

**Local Law #2 for the Year 2007**

**TOWN  
OF  
FORESTPORT**

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**Subdivision Law**

# **TOWN OF FORESTPORT LOCAL LAW #2 FOR THE YEAR 2007**

## **SUBDIVISION OF LAND**

Be it enacted by the Town Board of the Town of Forestport, Oneida County, New York, as follows:

### **Table of Contents**

#### **ARTICLE I ..... 6** **Declaration of Policy**

§1. Authority of Planning Board; policy

#### **ARTICLE II ..... 6** **Definitions**

§1. Definitions of words and terms

#### **ARTICLE III .....10** **Process Overview and Preliminaries:**

- §1. Application for approval
- §2. Pre Application Conference
- §3. Subdivision Process
- §4. Fees
- §5. Severability
- §6. Effective Date

#### **ARTICLE IV .....12** **Simple Subdivision**

- §1. Purpose
- §2. Submission of Application
- §3. Materials to be submitted

#### **ARTICLE V .....12** **Minor Subdivision Review Procedure**

- §1. Submission of Application
- §2. Acceptance of Completed Application—Official Submission Date
- §3. Referral to County Planning Board
- §4. Area Variance
- §5. Public Hearing
- §6. Action on Application

- §7. Conditional Approval of Application
- §8. Filing of Plat
- §9. Modification of Designs after Approval

**ARTICLE VI .....14**  
Major Subdivision Review Procedure

- §1. Preliminary Plat Procedure
- §2. Preliminary Action
- §3. Effect of Approval
- §4. Application – Final Plat
- §5. Official Submission Date
- §6. Public Hearing
- §7. Guarantees for Required Improvements
- §8. Action on Application
- §9. Conditional Approval
- §10. Approval of Plats in Sections
- §11. Filing of Plat
- §12. Modification of Designs after Approval
- §13. Public Acceptance of Improvements

**ARTICLE VII .....17**  
Documents to be Submitted

- §1. General
- §2. Application Requirements for All Subdivisions
- §3. Simple and Minor Subdivision Plat Requirements
- §4. Preliminary Plat – Major Subdivision Application Requirements
- §5. Preliminary Plat – Major Subdivision Plat Requirements
- §6. Final Plat – Major Subdivision Application Requirements
- §7. Final Plat – Major Subdivision Plat Requirements
- §8. Waiver of Submission Requirements

**ARTICLE VIII .....20**  
General Design Standards

- §1. General
- §2. Future Re-subdivision
- §3. Approval of Substandard Parcels
- §4. Lot Arrangement
- §5. Lot Situation
- §6. Monuments
- §7. Water supply and Sewage Disposal
- §8. Preservation of Natural Features
- §9. Park and Recreation Areas

- §10. Storm Water Management
- §11. Development in Flood Plains
- §12. Steep Slopes

**ARTICLE IX** .....26  
 Road Standards

- §1. General
- §2. Road Grades
- §3. Road Connections to Adjacent Properties
- §4. Dead-end Roads
- §5. Intersections
- §6. Curve Radii
- §7. Partial Roads
- §8. Road Names
- §9. Treatment along Major Highways
- §10. Underground Utilities
- §11. Map
- §12. All Road shall have

**ARTICLE X** .....32  
 Cluster Development

- §1. Authority
- §2. Applicable Provisions
- §3. General Criteria for Cluster Development
- §4. Required Clustering
- §5. Determination of Overall Development Density
- §6. Approval of Cluster Open Space
- §7. Use of Cluster Open Space
- §8. Undedicated Cluster Open Space

**ARTICLE XI** .....34  
 Financial Guarantees for Public Improvements

- §1. Required Public Improvements
- §2. Time Limit on Installation of Improvements
- §3. Extension of Time Limit
- §4. Inspection of Improvements
- §5. Financial Security Options
- §6. Review of Proposed Financial Security
- §7. Schedule of Improvements
- §8. Staged Refunding of Financial Guarantees
- §9. Acceptance of Required Public Improvements
- §10. Maintenance Guarantee Required

<b>ARTICLE XII</b>	.....	<b>36</b>
Waivers		
§1. Grounds for Improvements Waivers		
§2. Procedural Waiver		
§3. Conditions for Waivers		
<b>ARTICLE XIII</b>	.....	<b>37</b>
§1. Violations & Penalties		
<b>ARTICLE XIV</b>	.....	<b>38</b>
§1. Supersede		
<b>ARTICLE XV</b>	.....	<b>38</b>
§1. Offering Plan		
<b>Appendix A</b>	.....	<b>38</b>
§1. Purpose		
§2. Plat Requirements		

## **ARTICLE I.         DECLARATION OF POLICY**

### **§1. Authority of Planning Board; policy**

By the authority of the Town Board of the Town of Forestport adopted pursuant to the provisions of Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law of the State of New York, the Planning Board of the Town of Forestport is authorized and empowered to approve plats showing lots, blocks or sites, with or without roads or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county and to approve preliminary plats within that part of the Town of Forestport outside the limits of any incorporated city or village. It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed roads shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if such exists, and shall be of such width, grade and construction and maintainability and shall be so located as to accommodate the prospective traffic, to facilitate fire protection and to provide access for fire-fighting and other emergency equipment to buildings and provide adequate access for school buses, snow plows, and other required uses; that proper provision shall be made for open spaces for parks and playgrounds. In order that land subdivisions may be made in accordance with this policy, these regulations, which shall be known as and which may be cited as the "Town of Forestport Subdivision Law," have been adopted by the Town Board.

## **ARTICLE II         DEFINITIONS**

### **§1. Definitions of words and terms**

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

**CLUSTER DEVELOPMENT:** A form of development for subdivisions that permits a reduction in lot area requirements for some or all lots in a tract, provided there is no increase in the number of lots permitted under a conventional subdivision, and where the resultant land is either 1) devoted to permanent open space, or 2) is permanently combined with the remainder of the lots, where only some of the lots are reduced in area.

**DEVELOPER:** Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or others.

**EASEMENT:** The right of an owner of property by reason of such ownership, to use the

property of another for purposes of ingress, egress, utilities, drainage and similar uses.

**ENGINEER OF THE TOWN:** The duly designated engineer, the assigned representative engineer or the engineering firm hired by the Town.

