

**Town of Ellicottville**

**Subdivision Regulations**

**Local Law 1 of 2012**

**Adopted January 18, 2012**



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# **ARTICLE 1**

## **GENERAL PROVISIONS**

### **SECTION 1.1 AUTHORITY**

Pursuant to the provisions of Section 276 of NYS Town Law and pursuant to the Municipal Home Rule Law, the Town Board of the Town of Ellicottville hereby empowers and authorizes the Town of Ellicottville Planning Board to approve with modification, or disapprove plats for the subdivision of land within the Town of Ellicottville, County of Cattaraugus, State of New York.

Pursuant to Section 276.2 of the Town Law, the Town Board also hereby authorizes the Planning Board to review and approve pursuant to these regulations the development of plats, entirely or partially undeveloped, which were filed in the Cattaraugus County Clerk's office prior to the establishment of the Town of Ellicottville Planning Board. The term "undeveloped" shall mean those plats where twenty percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

Notwithstanding the dimensional regulations contained in the Town of Ellicottville Zoning Law, pursuant to NYS Town Law Section 278, the Planning Board is hereby authorized to approve cluster subdivisions in all zoning districts. The purpose of a cluster subdivision is to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands. A cluster subdivision shall result in a permitted number of building lots or dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the zoning law. The Planning Board shall require the open area not included in the residential portion of the subdivision to be placed in permanent open space.

### **SECTION 1.2 PURPOSE**

The purpose of these regulations as herein adopted shall be to provide for the orderly growth and development of the Town with adequate provision for the housing, transportation, distribution, comfort, convenience, safety, health, desirable environment, and welfare of its population.

### **SECTION 1.3 SCOPE**

These regulations are not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by deed, covenant or other private agreements except that where these regulations impose a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of these regulations shall control. These regulations specifically supersede any Town of Ellicottville subdivision regulations approved or in use prior to the adoption of this local law.

## **SECTION 1.4 AREA VARIANCES**

Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance without the necessity of a decision by the Zoning Official. In reviewing such application, the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance.

## **SECTION 1.5 SEQRA REVIEW**

Before making a determination on any application for subdivision approval, the Planning Board shall comply with the requirements for Environmental Review, pursuant to 6NYCRR Part 617, State Environmental Quality Review.

## **SECTION 1.6 DEFINITIONS**

### **(A) Rules**

- (1) May is permissive.
- (2) Shall is mandatory.

### **(B) Definitions**

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

**Access** - The provision of vehicular and/or pedestrian ingress and egress to lots, structures or facilities. Vehicular access must be provided for all lots; such access shall be permanently secured through frontage on a public or private road, by recorded easement, or by other legal conveyance as approved by the Town Attorney.

**Building envelope** - the area of lot within which a principal building may be located. The building envelope consists of the lot area excluding the required front, rear and side yard setbacks.

**Cluster Subdivision** - A subdivision in which the applicable zoning law regulations are modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping, in order to preserve the natural and scenic qualities of open lands.

**Conditional Approval of Final Plat** – approval by the Planning Board of a final plat, subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify the final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by the duly authorized officer of the Planning Board and the recording of the plat in the office of the Cattaraugus County clerk.

**County** - the County of Cattaraugus, State of New York.

**Driveway** - A private access strip of land that provides vehicular connection to a public or private road. For residential uses, a driveway shall serve no more than three single family lots.

**Health Department** - the Department of Health of the County of Cattaraugus, State of New York.

**Highway Department** - means the Department of Highways of the County of Cattaraugus, or the Town of Ellicottville, or the State of New York, whichever department exercises jurisdiction over the roadways involved.

**Lot** - A portion of a subdivision which is intended as a unit for the purpose, whether immediate of future, of transfer of ownership, or possession, or for building development.

**Lot Line Adjustment** - A type of resubdivision in which there is solely an alteration of lot lines between adjacent lots, in which no additional lots are created and no lots are deleted, and in which both lots continue to meet all dimensional requirements of the Town's Zoning Law.

**Planning Board** - the Planning Board of the Town of Ellicottville, New York.

**Plat** – a map showing a proposed subdivision.

**Plat, Final** - the final map, on which the subdivision is presented to the Planning Board for review, and which, if fully approved by the Planning Board, shall be submitted by the subdivider to the County Clerk for recording.

**Plat, Preliminary** - the preliminary drawings indicating the proposed layout of the subdivision, which is required to be submitted to the Planning Board in conformance with the requirements of these regulations.

**Resubdivision** - Any change in a plat of an approved or recorded subdivision plat, if such change affects any lot line, any street layout, or area reserved for public use.

**Reversion to acreage** - a re-aggregation of sub-lots in a previously approved subdivision.

**Road** - see "Street."

**Sketch Plan** - an initial presentation of a proposed subdivision submitted to the Planning Board for its consideration.

**Street** - A public or private way for vehicular traffic that provides a means of access to abutting properties.

**Subdivider** - any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself/herself or for another.

**Subdivision** – the division of any parcel of land, by deed, land contract or other conveyance, into a cumulative total, over five years, of three or more lots, for the purpose, whether immediate or future, of transfer of ownership or building development. This definition shall be deemed to include townhouse and condominium developments, regardless of whether the lands are held in common and no actual transfer of ownership is involved.

For the purpose of these regulations there shall be three classifications of subdivision: Minor, Major, or Minor Subdivision with Potentially Major Impacts.

