inspector less than 14 days prior to a regular scheduled Planning Board meeting will be considered officially submitted at the following Planning Board meeting.
- B. A public hearing shall be held by the Planning Board within 45 days from the time of submission of the preliminary plat. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. Should a SEQR hearing be required, the review period requirements of 6 NYCRR Part 617 shall supersede the requirements of this section and said hearings shall be held simultaneously.
- C. Within 45 days after the date of such hearing, the Planning Board shall approve, conditionally approve or disapprove such preliminary plat, stating the grounds of modification, if any or the grounds for disapproval upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing, modifications, if any, as it deems necessary for submission of the plat in final form. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.

1. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- D. In the event that the Planning Board fails to take action within the time prescribed, the preliminary plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Town Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Town Clerk's request.

§ 164-22. Certification of preliminary plat approval.

- A. Within five days of the approval of such preliminary plat, it shall be certified by the Inspector as preliminarily approved. A copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail.
- B. Review and acceptance of a preliminary plat as the basis for the preparation of a final plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of acceptance of the layout submitted on the preliminary plat as a guide to the preparation of the final plat. The final plat must be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of this chapter and the conditions of review and acceptance, if any.

§ 164-23. Compliance with state and county regulations.

- A. If said subdivision is located within a distance of 500 feet from any of the following, the subdivision must also be referred to the Albany County Planning Board for its review as required under General Municipal Law § 239-n:
- (1) The boundary of any city, town or village; or
 - (2) The boundary of any existing or proposed county or state park or 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 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 25AA of the Agriculture and Markets Law.
- B. Approval of a preliminary plat shall not be deemed final until the subdivider has fulfilled all requirements of this chapter, 6 NYCRR Part 617 SEQR Law and any other appropriate state and county requirements. The time requirements of this section shall be superseded by any time requirement of 6 NYCRR Part 617 SEQR Law, and, if needed,

time requirements for any Zoning Board of Appeals review and decisions shall also prevail. No preliminary plat may be approved prior to full compliance with 6 NYCRR Part 617 SEQR Law. After completion of these details and notation to that effect upon the plat, it shall be deemed as having preliminary approval.

§ 164-24. Major subdivision final plat procedure.

As required in New York State Town Law § 276, Subdivision 5(h), within six months after Planning Board action on the preliminary plat, the final plat and necessary supplementary data required for final approval shall be prepared as specified in § 164-25 and shall be submitted for review and final approval. An extension of time may be granted by the Planning Board for submission of the final plat upon written request by the subdivider for up to two additional six-month periods. Any plat submitted after six months or, extension provided, shall be considered as a new preliminary plat.

§ 164-25. Major subdivision final plat submission requirements.

- A. The final plat shall conform substantially to the preliminary plat as approved. Prior to granting conditional or final approval of the plat in final form, and, if desired by the subdivider, the Planning Board may permit the plat to be split into two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to ensure the orderly development of the plat before such sections may be signed by the Inspector. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.
- B. Twelve copies of the completed final plat application and all necessary supplementary data required shall be submitted in writing to the Inspector for distribution to the Planning Board at least 14 days prior to the meeting at which it is to be considered.
- C. The subdivision plat submitted for final approval shall be clearly legible on white background drawings.
- D. Final plats shall be on sheets not larger than 30 inches by 40 inches overall. It is recommended that as far as practicable final plat sheets be held to the following overall sizes: 17 inches by 22 inches; 22 inches by 34 inches; 24 inches by 36 inches; 30 inches by 40 inches. Where necessary to avoid sheets larger than the maximum size prescribed above, final plats shall be drawn in two or more sections accompanied by a key diagram showing relative location of the sections.
- E. The final plat shall be at a scale of not more than 100 feet to the inch. All dimensions shall be shown in feet and in hundredths of a foot. The final plat shall include all information required on the preliminary plat (unless superseded by the following) and the following information:

- (1) Survey data:
 - (a) Boundaries of the tract;
 - (b) Street or highway lines, lot lines, rights-of-way, easements, and areas dedicated or proposed to be dedicated to public use;
 - (c) Sufficient data to determine readily the location, bearing and length of every street or highway lot, and boundary line and to reproduce such lines on the ground;
 - (d) The length of all straight lines, radii, lengths of curves and tangent bearings for each street or highway;
 - (e) All dimensions and angles or bearings of the lines of each lot and of each area proposed to be dedicated to public use;
 - (f) The proposed building setback line for each street or highway or the proposed placement of each building;
 - (g) Location and width of all private driveways;
 - (h) Lots and blocks within a subdivision, which shall be numbered in accordance with prevailing Town practices and comply with Town of New Scotland 911 designations.
- (2) Names of streets or highways within and up to 500 feet of the subdivision.
- (3) Monuments. The accurate location of all permanent reference monuments shall be shown and constructed as specified in § 164-46B.
- (4) Wherever practicable names of any adjoining subdivision shall be shown.
- (5) List of names, lot numbers, addresses and phone numbers of property owners within 500 feet of the proposed subdivision.

§ 164-26. Accompaniments.

The final plat shall include hereon or be accompanied by the following:

- A. A statement duly acknowledged before the Clerk of the Town of New Scotland and signed by the owner or owners of the property, to the effect that the subdivision as shown on the final plat is made with free consent and that is it desired to record the same.
- B. Certification by the Planning Board Engineer and the Town Planning Board Attorney that the subdivider has met the requirements of Article VI of this chapter.
- C. Typical cross-sections, street or highway profiles and drainage details for all streets. Such profiles shall show at least the following: existing (natural) grade along the proposed street center line; proposed finished center-line grade and proposed grade of culvert

inverts in accordance with the requirements of the New Scotland Highway Department and the Town Board.²

- D. Protective covenants, including covenants governing the maintenance of unceded public open space or reservations.
- E. Letters, as appropriate, to the Chairman of the Planning Board, signed by a responsible official of the State Department of Transportation or County Public Works Department, approving proposed construction on state or county rights-of-way and indicating that the necessary permits have been issued by their office, or submission of a copy of appropriate permits.
- F. The subdivider shall tender offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways or parks, not otherwise specifically reserved. Approval of the plat by the Planning Board shall not constitute an acceptance by the Town Board or Town Highway Department of the dedication of any street, highway, or park or other open space for public use.
- G. Such other certificates, affidavits, endorsements or agreements as may be required by the Inspector and/or the Planning Board in enforcing this chapter shall be provided.

§ 164-27. Action on final plat.

- A. Applications must be received by the Inspector at least 14 days prior to a regular, scheduled Planning Board meeting in order to be considered officially submitted at that meeting. Applications received by the Inspector less than 14 days prior to a regular scheduled Planning Board meeting will be considered officially submitted at the following Planning Board meeting.
- B. Within 45 days after the Planning Board meeting at which the final plat is reviewed, the Board shall hold a public hearing on the final plat. The final plat hearing shall be advertised in a newspaper of general circulation in the Town at least five days before such hearing. The Planning Board may waive the requirement for such hearings when the Board deems that the final plat, as submitted, is in substantial agreement with the preliminary plat approved under § 164-19, and, if such preliminary plat had been approved with modifications, the final plat is modified in accordance with requirements of such approval.
- C. Within 45 days after the date of such hearing, or within 45 days from the time of submission of the final plat, if no public hearing is held, the Planning Board shall meet to take action on the submission of the completed application. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board.
- D. The Planning Board shall take one of the following actions:

2. Editor's Note: See also Ch. 110, Highway Specifications.

- (1) The Planning Board may move to approve the final plat as submitted. The Planning Board is required to approve the final plat, subject to the following conditions:
 - (a) All the requirements for final subdivision plat submission have been met;
 - (b) All required corrections and modifications have been made or a sufficient guarantee has been accepted by the Planning Board for such corrections and modifications;
 - (c) Any bonds or other forms of surety requested by the Planning Board, Planning Board Attorney, Town Board Attorney and the Highway Department have been obtained by the subdivider and approved by the Town Board;
 - (d) A statement has been supplied by the Town Attorney approving as to the legal sufficiency of all offers of cession or covenants governing the maintenance of unceded public open space.
 - (2) The Planning Board may move to conditionally approve the final plat, outlining in its decision the requirements which must be met for final plat approval. The subdivider shall have 180 days to meet the conditions set forth by the Planning Board for final plat approval. The Planning Board may extend this time for not more than two additional consecutive ninety-day periods.
 - (3) If the final plat is disapproved, the subdivider shall be formally notified of such disapproval. The Planning Board shall outline in its decision the reasons for disapproval.
- E. In the event that the Planning Board fails to take action within the time prescribed, the final plat shall be deemed approved and a certificate of the Clerk of the Town of New Scotland as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Research to determine the official submission date and any mutual extensions of time may be required by the Clerk of the Town of New Scotland prior to release of said certificate. Said research will be conducted by the Inspector at the Town Clerk's request.
- F. Approval shall not be deemed final until the subdivider has fulfilled all requirements of this section, conditions of any conditional approval and any other appropriate State and County requirements. In addition, said approval shall not be deemed final until the subdivider has established appropriate surety with the Town of New Scotland Town Board sufficient to cover the full cost to construct all improvements to be dedicated to the Town of New Scotland.

