

## Article 14. Subdivision Approval

- 14.1 PURPOSE AND OBJECTIVES
- 14.2 APPLICABILITY AND CLASSIFICATIONS
- 14.3 SUBDIVISION PROCEDURE
- 14.4 PLANNING BOARD WAIVERS

### 14.1 PURPOSE AND OBJECTIVES

A. The purpose of subdivision regulations is to:

1. Protect and provide for the public health, safety, and welfare.
2. Guide the future growth and development of the City in accordance with the Comprehensive Plan.
3. Provide for adequate light, air, and privacy, to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
4. Protect the character and the social and economic stability of all areas of the City and encourage the orderly and beneficial development of the community through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and nonresidential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development.
5. Protect and conserve the value of land and the value of buildings and improvements upon the land, and minimize the conflicts among the uses of land and buildings.
6. Guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
7. Provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
8. Establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
9. Ensure that public services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the City will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.
10. Prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities, to safeguard the water table, and to encourage the wise use and management of natural resources throughout the City in order to preserve the integrity, stability, and beauty of the City and the value of the land.
11. Preserve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features.
12. Provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in this Ordinance.
13. Remedy the problems associated with inappropriately subdivided lands and substandard lots.

**B.** It is the policy of the City to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the City. This is interpreted to include the following objectives, which guide the Planning Board's decisions.

1. Land to be subdivided must be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
2. Proper provision must be made for water supply, sewerage, drainage, and other needed public improvements and utilities.
3. Proposed streets must compose a convenient system conforming to the City's Comprehensive Plan and/or Zoning Map as they may be adopted.
4. Streets must be of such width, grade, and location as to accommodate present and prospective traffic.
5. All development must be so situated on the lot to assure that there is provision for adequate light and air for occupants.
6. All development must facilitate adequate fire protection and provide access for firefighting equipment.
7. Open space for parks and playgrounds shall be shown on the subdivision plat where appropriate.
8. If any provision conflicts or is inconsistent with any provision of the General City Law, the relevant provisions of the General City Law control.

## 14.2 APPLICABILITY AND CLASSIFICATIONS

### A. General Regulations

1. No person may divide, consolidate, or otherwise alter the boundaries of any lot within the City except in compliance with these regulations. No subdivision can create a lot that violates zoning district lot requirement, including any applicable variances granted by the Zoning Board of Appeals.
2. No permits will be issued by the City authorizing the building on, occupancy of, or improvement of any lot not on record until the requirements of this Ordinance have been fully met and an approval of the subdivision issued and the final plat recorded with the County.
3. All subdivisions must meet the applicable standards of Article 15 (Public Improvements), Article 17 (Stormwater Management), and Article 18 (Public Realm).
4. This Article regulates two types of subdivision: administrative subdivision and standard subdivision. Conservation design, per Article 16, is considered a type of standard subdivision.

### B. Administrative Subdivision

#### 1. Subdivision Actions Eligible for Administrative Subdivision

The following qualify as administrative subdivisions:

- a. The division of a single lot into no more than two lots, which front on an existing street (excluding alleys), are served by existing utilities, do not involve the dedication of land for public rights-of-way, parks, or other public purposes, and meet all zoning requirements.
- b. The consolidation of or adjustment in boundary between two adjoining lots.
- c. Minor amendments to approved and filed subdivision plats or legally existing lots.

d. Non-substantive changes to an existing approved subdivision. Any amendment deemed substantive by the Planning Board Chairperson, in consultation with the City Planning Office, must be approved as a standard subdivision as indicated in item 3 below.

e. No conservation design subdivision is eligible for administrative subdivision.

## 2. Administrative Subdivision Process

a. Only a final plat is required for an administrative subdivision application.

b. Administrative subdivision applications are reviewed and approved by the Planning Department Staff and the Chair of the Planning Board. The Chair of the Planning Board may defer any administrative subdivision application to the Planning Board for the standard subdivision process.

c. Within 62 days of receipt of a complete application, the City Planning Office and the Planning Board Chairperson will review the proposed preliminary plat, and approve, approve with conditions, or deny the preliminary plat.

d. The Planning Board Chairperson will provide a written account of the actions taken at the next regular meeting of the Planning Board subsequent to the date of the determination and/or action.

## C. Subdivision (Standard)

### 1. Standard Subdivision Actions

Any subdivision that does not qualify as an administrative subdivision is considered a standard subdivision. All conservation design subdivision is a standard subdivision.

### 2. General Subdivision Process

All such subdivisions will follow the process of Section 14.3 for standard subdivision review.