A subdivision as defined herein shall be a Minor Subdivision if it meets **all** of the following criteria:

1. the division of any parcel into fewer than five (5) lots; and
2. all lots have legal access to an existing public highway; and
3. all lots meet the Health Department standards with regard to water supply and sewage disposal; and
4. all lots meet the current zoning ordinance regulations for the district in which the lots are located; and
5. the Planning Board determines that the proposed subdivision is not likely to have a potentially major impact on the orderly growth and development of the Town
6. the Planning Board determines that the proposed subdivision is not likely to have a potentially significant impact on the environment.

A subdivision as defined herein shall be a Minor Subdivision with Potentially Major Impacts if the Planning Board determines that the proposal meets the criteria established for a minor subdivision, but further determines that the proposed subdivision will potentially have a major impact on the orderly growth and development of the Town and/or have a potentially significant impact on the environment.

All other subdivisions as defined herein shall be Major Subdivisions.

**Town** - means the Town of Ellicottville, Cattaraugus County, New York.

**Zoning Official** - The official appointed by the Town Board, Town of Ellicottville, who is responsible for enforcing the Town's Zoning Law.



## **ARTICLE 2**

### **PROCEDURE FOR FILING SUBDIVISION APPLICATIONS**

#### **SECTION 2.1 SUBDIVISION APPROVAL REQUIRED**

Whenever any subdivision is proposed, before the transfer of any lot or other interest therein and before the execution of any contract providing for such transfer, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his/her authorized agent shall apply for and obtain Final Plat approval from the Town of Ellicottville Planning Board for such proposed subdivision, and shall record the plat in the office of the Cattaraugus County Clerk in accordance with the procedures set forth herein.

#### **SECTION 2.2 SKETCH PLAN APPLICATION**

##### **(A) Filing Requirement**

All applicants for subdivision approval shall submit a Sketch Plan and a Letter of Intent To Subdivide to the Town of Ellicottville Planning Board. The Planning Board will review the Letter of Intent and Sketch Plan application and determine if the proposed subdivision is:

- (1) a minor subdivision, or
- (2) a minor subdivision with potentially major impacts, or
- (3) a major subdivision

##### **(B) Submission Requirements**

All Sketch Plan applications shall include the following:

- (1) Letter of Intent to Subdivide
- (2) Location Map showing the general location of the site in the Town
- (3) A sketch plan of the proposed subdivision or a survey map prepared by a surveyor, licensed to practice in New York State, at a scale which is appropriate to show major features. The sketch plan or survey shall include the following:
  - (a) Location of property, including name of town or towns, and Range, Township and Lots per the Holland Land Company's survey and recording information of the deed, including the liber and page numbers; and tax map parcel number(s). The parcel shall be tied to Holland Land Company Great Lot corner wherever possible.
  - (b) All existing and proposed buildings and structures.
  - (c) All existing and proposed property lines, easements, roads and rights-of-way. In the case of townhouses, the general location of the buildings shall be shown.
  - (d) Minimum building setback lines, as required by the Town of Ellicottville Zoning Law (Building Envelope)
  - (e) Sufficient topographic and physical features of the site to enable the Planning Board to evaluate the proposal.
  - (f) Subdivider's name and address, scale, north arrow, and date of sketch plan.

- (g) The name, title, and address of the preparer of the sketch plan.
- (4) Application fee
- (5) Part 1 of the SEQRA Environmental Assessment Form.
- (6) Any other information deemed necessary by the Planning Board in order to make the determination of the type of subdivision. The Planning Board may waive the requirement for any information that it deems is not necessary to make the determination of type of subdivision.

**(C) Planning Board Review of Sketch Plan**

The Planning Board shall review the Sketch Plan application within 62 days of the date that a complete sketch plan application is received. Using the information presented by the applicant and the definitions contained in Article 1 of these regulations, the Planning Board shall determine if the application is a Minor Subdivision, a Minor Subdivision with Potentially Major Impacts or a Major Subdivision.

**(1) Major Subdivision**

If the Planning Board determines that the proposal is a **Major Subdivision**, the Board shall require the subdivider to submit an application for preliminary plat, as described in these regulations. The Planning Board may further review the sketch plan and may provide general comments to the applicant for use in preparing the Preliminary Plat application.

**(2) Minor Subdivision with Potentially Major Impacts**

If the Planning Board determines that the proposal meets the criteria established for a minor subdivision, but further determines that the proposed subdivision will potentially have a major impact on the orderly growth and development of the Town and/or have a potentially significant impact on the environment, the Board shall determine that the proposed subdivision is a **Minor Subdivision with Potentially Major Impacts**. The Planning Board will direct the applicant to prepare a Final Plat application for the Board's review and determination. The Planning Board may provide general comments to the applicant for use in preparing the Final Plat application.

**(3) Minor Subdivision**

If the Planning Board determines that the proposal is a **Minor Subdivision**, following completion of SEQRA review and a SEQRA determination of significance, the Planning Board may approve, approve with conditions, or deny the application for minor subdivision approval. If the subdivision is approved or approved with conditions, the Planning Board may authorize the Planning Board Chair to sign the Plat. Notwithstanding the requirements of Section 276 of Town Law, no public hearing is required for approval of a minor subdivision.

## SECTION 2.3 PRELIMINARY PLAT APPLICATION

### (A) Submission Requirements

Within six months of the Planning Board's determination that a preliminary plat application is required, the subdivider shall make preliminary plat application in writing to the Planning Board. The application shall include the application form, provided by the Town, and all submittal requirements listed below. If the Planning Board determines that a specific item is not necessary for a complete understanding of the proposed project and/or is not applicable to the proposed project, the Board may waive that submission requirement.