§ 164-28. Certification of final plat.

- A. Within five days of the resolution granting approval by the Planning Board, the plat shall be certified by the Inspector as approved, a copy shall be filed in the office of the

Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail.

- B. If the Planning Board elects to conditionally approve the plat, within five days of the resolution granting conditional approval, the plat shall be certified by the Inspector as conditionally approved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such conditions which, when completed, shall authorize the signing of the conditionally approved plat. Upon completion of such requirements the plat shall be signed by the Inspector.
- C. If the plat is disapproved by the Planning Board, the subdivider shall be notified in writing, by the Inspector, of such disapproval. Within five days of such disapproval, the plat shall be certified by the Inspector as disapproved, a copy shall be filed in the office of the Inspector and a copy mailed to the subdivider, via registered, certified or return receipt mail. The copy mailed to the subdivider shall include a certified statement of such reasons for which the plat was disapproved.

§ 164-29. Major subdivision plat filing requirements.

Within 60 days after the final approval and endorsement of the major subdivision plat, and in compliance with Article 9, § 334, of the New York State Real Property Law, the subdivider must file the plat for recording with the County Clerk. In the event the subdivider shall file only a section of such approved plat in the office of the County Clerk, the entire approval plat shall be filed within 30 days of the filing of such section with the Town of New Scotland Town Clerk. Any section filed with the County Clerk shall encompass at least 10% of the total number of lots contained in the approval plat. The approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of § 265-a of New York State Town Law. One Mylar or linen and one paper copy, properly endorsed, of the approved subdivision shall be filed with the County Clerk. Should the final plat not be offered for recording within such period, final approval of the plat shall expire and become null and void.

ARTICLE IV
Design Standards

§ 164-30. Land requirements.

The following general land requirements, where applicable, shall apply to "all" subdivisions in the Town of New Scotland. Land shall be suited to the purpose for which it is to be subdivided. In general, the Planning Board and for minor subdivisions, the Inspector, shall take the following factors into consideration prior to the approval of any subdivision plat.

- A. A subdivision laid out on low-lying land that is subject to periodic flooding and/or qualifies as a wetland

[NOTE: Wetlands include all areas identified as being Town-designated wetlands, New York State Department of Environmental Conservation freshwater wetlands and/or jurisdictional federal wetlands as outlined in "Federal Interagency Committee for Wetland Delineation, Federal Manual for Identifying and Delineating Jurisdictional Wetlands," US Army Corp of Engineers, US Environmental Protection Agency, US Fish and Wildlife Service, and USDA Soil Conservation Service, Washington D.C. Cooperative Technical Publication, 76pp. plus appendices. Use most recent modification an/or update.] shall not be approved unless it is proven that adequate safeguards against such hazards are provided by the plan and such layout complies with state and federal wetland regulations and federal flood protection regulations.

- B. Areas characterized by steep slopes in excess of 20% grade, rock formations, wetlands and floodplains may be included in area calculations for individual lots identified by the applicant to adequately support structures, water supply and sanitary disposal systems, as required.

§ 164-31. Street or highway system.

- A. The location of all secondary (collector) streets in a proposed subdivision shall conform in general alignment to the Official Map, adopted by the Town of New Scotland, Town Board, if so identified.
- B. The proposed street layout shall provide for the continuation or projection of existing streets or highways in the surrounding area unless the Planning Board deems such extension undesirable for specific reasons of topography or design.
- C. Streets shall be related to the topography so as to produce usable lots and grades which do not exceed 10%.
- D. Local streets shall be so laid out as to discourage through traffic; however, provision for street connections into and from adjacent areas will generally be required.
- E. Where it is desirable in the opinion of the Planning Board to provide street access to adjoining property, proposed streets shall be extended to the boundary of such property.
- F. If lots resulting from the original subdivision are large enough to permit resubdivision, or if a portion of the tract is not subdivided, adequate street right-of-ways to permit further subdivision shall be provided as necessary and required by the Planning Board.
- G. Where a subdivision abuts or contains an existing or proposed primary or secondary street, the Planning Board may require marginal access streets, rear service alleys, reverse frontage or through lots or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with any primary or secondary street, and separation of local and through traffic as necessary for adequate protection of residential properties and to afford separation of local and through traffic.
- H. New half or partial streets will not be permitted, except where essential for reasonable subdivision of a tract in conformance with the other requirements and standards

contained herein and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

- I. Wherever a tract to be subdivided borders an existing half or partial street, the other part of the street shall be designed within such tract.
- J. Dead-end streets shall be prohibited except as stubs to permit future street extension into adjoining tracts, or when designed as culs-de-sac. Any dead-end street will comply with the requirements of § 164-32C.

§ 164-32. Cul-de-sac.

- A. Cul-de-sac streets permanently designed as such shall not exceed 1,000 feet in length, and shall furnish access to not more than 24 nor fewer than six dwelling units.
- B. Cul-de-sac street shall be provided at the closed end with a pavement turnaround having a minimum radius to the outer pavement edge of 75 feet and a minimum right-of-way radius of 90 feet, or as acceptable to the Planning Board and Town Highway Department.
- C. A temporary turnaround shall be provided at the end of a street where future extension is expected. The excess right-of-way of the turnaround will revert to lot owners when the street is extended. A paved turnaround having a minimum radius to the outer pavement edge of 50 feet and a minimum right-of-way radius of 60 feet shall be provided at the closed end of any temporary cul-de-sac or as acceptable to the Planning Board and Town Highway Department.
- D. In place of a cul-de-sac or a temporary turnaround, the Town Highway Superintendent may recommend to the Planning Board either a "K"-type or "T"-type turnaround. In any event the details of such must be acceptable to both the Planning Board and the Town Highway Department.

§ 164-33. Street or highway right-of-way widths.

- A. Minimum street right-of-way widths, measured from lot lines, shall be as shown on the Official Map adopted by the Town Board, or if not shown thereon, shall meet the following minimum standards:
 - (1) Primary streets: sixty-six-foot right-of-way;
 - (2) Secondary street: sixty-foot right-of-way;
 - (3) Local (minor) street: fifty-foot right-of-way;
 - (4) Marginal access street: fifty-foot right-of-way.
- B. Where a subdivision abuts or contains an existing street or right-of-way of inadequate right-of-way width, additional right-of-way width in conformance with the above standards shall be required.

§ 164-34. Pavement widths.

- A. Minimum pavement widths, measured from edge of pavement to edge of pavement, shall be as shown on the Official Map, or if not shown thereon shall meet the following standards:
- (1) Primary street: twenty-four-foot pavement width;
 - (2) Secondary (collector) street: twenty-four-foot pavement width;
 - (3) Local (minor) street: twenty-four-foot pavement width;
 - (4) Marginal access street: twenty-four-foot pavement width.
- B. All streets listed above are to have three-foot-wide shoulders on either side in addition to the minimum pavement widths as shown on the Town's "Typical Street Section."³

§ 164-35. Street or highway alignment.

- A. Whenever street lines are deflected in excess of 5°, connection shall be made by horizontal curves.
- B. To ensure adequate sight distance, minimum center-line radii for new streets for horizontal curves shall be as follows:
- (1) Primary street: 500 feet;
 - (2) Secondary (collector) street: 300 feet;
 - (3) Local (minor) street: 150 feet;
 - (4) Marginal access street: 150 feet.
- C. Except on local and marginal access streets, a tangent shall be required between reverse curves.

§ 164-36. Street or highway grades.

- A. Center-line grades shall not exceed the following:
- (1) Primary street: 5%;
 - (2) Secondary street: 7%;
 - (3) Local street: 10%;
 - (4) Marginal access street: 10%.

3. Editor's Note: Said diagram is included at the end of Ch. 110, Highway Specifications.

- B. Vertical curves shall be used at changes of grade exceeding 2% and shall be designed in relation to the extent of the grade change and to provide the following minimum sight distance:
- (1) Primary street: 400 feet;
 - (2) Secondary street: 200 feet;
 - (3) Local street: 100 feet;
 - (4) Marginal access street: 100 feet.
- C. Where the grade of any street at the approach to an intersection exceeds 7%, a leveling area shall be provided having not greater than 1% grades for a distance of 25 feet measured from the nearest right-of-way line of the intersecting street.
- D. To provide for adequate drainage, the minimum grade shall not be less than 1%.