**ENGINEER OR LICENSED PROFESSIONAL ENGINEER:** A person licensed as a professional engineer by the State of New York.

**ESCROWED MONIES:** Escrowed monies shall be paid to the Town and held by the Town to be used pursuant to the Town of Forestport fee structure. Any amounts unexpended shall be promptly returned to the applicant upon completion of the project and all certificates having been issued. If the escrowed amounts fail to cover the Town Expenses, then the applicant shall be required to pay to the Town all amounts necessary to reimburse the Town for its' actual expenses. No final permits/certificates will be issued until these sums are paid in full.

**LOT:** A designated parcel or tract of land established by plat, subdivision, or as otherwise permitted by law, to be developed or built upon as a unit. All lots must conform with the Town of Forestport Site Review Law.

**MASTER or COMPREHENSIVE PLAN:** A comprehensive plan prepared by the Planning Board pursuant to § 272-a of the Town Law and approved by the Town Board, which indicates the general locations recommended for various functional classes of public works, places and structures and for the general physical development of the Town and includes any unit or part of such plan separately prepared and adopted and any amendment to such plan or parts therein.

**OFFICIAL MAP:** The map established by the Town of Forestport pursuant to § 270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed thereto laid out, adopted and established by law and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Planning Board and subsequent filing of such approved plats.

**OPEN SPACE:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**PARCEL:** Any area of land established by plat, subdivision, or as otherwise permitted by law, regardless of whether it is defined as a "lot" or whether it is to be developed or built upon as a unit.

**PARCEL LINE ADJUSTMENT:** A transfer of land from one parcel to another parcel without, however, creating a new parcel. (Must have Planning Board Approval)

**PLANNING BOARD or BOARD:** The Planning Board of the Town of Forestport.

**PLAT:** A map of a subdivision

**PLOT PLAN:** A surveyor's plat constructed from deed descriptions displaying lots lines and the location of, existing and proposed, physical building or improvements.

**PRELIMINARY PLAT:** A drawing or drawings clearly marked “preliminary plat” showing the layout of a proposed subdivision, as specified in Article VII of this law, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**REALLOTMENT:** The relocation of lot lines of any lot or parcel, the deed to which was previously recorded in the office of the county clerk; but not including conveyances made so as to combine existing lots by deed or other instrument.

**RESUBDIVISION:** The further division of lots or parcels.

**ROAD, PRIVATE:** An area of land that is privately owned, provides vehicular access to more than one (1) lot and has not been dedicated to public use other than access by emergency and public safety vehicles, and is not maintained by the Town.

**ROAD, PUBLIC:** A public or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control. No road shall be deemed a public road until it is accepted by the Town Board of the Town of Forestport. Nothing contained herein shall require the Town to accept any road as a Town Road.

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

A. **MAJOR ROAD** — A road which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

B. **COLLECTOR ROAD** — A road which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

C. **MINOR ROAD** — A road intended to serve primarily as an access to abutting properties.

D. **DEAD-END ROAD or CUL-DE-SAC** — A road or a portion of a road with only one (1) vehicular traffic outlet.

**ROAD PAVEMENT:** The wearing or exposed surface of the roadway used by vehicular traffic.

**ROAD WIDTH:** The width of the right-of-way, measured at right angles to the center line of the road.



**SECRETARY/CLERK OF THE PLANNING BOARD:** The person who shall be designated to perform the duties of the secretary of the Planning Board.

**SETBACK:** The distance from lot lines to the nearest portion of the structure, usually the overhang of the roof, including principal, secondary and accessory structures and also the distance between the highway right-of-way line and the front of the principal, secondary and accessory structure as designated by the Code Enforcement Officer.

**SITE REVIEW LAW:** The Town Minimum Lot Size and Setback Law, Land Use Law, as may exist and be applicable.

**SKETCH PLAN:** A sketch of a proposed subdivision showing the information specified in Article VII, of these regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.

**SUBDIVISION:** The division of any parcel of land into two (2) or more lots, blocks or sites for the purpose of transfer of ownership for building development, with or without roads or highways and includes re-subdivision. All parcels for which a separate deed has been recorded in the Oneida County Clerk's Office prior to the date of the adoption of the Town of Forestport Subdivision Law with proper Planning Board approval, shall be deemed in conformance with the current Subdivision Regulations; and the same shall hereafter be considered separate parcels for the determination of whether a division of such parcel constitutes a subdivision. The original parcel shall be considered one (1) of the two (2) lots.

- A. **MAJOR SUBDIVISION** - Any subdivision not classified as a simple or minor subdivision, including but not limited to subdivisions of five (5) or more lots (as defined in this local law) or any size subdivision requiring any new road, public or private or extension of municipal facilities.
- B. **MINOR SUBDIVISION** - Any subdivision containing not more than four (4) lots (as defined in this local law) fronting on an existing public road, not involving any extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Official Map or Zoning Ordinance, if such exists, or this law.
- C. **SIMPLE SUBDIVISION** - Any subdivision containing not more than three (3) lots (as defined in this local law) the original lot considered one (1) of the three (3) lots, all on an existing public highway and requiring no additional public improvements, services, or amenities and not areas specified under General Municipal Law Section 239-n (see Article V, §3., below).

**SUBDIVISION PLAT or FINAL PLAT:** A drawing in final form showing a proposed subdivision, containing all information or details required by this Law, to be presented to the

Planning Board for approval and which, if approved, may be duly filed or recorded by the developer or Planning Board Clerk in the office of the County Clerk.

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

**TOWN CODE ENFORCEMENT OFFICER:** The duly designated code enforcement officer of the Town designated by the Town Board to represent the Town in all matters pertaining to this local law.

**TOWN EXPENSES:** To include but not limited to engineering costs, newspaper ads, mailings, and such other reasonable expenses incurred by the Town.

**UNDEVELOPED PLAT:** A plat where 20 percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

### **ARTICLE III      PROCESS OVERVIEW AND PRELIMINARIES**

#### **§1. Application for approval**

Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell or gift of any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the developer or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures set forth in this town law.

#### **§2. Pre-Application Conference**

All potential developers are encouraged to meet with the planning board prior to the submission of a formal application for subdivision approval. Such a meeting may be used to expedite the review process by allowing the planning board and the applicant to be advised of the following: 1) the potential classification of the subdivision as simple, minor or major, 2) the requirements under the State Environmental Quality Review Act, 3) the possible involvement of other government agencies in the review process, 4) the determination of wetlands and floodplains, and 5) the need for referral to the county planning board pursuant to General Municipal Law Section 239-n.