The Preliminary Plat shall be clearly and legibly drawn. The map shall be on one or more sheets of an appropriate size and scale so that all site features are clearly legible. The Preliminary Plat shall include all contiguous property under the control and/or ownership of the project sponsor, even if only a portion of the tract is to be initially subdivided and/or developed. The preliminary plat application shall include:

- (1) Information describing the existing conditions at the site:
  - (a) Location map, showing the general location of the site in the Town
  - (b) Location of tract to be subdivided, including name of town or towns, and Range, Township and Lots per the Holland Land Company's survey and recording information of the deed, including the liber and page numbers; and tax map parcel number(s). Property shall be tied to Holland Land Company Great Lot corner wherever possible.
  - (c) Existing property lines, easements, streets, and rights-of-ways
  - (d) Existing utility lines on or adjacent to the tract, including location, size, and invert elevations
  - (e) Existing ground elevation contours on the tract at intervals of not more than five (5) vertical feet; other conditions on the tract, including watercourses, wetlands, floodplain boundaries, wooded areas, houses, other buildings and other significant features; zoning district boundaries on and adjacent to the tract; and land title and survey (if any) by deed description and map survey.
  - (f) If the subdivider is not the property owner, the applicant shall provide a letter of consent from the property owner.
- (2) Information regarding the proposed subdivision:
  - (a) Proposed lot lines, lot numbers, lot dimensions, and lot areas.
  - (b) Proposed use of all sites and lots within the subdivision
  - (c) Proposed sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
  - (d) All proposed vehicular and pedestrian access
  - (e) Minimum building setback lines for all lots, as required in the Town's Zoning Law.
  - (f) A table of site data including number of proposed residential lots, number of parking spaces, percentage of open space area, individual lot area, areas of parks, and areas of other uses.
  - (g) A table of area and dimensional requirements for the applicable zoning district(s),

showing how the proposed lots comply with the requirements.

- (h) Proposed subdivision name or title under which it will eventually be recorded.
  - (i) The scale of the plat, north arrow, date, name and address of subdivider, and the name, address, and license number of surveyor or engineer.
- (3) Information regarding proposed roads:
- (a) proposed names, right-of-way widths, roadway widths and typical cross sections
  - (b) approximate grades and gradients.
  - (c) Other proposed rights-of-way or easements and their location, width and purpose
  - (d) Profiles along the centerline of proposed roads showing existing ground surface, and proposed finished road grades, including extensions for a reasonable distance beyond the limits of the proposed subdivisions.
  - (e) Grading cross-sections of the proposed road right-of-way showing, driveway access, sidewalks (if applicable), and utility locations, extending from building setback line to building setback line.

All plans for public improvements shall be prepared by a professional engineer registered to practice in the State of New York, pursuant to applicable provisions of the New York State Education Law.

- (4) Information regarding proposed utilities:
- (a) locations of existing and proposed utilities, including existing and proposed easements.
  - (b) Preliminary plans of water supply systems
  - (c) Preliminary plans for sanitary sewage collection and treatment or disposal.

All plans for public improvements shall be prepared by a professional engineer registered to practice in the State of New York, pursuant to applicable provisions of the New York State Education Law.

Where any water or sewer line, water plant or sewage treatment plant is to be installed by the subdivider and/or municipality outside existing districts, the establishment or enlargement of a water district and/or a sewer district may be required at the expense of the subdivider.

Water and sewer lines, facilities and appurtenances will be conveyed to the Town, if so required by the Planning Board.

- (5) Information regarding proposed grading and site drainage:
- (a) Preliminary drainage plans, including proposed individual lot drainage and proposed method of collection and discharging of storm drainage. The grading plan shall demonstrate how the overall drainage system will collect and convey runoff from the individual lots as they are developed.
  - (b) Preliminary grading plan.

(6) Restrictive Covenants

A draft of protective covenants or restrictions whereby the subdivider proposes to regulate land use in the subdivision, including deed restrictions and/or homeowners associations offering plans, shall be provided. The Planning Board may require inclusion of certain restrictions or covenants or the formation of mandatory homeowners associations as a prerequisite to approval of the Final Plat. However, the Town shall not be responsible for enforcing the developer's restrictive covenants.

(7) Any other information that may be necessary for a complete understanding of the proposed project.

(8) Part 1 of the NYS SEQRA Full Environmental Assessment Form.

(9) All required fees.

**(B) Planning Board Review of Preliminary Plat Applications**

(1) Public Hearing

The Planning Board shall hold a public hearing within sixty-two (62) days from receipt of a complete Preliminary Plat application. The public hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five (5) days before it is held. The Planning Board shall mail notice of the public hearing to all property owners of parcels within 100 feet of the perimeter of the property line of the project site. The Planning Board may also advertise the public hearing in other ways.

(2) Decision

(a) Within sixty-two (62) days after the close of the Public Hearing, the Planning Board shall by resolution approve, approve with modifications or disapprove the application. The time period for the decision may be extended by mutual agreement of the Planning Board and the applicant. In making its decision the Planning Board shall consider the standards for review contained in Section 2.3B(3) of these regulations.

(b) Within 5 business days of the decision, the Planning Board shall advise the applicant in writing of its decision. In its written decision, the Planning Board shall state the specific changes and/or modifications, if any, that are necessary for the submission of the Final Plat application. The written decision shall state the reasons for the Board's determination. If the Preliminary Plat is disapproved, the Planning Board shall clearly state the reasons for its disapproval.

(c) The Planning Board shall file a copy of the notice of its decision in the Town Clerk's office, within 5 business days of the decision.