§ 164-37. Street intersections.

- A. Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than 60°.
- B. No more than two streets shall intersect or meet at any one point. Where this proves impossible, such intersections shall be designed to minimize pedestrian and vehicular conflicts and confusing traffic patterns.
- C. Clear sight triangles of 30 feet measured along street lot lines from their point of junction shall be provided at all intersections, and no building shall be permitted within such sight triangles.
- D. To the fullest extent possible, local streets intersecting with primary and/or secondary streets shall be located not less than 800 feet apart, measured from center line to center line.
- E. Streets or highways entering opposite sides of another street or highway shall be laid out either directly opposite one another or with a minimum offset of 125 feet between their center lines.
- F. Minimum pavement radii at street or highway intersections shall be 25 feet for intersections involving only local streets, 33 feet of intersections involving other primary or secondary streets, or such other radius layouts, as is suited and/or required for the specific intersection.

§ 164-38. Lots.

- A. Lot dimensions and areas shall not be less than specified by provisions of the Town of New Scotland zoning requirements.⁴

4. Editor's Note: See Ch. 190, Zoning.

- B. Where either or both water supply and sanitary sewage disposal are provided by individual on-lot facilities, the Planning Board may employ the services of a registered and qualified independent engineer, hydrogeologist, or other appropriate professional for advice as the minimum lot size and/or facilities necessary to prevent unsanitary conditions and hazards to the public health. In such cases, the reasonable cost of retaining the services of the professional shall be borne by the subdivider.
- C. The ratio of the depth of any lot to its width shall not exceed the depth to width ratio stated in Chapter 190, Zoning, of the Code of the Town of New Scotland for minimum lot size calculations purposes only.
- D. Side lot lines shall be designed such that lot lines run substantially at right angles or radial to street or highway lines.
- E. Double frontage lots are prohibited, except where employed to prevent vehicular access to primary and secondary streets.
- F. Depth and width of parcels laid out or reserved for nonresidential use shall be sufficient to provide satisfactory space for off-street parking and unloading as required by the Town of New Scotland zoning requirements.⁵

§ 164-39. Easements.

- A. Easements with a minimum width of 30 feet shall be provided for public utilities, including storm drains and sanitary sewers conveyed to and/or installed by the Town. Wider easements or rights-of-way may be required subject to the Town Engineer's recommendation.
- B. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
- C. Where a subdivision is traversed by a watercourse, drainage way, channel or stream there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such further width as will be adequate to preserve natural drainage.

§ 164-40. Blocks.

- A. The length, width and shape of blocks shall be determined with due regard to the following:
 - (1) Provision of adequate sites for buildings of the type proposed;
 - (2) Zoning requirements;⁶
 - (3) Topography;

5. Editor's Note: See Ch. 190, Zoning.

6. Editor's Note: See Ch. 190, Zoning.

- (4) Requirements for safe and convenient vehicular and pedestrian circulation.
- B. Block length shall not exceed 1,200 feet. In the design of blocks longer than 1,000 feet, special consideration shall be given to the requirements of satisfactory fire protection.
- C. Residential blocks shall be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots bordering a major traffic highway are used.

§ 164-41. Stormwater management plan.

A stormwater management plan must be submitted prior to the Planning Board taking any action on any major subdivision and/or development of land specified elsewhere in the regulations and laws of the Town of New Scotland, New York. Said plan is to comply with the requirements outlined in Appendix A of this chapter, not attached; draft question as modeled after NYSDEC Division of Water, Technical and Operations Guidance Series 95.1.8. Said plan must address the following issues:

- A. Flood control:
 - (1) Peak flow attenuation;
 - (2) One-hundred-year flood plans;
 - (3) Runoff conveyance systems.
- B. Water quality management:
 - (1) Control of "first flush";
 - (2) Control of thermal discharges;
 - (3) Hierarchy for managing stormwater quality.

§ 164-42. Community facilities and Comprehensive Land Use Plan requirements.

- A. In reviewing subdivision plans, the Planning Board will consider the adequacy of existing or proposed community facilities to serve the additional dwellings proposed by the subdivision.
- B. Areas provided or reserved for such community facilities shall be adequate to provide for building sites landscaping and off-street parking as appropriate to the use proposed.
- C. The layout of the proposed subdivision shall be in general conformity with the development concepts and policies proposed in the Comprehensive Land Use Plan of the Town of New Scotland.

§ 164-43. Open space.

- A. All common open space and recreation areas proposed within any major subdivision shall be identified on the preliminary and final subdivision plats. Such open space and

recreation areas shall be reasonably level and conveniently located so as to be easily accessible to all areas of the subdivision. Such provisions shall be subject to Planning Board approval.

- B. Preliminary and final subdivision plats shall show, when required by the Planning Board, a park or parks suitably located and containing suitable site conditions for development of playgrounds or other active recreational purposes. Such park or parks shall be provided by the subdivider in an amount equal to not less than 10% of the land area of the subdivision as provided for under Article 16, § 277, of the New York State Town Law. If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such subdivision or is otherwise not practical, the Planning Board may require as a condition to approval of any such subdivision a payment to the Town, in certified check, bank check or money order, of an amount equal to that provided for in the Town of New Scotland Fee Schedule, which amount shall be available for use by the Town for neighborhood park, playground or recreational purposes including the acquisition of property.
- C. Development and maintenance of the open space areas shall be in accordance with the requirements of the Town of New Scotland zoning requirements.⁷ The Planning Board shall receive documentation of ownership, minimum maintenance standards, and placement of any easements or other rights to the property as may be required to effectuate the requirements of this chapter and the Town of New Scotland zoning requirements prior to final plat approval.

ARTICLE V

Infrastructure Improvements

§ 164-44. Identification of proposed improvements.

- A. Improvements to be identified on the plat submission by the subdivider shall include the following, except where the Planning Board finds that, due to the circumstances of a particular plat, the provision of certain required improvements are not requisite in the interest of the public health, safety or general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, in which case the Planning Board may waive such requirements:
- (1) Streets;
 - (2) Curbs and gutters;
 - (3) Water supply, water mains and fire hydrants;
 - (4) Sanitary systems;
 - (5) Storm drainage;
 - (6) Sidewalks;

7. Editor's Note: See Ch. 190, Zoning.

- (7) Streetlighting;
 - (8) Street signs;
 - (9) Monuments and markers;
 - (10) Street trees.
- B. All improvements are to be designed and constructed in compliance with appropriate Town of New Scotland engineering specifications and State of New York engineering and design specifications.

§ 164-45. Construction standards.

Construction standards for all required improvements shall be as set forth in § 164-46, and shall further be established by the New Scotland Highway Department and Town Board. The standards shall also conform to the Official Map as and when adopted. Alternate improvement standards may be permitted if the Planning Board deems that they are equal or superior in performance characteristics to the specified improvements.

§ 164-46. Minimum improvements.

- A. Minimum on-site improvements required of all subdivisions shall be as set forth in this section. Additional or more extensive improvements may be required in specific cases where, in the opinion of the Planning Board, they are necessary to create conditions essential to the health, safety, morals, and general welfare of the citizens of the Town of New Scotland.
- B. Monuments and markers. Monuments shall be placed so that the scored or marked point shall coincide exactly with the intersection of the lines to be marked, and shall be set so that the top of the monument or marker is level with the surface of the surrounding ground.
- (1) Monuments shall be set at the intersection of all lines forming angles in the boundary of the subdivision. Monuments may be of the following types:
 - (a) Cut stone five inches by five inches by three feet zero inches long with a drill hole in the center;
 - (b) Concrete five inches by five inches by three feet zero inches long with a one-half-inch round brass pin in the center;
 - (c) A two-inch round galvanized three feet zero inches long pipe with a brass cap with a punch hole for center.
 - (2) Markers shall be set at the beginning and ending of all curves along streets, property lines, at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots, at all corner lots; markers shall consist of steel bars at least 15 inches long and not less than 3/4 inch in diameter.

- C. Streets. Streets shall be constructed in accordance with the specifications of the New Scotland Highway Department.⁸
- D. Gutters. Gutters shall be constructed in accordance with the specifications of the New Scotland Highway Department.

§ 164-47. Procedure for installation of required improvements.