### 3. Conservation Design

For all proposed subdivisions within RR and SR Districts, conservation design subdivision is required per Article 16. Conservation subdivision may also be utilized within the other residential districts per Article 16. All such subdivisions will follow the process of Section 14.3 for standard subdivision review.

## 14.3 SUBDIVISION PROCEDURE

### A. General Procedures

1. Whenever a time limit is specified in this Article, the Planning Board may extend the limit upon request by the owner, provided the Planning Board is legally empowered to do so.

2. All subdivision applications (sketch plan, preliminary plat, and/or final plat) must include all submittal requirements as described in the subdivision application.

3. All applications for sketch plans, preliminary plats, and final plats are subject to required fees, payment of which is considered part of a complete application.

4. The applicant is responsible for all planning and engineering project review fees, as may be established from time to time by the City Council.

### B. Sketch Plan

#### 1. Required Sketch Plat - Conservation Design Subdivision

A sketch plat is required for all conservation design subdivisions.

a. An owner of land, prior to submitting a preliminary plat for conservation design subdivision, must submit to the Planning Board, sketch plan of the proposed conservation design subdivision for purposes of preliminary discussion.

- b. The submission must include the analysis of constrained land of the property as required per Section 16.5, the calculation of base density based on remaining developable land per Section 16.9, and the analysis of conservation features of the property is required as required by Section 16.6.
- c. The applicant, or his/her authorized representative, must attend all meeting(s) of the Planning Board to discuss the sketch plan. Discussion of the sketch plan will conclude with a recommendation to proceed with a preliminary plat or to modify the sketch plan for further discussion before proceeding to the next application step.
- d. Based upon the analysis during the sketch plat process, the Planning Board may determine that there is no reasonable basis for requiring a conservation subdivision per the standards of Section 16.7.

## **2. Optional Sketch Plat - Non-Conservation Design Subdivision**

A sketch plat is at the applicant's option for all other subdivision types.

- a. Any owner of land may, prior to applying for subdivision approval, submit to the Planning Board, sketch plan of the proposed subdivision for purposes of preliminary discussion. The submission of a sketch plan is a preapplication procedure available to a prospective subdivider for an informal discussion of the proposed subdivision at a conceptual level for the purpose of seeking advice and direction.
- b. The applicant, or his/her authorized representative, must attend the meeting of the Planning Board to discuss the sketch plan and the requirements of this Ordinance. Discussion of the sketch plan will conclude with a recommendation to proceed with a preliminary or final subdivision plat or to modify the sketch plan for further discussion before proceeding to the next application step.
- c. Except for unusual circumstances, the applicant is limited to two pre-application discussions with the Planning Board.

## **C. Preliminary Plat**

### **1. Required Preliminary Plat**

A preliminary plat is required for the following actions:

- a. Conservation design subdivision.
- b. A standard subdivision that creates 12 or more lots.
- c. At the applicant's option when not required by items a or b above.

### **2. Submission**

Applicants for preliminary approval must file a subdivision application to the Planning Department Staff in accordance with the procedures outlined in the application. The Chair of the Planning Board or designated staff has the right to reject any application submitted if it fails to meet the minimum submittal requirements.

### **3. Mandatory Attendance at Meeting**

Once determined to be complete, the filed application will be placed on the Planning Board agenda. The applicant, or his/her authorized representative, must attend the meeting of the Planning Board to discuss the preliminary plat. If the applicant, or his/her designee, fails to appear, the Board may either continue the application to a subsequent meeting or issue a determination that the application has been withdrawn.

- a. An applicant has the right to withdraw an application at any time prior to the final decision on the application by a Planning Board, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing or on the record. There will be no refund of fees.
- b. Following a request for an applicant to submit a revised application when under review by the Planning Board, if the applicant has not submitted a revised application within six months, and he/she has not asked for an extension of time, the application will be considered withdrawn by default. There will be no refund of fees.
- c. The Planning Board may act upon the information available to them at any time once an application comes before them. This includes acting upon applications where a revision has been requested by the Board but not yet submitted.

**4. Official Submittal Date**

a. The official time of submission of the preliminary plat is the date of the determination relating to the SEQRA assessment as made by the Planning Board.

b. A preliminary plat will not be considered for a decision until a negative declaration has been filed or until a notice of a complete DEIS has been filed in accordance with SEQRA. The time period for review of a preliminary plat begins upon the date of filing of such a negative declaration or notice of completeness.

**5. Coordination with SEQRA**

Subject to NYS DEC SEQRA requirements.