#### **§3. Subdivision Process**

Proposed subdivisions shall be determined by the planning board to be either simple, minor or major as defined in this law, and shall follow the procedures as summarized below:

Simple subdivision shall follow the procedures of Article IV of this law, summarized as follows:

1. Submission of application for final plat approval.

2. Planning board review.
3. Public hearing.
4. Planning board action on final plat.
5. Filing of plat in office of county clerk by developer or Planning Board Clerk.

Minor subdivision shall follow the procedures of Article V of this law, summarized as follows:

1. Submission of application for final plat approval.
2. Planning board review.
3. Public hearing.
4. Planning board action on final plat.
5. Filing of plat in office of county clerk by developer or Planning Board Clerk.

Major subdivisions shall follow the procedures of Article VI of this law, summarized as follows:

1. Submission of application for preliminary plat approval.
2. Planning board review.
3. Public hearing.
4. Planning board action on preliminary plat.
5. Submission of application for final plat approval.
6. Planning board review.
7. Public hearing (optional).
8. Planning board action on final plat.
9. Filing of plat in office of county clerk by developer or Planning Board Clerk.

#### §4. Fees

Fees for subdivision applications have been established pursuant to the Town of Forestport Fee Schedule.

#### §5. Severability

If any clause, sentence, subsection, section, or article of this law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, section, or article thereof directly involved in the controversy in which said judgment shall have been rendered.

#### §6. Effective Date

This law shall take effect upon filing in the Office of the Secretary of State and upon filing in the Office of the Town Clerk.

## **ARTICLE IV        SIMPLE SUBDIVISION REVIEW PROCEDURE**

### **§1. Purpose**

The purpose of the simple subdivision procedure is to simplify the sort of minimal subdivision of three (3) lots or less, all on an existing public highway and requiring no additional public improvements, services, or amenities and not areas specified under General Municipal Law Section 239-n.

All lots shall meet all the water, sanitary, and suitability requirements otherwise required by this Law. The proposed subdivision must have no negative environmental significance pursuant to 6 NYCRR Part 617.

### **§2. Submission of Application**

Applications and fees shall be submitted to the Planning Board at least ten days prior to the meeting at which it is to be considered.

### **§3. Materials to be submitted with Application:**

1. Application form
2. Fee
3. Sketch of location and proposed division. Show any watercourse or wetland, notable physical feature, and proposed driveway(s) location

## **ARTICLE V        MINOR SUBDIVISION REVIEW PROCEDURE**

### **§1. Submission of Application**

Applications and fees shall be submitted to the Planning Board at least ten days prior to the meeting at which it is to be considered. The application shall contain all items as required in Article VII of this law.

### **§2. Acceptance of Completed Application--Official Submission Date**

The application shall not be considered complete until 1) all information as required in Article VII of this law is provided, and 2) either a negative declaration has been filed, or a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of 6 NYCRR Part 617. Upon acceptance of a completed application, the Planning Board shall establish the official submission date of the application.

### **§3. Referral to County Planning Board**

The Planning Board shall refer all applications that fall within those areas specified under

General Municipal Law Section 239-n to the County Planning Board. This shall include any use that falls within 500 feet of the following: the boundary of the town; a state or county park or recreation area; a state or county highway; a state or county owned drainage channel; state or county land where a public building or institution is located; or a farm operation in an agricultural district. If the County Planning Board does not respond within 30 days from the time it received a full statement on the referral matter, then the planning board may act without such report.

#### §4. Area Variance

In order to expedite the review process, where the application shows lots which are not in compliance with the town's Minimum Lot Size (See Section 6.2 – Minimum Lot Area of the Town of Forestport Site Review Law), as amended, the Planning Board may, at its discretion and upon agreement with the applicant, stay the review process and refer the application to the town board for the consideration of an area variance review without the necessity of disapproving the application and requiring its resubmission. There is a mandatory fee to request a Variance Hearing – See Town of Forestport Fee Structure.

#### §5. Public Hearing

Following the review of the application and supplementary material submitted in conformance with this law, and following negotiations with the developer on changes deemed advisable, the Planning Board shall hold a public hearing. This hearing shall be held within 62 days of the official submission date of the application. The developer shall attend the hearing. This hearing shall also fulfill the requirements of the State Environmental Quality Review Act for the draft environmental impact statement, where such hearing may be required. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. The hearing shall be closed within 120 days after it has been opened.

#### §6. Action on Application

The Planning Board shall by resolution 1) grant final approval by the signature of the Planning Board Chairman on the plat, 2) conditionally approve, with or without modifications (see Section 7 below), or 3) disapprove the application. Such action shall be taken within 62 days of the close of the public hearing. The time in which the planning board must take action may be extended by mutual consent of the developer and the Planning Board. A certified copy of any resolution granting conditional or final approval shall be filed with the board, with the town clerk, and mailed to the developer within five business days of the action. If disapproved, the grounds for disapproval shall be stated in the record of the planning board, including reference to the provisions violated by the application.

#### §7. Conditional Approval of Application

A statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat shall be provided to the developer.

Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The Planning Board may extend the expiration time, not to exceed two additional periods of 90 days each. Upon Planning Board acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the Planning Board Chairman shall sign the plat, granting final approval.

#### §8. Filing of Plat

The developer or Planning Board Clerk shall file the plat, or section thereof, in the office of the County Clerk within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the Planning Board for approval before filing in the office of the County Clerk.

#### §9. Modification of Designs after Approval

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the Planning Board, the Board may authorize such modifications, provided these modifications are within the spirit and intent of the board's approval and do not substantially alter the function of any such improvement required by the board. Any such authorization issued under this section shall be in writing and shall be entered into the record of the board.

### **ARTICLE VI      MAJOR SUBDIVISION PROCEDURE**

#### §1. Preliminary Plat Procedure

The preliminary plat review procedure shall follow the steps outlined for minor subdivision approval as set forth in Article IV of this law, and shall then continue with the provisions of this Article as follows.

#### §2. Preliminary Action

Within 62 days of the close of the public hearing, the Planning Board shall approve, with or without modifications, or disapprove the preliminary application and state its reasons for disapproval. The time in which the Planning Board must take action may be extended by mutual consent of the developer and the Planning Board. Within five days of approval, the action of the Planning Board shall be noted on three copies of the preliminary plat and reference made to any modifications determined. One copy shall be returned to the developer and the other two copies retained by the Planning Board.

#### §3. Effect of Approval

Approval of a preliminary application shall not constitute approval of the final application, but shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the developer shall comply with this law and all

requirements set forth by the Planning Board in their review of the preliminary plat.