- A. Required improvements shall be installed by the subdivider, under the supervision of the Town Engineer and/or Town Highway Superintendent, with the cost of inspection charged to the subdivider.
- B. A preconstruction meeting is mandatory and is the responsibility of the subdivider to set up. Any improvements undertaken prior to the preconstruction meeting shall be considered a breach of the approved subdivision plat and must be removed if so directed by the Town Engineer and/or the Town Highway Superintendent.
- C. The Planning Board, at its discretion, may compel the subdivider to carry out minimum improvements by any of the following methods:
 - (1) A certificate to the Planning Board from the Board Engineer and/or the Town Highway Superintendent that all improvements and installations to the subdivision required by this chapter have been made or installed in accordance with specifications;
 - (2) A performance bond or other security acceptable to the Town Board and approved by the Town Board Attorney as to form, sufficiency and manner of execution, shall be filed with the Planning Board and made payable to the Town of New Scotland.
- D. Such bond or security shall be in an amount sufficient to cover the full cost of completing the improvements and installations in compliance with this chapter.
- E. In case of a bond filed, it shall specify the time for the completion of the improvements and installations and the bond shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond may be extended by the Planning Board with the consent of the parties thereto.
- F. Any method of security accepted by the Town shall be subject to an annual review by the Town to assure that the amount of such security is still sufficient to complete the improvements to Town specifications. At the annual review, should it be found that the amount of the security is not sufficient to complete the improvements required, the subdivider, land owner or developer will be notified in writing of the additional amount of security that is needed to be provided to the Town to allow for the completion of the improvements, and it shall be incumbent upon the subdivider, land owner or developer to

8. Editor's Note: See Ch. 110, Highway Specifications.

provide the necessary additional security to the Town to insure completion of the improvements.

- G. Regardless of the methods accepted by the Town for the assurance of the completion of improvements, and lacking any other written agreement by the Town to the contrary, the responsibility for the completion of any infrastructure or improvements rests solely upon the subdivider, land owner or developer of the subdivision. Any method accepted by the Town to assure improvement completion, bond or other security, will be held by the Town until such time that the improvements are considered, by the Town Engineer and/or Town Highway Superintendent, to be completed to Town specifications, with a certificate stating such filed with the Planning Board and, where required, such improvements are accepted by deed conveyance by the Town Board.
- H. No building permits shall be issued by the Inspector prior to the subdivider meeting all appropriate requirements of Chapter 110, Highway Specifications, of the Code of the Town of New Scotland.

§ 164-48. Completion of improvements.

Upon completing the construction of public improvements covered by any performance bond and prior to the termination of the bond period, the subdivider shall apply to the Town for a final inspection of the work. Upon inspection of the improvements performed, the Town Board shall act on the release of, extension of, or default on the performance bond.

§ 164-49. As-built plans.

- A. Permanent improvements, such as sanitary sewers, water mains and storm sewers, often require maintenance and repair following their installation. To facilitate repair and maintenance, it is necessary to know exact locations of the utilities in order to avoid tedious and expensive search, therefore, upon completing of the improvements and prior to release of the performance bond, exact locations based upon engineering and surveying techniques of direction, distance and grade shall be drawn to scale on plans submitted by the subdivider to the Town for its records.
- B. Information including, but not limited to, the following should be indicated on the plans:
- (1) The location of manholes (both vertical and horizontal);
 - (2) The location of catch basins (both vertical and horizontal);
 - (3) The location (both vertical and horizontal) and direction of sanitary sewer lines, storm sewer lines and water mains;
 - (4) The location of connections between the sanitary sewer trunk line and laterals;
 - (5) Grades for laterals;
 - (6) The depth and grade of main trunk lines and laterals;
 - (7) The size, capacity and location of all stormwater conveyance structures.

ARTICLE VI
Cluster Development ⁹

§ 164-50. Purpose and authority.

In an effort to encourage flexibility of design and development of land so as to promote appropriate use of land, facilitate the adequate and economic use of streets and utilities, encourage the conservation and continued agricultural use of agriculturally valuable land and preserve the natural and scenic qualities of the Town of New Scotland, the Planning Board is empowered to modify certain provisions of this chapter in accordance with this section and the provisions of § 278 of the Town Law of the State of New York.

§ 164-51. Applicability.

- A. This article shall apply only to subdivisions of land parcels containing an area of appropriate size and dimension to accommodate five or more building lots in accordance with the Town of New Scotland zoning requirements¹⁰ and other relevant Town law.
- B. Request by subdivider. A subdivider may request the use of this article simultaneously with, or subsequent to, presentation of the preliminary plat. In the event of a request by the subdivider, two preliminary plats meeting the requirements described in § 164-19 shall be presented simultaneously for Planning Board review, or, in lieu of two preliminary plats, the subdivider may present two sketch plans as provided for in § 164-17 prior to preliminary plat submission, for concept review by the Planning Board. Any subdivider presenting a sketch plan for concept review must subsequently formally apply for preliminary plat and final plat approval as described in §§ 164-19 and 164-24.
- C. Application required by the Planning Board. The Planning Board, in accordance with the Town of New Scotland zoning requirements, may request that application be made in accordance with this article simultaneously, or subsequent to, presentation of a preliminary plat. Two preliminary plats, meeting the requirements described in § 164-19 shall be presented simultaneously for Planning Board review, or, in lieu of two preliminary plats, the subdivider may present two sketch plans as provided for in § 164-17 prior to preliminary plat submission, for concept review by the Planning Board. Any subdivider presenting a sketch plan for concept review must subsequently formally apply for preliminary plat and final plat approval as described in §§ 164-19 and 164-24.

§ 164-52. Procedure.

- A. Preliminary plat/sketch plan. A complete application under this article shall include a preliminary plat, or optional sketch plan, of a cluster development form in accordance with the provisions of this section and a standard preliminary plat or optional sketch plan which is consistent with all the criteria established by this chapter, including but not

9. Editor's Note: See also Article VI, Cluster Development, of Ch. 190, Zoning.

10. Editor's Note: See Ch. 190, Zoning.

limited to highways, highway specifications and lots, and consistent with the Town zoning requirements.¹¹

- B. Determination. Determination on voluntary or required applications under this article shall be made by the Planning Board based on the preliminary plat, or optional sketch plan, other information required by these and other regulations and Town of New Scotland zoning requirements.
- C. Plat submission. Upon a determination by the Planning Board that such preliminary plat or optional sketch plan is suitable for the use of this section, one preliminary plat meeting all of the requirements of such a determination shall be presented to the Planning Board, and thereafter the Planning Board shall proceed with the required public hearings outlined in Article IV and all other requirements of this chapter.
- D. Local filing and notation on Zoning Map. Any subdivision plat finally approved which involves modifications as provided for in this article shall be filed with the Inspector, who shall make appropriate notation and reference thereto on the Town Zoning Map.

§ 164-53. Standards.

- A. No such modifications by the Planning Board shall result in a greater overall density of lots or dwelling units than is permitted in the zoning district wherein such lands lie, as specified in the Town of New Scotland zoning requirements and as shown on the Official Zoning Map.¹²
- B. No subdivision shall be approved by the Planning Board pursuant to this article which shall not reasonably safeguard the appropriate use of adjoining land or which shall not be consistent with the purposes and intent of the Town of New Scotland zoning requirements or the policy of this chapter.
- C. In the event that the implementation of this article results in a plat showing lands available for park, recreation or other municipal purposes directly related to the plat, or in a plat showing land to be retained in open space in order to comply with the average density of lots or dwelling units greater than is permitted in the zoning district wherein such lands lie, then the Planning Board, as a condition of plat approval, may establish, in the case of lands for park, recreation or other municipal purpose, such conditions of the ownership, use and maintenance of such lands as it deems necessary to assure the

11. Editor's Note: See Ch. 190, Zoning.

12. Editor's Note: See Ch. 190, Zoning.

preservation of such lands for their intended purposes, and may further, in the case of lands to be retained in open space, require that such lands be restricted by deed restriction, restrictive covenants, conveyance of a scenic easement or conservation restriction to the Town or other appropriate means against any development or land use inconsistent with their retention in open space.

- D. The provisions of this article shall not be deemed to authorize a change in the permissible use of such lands as provided in the Town of New Scotland zoning requirements.¹³

ARTICLE VII

Waivers and Modifications

§ 164-54. Requests for reconsideration of finding, decision or recommendation.

Any subdivider aggrieved by a finding, decision or recommendation of the Inspector or Planning Board may request and receive the opportunity to appear before the Planning Board to present additional relevant information, and request reconsideration of the original finding, decision or recommendation.

§ 164-55. Waivers.

- A. The Planning Board may grant a waiver of certain provisions contained herein where, by reason of the exceptional shape of a specific piece of property, or where by reason of exceptional topographic conditions, or where the specific issues of health, safety, or welfare of the neighborhood outweigh the strict application of this chapter, and such strict application of this chapter would result in extreme practical difficulties upon the owner(s) of such property(ies); provided, however, that such relief may only be granted without detriment to the public good and without substantially impairing the intent and purpose of this chapter.
- B. In granting such waiver, the Planning Board may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so waived.

§ 164-56. Modifications.