(3) Standards for review and decision of the Preliminary Plat application

The Planning Board shall carefully study the practicality of the proposed layout, taking into consideration the requirements of the community and the standards of these Subdivision Regulations. When making a decision to approve, approve with modifications, or disapprove the Preliminary Plat application, the Planning Board shall consider the following standards. In approving a Preliminary Plat, the Planning Board shall find that the proposed project meets these standards or that it can be modified to bring the project into compliance with these standards. In this latter case, conditions of approval and/or modifications to the plat shall be part of the Board's approval.

- (a) The project is in compliance with the design standards contained in Article 3 of these Regulations and with all other criteria and standards of these Subdivision Regulations.
- (b) The project is consistent with the Goals, Objectives and Policies of the Town's Comprehensive Plan.
- (c) The land shown on the Plat is of such character that it can be used safely for building or the other purposes for which it is intended without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or to the public health, safety and welfare.
- (d) The project is in compliance with the requirements of the Town's Zoning Law.
- (e) The proposed lots are of a suitable size and arrangement so that they can be used for the intended development purpose.
- (f) The proposed road, utility and lot layout is suitable to the topography of the site, particularly as it applies to accessibility and constructability.
- (g) Pedestrian access, if applicable, is adequate to serve the site and connects with off-site sidewalks and/or trails.
- (h) The arrangement, location, grade and width of roads is adequate to serve the site and the proposed use of the site, to facilitate fire protection and emergency vehicle access, and to provide access of firefighting equipment to buildings.
- (i) The proposed water supply system is adequate to serve the site and sufficient water supply is available for both adequate fire protection, if applicable, and anticipated domestic water usage. The standard for adequate fire protection shall be applicable in areas that are served by the municipal water supply system.
- (j) The proposed sanitary sewage disposal system is adequate to serve the site and sufficient downstream capacity exists in the system and treatment facility to accept the expected flows from the project.
- (k) The proposed stormwater drainage and runoff control features are adequate to serve the site, and demonstrate that runoff will not unduly affect adjacent properties.
- (l) The project does not impede the future development of adjacent lands.

## **SECTION 2.4 FINAL PLAT APPLICATION**

### **(A) Submission Requirements**

Within six months of the Planning Board's approval of the Preliminary Plat, or within six months of the Planning Board's determination that the proposed subdivision is a Minor Subdivision with Potentially Major Impacts, the applicant shall submit a Final Plat application. If the Final Plat application is not submitted within six months of preliminary plat approval, the Planning Board may revoke that approval.

The Final Plat shall be prepared and certified by a land surveyor licensed in New York State. The Final Plat shall be clearly and legibly drawn. The map shall be on one or more sheets of an appropriate size and scale so that all site features are clearly legible. For large subdivisions, the final plat may be submitted for approval, in phases, in contiguous sections satisfactory to the Board.

All detailed construction drawings shall be at a scale of 1" = 50' or larger.

Unless the Planning Board determines that a specific item is not necessary for a complete understanding of the proposed project and/or is not applicable to the proposed project, the Final Plat application shall include:

- (1) All information shown on the approved preliminary plat, with any modifications required by the Planning Board. If the Final Plat application is for a Minor Subdivision With Potentially Major Impacts, the Final Plat application shall include all information required in Section 2.3(A). The Final Plat shall show:
  - (a) Primary control points, approved by the Town Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
  - (b) Tract boundary lines, right-of-way lines of roads, easements and other rights-of-way, and property lines of lots; with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.
  - (c) Purpose for which lots are dedicated or reserved.
  - (d) Location and description of monuments (shown thus "X") and lot corner markers (shown thus "O").
  - (e) Adjoining properties shall be clearly indicated and shall include owner's name and recording data of relevant deeds.
  - (f) proposed Road names.
  - (g) Name of subdivision, scale, north arrow, and date.
- (2) Final grading and stormwater management (drainage) plan that is in compliance with current NYS Department of Environmental Conservation regulations. If NYSDEC regulations do not apply, then the grading and drainage plan shall be approved by the Town Engineer. The grading plan shall demonstrate how the overall drainage system will collect and convey runoff from the individual lots as they are developed.
- (3) Detailed design of the water supply system, including proposed easements. At the time

of Final Plat application, a letter of approval shall be provided from the Cattaraugus County Health Department and/or any other agencies with approval authority over the water supply system, if any.

- (4) Detailed design of the sanitary sewer disposal system, including proposed easements. At the time of Final Plat application, a letter of approval shall be provided from NYS Department of Environmental Conservation and/or any other agencies with approval authority, if any.
- (5) Detailed road design that complies with the pertinent Town Road standards and that complies with the standards in Article 3, Design Standards, of these Regulations.
- (6) Detailed utility plan which shows, in addition to the water supply and sanitary sewerage disposal, all other site utilities that will be installed, including electric, gas, cable, and telephone distribution lines and facilities. Mail delivery facilities shall be shown if these are to be constructed as a stand-alone structure, and not inside another building. Locations of all utilities are subject to the review and approval of the Planning Board; however, the Planning Board may delegate final approval of locations of utilities to the Town Engineer. In the event that utility companies will not provide locations of their facilities prior to Final Plat approval, the Final Plat approval shall contain a condition that a Utility Plan shall be presented for the review and approval by the Town Engineer, prior to the issuance of any building permits for the site.
- (7) Draft agreements covering the improvement and maintenance of open space areas that are not intended to be offered for dedication to the Town.
- (8) Draft Homeowner's Association agreements.
- (9) All required fees
- (10) Any other information or documentation that the Planning Board deems necessary to enforce these regulations.

When roads, water lines, sanitary sewerage lines, open space or other facilities are proposed to be dedicated to the Town, the Final Plat approval shall contain a condition requiring such offer of dedication, including easements where appropriate.