#### §4. Application - Final Plat

All major subdivisions shall require final application approval by the Planning Board. If the final application is not submitted for approval within six months of preliminary application approval, the Planning Board may revoke the preliminary application approval. The developer shall file an application with appropriate fees for final application approval, accompanied by documentation as specified in Article 4 of this law, with the Planning Board. Such application shall be submitted at least 10 days prior to the meeting at which it is to be considered by the Planning Board.

#### §5. Official Submission Date

The Planning Board shall establish an official submission date for the major subdivision final application. Such date shall be the date that the Planning Board determines the application to be complete, including all information required in Article VII of this Law.

#### §6. Public Hearing

A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 62 days of the official submission date of the application. The developer shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before the hearing. The hearing shall be closed within 120 days after it has been opened. The public hearing may be waived by the Planning Board if the final application is in substantial agreement with the preliminary application. If the final application is not in substantial agreement with the approved preliminary application, then the public hearing shall be conducted.

#### §7. Guarantees for Required Improvements

In order that the Town has the assurance that construction and installation of public improvements will be guaranteed, the developer shall either 1) construct all improvements as required by this law, and by the Planning Board, prior to final approval of the application, or 2) furnish guarantee as provided in Town Law Section 277 and Article XI of this law.

#### §8. Action on Application

The Planning Board shall by resolution 1) grant final approval by the signature of the Planning Board Chairman on the plat, 2) conditionally approve, with or without modifications (see Section 9 below), or 3) disapprove the application; within 62 days of the close of the public hearing. If the public hearing has been waived, the Planning Board shall act within 62 days of the final application official submission date. The time in which the Planning Board must take action may be extended by mutual consent of the developer and the Planning Board. A certified

copy of any resolution granting conditional or final approval shall be filed with the Board, with the Town Clerk, and mailed to the developer within five business days of the action. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provisions violated by the application. Within 30 days of final action on any matter referred to the County Planning Board pursuant to Article V, §3 of this Law, the Planning Board shall file a report of the final action it has taken with the County Planning Board.

#### §9. Conditional Approval

A statement of the requirements that shall accompany the application which, when completed, will authorize the signing of the conditionally approved plat shall be provided to the developer. Conditional approval of an application shall expire 180 days after the date of the resolution granting conditional approval. The planning board may extend the expiration time, not to exceed two additional periods of 90 days each. Upon Planning Board acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the Planning Board Chairman shall sign the plat, granting final approval.

#### §10. Approval of Plats in Sections

Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be divided into two or more sections and may in its resolution granting conditional or final approval state such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the Planning Board Chairman. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Planning Board, may be granted concurrently with conditional or final approval of the entire plat. In the event the developer shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk. Such section shall encompass at least ten percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed in the office of the County Clerk within three years of the filing of the first section with the County Clerk.

#### §11. Filing of Plat

The developer or Planning Board Clerk shall file the plat, or section thereof, in the office of the County Clerk within 62 days after the date of final approval; otherwise the plat shall be considered void and must again be submitted along with complete application and appropriate fees to the Planning Board for approval before filing in the office of the County Clerk. When filing a plat which has been approved pursuant to the provisions of Article X (Cluster Development) of this Law, a copy of the plat shall be filed with the Town Clerk.

#### §12. Modification of Designs after Approval

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the



location or design of improvements required by the Planning Board, the Board may authorize such modifications, provided these modifications are within the spirit and intent of the Board's approval and do not substantially alter the function of any such improvement required by the Board. Any such authorization issued under this section shall be in writing and shall be entered into the record of the Board.

### §13. Public Acceptance of Improvements

The approval by the Planning board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, park, playground, recreation area, easement, public utility, or any other improvement. The plat shall be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the developer and the Town Board covering future deed and title, dedication, and provision for the costs of developing and maintaining any such improvements.

## **ARTICLE VII      DOCUMENTS TO BE SUBMITTED**

### §1. General

Simple and Minor subdivisions must comply with sections 2 and 3 below.

Preliminary applications for major subdivisions must comply with sections 2, 4 and 5 below.

Final applications for major subdivisions must comply with sections 6 and 7 below.

### §2. Application Requirements for All Subdivisions

All applications for simple subdivisions, minor subdivisions and preliminary plats for major subdivisions shall include the following:

1. Eight (8) copies of the application form.
2. A predetermined application fee (See Town of Forestport Fee Structure).
3. A copy of any covenants or deed restrictions which are intended to cover all or part of the tract.
4. Eight (8) copies of the plat prepared at a scale of not more than 100 feet to the inch.
5. A statement of the nature and extent of the interest of any state employee, or officer or employee of the town in the applicant pursuant to General Municipal Law Section 809, when applicable.
6. An environmental assessment form (EAF) and, when applicable, a draft environmental impact statement (EIS) pursuant to 6 NYCRR Part 617. The long form EAF is required for major and minor subdivisions.

### §3. Simple and Minor Subdivision Plat Requirements

All minor subdivision plats shall be prepared and drawn in conformity with Appendix A of this law and shall show:

1. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and including

elevation contours at USGS intervals, minimum, and referenced corners of the tract; and shall be made and certified to by a licensed land surveyor.

2. The proposed pattern of parcels and lots; including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
3. The locations of all front, side and rear yard lines; floodplains; wetlands; and easements.
4. The words "final plat."
5. Any other specifications required by the Planning Board.

#### §4. Preliminary Plat - Major Subdivision Application Requirements

Preliminary plat applications for major subdivisions shall contain the following:

1. All items specified in Section 2 of this Article;
2. If the application is for a subdivision in sections, covering only a part of the subdivider's entire holding, a map of the entire subdivision, drawn at a scale of not less than 300 feet to the inch showing an outline of the platted area with its proposed roads and indication of the probable future road system with its grades and drainage in the remaining portion of the subdivision and the probable future drainage layout of the entire subdivision shall be submitted. The section submitted shall be considered in the context of the entire subdivision.

#### §5. Preliminary Plat - Major Subdivision Plat Requirements

The preliminary plat for major subdivisions shall be prepared and drawn in conformity with Appendix A of this law and shall show:

1. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments, and referenced corners of the tract; and shall be made and certified to by a licensed land surveyor.
2. The proposed pattern of parcels and lots; including parcel and lot widths, depths, and areas within the subdivided area. Calculations of lot areas shall exclude public road areas.
3. The locations of all front, side and rear yard lines and set-backs.
4. The parcels of land proposed to be dedicated to public use and the conditions of such dedication.
5. The location of existing property lines, easements, buildings, water courses, wetlands, rock outcrops, wooded areas, floodplains, and other significant existing features for the proposed subdivision and adjacent property.
6. The location of existing wells, on-site sewage disposal systems, sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
7. Contours with intervals of five feet or less, or as required by the planning board, including elevations on existing roads; and a grading plan, where natural contours are to be changed more than 2 feet.
8. The width and location of any roads or public ways or places shown on the

comprehensive plan, within the area to be subdivided, and the width, location, grades and road profiles of all roads or public ways proposed by the developer.

9. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes; and connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; and profiles of all proposed water and sewer lines.
10. A storm drainage plan indicating the approximate location and size of proposed lines and their profiles; and connection to existing lines or alternate means of disposal.
11. Plans and cross-sections of the proposed location and type of sidewalks, road lighting standards, road trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.
12. Preliminary designs of any bridges or culverts which may be required.
13. The words "preliminary plat."
14. Any other specifications required by the Planning Board.

#### §6. Final Plat--Major Subdivision Application Requirements

Final plat applications for major subdivisions shall contain the following:

1. Eight (8) copies of the application form.
2. A predetermined application fee (See Town of Forestport Fee Structure).
3. Copies of agreements or other documents showing the manner in which public open space areas are to be maintained and the provisions made therefore.
4. Offers of cession and covenants governing the maintenance of unused open space, bearing the certificate of approval of the town attorney as to their legal sufficiency.
5. A map indicating the location of monuments marking all underground utilities as actually installed.
6. Eight (8) copies of the plat prepared at a scale of not more than 100 feet to the inch.

#### §7. Final Plat--Major Subdivision Plat Requirements

The final plat shall be prepared and drawn in conformity with Appendix A of this law and show:

1. Sufficient data from an actual field survey to determine readily the location, bearing and length of every road line, lot line, boundary line, and to reproduce such lines upon the ground.
2. The length and bearing of all straight lines; the radii, length, central angles and cord bearings for road curves; the dimensions and angles of the lines of each lot; and all dimensions in feet and decimals of a foot.
3. Road lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
4. The locations of all front, side and rear yard lines; floodplains; wetlands; and easements.
5. Public open spaces for which deeds are included, and those spaces title to which is reserved by the developer.
6. Lots and blocks numbered and lettered in accordance with the prevailing town

- practice.
- 7. Permanent reference monuments.
- 8. The words “final plat.”
- 9. Any other specifications required by the planning board.

#### §8. Waiver of Submission Requirements

The Planning Board may waive any of the submission requirements above where it deems that the information is either not applicable or necessary for a particular review.

### **ARTICLE VIII     GENERAL DESIGN STANDARDS**

#### §1. General

Land to be subdivided shall be of such character that it can be used safely for development without danger to public health or safety; the subdivision plan shall be in harmony with the comprehensive plan for the community; and all required improvements shall be constructed and installed in conformance with town specifications.

#### §2. Future Re-subdivision

Where land is subdivided into lots substantially larger than the minimum size required in the Town of Forestport Site Review Law, the lots and roads shall be laid out so as to permit future re-subdivision in accordance with the requirements contained in this law.

#### §3. Approval of Substandard Parcels

All parcels shall comply with the provisions of the Town’s minimum lot size law, except that the Planning Board may, in unique circumstances, approve parcels which are substandard in terms of size or dimension in the following circumstances:

1. For road or access rights-of-ways,
2. Where the parcel is intended to be used permanently for nonstructural recreational purposes,
3. Where land is intended to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel,
4. Where the land is intended to be left permanently undeveloped, or
5. Where land is to be used for essential facilities as proposed in the Town of Forestport Master Plan.

#### §4. Lot Arrangement

1. The lot arrangement shall be such that in constructing a building in compliance with the Town’s Site Review Law there will be no foreseeable difficulties for reasons of topography or other natural conditions, and each lot shall have a buildable area, free from development restrictions such as wetlands, floodplains,

steep slopes, rock outcrops or unbuildable soils.

2. All lot dimensions and areas shall conform to the requirements of the town minimum lot size ordinance, except where such requirements have been modified pursuant to Article X (Cluster Development) of this law.
3. Lots fronting on two roads, other than corner lots, should be avoided.
4. Corner lots shall have sufficient width to allow appropriate building setbacks from, and orientation to, all abutting roads.
5. Extremely elongated lots having a depth to width ratio greater than 5:1 shall be avoided.
6. Side lot lines shall be approximately at right angles to straight roads or radial to curved roads. Lot lines shall generally not joint at less than a 75 degree angle or greater than a 105 degree angle. Lot lines shall be straight on large lots, except where the topography of the site would make this impractical.
7. Where a community sewage disposal system is not required, each lot shall have sufficient area so as to make adequate provision for such on-site sanitary disposal systems as are required by the New York State Health Department, County Health Department and appropriate local boards.
8. Off-street parking spaces shall be required for all uses. In the case of dwellings, at least one hundred and seventy (170) square feet of off-street parking space per dwelling shall be provided back of the building setback line, plus access drive and maneuvering space.

#### §5. Lot Situation

1. Each lot shall directly abut a public or approved private road meeting the requirements of this law, as required by Town Law Section 280-a, and shall have the frontage required by the Town's ordinance. Easements may be considered for access.
2. All lots shall be designed so as to allow for safe access.
3. All lots shall be designed so as to allow for the construction of driveways within the road right-of-way not exceeding a 10 percent grade.
4. Where a watercourse separates a road from abutting lots, provision shall be made for access to all lots by means of culverts or other structures.
5. At least one 50 foot right-of-way shall be reserved at a suitable location allowing

access to land behind road frontage lots.

6. Reserve strips of land, which might be used to control access from the proposed subdivision to any neighboring property, or to any land within the subdivision itself shall be prohibited.

#### §6. Monuments

Permanent monuments shall be set at the subdivision boundaries at all corners, and at such other points as required by the planning board. Such monuments shall be of either iron rods or pipes, or concrete.

#### §7. Water Supply and Sewage Disposal

1. All on-site sanitation and water supply facilities shall be designed and constructed to meet the minimum specifications of the New York State Health Departments, County Health Departments and local standards and regulations and to be consistent with the public health and safety. A Major Subdivision shall demonstrate at least one water well providing sufficient and potable water and a demonstration of the likelihood that each other lot will also produce adequate water.
2. Prior to approval of the subdivision with individual septic systems, the subdivider shall show proof that each lot has had a site evaluation and soil percolation test completed by a licensed engineer or by the Oneida County Department of Health and that the results of those tests provide appropriate size and location information for an approved septic system.