The standards and requirements of this chapter may be modified by the Planning Board in the case of subdivisions for complete communities or neighborhood units or other large scale developments which, in the judgment of the Planning Board, achieve substantially the objective of the regulations contained herein and which are further protected by such covenant or other legal provisions as will ensure conformity to and achievement of the plan. Such developments will comply with the standards for planned unit development as set forth in the Town of New Scotland zoning requirements.¹⁴

13. Editor's Note: See Ch. 190, Zoning.

14. Editor's Note: See Ch. 190, Zoning.

§ 164-57. Procedure for applying.

- A. Applications for waivers and modifications shall be submitted in writing by the subdivider at the time of preliminary plat is filed with the Inspector. The application shall state fully the grounds and all the facts relied upon by the applicant.
- B. Applications for reconsideration shall be submitted to the Inspector, in writing by the subdivider, not less than 14 calendar days in advance of a regularly scheduled Planning Board meeting at which reconsideration is desired.

ARTICLE VIII**Terminology****§ 164-58. Word usage.**

As used in this chapter, words in the singular include the plural and those in the plural include the singular. The word "person" includes a corporation, unincorporated association and a partnership, as well as an individual. The word "building" includes structure and shall be construed as if followed by the phrase "or part thereof." The word "street" includes avenue, boulevard, court, expressway, highway, lane, arterial, and road. The word "watercourse" includes channel, creek, ditch, drain, dry run, spring, and stream. The word "may" is permissive; the words "shall" and "will" are mandatory; subject, however, to the provisions of § 164-55 hereof.

§ 164-59. Definitions.

As used in this chapter, the following terms shall be defined as follows:

BLOCK — An area bounded by streets.

BOARD ENGINEER — A designated registered Engineer retained by the Town Board to perform all administrative and/or supervisory duties required of the Board Engineer by the provisions of this chapter, whose duties, among others, are to review subdivision submissions at the request of the Planning Board, for compliance with the requirements of this chapter.

BOUNDARY LINE ADJUSTMENT — The changing, altering or moving of the boundary or property line between two or more parcels where no additional parcel(s) is(are) created, and where there is no requirement for the construction of, nor the extension of, a public street or public utility. Processed as a minor subdivision and does not require the payment of lot fees as no new lots are created.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street rights-of-way lines.

CUL-DE-SAC — A minor street intersecting another street at one end and terminated at the other by a vehicular turnaround.

DEDICATION — The deliberate appropriation of land by its owner for any general and public uses, reserving no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DOUBLE FRONTAGE LOT — A lot with rear and front lot lines which abut existing or proposed streets.

EASEMENT — A right-of-way granted for limited use of private land for a public or quasi-public purpose.

FINAL PLAT — A complete and exact subdivision plat, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

HALF OR PARTIAL STREET — A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for satisfactory improvement and use of the street.

INSPECTOR — The Building Inspector of the Town of New Scotland and/or the Building Inspector's duly appointed representative or assistant. The Inspector shall also function as the Clerk of the Planning Board as identified under Town Law Article 16, § 276.4,¹⁵ and the Code Enforcement Officer of the Town.

LARGE SCALE DEVELOPMENT — Any large development of such a size or complex nature as to require multiple reviews under both zoning and subdivision requirements of the Town of New Scotland, and/or which requires phased development review by the Planning Board. Such developments include but are not limited to the following:

- A. Large subdivisions for complete communities or neighborhood development, often proposed in phases.
- B. Any subdivision which includes rezoning of existing district boundaries.
- C. Any subdivision which will include a mixture of land uses such as commercial and residential, and/or mixes of residential uses.
- D. Any form of planned unit development or planned commercial development.
- E. Any form of large cluster development.

LOT — A tract or parcel of land occupied or intended to be occupied by one principal building and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this chapter, and having not less than 50 feet of frontage on a public highway, road, or street. All lot areas used to calculate frontage requirements and lot size must be held in fee simple.

LOT FEES — A per-lot fee assessed in lieu of open space or parkland dedications being required. The fee amount will be as set forth in the Town of New Scotland Fee Schedule.

15. Editor's Note: The reference to Town Law § 276.4 is to the version of § 276 prior to its amendment by L. 1992, c. 727.

LOTS, NUMBER OF — The total number of lots shown on the approved plat. When a subdivision is subject to lot fees, this number shall be used in the calculation of the amount of lot fees due.

PAVEMENT — The portion of a street or alley intended for vehicular use.

PLAT — A plan, map or chart of a piece of land with actual or proposed features.

PRELIMINARY PLAT — A tentative subdivision plan in lesser detail than a final plat showing proposed streets and lot layout as a basis for consideration prior to preparation of a final plat.

REVERSE FRONTAGE LOT — A lot extending between and having frontage on a primary or secondary street and a local (minor) street, and with vehicular access solely from the latter.

RIGHTS-OF-WAY — Land reserved for the use as a street or for other purpose.

SETBACK OR BUILDING LINE — The line within a property defining the required minimum distance between any principal enclosed structure and the adjacent street rights-of-way, and/or side and rear property line.

SIGHT DISTANCE — The maximum extent of unobstructed vision (in a horizontal or vertical plane) along a street from a vehicle located at any given point on the street.

SKETCH PLAN — A discretionary feature of subdivision review which provides the applicant the opportunity to outline the general nature of the proposal for subdivision prior to official application for subdivision review. The sketch plan is intended to provide the Planning Board with sufficient information to evaluate the proposal and advise the subdivider on the proper method of application, the general acceptability of the concept, the consistency with the Comprehensive Land Use Plan and any other special concerns which should be addressed prior to submission by the applicant for preliminary plat approval.

STREET — Any public way used as a means for vehicular and pedestrian circulation, whether designed as a street, highway, thoroughfare, parkway, boulevard, lane, cul-de-sac, place or otherwise designated. Classes of streets are as follows:

- A. **PRIMARY STREET (ARTERIAL STREET)** — Streets which are used primarily for traffic with limited access requirements.
- B. **SECONDARY STREET (COLLECTOR STREET)** — Provide routes which connect local street (minor street) to community facilities, business and industrial districts and to the primary street system. Secondary streets include principal entrance streets of residential developments.
- C. **LOCAL STREET (MINOR STREET)** — Streets which are used primarily for access to abutting residential properties. Local streets include culs-de-sac, marginal access streets and streets used for circulation within residential developments which do not provide for through traffic circulation.
- D. **MARGINAL ACCESS STREETS** — Forms of local streets, generally parallel with and adjacent to primary and secondary streets providing access to abutting properties,

protection against through traffic and control of the number of intersections with primary and secondary streets.

STREET, CENTER-LINE — The line corresponding to the midpoint of the surface portion of any street.

STREET, PUBLIC — A street dedicated to public use.

SUBDIVIDER — The owner, or authorized agent of the owner, of a subdivision.

SUBDIVISION, MAJOR — The term "major subdivision" means the division of any parcel of land:

- A. Into five or more lots, plots, sites, or other divisions of land, for immediate or future sale; or
- B. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the formation of or extension to any water district; or
- C. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the formation of or extension to any sewer district; or
- D. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the construction of or extension to any municipal roadway; or
- E. Into any number of lots, plots, sites, or other divisions of land, for immediate or future sale which involves the construction of or extension to any municipal infrastructure proposed to be dedicated to a municipality as specified in New York State Public Health Law Article 11, Title II, § 1115, Subdivision 1.

SUBDIVISION, MINOR — The division of land into at least two but not more than four lots, parcels or sites which do not require the construction of a new street, public utility or expansion or extension of an existing street or public utility.

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Appendix A

Subdivision Regulations Stormwater Management Design Considerations

Following are design requirements which must be considered and addressed in any stormwater management plan submitted for review by the Town of New Scotland Planning Board

These Stormwater Management requirements are modeled after the New York State Department of Environmental Conservation, Division of Water, Technical and Operations Guidance Series 95.1.8) Stormwater Management Guidelines for New Development. A Stormwater Management Plan must be submitted prior to the Planning Board taking any action on any Major Subdivision and or any development of land specified elsewhere in the regulations and laws of the Town of New Scotland, New York. Said plan is to comply with the following requirements:

A. Definitions: As used in relationship to the requirements for Stormwater Management, the following terms shall be defined as follows:

1. **Drywell:** Similar to infiltration trench but smaller with inflow from pipe; commonly covered with soil and used for drainage areas of less than one (1) acre such as roadside inlets and rooftop run-off.

2. **Extended detention:** A practice designed to store stormwater run-off by collection as a temporary pool of water, usually having less than a twenty-four (24) hour residence time. A practice which is used to control peak discharge rates, and which provides gravity settling of pollutants.

3. **First Flush:** The delivery of a disproportionately large load of pollutants during the early part of storms due to the rapid runoff of accumulated pollutants.

The first flush in these regulations is defined as one-half inch of runoff per acre of land which has been made more impervious from pre-development (natural) conditions through land clearing, land grading and construction/development activities.