**6. Decisions on Preliminary Plat - Planning Board Lead Agency**

a. If the preparation of an environmental impact statement is not required, the Planning Board will make its decision within 62 days after the close of the public hearing on the preliminary plat and must approve, approve with conditions, or deny the preliminary plat.

b. If an environmental impact statement is required, and a public hearing is held on the DEIS, the FEIS must be filed within 45 days following the close of the public hearing on the DEIS in accordance with SEQRA. If no public hearing is held on the DEIS, the FEIS must be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of the FEIS, the Planning Board must issue findings on the FEIS and conditionally approve, with or without modification, deny, or grant approval of the preliminary plat.

**7. Decisions on Preliminary Plat - Planning Board Not Lead Agency**

a. If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board must make its decision within 62 days after the close of the public hearing on the preliminary plat and must approve, approve with conditions, or deny the preliminary plat.

b. If an environmental impact statement is required, the Planning Board must make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on the preliminary plat or within 30 days of the adoption of the findings by the lead agency, whichever period is longer.

**8. Conditional Approval**

When approved with conditions, the conditions must be stated in the records of the Planning Board. The Planning Board must state in writing any conditions it deems necessary for submission of a final plat.

**9. Grounds for Denial**

The grounds for denial must be stated in the records of the Planning Board. When denying a preliminary plat, the Planning Board must relate the reasons for denial to the purpose section of this Article.

**10. Certification and Filing**

Within ten business days of the adoption of the decision granting approval or approval with conditions of the preliminary plat, the preliminary plat and any written conditions of approval as specified by the Planning Board must be signed by the Chair of the Planning Board as having granted preliminary plat approval or approval with conditions, and a copy of the plat and any required conditions must be submitted to the Planning Department Staff.

**11. Revocation of Approval**

Within one year of the approval of the preliminary plat the owner must submit a final plat. If the final plat is not submitted within one year, approval of the preliminary plat may be revoked by the Planning Board.

## D. Final Plat

### 1. Application

a. An application for final plat approval is required for the lawful division of a lot or parcel of land. Applications for final plats are accepted under the following circumstances:

- i. The owner, as permitted by this Article, has opted to begin the subdivision process with submission of a final plat application.
- ii. The owner has applied for and received approval of a preliminary plat.

b. The final plat must be clearly marked "Final Plat."

c. Where a preliminary plat was approved with conditions, the final plat must comply with and reflect all required conditions as specified in the approving decision for the preliminary plat.

### 2. Submission

Applicants for final plat approval must file an application to the Planning Department Staff on behalf of the Planning Board. The Chairperson of the Planning Board, or designated staff, has the right to reject any application submitted if it fails to meet the minimum submittal requirements.

### 3. Mandatory Attendance at Meeting

Once determined to be complete, the filed application will be placed on the Planning Board agenda. The applicant, or his/her authorized representative, must attend the meeting of the Planning Board to discuss the final plat. If the applicant, or his/her designee, fails to appear, the Board may either continue the application to a subsequent meeting or issue a determination that the application has been withdrawn.

a. An applicant has the right to withdraw an application at any time prior to the final decision on the application by a Planning Board, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing or on the record. There will be no refund of fees.

b. Following a request for an applicant to submit a revised application when under review by the Planning Board, if the applicant has not submitted a revised application within six months, and he/she has not asked for an extension of time, the application will be considered withdrawn by default. There will be no refund of fees.

c. The Planning Board may act upon the information available to them at any time once an application comes before them. This includes acting upon applications where a revision has been requested by the Board but not yet submitted.

### 4. Official Submittal Date

a. The official time of submission of the final plat is the date of determination relating to the SEQRA assessment as made by the Board.

b. When a preliminary plat is not required, a final plat will not be considered for a decision until a negative declaration has been filed or until a notice of a complete DEIS has been filed in accordance with SEQRA. The time periods for review of such a final plat begin upon the date of filing of such a negative declaration or notice of completeness.

### 5. Coordination with SEQRA

Subject to NYS DEC SEQRA requirements.

### 6. County Planning Agency Review

a. When a preliminary plat is not required, and prior to taking action on a final plat as specified in § 239-m of the General Municipal Law, the Planning Board must make referrals to the County Planning Agency or, in the absence of such agency, to a metropolitan or regional agency having jurisdiction in accordance with §§ 239-l and 239-m of the General Municipal Law.

b. If within 30 days after receipt of a full statement of such referred matter, the County Planning Agency, or an authorized agency of said agency denies the proposal or recommends modification thereof, the Planning Board cannot act contrary to such denial or recommendation except by a vote of a majority plus one of all members and after the adoption of a decision fully setting forth the reasons for such contrary action and must transmit said decision to the County Planning Agency within seven days. The Chairperson must read the report of the County Planning Agency at the public meeting on the matter under review.

c. If the County Planning Agency fails to report within such period of 30 days or such longer period as may have been agreed upon by it and the referring agency, the Board may act without such report.