#### §8. Preservation of Natural Features

Due regard shall be shown for preservation of outstanding scenic, cultural or historical areas. No project shall be developed on a site identified as containing features of archaeological significance until:

1. A Stage 1A archaeological survey of the site has been completed or;
2. The State Historic Preservation Officer determines that the project will not disturb the cultural significance or artifacts on the site.

Top soil moved during the course of construction shall be replaced so as to cover all areas of the subdivision and shall be stabilized by seeding and plantings. Existing vegetation should be conserved by the subdivider where possible. Care shall be exercised in construction so as to avoid damage to existing trees and shrubs. Streams, lakes, ponds, and wetlands shall be left unaltered unless such alteration would serve to enhance the utility and quality of the subdivision. Easements along water courses as a part of a comprehensive recreational and open space plan for the development are encouraged. Unique physical, historical, and cultural sites which add value to the community, such as large trees or groves, water courses and falls, historic spots,

vistas and similar irreplaceable assets shall be preserved where possible.

## §9. Park and Recreation Areas

### Public Sites and Open Space:

1. Where a proposed park, playground, school or other public use shown in the Master Plan or known to the Planning Board or Town Board is located in whole or in part in a subdivision, such area shall either be dedicated to the proper public agency; or it shall be reserved for acquisition by such agency within a specified period by purchase or other means and an agreement shall be entered into between the subdivider and the public agency regarding the time and method of acquisition and the cost thereof.
2. The Planning Board may require up to 10% of the tract for park and playground purposes. If the Board determines that a suitable park or playground of adequate size cannot be located in the subdivision or is not practical for other reasons, the Board may require, as a condition of approval of any such plat, a payment to the Town of a sum of \$100.00 per proposed lot for such subdivision, which sum shall be placed in a special Town Park Fund to be used for the acquisition and/or improvement of a town park, playground or other recreational sites so located as to conveniently serve the neighborhood in which subdivision is located.
3. The land set aside for park and open space uses shall meet the following criteria:
  - a) The park and open space land shall be reasonably located as to serve all of the residents of the subdivision or land development.
  - b) The park and open space land shall be accessible from a public street or wherever possible shall adjoin and becomes a part of an already existing public park or open space area which is accessible from a public street. Where access to the park is by public road, the width of the frontage shall be a minimum length deemed necessary by the municipality for access, visibility of the site and public safety.
  - c) No more than 25% of the park and open space land shall contain detention basins or other storm water management facilities or be located within a floodplain.
  - d) The park and open space land shall be compact and contiguous and shall meet lot configuration requirements for lots within a residential subdivision unless the land shall be used as a trail or linear park or the land is located adjacent to and combined with existing park and open space land or specific topographic features require a different configuration. An example of such topographic features would be the provision of public open space along a scenic creek.
  - e) When the park and open space land required to be dedicated is less than four acres in size, the park and open space land shall be located at a suitable place on the periphery of the subdivision or land development so a more usable tract will result when additional park and open space land is obtained in the event that the adjacent land is developed.
  - f) When public park and open space land exists adjacent to the tract to be subdivided or developed, the park and open space land shall be located to adjoin and enlarge the presently existing park and open space land.
  - g) At least 50% of the finished grade of the site shall have a slope of 3% or less.
  - h) The park and open space land shall be accessible to utilities such a sewer, water and power (when available) that are provided with the subdivision and, if so

requested by the Planning Board, the developer shall extend such utilities to the park.

- i) If the developer is planning to construct facilities for recreation on the dedicated property as an amenity for the development, such facilities shall be constructed in accordance with current standards established by the National Recreation and Park Association.

4. Existing Trails:

- a) When a subdivision is traversed by or abuts an existing trail, the applicant shall make provision for the continued recreational use of the trail subject to alterations of the course of the trail within the development under the following conditions:
  - The points at which the trail enters and exits the tract shall remain unchanged.
  - The proposed alteration exhibits quality trail design according to the generally accepted principles of landscape architecture.
  - The proposed alteration does not run coincidentally with the paved road intended for use by motorized vehicles.
- b) The land set aside for the continuation of such existing trail shall be credited towards the amount of park and open space land required by this subsection.

5. Trails and linear parks:

- a) The Planning Board may require the dedication and improvement of trails and linear parks, which may be credited toward the park and open space land required by this subsection. Such trails and linear parks must meet the following standards:
  - Actual dedication of land shall be a minimum width of 60 feet and, if to be dedicated to the Town, must be approved by the Town Board.
  - The trail or linear park shall conform to any applicable municipal master park and open space plan.
  - The minimum right-of-way width of an easement containing a trail which crosses private land shall be 10 feet. Easements may be dedicated to the municipality, the county or other organization which, in the judgment of the Planning Board, is appropriate. In all cases, however, such easements must provide for public use at reasonable times.
  - Width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall such width be less than five feet.

1. Upon a finding by the Planning Board that a proper case exists for requiring that park/recreational space be suitably located on the plat for playgrounds or other recreational purposes, the Planning Board may require that the developer satisfactorily develop any such area shown on the plat. Any 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. Upon such finding, the Planning Board shall require that not more than 10% of the total area of the subdivision be allocated for park or recreational use. Such area may be dedicated to the town by the developer if the Town Board approves such dedication. Alternatively, park or recreational space may be conveyed to a homeowners association for control and joint private ownership and maintenance.

2. Information to be submitted. In the event that an area to be used for a park or



playground is required to be so shown, the developer shall submit prior to final approval, to the Board, eight (8) prints [one (1) on mylar] drawn in ink showing, at a scale of not less than thirty (30) feet to the inch, such area and the following features thereof:

- (1) The boundaries of the said area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
- (2) Existing features such as brooks, ponds, clusters of trees, rock outcrops, structures.
- (3) Existing and, if applicable, proposed changes in grade and contours of the said area and of the area immediately adjacent.

3. Waiver of plat designation of area for parks and playgrounds. In cases where the Planning Board finds that due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein, or if, in the opinion of the Board, it is not desirable, the Board may waive the requirement that the plat show land for such purposes. Upon granting that waiver, the developer will be required to submit payment to the Town a sum of \$100.00 per proposed lot for such subdivision, which sum shall be placed in a special Town Park Fund to be used for the acquisition and/or improvement of a town park, playground or other recreational sites as the Town Board deems appropriate.