4. **Forebay:** An extra storage area or treatment area, such as a sediment pond or created wetland, near an inlet of a stormwater management facility to trap incoming sediments or take up nutrients before they reach a retention or extended detention pond.

5. **HEC-2:** A U.S. Army Corp of Engineers Computer Program intended for calculating water surface profiles for steady or gradually varied flow in natural or man-made channels.

6. **Impervious area:** Impermeable surfaces, such as pavement or rooftops, which prevent the infiltration of water into the soil.

7. **Infiltration:** A practice designed to promote the recharge of groundwater by containment and concentration of stormwater in porous soils.

8. **Infiltration Basin:** An impoundment made by excavation or embankment construction; commonly serves a drainage area of five (5) to fifty (50) acres.

9. **Outfall:** The terminus of a storm drain where the contents are released.

10. **Peak Flow:** The maximum instantaneous flow of water during a storm, usually in reference to a specific design storm event.

11. **Peak Flow Attenuation:** The reduction of the peak discharge of storm runoff by storage and gradual release of that storage.

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12. **Retention:** A practice designed to store stormwater run-off by collection as a permanent pool of water without release except by means of evaporation, infiltration, or attenuation release when runoff volume exceeds the permanent storage capacity of the permanent pool.

13. **Riprap:** A combination of large stone, cobbles and boulders used to line channels, stabilize stream banks, reduce runoff velocities, or filter out sediment.

14. **Riser:** A vertical pipe extending from the bottom of a pond that is used to control the discharge rate from the pond for a specified design storm.

15. **Sand attenuating filter:** A chamber open to the surface containing a surface layer of sand over high void aggregate base. Such chambers may only be used for atypical situations such as where a site is unsuitable for stormwater infiltration or retention.

16. **Sheetflow:** Runoff which flows over the ground surface as a thin, even layer, not concentrated in a channel.

17. **Special flood hazard area:** Areas in the Town that have been identified as susceptible to a one (1%) percent or greater chance of flooding in any given year. A one (1%) percent probability flood also is known as the 100-year flood.

18. **SPDES:** An acronym for the State Pollutant Discharge Elimination System. A regulatory permit program administered under Article 17 of the Environmental Conservation Law, by the NYS Department of Environmental Conservation to control point source discharges of water pollution.

19. **Storm frequency:** The average frequency of occurrences of events having a given volume and duration. For example; a 2-year; 10-year; or 100-year storm.

20. **Storm Drain:** Any open or closed conduit designed to convey stormwater.

21. **Storm duration:** The length of time over which a precipitation event occurs (e.g., 24-hours).

22. **Storm volume:** The total amount of precipitation occurring over the storm duration.

23. **Swale:** A depression or wide a shallow ditch used to temporarily route, or filter runoff.

24. **TR-20:** A rainfall model developed by the USDA Soil Conservation Service for hydrologic analysis of a watershed under present conditions of land cover/use and structural or channel modifications using single event storm rainfall-frequency data. Output consists of peaks and/or flood hydrographs, their time of occurrence and water surface elevations at any desired cross section or structure.

B. Flood Control Requirements: The following requirements are to be followed to ensure that stormwater runoff is safely conveyed through and beyond a development site during and after construction. Also, through peak flow attenuation, the requirements are to be used to facilitate the control of stormwater runoff to minimize or alleviate flooding and stream bank erosion associated with land development. The requirements are as follows:

1. Peak Flow Attenuation

- a) The release of stormwater runoff from development shall not exceed pre-development (natural) conditions. To accomplish this, stormwater runoff is to be controlled so that during and after development, the-site will generate no greater peak than prior to development for a 2-year, 10-year, and 100-year 24-hour storm considered individually as follows:

1. Attenuation of the 2-year storm is intended to achieve stream channel erosion control.

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2. Attenuation of the 10-year storm is intended to assure the adequacy of existing and proposed culverts and storm drain systems.
 3. Attenuation of the 100-year storm is intended to reduce the rate of runoff from development to prevent expansion of the 100-year flood plain so as to alleviate flooding of improved properties and streets.
- b) Peak flow attenuation requirements may be satisfied by means of detention basins and/or other appropriate structures. Infiltration trenches, dry wells, or stone reservoirs underneath paving, may be used for the purpose of attenuating peak flows for smaller storms provided appropriate consideration is given to the length of life of the stormwater facility, and feasibility of maintenance of such facility.
 - c) Where dams are to be constructed for attenuating peak flows, approval may have to be obtained from DEC pursuant to Article 15-0503 of the Environmental Conservation Law.
- ### 2. 100-Year Flood Plains
- a) Encroachment into any Area of Special Flood Hazard shall be allowed only in compliance with local restrictions adopted for participation in the National Flood Insurance Program, and other appropriate New York State laws and regulations.
 - b) A fifty (50) foot buffer (building restriction line) is required between the flood hazard area and any structure as a safety factor to allow for inaccuracy in boundary determination. Pursuant to Article 24 of the Environmental Conservation Law, a one hundred (100) foot buffer is required around any protected wetland.
 - c) The stormwater management plan for all developments of five (5) or more acres or containing five (5) or more dwelling units located wholly or partially within a 100-year flood plain where flood elevation data are not available through the NFIP, must include a study to determine 100-year flood plain elevations in accordance with TR-20, HEC-2 or other standard engineering methods. Such elevation data shall be used to regulate flood plain encroachments in accordance with the NFIP. The 100-year flood plain elevation and the building restriction line shall be shown on the subdivision plat.
- ### 3. Runoff Conveyance Systems
- a) Priority shall be given to maintaining natural drainage systems, including perennial and intermittent streams, swales and drainage ditches in an open condition.
 - b) Where closed storm drain systems (i.e., those involving a culvert or similar conduit) are deemed essential, justification shall be made as to why it is necessary to have a closed system. When justified, the closed system shall be designed to:
 1. convey the 10-year storm flow within the closed storm drain system; and
 2. provide for safe overland conveyance of flow of the 100-year storm through the development (generally over the top of the closed storm drain system). All overland flow conveyance structures are to be at least one (1) foot above the 100-year flood plain elevation and the outfalls of such conveyances are to be stabilized with rip-rap or other suitable material to reduce erosion.

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- c) Any alteration to a stream, a stream bed or the banks thereof, including the installation of stormwater conveyance systems will require an Article 15, Protection of Water Permit and may require an Article 24, Freshwater Wetlands Permit administered through the New York State Department of Environmental Conservation.
- d) Any culvert or stormwater structure placed in a stream shall not impede fish migration.

4. Stream Corridor Management

- a) Consistent with the State's Stream Corridor Management Program, land clearing and land grading within a stream corridor shall be avoided or minimized, except at stream crossings, so that stream and drainage courses remain in a natural state¹.
- b) To the extent possible, riparian vegetation, including grasses, shrubs and trees in the stream corridor or along the watercourse, shall remain undisturbed during land clearing, land grading and land development. Provisions for temporary and permanent protection of said vegetation shall be identified on the subdivision plat.

C. Water Quality Management: The following requirements are to be used in conjunction with the flood control requirements outlined in Subsection A to protect water quality from runoff associated with land clearing, land grading and construction activities. The requirements must be presented by the subdivider in the form of a stormwater management plan (SMP). These

¹ *New York State Department of Environmental Conservation, "Stream Corridor Management: A Basic Reference Manual", Albany, 1986.*

requirements apply to all land areas where soil permeability has been and/or will be changed as a result of land clearing, land grading and land development.

1. Control of "first flush" - Control of the "first flush" is a priority in stormwater management as most runoff-related water quality contaminants are transported from land, particularly impervious surfaces, during the initial stages of a storm event. Regardless of whether infiltration, retention or extended detention practices are used to capture the first flush, the required control shall accommodate the following:

- a) Provide for control of the first 1/2-inch of runoff from all land areas for which the surface porosity has been or will be changed from pre-development (natural) conditions due to land clearing, land grading and land development².

2. Control of Thermal Discharges: Control of thermal energy in stormwater runoff in watersheds having streams which support cold water fisheries is essential. Impervious surfaces including asphalt parking areas and roofs, store large quantities of heat during hot weather. The heat from such surfaces is released to stormwater through conduction during storm events. Stormwater runoff having elevated temperatures can, in turn, increase stream temperatures during storm events and adversely impact cold water fisheries. Accordingly, stormwater discharges are to be consistent with the thermal criteria found in Part 704 of the Water Quality Regulations, Title 6, Chapter X, New York State Codes, Rules and Regulations.