#### **(B) Planning Board Review of Final Plat Applications**

- (1) Public Hearing

The Planning Board shall hold a public hearing within sixty-two (62) days after the receipt of the complete Final Plat application. The hearing shall be advertised at least once in a paper of general circulation in the Town at least five (5) days before it is held. The Planning Board shall mail notice of the public hearing to all property owners of



parcels within 100 feet of the perimeter of the property line of the project site. The Planning Board may also advertise the public hearing in other ways.

If the project received preliminary plat approval and if the Planning Board deems the final plat to be in "substantial agreement" with the approved preliminary plat, the Planning Board may waive the requirement for a public hearing. However, if the Planning Board determined that the subdivider could apply directly for Final Plat approval (minor subdivision with potentially major impacts), then the Planning Board shall hold a public hearing on the Final Plat application prior to making a decision on the application.

## (2) Decision

- (a) Within sixty-two (62) days after the close of the public hearing, or within sixty-two (62) days after receipt of a complete application for final plat approval, if the public hearing has been waived, the Planning Board, by resolution, shall approve, with or without conditions, conditionally approve or disapprove the final plat application. In making its decision the Planning Board shall consider the standards for review contained in Section 2.3B(3) of these regulations. If a plat is disapproved, the Planning Board shall clearly state the reasons for its disapproval
- (b) If the Final Plat application is approved or conditionally approved, the Planning Board shall authorize the chair of the Planning Board to sign the Final Plat. The Final Plat that is presented for signature must be on mylar, linen or other permanent substance as approved by the Town Engineer.
- (c) If a Final Plat receives conditional approval, the applicant shall have 180 days to meet the conditions of the approval set by the Planning Board. Once the conditions are met, the plat must be signed by an official of the Planning Board before it may be filed. Pursuant to Section 276-7(c) of Town Law, the Planning Board may extend the 180-day period by up to an additional 180 days, if in the Board's opinion, such extension is warranted by the particular circumstances.
- (d) The approval by the Planning Board of a Final Plat shall not be deemed to constitute or imply the acceptance by the Town or by any Special District of any road, park, playground, open space, water facilities, sewage facilities, drainage facilities, or other areas and improvements shown of the Plat. All improvements shall meet the applicable standards of the Town.

## (3) Required Filings

- (a) Within 5 business days from the date of decision on the Final Plat, the Planning Board shall file a copy of the Board's decision in the Town Clerk's office.
- (b) Within 5 business days from the date of decision on the Final Plat, the Planning Board shall send written notice of the Board's decision to the subdivider.

- (c) As provided by Section 276-11 of NYS Town Law, the subdivider shall file the approved final plat, or section of such plat if the plat is approved in sections, in the office of the Cattaraugus County Clerk within 62 days of the date of final approval, or the approval shall expire.

**(C) Security/Performance Bond**

- (1) Pursuant to Section 277 of the NYS Town Law, the Planning Board shall require the installation of all roads, sidewalks, storm sewers, water lines, sanitary sewers and other site infrastructure. In lieu of the installation of these improvements and infrastructure, the Planning Board may require the applicant to provide a performance bond or other security to the Town. Final plat approval shall be granted conditional to the posting of the bond or other security.
- (2) **Amount of Security.** The amount of the performance bond shall be sufficient to cover the cost of the installation of the required infrastructure, as estimated by the town. If the subdivider is authorized to file the plat in sections, the amount of the security shall be adequate for the portion of the plat that has been approved.
- (3) **Form of Security.** The security shall be in the form of a performance bond, letter of credit or other security that is acceptable to the Town Board. The security shall be provided pursuant to a written security agreement between the Town and the subdivider.
- (4) **Term.** The Planning Board shall determine the term of the security agreement, but in no case can the term be longer than three years. However, the term may be extended by the Planning Board with the consent of the parties.
- (5) **Default of security agreement.** In the event that any required improvements have not been installed within the term of the security agreement, the Town Board may declare the bond to be in default and collect the sum remaining payable thereunder and install such improvements as covered, but not exceeding in cost the amount of such proceeds.

**(D) Public Improvement Permit**

Where roads, sidewalks, water lines, sanitary sewers and other site infrastructure is proposed to be dedicated to the Town or to a Special District, as a condition of approval of the Plat, the Planning Board shall require the applicant to apply for and receive a public improvement permit from the appropriate entity.

## **SECTION 2.5 CLUSTER SUBDIVISIONS**

- (A) Pursuant to Section 278 of Town Law, the Planning Board is authorized to consider applications for cluster subdivisions. A cluster subdivision may be approved in any zoning district.
- (B) The purpose of a cluster subdivision shall be to encourage and enable flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands and to protect natural resources, such as wetlands.
- (C) A cluster subdivision shall not result in a permitted number of building lots or dwelling units which exceeds the number which could be permitted, in the Planning Board's judgment, if the land were to be subdivided into lots conforming to the minimum lot size and density requirements of the applicable zoning district, as provided for in the Town's Zoning Law. In order to ensure that the density of the cluster subdivision does not exceed that which would otherwise be allowed, the applicant shall submit a sketch plan that shows the density that could be obtained using a conventional subdivision layout, along with the application for the cluster subdivision showing the proposed number of lots and/or dwelling units.
- (D) If the proposed subdivision falls within two or more contiguous zoning districts, the Planning Board may approve a cluster subdivision representing the cumulative density of the entire property. The allowable density for that portion of the property in each zoning district shall be calculated independently, and then added together to obtain the total number of allowable units. The Planning Board may authorize construction to take place in all or any portion of the zoning districts.
- (E) In reviewing an application for a cluster subdivision, the Planning Board may allow a reduction in the minimum lot size and/or minimum lot width and a commensurate reduction in building setbacks.
- (F) That portion of the lot that is not proposed for development shall be maintained as permanent open space. As a condition of approval, the Planning Board may establish conditions on the ownership, use and maintenance of such open lands as it deems necessary to assure the preservation of the natural and scenic qualities of such lands.
- (G) An application for cluster subdivision shall follow the application process for a major subdivision, as described herein.