#### **7. Decisions on Final Plat - Planning Board Lead Agency**

a. If the preparation of an environmental impact statement is not required, the Planning Board must make its decision within 62 days after the close of the public hearing on the final plat to approve or deny the final plat.

b. If an environmental impact statement is required, and a public hearing is held on the DEIS, the FEIS must be filed within 45 days following the close of the public hearing on the DEIS in accordance with SEQRA. If no public hearing is held on the DEIS, the FEIS must be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the FEIS, the Planning Board must issue findings on the FEIS and conditionally approve, with or without modification, deny, or grant final approval and authorize signing of the final plat.

#### **8. Decisions on Final Plat - Planning Board Not Lead Agency**

a. If the preparation of an environmental impact statement on the final plat is not required, the Planning Board must make its decision within 62 days after the close of the public hearing on the final plat to approve or deny the final plat.

b. If an environmental impact statement is required, the Planning Board must make its own findings and its decision on the final subdivision plat within 62 days after the close of the public hearing on the final plat or within 30 days of the adoption of the findings by the lead agency, whichever period is longer.

#### **9. Approval of Final Plat in Phases**

In granting final approval, the Planning Board may permit the plat to be developed in two or more phases and may in its decision granting conditional or final approval state such requirements as it deems necessary to insure the orderly development of the plat be completed before said phases may be signed by the Chairperson of the Planning Board. Conditional or final approval of the phases of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.

#### **10. Grounds for Denial**

Any the grounds for denial must be stated in the records of the Planning Board. When denying a final plat, the Planning Board must relate the reasons for denial to the purpose statement of this Article.

#### **11. Certification and Filing**

a. No vested rights will accrue to any plat by reason of final plat approval until the actual signing of the plat by the Chair of the Planning Board. All requirements, conditions, or regulations adopted by the Board applicable to the final plat or on all subdivisions generally is deemed a condition for signature of the final plat by the Chair of the Planning Board.

b. All certifications and filings must be completed in accordance with this section and the requirements of the final plat application.

c. Within five business days of the adoption of the decision granting approval of the final plat, such plat with modifications, if any, as specified by the Planning Board must be certified by the Chair of the Planning Board as having granted conditional or final approval and a copy of the plat and decision filed with Planning Department Staff and the City Clerk. A copy of the decision must be provided to the applicant. In the case of a conditionally approved plat, the approving decision must include a statement of requirements which when completed will authorize the signature of the plat. Upon completion of the specified requirements the plat must be signed and a copy of the signed plat filed with the Planning Department Staff.

d. Mylars and paper prints of the subdivision plat, as required in the application, must be filed by the applicant with the Planning Department Staff.

e. The Chair of the Planning Board must sign each plat. The Planning Board must provide back a signed reproducible Mylar and the required number of paper copies for filing in the Office of the Saratoga County Clerk by the owner.

## 12. Expiration

Approval of the final plat expires within one year after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend this period for 90 days each the time when, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

## 13. Filing of Final Plat

The owner must file in the Office of the County Clerk the approved final plat or the approved phase of such plat within 62 days from the date of final approval or the approval will expire as provided in Article 3, § 32 of General City Law. The following constitutes final approval: the signature of the Chairperson or duly authorized officer of the Planning Board; or the certificate from the City Clerk's Office as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time required.

## 14. Building Permits or Certificates of Occupancy

No building permits or certificates of occupancy will be issued for the project until final plat approval has been given, the plat properly signed, the plat recorded with the County Clerk, any and all financial security are in place, and any and all other conditions of approval have been met.

### 14.4 PLANNING BOARD WAIVERS

A. When the Planning Board finds that because of unusual circumstances of shape, topography, or other physical features of the proposed subdivision or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with this Article, it may waive certain requirements of this Article so that substantial justice may be done and the public interest secured, provided that no such waiver will be granted which will have the effect of nullifying the intent and purpose of the Official Map, Zoning Ordinance, or other ordinances of the City.

B. In granting changes and modifications, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so changed or modified.

C. The Planning Board may waive in whole or part, subject to appropriate conditions or guarantees, for such period as it may determine, the provision of any or all such improvements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interests of the public health, safety, and welfare. The Planning Board may not waive improvements which the public interest requires. The Planning Board cannot approve exceptions or waivers of conditions unless it makes the findings based upon the evidence presented to the Board in each specific case:

1. The granting of the exception or the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property.

2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable, generally, to the other property.

3. Because of the particular physical surroundings, shape, or topographical condition of the property involved, a particular difficulty for the owner would result, as distinguished from a mere inconvenience, if a strict interpretation of this Article were carried out.

4. The relief sought will not, in any manner, vary the zoning provisions of this Ordinance, the Comprehensive Plan, or the Official Map.