² *In addition to paved surface areas and areas covered by roofed structures, the contributory area for which the first 1/2-inch of runoff is to be controlled includes lawn and similarly landscaped surfaces.*

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3. Hierarchy of Methods for Managing Stormwater Quality (See Design guidelines for controlling the first one-half inch of runoff starting on page 8): The following stormwater management systems, summarized in descending order of preference, are to be used to control the first flush when designing stormwater facilities. The practices are:

- a) infiltration
- b) retention, and
- c) extended detention.

When a stream supporting a cold water fishery is the object of protection, extended detention should be placed ahead of retention in the hierarchy. A combination of these practices, including stormwater management adjuncts may be used to achieve first flush control objectives. Justification for the rejection of practices listed as having a higher priority must be provided prior to acceptance of a Stormwater Management Plan by the Planning Board.

a) Infiltration

Infiltration of runoff on-site by use of vegetated depressions and buffer areas, pervious surfaces, drywells, infiltration basins and trenches permits immediate recharge of groundwater and aids quality treatment through soil filtration. This practice eliminates or minimizes direct stormwater discharges to a waterbody and provides thermal benefits to cold water fisheries.

b) Retention

Retention by use of wet ponds and wetlands constructed in upland areas provides for the storage of collected runoff in a holding area prior to release in a waterway allowing quality treatment by sedimentation, flocculation, and biological removal. Retention is used when post-development runoff volume is expected to exceed the capabilities of infiltration. Summer temperatures of

water in a retention facility may exceed temperatures required to sustain a cold water fishery, therefore, retention is not appropriate where stored (warm) water in a retention facility is displaced by storm runoff and discharged to a trout stream in contrast of Part 704 standards.

c) Extended Detention

Extended detention provides for the temporary storage of collected runoff in a holding area prior to release into a waterway. Settling is the primary pollutant removal mechanism associated with extended detention. Extended detention can provide thermal benefits to trout streams. By using a perforated, low flow drain pipe encased in a gravel jacket having an adequate mass, extended detention may be used to dissipate heat and cool stormwater runoff prior to its discharge to a trout stream.

d) Stormwater Management Adjuncts

Flow and pollutant attenuation by use of open vegetated swales, vegetated buffer zones, or filter strips, provides water quality treatment by filtration, attenuation, buffering, sedimentation, biological removal and particle retention. These practices should be used to complement infiltration, retention or extended detention.

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**Subdivision Regulations
Design Guidelines for Controlling
The First One-Half Inch of Runoff**

Following are design guidelines for controlling the first one-half (1/2) inch of runoff from contributory drainage.

A. Infiltration

1. Infiltration systems should be designed to capture the first one half inch of stormwater runoff from impervious surfaces, lawns and similarly landscaped areas in the development site. Storm water volumes in excess of this amount should be managed for quantity control by supplemental practices.

2. Infiltration systems should incorporate measures which:

- a. Recognize that the recommended design time to drain stored runoff from an infiltration system depends on the specific method or practice. Accordingly, the following ponding or storage times represent the maximum design time period for the referenced facility:

<u>TYPE</u>	<u>TIME (24 - hour days)</u>
Infiltration Basin	5
Infiltration Trench	15
Dry Wells	15
Porous Pavement	2
Vegetated Depression	1

- b. Ensure that infiltration measures are placed at least one-hundred (100) feet from septic systems and water supply wells.

- c. Recognize that soils with infiltration rates less than 0.5 inches per hour are unsuitable for infiltration measures.

- d. Provide for a vertical separation distance of at least 4 feet between the bottom of the infiltration system and the seasonably high groundwater table or bedrock. (The excavation of an inspection trench/pit or soil borings at the proposed site of the infiltration facilities to determine the elevation of

bedrock and groundwater, and the documentation of such tests must be conducted under the direction of a professional engineer, architect, or landscape architect licensed to practice in New York State.)

- e. Trap excess loads of sediment, grease, oils, and settleable solids and other objectionable materials including floatable organics materials from roadways, parking surfaces, and similar paved areas before they enter the infiltration system.
- f. Route design runoff flows through an infiltration basin without scouring or eroding the basin floor and clogging the surface soil pores.
- g. Route base floor (if any exists) rapidly through the basin to prevent ponding or standing water.
- h. Distribute storm water runoff volume evenly over the floor of the basin to maximize exfiltration rates.
- i. Provide for safe emergency overflow with measures to provide a non-erosive velocity or flow along its length and at the outfall.
- j. Infiltration systems should not receive runoff until the entire contributory drainage area to the infiltration system is permanently stabilized.
- k. Placement of infiltration facilities in areas which have been filled is unacceptable. Compacted fill material loses permeability and the in-situ/fill material interface may cause slope failure due to slippage.
- l. If on-site septic systems are to be used, soils must be able to accommodate loading from both on-site infiltration facilities and on-site septic systems.

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B. Retention

1. Retention (Wet) Ponds

- a. Retention is the preferred method of stormwater management when the water table or bedrock is too high for infiltration and soils are poorly drained. Retention improves stormwater quality by gravity settling, naturally occurring chemical flocculation, and biological uptake.
- b. Wet ponds (another term for retention pond) should not be constructed by impounding existing wetlands unless authorized by the DEC under Article 24 Freshwater Wetlands Act. If existing wetlands are to be located in an anticipated permanent pool area, the maximum normal pool elevation should not increase mean water depth in the wetland area.
- c. Retention ponds should be enhanced with areas of shallow water habitat for additional water quality benefits. Retention ponds also can be part of a created shallow water wetland design, (see use of wetlands for stormwater management, subsection B.2).
- d. Retention ponds (other than shallow marshes addressed in subsection B.2.b) should be designed as follows:
 1. pond geometry should provide for complete mixing of inflow before discharging.
 2. in larger ponds, diversion barriers such as small islands should be used to increase effective length of flow and permit maximum mixing.
 3. the depth of the pond will vary depending on its intended use. The pond contour should include:
 - i an average pond depth of three (3) to six (6) feet;
 - ii a shallow area six (6) inches to two (2) feet deep at the inlet;
 - iii a littoral area or bench ten (10) feet in width along the perimeter to promote marsh habitat for filtering and nutrient removal; and
 - iv an area eight (8) feet to fourteen (14) feet in depth to promote gravity settling and fish habitat.
 4. the minimum drainage area to be served by a wet (retention) pond should be approximately 10 acres. Soils should have infiltration rates less than 0.5 inches/hour.
 5. if soils are so porous that an unreasonably large drainage area is required to sustain a relatively small pond, then infiltration practices should be used.
 6. the residence time of pond water should be twenty-four (24) to forty (40) hours to remove a minimum of two-thirds of the suspended solids and other pollutants from the incoming stormwater. For removal of phosphorus compounds in lake watersheds where eutrophication is a threat or problem, larger volume ponds should be designed to provide a fourteen (14) day residence time.
 7. retention ponds should accommodate up to ten (10) year storm volumes. The minimum volume retained should be that associated with the first one-half inch of runoff. Excess volumes, for example, the one-hundred (100) year storm, may be detained.
 8. velocity dissipation devices should be placed at the outfall of all retention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to water course. Velocity dissipation devices may be required in stream channels at outfall locations to prevent erosion and fisheries habitat degradation. Pursuant to Article 15 of the Environmental Conservation Law, a Protection of Waters Permit may have to be obtained in order to install

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in-stream velocity dissipation devices in protected streams.

9. the construction of wet (retention) ponds in and around class AA, A, B, C(T) and (TS) streams (water suitable for trout) may not be appropriate to protect these waters and are not permitted except where, pursuant to 6 NYCRR Part 704 of the Water Quality Regulations, Title 6, Chapter X, retention will not be injurious to cold water fisheries or their habitat. This practice may elevate water temperatures as well as reduce dissolved oxygen levels.

10. pursuant to Article 15-0503 of the Environmental Conservation Law, approval for construction of a dam for a stormwater retention facility may have to be obtained from DEC.

2. Use of Wetlands

The use of wetlands for stormwater management is receiving increased attention. Wetlands are known to provide water quality benefits by filtering and trapping suspended solids including sediment, chemical adsorption, biological assimilation, microbial decomposition and chemical decomposition.

a. Use of Existing Wetlands

1. It is not acceptable to discharge untreated stormwater directly into naturally existing wetlands. Direct, untreated discharges may overload the natural system, and make it impractical to manage (e.g., by periodic sediment removal) resulting in contamination of the wetland and accelerated succession. Direct discharges also may alter the hydrology and hydroperiod of the wetland, which may significantly alter the vegetative community therein.
2. Incorporating an existing wetland in its natural state into a well-designed stormwater management plan may be

an acceptable method of stormwater management when adverse impacts to the wetland can be avoided. Natural wetlands should be used only for final polishing after pre-treatment by preliminary practices, such as infiltration, retention or extended detention. In these situations, ultimate discharge to the natural wetland may maintain base flow into the system, thereby helping to maintain the health of the wetland.