## **SECTION 2.6 AMENDMENTS AND RESUBDIVISIONS**

### **(A) Amendments to Approved Final Plat**

- (1) When a subdivider determines that a change is necessary or desirable in an approved Final Plat, the subdivider shall apply to the Planning Board for an amendment to the approved Final Plat. The applicant shall submit a letter stating what changes are being proposed, and why, and shall provide a Plat, prepared by a licensed surveyor, showing the proposed changes.

- (2) The Planning Board shall review the proposed amendment and shall determine if the proposed change is *de minimus* or substantial. In determining whether or not the proposed amendment is *de minimus*, the Planning Board shall determine if SEQR review needs to be reopened and whether or not the change is minimal in nature. If the proposed amendment is determined to be *de minimus*, the Planning Board may waive the requirement for a public hearing and proceed to a determination on the amendment.
- (3) If the Planning Board determines that the proposed amendment is substantial, the Board shall follow the procedure for review of Final Plat applications, above, prior to making a decision on the amendment.
- (4) The applicant shall file the amended Plat in the Office of the Cattaraugus County Clerk. The applicant shall provide a copy of the recorded Plat to the Town Clerk, along with the instrument number of the recording in the County Clerk's Office.

**(B) Lot Line Adjustments**

- (1) A lot line adjustment is a type of resubdivision that consists solely of the alteration of lot lines where no lots are created or deleted. Application for approval of a lot line adjustment shall be made to the Planning Board, as an amendment to the approved Final Plat. The Planning Board shall determine if the proposed amendment is a substantial or *de minimus* amendment, using the criteria above, and shall follow the process for a substantial or *de minimus* amendment.
- (2) The Plat shall be reviewed by the Planning Board for the purpose of determining compliance with zoning law requirements. If the lots comply with the dimensional requirements of the Town's Zoning Law, the Planning Board may authorize the Chair of the Planning Board to sign the Plat. Upon approval, the applicant shall file the amended Plat in the Office of the Cattaraugus County Clerk and file a copy of the recorded Plat with the Town Clerk, along with the County's instrument number.

**(C) Reversions to Acreage**

- (1) A reversion to acreage is a re-aggregation of a previously approved subdivision. A reversion to acreage shall require the approval of the Planning Board as an amendment to an approved final plat, as described above. The Planning Board shall determine if the proposed amendment is a substantial or *de minimus* amendment, using the criteria above, and shall follow the process for a substantial or *de minimus* amendment.
- (2) The Planning Board may approve a reversion to acreage if it can make the following findings:
  - (a) Dedications or offers of dedication to be vacated or abandoned by the reversion to acreage are unnecessary for present or prospective public purposes.
  - (b) The lots shown on the approved subdivision map are all in one ownership.

## **ARTICLE 3 DESIGN STANDARDS**

### **SECTION 3.1. LOTS**

#### **(A) General Standards**

- (1) All subdivisions shall comply with the requirements of Local Law No. 1-1987, Flood Damage Prevention.
- (2) All lots shall conform to the area and dimensional requirements of the current Zoning Law, unless the subdivision is a Cluster Subdivision or a Master Planned Development, or a variance has been granted by the Town of Ellicottville Zoning Board of Appeals.
- (3) The subdivision shall conform to all other applicable requirements of the current Zoning Law.
- (4) When large contiguous acreage is to be reserved from a proposed subdivision, the roads and building lots shall be arranged so as to allow the logical resubdivision of the outparcel(s) and to allow roads to be extended into the outparcel in the future.
- (5) Subdivisions shall be laid out taking existing topography and site features into consideration. The site layout shall promote the efficient use of land and shall minimize the disturbance to the natural grade and to existing mature vegetation, to the maximum extent practicable.
- (6) The site shall be laid out so that grading, when it occurs, shall blend in with the surrounding grades. The finished grade shall not be significantly higher or lower than the surrounding area, and shall not appear unnatural. Grading shall relate to the natural contour of the land. Graded areas shall be rounded off in a natural manner, so that there are no sharp angles at the top and toe of areas of cut and fill. The site layout shall ensure that future development will meet the standards for grading and hillside development in the Town's Zoning Law.
- (7) Lots shall be arranged such that there will be no foreseeable difficulties in securing building permits to build on all lots in compliance with the Zoning Law, or in providing access to buildings on such lots from an existing or proposed road. Reasonable and practicable access from an existing or proposed road to the building envelope shall be possible for all building lots.
- (8) All lots shall be configured such that vehicular access to all parcels can be reasonably provided from a public or private road.

#### **(B) Lot Layout**

- (1) All lots shall adequately sized to ensure that future development will be able to comply with the parking standards contained in the Town's Zoning Law.

- (2) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as provided in the Town's zoning law.
- (3) Corner lots for residential use shall have sufficient width to permit appropriate front yard building setback from both road frontages.
- (4) Each lot shall have adequate frontage to provide for access to an existing or proposed road. "Panhandle" or "flag" lots should be avoided except where a design benefit will result from not extending a road to serve these lots.
- (5) Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- (6) Side lot lines shall be substantially parallel to each other or radial to street lines.