#### §10. Storm Water Management

1. No storm water shall be caused to be discharged upon neighboring properties, across public sidewalks or into public streets. Surface water drainage facilities shall be designed to handle all on-site runoff (ten-year-storm frequency as the minimum design criteria), and the discharge into public storm sewers shall be at a rate which can be adequately handled by existing storm sewers and drainage ways. Where storm sewers do not exist, the Planning Board may approve alternative means of discharging storm water upon approval of a storm water management plan, where such alternative adequately protects the public health, safety and welfare.

2. Removal of spring and surface water. The developer may be required by the Planning Board to carry away by pipe or open ditch any spring- or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible, or in perpetual unobstructed easements of appropriate width.

3. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Planning Board shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by the Town of Forestport Site Review Law, Subdivision Rules and Regulations and Master Plan in the watershed.

4. Responsibility from drainage downstream. The developer's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Planning Board. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

5. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

#### §11. Development in Floodplains

All subdivisions shall comply with the provisions of the Town of Forestport Flood Damage Prevention Law, in the event the Town enacts such a law.

#### §12. Steep Slopes

Development of steep slope sites of over 15% grade will be conditionally accepted only if there is no prudent or feasible alternative site, erosion and sedimentation control measures are incorporated in the design, construction, and operation of the development according to standards set by the U.S. Natural Resource Conservation Service.

### **ARTICLE IX ROAD STANDARDS**

#### §1. General

##### **A. Public Roads:**

A public road is defined as a public road or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control. Public roads shall meet all the requirements of the Town of Forestport's "Requirements for the Acceptance of New Roads" (separate booklet). They shall be of sufficient width, suitably located, and adequately constructed to conform to the comprehensive plan, and to accommodate the prospective traffic and afford access for fire fighting, snow removal, school buses, and road maintenance equipment. The arrangement of roads shall be in harmony with surrounding areas and adjoining properties, and shall be coordinated so as to compose a convenient system. Public roads shall be graded and improved in accordance with the town road specifications, under the supervision of the Town Highway Superintendent. Storm drainage facilities, water mains, sewers, lights, signs, trees and fire hydrants shall be provided as required. No road shall be

deemed a public road until it is accepted by the Town Board of the Town of Forestport. Nothing contained herein shall require the Town to accept any road as a Town Road.

#### B. Private Roads:

A private road is an area of land that is privately owned, provides vehicular access to more than one (1) lot and has not been dedicated to public use other than access by emergency and public safety vehicles, and is not maintained by the Town. They shall be of sufficient width, suitably located, and adequately constructed to conform to the comprehensive plan, and to accommodate the prospective traffic and afford access for fire fighting, emergency vehicles, snow removal and road maintenance equipment. The arrangement of roads shall be in harmony with surrounding areas and adjoining properties, and shall be coordinated so as to compose a convenient system.

#### C. Escrowed Monies:

The developer shall be responsible to pay all of the Town's Engineering fees and costs associated with all phases of the construction of the private road. It is the sole responsibility of the Developer and is to be paid out of the "escrowed monies". Escrowed monies shall be paid to the Town and held by the Town to be used pursuant to the Town of Forestport fee structure. Any amounts unexpended shall be promptly returned to the applicant upon completion of the project and all certificates having been issued. If the escrowed amounts fail to cover the Town Expenses (to include but not limited to engineering costs, newspaper ads, mailings and such other reasonable expenses incurred by the Town), then the developer shall be required to pay to the Town, all amounts necessary to reimburse the Town for its actual expenses. No final permits/certificates will be issued until these sums are paid in full.

#### D. Requirements:

All of the following road requirements shall apply to both public and private roads unless otherwise stated:

### §2. Road Grades

The road plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all roads shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the roads. Road grades shall conform as closely as possible to the original topography, and shall not be greater than 6.5 percent. No grade shall be more than three percent within 50 feet of any intersection. All changes in grade shall be connected by vertical curves of length and radius such that clear visibility shall be provided for a safe distance. A combination of steep grades and curves shall be avoided.

### §3. Road Connections to Adjacent Properties

The arrangement of roads shall provide for the continuation of principal roads of adjoining subdivisions, and for the proper projection of principal roads into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic, and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities.

#### §4. Dead-end Roads

1. The creation of dead-end roads may be allowed whenever such type of development will not interfere with normal traffic circulation in the area.
2. A 15 foot wide easement may be required to provide for the continuation of pedestrian traffic and utilities.
3. Roads designed to be permanently dead-ended shall not generally exceed 800 feet in length or 8 dwelling units. Such roads shall be terminated in a circular turn-around having a minimum right-of-way radius of 180 feet outside diameter and pavement center line radius of 60 feet. The Board may require and/or approve a "T" or "hammerhead" configuration for a given site. Such roads must be constructed in accordance with the town road regulations and specifications.
4. Roads designed to be dead-ended shall have a "No Outlet" or "Dead End" sign at the entrance provided by the Developer.

#### §5. Intersections

1. In general, all roads shall join each other so that for a distance of at least 100 feet the road is approximately at right angles to the road it joins. Roads shall not intersect at angles of less than 60 degrees.
2. Intersections of minor roads with collector or major roads shall, in general, be at least 500 feet apart.
3. Road jogs with centerline offsets of less than 125 feet shall be avoided.
4. All road rights-of-ways at intersections shall be rounded by curves of at least 20 feet radius and curbs shall be adjusted accordingly.
5. All corner lots shall be cleared of growth and other obstructions, so as to achieve safe visibility for traffic entering the intersection.
6. No intersection of more than two roads is allowed.

#### §6. Curve Radii

In general, road lines shall be connected with a curve, the radius of which for the centerline of road shall not be less than 200 feet on collector roads, and 100 feet on minor roads.

#### §7. Partial Roads

Partial roads of less than full width are prohibited

## §8. Road Names

All road names in a Preliminary Plat or Subdivision Plat shall be approved by the Planning Board. Road shall have names and NOT be numbers or letters. Road names shall be selected so as not to be confused in sound or spelling with existing or platted road names. Roads that join or align with roads of an abutting or neighboring property shall bear the same name. Approved Department of Transportation Signs bearing road names shall be erected by the developer at all intersections.

## §9. Treatment along Major Highways

In order to minimize driveway entrances onto major highways, the planning board may require marginal access roads parallel to major highways, or reverse frontage lots. Marginal access roads shall be separated from major highways by a distance which allows for an appropriate use of the intervening land. Where reverse frontage lots are required, an access control easement of up to ten feet in width may be required along major highways, sufficient to prohibit access to the highway from rear yards.