3. Except as provided for in subsection B. (1) b., natural wetlands shall not be impounded for the creation of either wet or dry ponds.

b. Use of Artificially Created Wetlands

1. Wetlands may be created as part of a stormwater management plan to provide water quality improvement. They may enhance treatment provided by wet ponds and create extended detention areas by enlarging the wetland portions of existing basins.

2. A created wetland also can provide first-flush treatment when one or more smaller ponds are included. Such a design will be essential if no other pre-treatment practices are used. In the winter when vegetative uptake mechanisms are absent, a pond in the wetland retains higher levels of nitrogen compounds which would otherwise escape downstream.

c. Factors for Consideration in designing Created Wetlands

1. Location - the preferred locations are: upland areas adjacent to, but separated from, existing streams and wetlands by vegetated filter strips wide enough to provide a buffer; in an upland extended detention basin; or as a forebay to a wet pond or detention basin.

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2. **Hydraulic design** - specific stormwater management plan criteria must be determined for each site to ensure the created wetland is sufficient to meet the demands being placed on it and to determine hydrologic impacts to receiving wetlands, if any.
3. **Expected inflows** - inflows may be composed of stormwater surface water or groundwater. Stormwater should be introduced to wetlands as sheet flow whenever possible. If inflow is conveyed through the outfall, a forebay is necessary. Incoming velocities should not exceed 4 feet per second during two (2) year storm events.
4. **Shape and depth** - shallow ponds do not have as long a residence time as deeper ponds. Therefore, caution should be used in substituting deep ponds with shallow marshes. However, the water quality values provided by the substrate, biota and vegetation in wetlands may provide services not provided by deeper ponds. It is important to determine what water quality improvement is needed and whether ponds or wetlands better serve that need.

When creating wetlands, seventy-five (75) percent of the wetland should be eighteen (18) inches or shallower. Twenty-five (25) percent of the total surface area should be reserved for open water areas that are deeper than eighteen (18) inches. However, if the water exits the wetland through an outlet structure, the outlet should be located in water approximately three (3) feet deep. Similarly, if a forebay is used, it should be at least three (3) feet deep and comprise ten (10) percent of the total wetland and pond volume.

5. **Vegetative composition** - the plant species selected should be compatible with the physical nature of the wetland (e.g., depth), the climate conditions of the area, and their tolerance to the

presence of pollutants. A planting scheme and schedule should be incorporated into the stormwater management plan.

C Extended Detention

1. Extended detention ponds may be used to enhance water quality in stormwater runoff. Extending the detention time of dry or wet ponds is an effective, low cost means of removing particulate pollutants and controlling increases in downstream bank erosion. Extended detention is preferred over retention where there is a need to maintain stream temperatures in support of a trout fishery pursuant to the thermal criteria found in Part 704 of the Water Quality Regulations, Title 6, Chapter X.

2. When extended detention ponds are used, they may be acceptable with the following conditions:

- a. The "first-flush" runoff volume (i.e., the first one-half inch of runoff from the contributory drainage) should be extended over a 24-hour detention period.
- b. Stormwater runoff volume generated from a one-inch storm should be released over a 24-hour detention period. The control device should be adjusted so that smaller runoff events (0.1 to 0.2 inches), which normally pass through the pond quickly, are detained for at least a minimum of six hours. In larger watersheds, up to forty (40) hours of extended detention may be needed for streambank erosion control.
- c. Pond outfall velocities should not exceed four (4) feet per second during two (2) year storm events.
- d. Velocity dissipation devices should be placed at the outfall of all extended detention structures and along the length of any outfall channel as necessary to provide a non-erosive velocity of flow from the structure to a water course. Velocity dissipation devices may be required in stream channels at outfall locations to prevent erosion and fisheries

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habitat degradation. Pursuant to Article 15 of the Environmental Conservation Law, a Protection of Waters Permit may have to be obtained in order to install in-stream velocity dissipation devices in protected streams.

- e. Pursuant to Article 15-0503 of the Environmental Conservation Law, approval for construction of a dam for a stormwater detention facility may have to be obtained from DEC.

D. Stormwater Management Adjuncts

Relatively small volumes of stormwater can be managed entirely by flow and pollutant attenuation practices (i.e., drainage from less than 1 acre or relatively small storms). Therefore, flow and pollutant attenuation practices usually are used to supplement other practices. Under this practice, stormwater should be managed as sheetflow to the extent possible and have velocities less than four (4) feet per second during two (2) year storm events. The following design criteria should be considered when vegetative swales or filter strips are used to control stormwater runoff.

1. Vegetative swales

- a. Vegetative swales typically are applied in single family residential developments and highway medians as an alternative to curb and gutter drainage systems. When individual lots are greater than one half (1/2) acre, open section roadways with vegetated swales and check dams are preferred over curb and gutter management systems for stormwater conveyance. In designing and constructing swales:
 - b. Small slopes in the flow of swales should be graded as close to zero as drainage will permit. Side-slopes of swales should be no greater than 3:1.
 - c. A dense cover of water tolerant, erosion resistant grass must be established. Reed canary grass is recommended for this purpose. Swale grasses should not be mowed close to the ground, as this impedes the filtering and hydraulic

functions of the swale. Also, if a swale is adjacent to a roadway, sensitive species with a low salt tolerance (e.g., bluegrass) should be avoided.

- d. Underlying soils should have a percolation rate of at least one half (1/2) inch per hour.
 - e. The swale should be tilled before the grass cover is established to restore infiltration capacity lost as a result of prior construction activities.
 - f. Check dams can be installed in swales to promote additional infiltration. A preferred method is to sink a railroad tie halfway into the swale, and place stones on the downstream side to prevent a scour hole from forming. If a check dam is used, the designer should make sure that the maximum ponding time of runoff backed up behind the check dam does not exceed twenty-four (24) hours.
- #### 2. Filter Strips
- a. Filter strips do not provide enough storage or infiltration to effectively reduce peak discharges to pre-development levels for design storms. Filter strips are however, viewed as one component of an integrated stormwater management system.
 - b. The top edge of the filter strip should follow across the same elevational contour. If a section on the top edge of the strips dips below the contour, it is likely that runoff will eventually form a channel toward the low spot.
 - c. A shallow stone trench which follows the contour can be used as level spreader at the top of the strip to distribute flow evenly.
 - d. The top edge of the filter strip should directly abut the contributing impervious area otherwise, runoff may travel along the top of the filter strip rather than through it. Berms can be placed at fifty (50) to one-hundred (100) foot intervals perpendicular to the top edge of the filter

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strip to prevent runoff from by-passing the strip.

- e. As an absolute minimum, a grass strip should be at least twenty (20) feet wide. Improved performance can be achieved if the strip is fifty (50) to seventy-five (75) feet wide, plus an additional four (4) feet wide per each one percent of slope at the site (particularly if it is a forested strip).
- f. Wooded filter strips are preferred to grassed strips. If an existing wooded belt cannot be preserved at the project site, the grassed strip should be managed to gradually become wooded by intentional plantings.
- g. If a filter strip has been used as a sediment control measure during the construction phase, it is advisable to regrade and reseed the top edge of the strip. Otherwise, the sediment trapped in the filter strip may affect the flow patterns across the strip, thereby reducing its effectiveness.

E. References

The basic design criteria, methodologies and construction specifications for stormwater management should be those of the Soil Conservation Service, the Soil and Water Conservation Society, the Department of Environmental Conservation, and the Metropolitan Council of Governments which may be found in the most current editions of the following publications and their subsequent revisions:

1. Empire State Chapter, Soil and Water Conservation Society, New York Guidelines for Urban Erosion and Sediment Control, Syracuse, 1988.
2. Soil Conservation Service. "Urban Hydrology for Small Watersheds", Technical Release No., 55. June 1986.
3. Soil Conservation Service. "Engineering Field Manual", latest edition, as applicable.

4. "Soil Conservation Service Standards and Specifications for Ponds." Specifications No, 378. July 1981. (This document allows for use of metal pipe risers. Steel structures may corrode in 20 years or less. Therefore, use materials other than steel, especially in aggressive environments.)

5. U.S. Department of Agriculture, Soil Conservation Service, Ponds - Planning Design, Construction, Agriculture Handbook No. 590. 1982.

6. New York State Department of Environmental Conservation, "Guidelines for Design of Dams", Revised January 1988.

7. New York State Department of Environmental Conservation, "An Owners Guidance Manual for the Inspection and Maintenance of Dams in New York State". June 1987.

8. New York State Department of Environmental Conservation. "Stream Corridor Management: A basic Reference Manual." Albany, 1986

9. Metropolitan Washington Council of Governments, Controlling Urban Runoff: A practical Manual for Planning and Designing Urban BMPs, July 1987.