## **SECTION 3.2. ROADS**

### **(A) General Standards**

- (1) Roads shall be of sufficient width and suitable grade to accommodate the prospective traffic and the type of development which they are proposed to serve.
- (2) Roads shall provide year round access to the parcel and to any structures on the parcel.
- (3) Roads shall be designed to accommodate emergency vehicle access, in terms of width, grade, and road geometry. Roads and driveways shall be designed and constructed to provide adequate access for firefighting equipment and other emergency vehicles to buildings.
- (4) Roads and driveways shall be designed to substantially follow the natural contour of site topography and to reduce the amount of cut and fill, to the maximum extent feasible.
- (5) Intersections shall be designed to ensure clear sight distances for on-coming vehicles, and pedestrians, where appropriate.

### **(B) Interconnectivity**

- (1) Roads shall be interconnected whenever possible. Interconnectivity promotes emergency vehicle access and walkability of neighborhoods.
- (2) New roads within the subdivision shall be laid out to continue existing roads in the vicinity of the project.

- (3) Where appropriate, road rights-of-ways shall be provided to the property line of adjoining parcels.
- (4) Roads should be laid out to provide through circulation. Excessively long cul-de-sacs and dead-end streets should be avoided, if possible. Dead-end streets should be no longer than 1,000' or serve more than 12 residences. Dead-end roads proposed to be dedicated to the Town shall meet the standards in the Town of Ellicottville *Regulations for the Dedication of Local Roads in the Town of Ellicottville*, as may be amended from time to time.

**(C) Public roads**

- (1) Roads to be dedicated to the Town shall comply in all respects with the Town of Ellicottville *Regulations for the Dedication of Local Roads in the Town of Ellicottville*, as may be amended from time to time.
- (2) Roads to be dedicated to the Town shall be approved by the Town Engineer and Highway Superintendent.

**(D) Private roads**

- (1) Private roads shall be built to the standards for private roads contained in the *Regulations for Dedication of Local Roads in the Town of Ellicottville*, as may be amended from time to time.
- (2) Roads that are not built to the specifications of Town roads shall have a notation on the Final Plat, stating that such roads are not built to Town road standards and therefore can never be dedicated to the Town. The developer shall provide a permanent means of maintaining private roads in perpetuity, such as a Homeowner's Association.
- (3) Private roads may provide for some flexibility of design, based on level of anticipated usage contained in the AASHTO standards for private roads. Therefore, as long as the road design can be demonstrated to be accessible for fire trucks and other emergency vehicles, the Planning Board may approve designs that have narrower lane widths or steeper grades than that which would be required for public roads, if it can be shown that the overall design and functionality of the proposed project would benefit.

**(E) Shared Driveways**

- (1) A shared driveway may be approved in lieu of a private road to provide access to no more than three single family lots.
- (2) A shared driveway agreement, that is legally recorded as a permanent restrictive covenant in Cattaraugus County, shall be required. The Agreement shall address issues of maintenance and rights of access. The agreement shall be in a form that is satisfactory to the Town Attorney.

## **SECTION 3.3 STORMWATER MANAGEMENT**

### **(A) General Standards**

- (1) To the maximum extent feasible, the site shall be laid out to maintain the natural drainage features of the site.
- (2) Site grading shall be designed such that the rate and direction of stormwater flow off site does not increase onto adjacent properties or onto the town's right of way in an uncontrolled manner. The overall development plan for the subdivision shall take into account the need to control and receive runoff from the individual lots as they are developed.
- (3) The design of stormwater management facilities shall assure that the runoff after development does not exceed that existing at the time of the plan submission.

### **(B) Siltation and Erosion control**

- (1) Provisions shall be made for siltation and erosion control, both during and after construction. A siltation and erosion control plan for use during construction shall be shown on the Construction Drawings for the development.
- (2) Vegetation shall be established on all disturbed surfaces as soon as possible upon completion of the work.
- (3) Siltation control measures shall be maintained in continuous use until adequate vegetation is established as approved by the Town Engineer.

### **(C) Stormwater Pollution Prevention Plan (SWPPP)**

Where required by NYSDEC regulations, a properly prepared SWPPP shall be prepared and implemented per NYSDEC specifications.

## **SECTION 3.4 PUBLIC UTILITIES**

- (A)** Water supply and sewerage disposal services shall be designed to be adequate to serve the subdivision at ultimate build-out.
- (B)** Where appropriate, utility line easements shall be provided to the property line of adjoining parcels.
- (C)** Utilities that are proposed to be dedicated shall be designed to the current standards of the appropriate utility department/agency.



### **SECTION 3.5 PRIVATE UTILITIES**

Location of all other utilities, such as gas, electric, cable, telephone and other planned utilities shall be shown on the final plat at the time of application and shall be included on the Final Plat that is recorded. Above ground facilities, such as large transformers, shall not be located in required setbacks, unless otherwise approved by the Planning Board. In the event that utility companies will not provide locations of their facilities prior to Final Plat approval, the Final Plat approval shall contain a condition that a Utility Plan shall be presented for the review and approval by the Town Engineer, prior to the issuance of any building permits for the site.

## **ARTICLE 4 REQUIRED IMPROVEMENTS**

### **SECTION 4.1. MONUMENTS AND LOT CORNER MARKERS**

- (A) Permanent monuments shall be set at block corners and at intervals of approximately 500 feet, and their location shall be shown on the recorded Final Plat. Iron pipes shall not be considered permanent for the purposes of these regulations.
- (B) Lot corner markers shall be located in the ground at final grade at all lot corners. Such markers shall be steel rods 3 feet long and at least 5/8 inch in diameter, or other permanent marker approved by the Town Engineer.

### **SECTION 4.2. UTILITY IMPROVEMENTS**

Utility improvements shall be provided in each new subdivision in accordance with the standards and requirements described below:

- (A) Water supply system pursuant to plans approved by the Cattaraugus County Health Department and in accordance with the Town of Ellicottville's specifications for public water facility improvements. Public water systems shall provide fire protection capacity and facilities and shall be approved by the Town Engineer.
- (B) Sewage disposal system pursuant to plans approved by New York State Department of Environmental Conservation and in accordance with the Town of Ellicottville's specifications for public sanitary sewer systems. Such systems shall be approved by the Town Engineer and Sewer Department.
- (C) Storm drainage facilities shall be designed by a licensed professional engineer. The design shall comply with Town of Ellicottville specifications and shall be approved by the Town Engineer.
- (D) Provision for installation of public utilities, including telephone, cable television, gas and electric in full accordance with New York State Law, local ordinances or law and all other pertinent laws, rules and regulations.
- (E) No such improvements shall be accepted by the Town or a Special District until the subdivider furnishes to the Town Engineer a certification signed by licensed professional engineer that the improvements have been constructed according to the approved plans and specifications or they are constructed under the direction of the Town Engineer under a Public Improvement Permit (PIP).

### **SECTION 4.3 ROADS**

- (A) Roads shall be provided in each new subdivision in accordance with the Grading, Centerline gradients and Profiles approved by the Highway Superintendent and the Town Engineer.
- (B) No such improvements shall be accepted by the Town or a Special District until the subdivider furnishes to the Town Engineer a certification signed by licensed professional engineer that the improvements have been constructed according to the approved plans and specifications or they are constructed under the direction of the Town Engineer under a Public Improvement Permit (PIP).

### **SECTION 4.4 RESERVATION OF PARKLAND**

- (A) Pursuant to Section 277-4 of Town Law, in a subdivision containing residential units the Planning Board may require that land be reserved for a park, playground, or other recreational purposes. The area to be reserved shall possess suitable topography, general character, and adequate road access necessary for its recreational purposes.
- (B) The Planning Board may not require that land for park, playground or other recreational purposes be set aside unless the Planning Board has made a finding that a proper case exists for this requirement. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town, based on projected population growth to which the particular subdivision will contribute.
- (C) In the event that the Planning Board makes a finding pursuant to Section 4.4(B), but a suitable park or park of adequate size to meet the requirement cannot be properly situated in the subdivision, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board. In making a determination of suitability, the planning board shall assess the size and suitability of lands shown on the Plat that could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Board in lieu of land shall be deposited into a trust fund to be used exclusively for park, playground or other recreational purposes, including the acquisition of property.

### **SECTION 4.5 COMPLETION OF CONSTRUCTION**

- (A) There is an expectation that all construction that is started in one construction season will be completed within that building season. If building foundations are constructed in one building season, but the remaining part of the building is not erected in that season, the foundations will be covered over with soil and seeded until construction begins again. If foundations are in the ground through a winter season before the remainder of the structure is built, the Building Official may require a structural analysis to show that the foundations are still adequate.

- (B) At the end of each building season, the site will be stabilized, and will be returned to a natural appearance. Large piles of soil, construction materials, and/or construction equipment cannot be stored outdoors on site unless construction activity is on-going.

## **ARTICLE 5 FEES**

### **SECTION 5.1 APPLICATION FEES**

Application fees are intended to cover filing, public hearing, administrative, review and overhead costs. At the time of submitting a sketch plan, preliminary plat, and/or final plat application, the applicant shall pay the appropriate fee, as may be established by the Town Board from time to time.

### **SECTION 5.2 NYS ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) FEES**

Pursuant to Section 617.17 of Part 617 "State Environmental Quality Review" (SEQR) of the New York State Consolidated Rules and Regulations (NYCRR) and Subdivision 8-0109.7 of the New York State Environmental Conservation Law (ECL), the Planning Board, acting as lead agency, may charge a fee to the applicant to cover the actual costs of preparing or reviewing an Environmental Impact Statement (EIS). The applicant shall not be charged for both the preparation and review of the EIS. If applicant prepares the EIS, the Planning Board shall charge applicant for the actual cost of the review. If applicant does not choose to prepare EIS, Planning Board shall charge applicant for the actual cost of preparing the EIS.

## **ARTICLE 6 ENFORCEMENT**

### **SECTION 6.1 RECORDING**

The subdivider shall have sole responsibility for the filing and recording of any plat. Pursuant to Section 276 of the Town Law, no subdivision map or plat of any land which is subject to these regulations shall be filed or recorded in the office of the County Clerk of the County of Cattaraugus, State of New York, unless it has been approved by the Town of Ellicottville Planning Board and in testimony of that fact bears the signature of the Chairman of the Planning Board.

In the event any such unapproved plat is recorded, it shall be considered invalid and the Planning Board shall institute proceedings to have the plat stricken from the records of the County of Cattaraugus, State of New York.

### **SECTION 6.2 PENALTIES**

A violation of these regulations is an offense, punishable by a fine not exceeding \$250 or by imprisonment for a period not to exceed fifteen (15) days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers, generally, all such violations shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations, except that the penalties set forth herein shall apply. Each week's continued violation shall constitute a separate additional violation.

The description of any lot, parcel or tract by metes and bounds in the deed or instrument of transfer shall not serve to exempt the seller from the provisions of these regulations.

The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other law including, without limitation, the right to compel compliance with or to restrain by injunction the violation of such regulations.

**ARTICLE 7**  
**SEPARABILITY**

If any section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or void, such decisions shall not affect the validity of the remaining portions of these regulations.

**ARTICLE 8**  
**EFFECTIVE DATE**

This local law shall take effect five days after it is filed with NYS Department of State.