## §10. Underground Utilities

Underground utilities shall be placed, wherever possible, in the road right-of-way between the paved roadway and the road line to simplify location and repair of utilities. Underground service connections shall be installed to the lot line of each lot for all required utilities prior to road pavement. Where topography is such as to make impractical the inclusion of underground utilities within the road right-of-way, perpetual unobstructed easements at least 15 feet wide shall be provided with satisfactory access to the road. Such easements shall be cleared and graded where required.

## §11. Map

Prior to any construction/excavation, a plot plan/map shall be furnished to the Town Planning Board, prepared and stamped by a NYS licensed engineer, showing the following:

- a) The plan and profile of the proposed road ways.
- b) Cross sections shall be provided at 100 foot stations.
- c) Profile of ditches with grade shall be provided.
- d) A professional surveyor's stake out showing tree removal needed for adequate width.
- e) A list of proposed materials to be used in the construction of the private road, for approval by the Town Code Enforcement Office and Town Engineer.

## §12. All Roads Shall Have the Following:

- a) Right of Way: The width of the right of way will vary by geographies but be no less than 50' (fifty feet) in width with a minimum pavement area (the wearing or exposed surface of the roadway used for vehicular traffic) being at least – revert to "typical

road design”. No road right of way will be any closer than 10’ to the neighbor’s property line.

- b) Subgrade: All top soil shall be removed along the proposed road way area. All muck, quicksand, spongy materials and any other objectionable materials shall be removed also. Fills must be made with material approved by the Town Engineer and Town Code Enforcement Officer and shall be placed in layers not over six inches thick, and each layer shall be compacted to 95% modified proctor density. Compaction must be tested by a private firm being 95% modified proctor density or greater.
- c) Stabilization Fabric: At the discretion of the Code Enforcement Officer and the Town Engineer, the developer may be required to install NYS DOT Class #3 stabilization fabric in wet areas where needed for the preparation of sub base, binder and top base.
- d) Base Course: The base course shall be not less than 12” of NYS DOT item 304.03 or 304.05 installed by the developer and/or contractor and properly rolled to the satisfaction of the Town Code Enforcement Officer and/or the Town Engineer. Depending upon the original materials in the ground, more base course may be required by the Code Enforcement Officer and the Town Engineer. No base material is to be placed on the subgrade until the subgrade is approved by the Town Code Enforcement Officer and/or the Town Engineer.

Shall Apply to Roadways in a Major Subdivision Only:

- e) Binder Course: The binder course shall consist of (choose 1 method to use)
  - 1) Asphalt: Asphalt Concrete NYSDOT or current standard (refer to typical road design, attached hereto, for thickness). Before any asphalt is placed, the Town Code Enforcement Officer and Town Engineer must be notified to obtain their approval to proceed.
  - 2) Stone & Oil: A double application to consist of; Oil, 1<sup>st</sup> course – No. 1 Stone; 2<sup>nd</sup> course – No. 1A stone with an approximate total thickness of  $\frac{3}{4}$  of an inch (see “specification surface treatment”- Attachment “A” attached hereto)
  - 3) Motopave (cold paving): Provide per vendor, recommendations and standard specification. Prior to paving, the Town Code Enforcement Officer and Town Engineer must be notified to obtain their approval to proceed.
- f) Top Course: The top base course shall consist of (method to correspond with (e) above:
  - 1) Asphalt: no less than (refer to typical road design, attached hereto, for thickness) of asphalt installed by the developer and/or contractor and properly rolled to the satisfaction of the Town Code Enforcement Officer and/or the Town Engineer. Whenever possible, a minimum of three months should be allowed between the installation of the base or binder course and the top course. During this period, the pavement should be opened to traffic.
  - 2) Stone & Oil: See (e-2) above. (see “specification surface treatment” – Attachment “A” attached hereto)
  - 3) Motopave (cold paving): See (e-3) above.

g) Drainage:

1) Removal of Spring and Surface Water:

- The developer may be required to carry away by pipe (pipe size to be determined by the Department of Environmental Conservation) or open ditch (refer to typical road design, attached hereto) any spring or surface water that may exist either previous to, or as a result of the subdivision or road construction. Drainage ditches, where required and provided, shall be on each side of the road to be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, at a suitable distance from the center line of the road, shall be adequate to carry all stormwater drainage and shall be otherwise satisfactory to and be approved by the Department of Environmental Conservation and Town Engineer. The grade of the outside area or sidewalk and planting strip section shall, in no case, be lower than the crown of the pavement.

2) Storm Water Run-Off:

- A temporary storm water management system must be developed during construction consisting of a SPEDES General Permit from the NYS Department of Environmental Conservation and a SWPPP (storm water pollution prevention plan) from a NYS licensed professional engineer. The SWPPP plan shall be prepared in accordance with *New York State Standards and Specifications for Erosion and Sediment Control – August 2005*.
- A permanent storm water management system should be developed for the proposed future development which may occur as a result of this project. Such storm water management system shall meet or exceed the design standards of the *New York State Stormwater Management Design Manual – August 2003*.

h) Provision for Future Re-Subdivision:

- Where a tract of land is subdivided into lots substantially larger than the minimum size required in the Town of Forestport Site Review Law, the Board may require that roads and lots be laid out and improved so as to permit future re-subdivision in accordance with the requirements contained in the local regulations.
- If any subdivision, minor or major, is proposed along a private driveway, the private driveway will then be considered a private road, and therefore, the private road will be required to be brought up to the current requirements in Article IX of this local law.

i) Observation of Construction by Town Representative/Officials:

- During construction of the private road, the Town Code Enforcement Officer shall be notified of the construction schedule and be afforded an opportunity to observe the construction and witness the different phases of construction. These observations are

needed to ensure conformance with the approved plans and shall not be intended to either provide direction to the developer's representative on the job site or provide certifications required of the developer's engineer.

- At the conclusion of construction of the Road, the Town Code Enforcement Officer and the Town Engineer shall perform an inspection of the completed work. A listing of items to be resolved, prior to the approval of the road in final form, will be prepared by the Town Engineer and Code Enforcement Officer.
- The Town Code Enforcement Officer shall be provided copies of test results and certifications concerning the road

## **ARTICLE X        CLUSTER DEVELOPMENT**

### **§1. Authority**

The Planning Board is authorized and empowered pursuant to Section 278 of the Town Law to modify certain provisions of the Town of Forestport Site Review Law and the Town of Forestport Subdivision Rules and Regulations as allowed by this Article, simultaneously with the approval of any subdivision application within the town.

### **§2. Applicable Provisions**

The Planning Board may consider, or require, applications for major subdivisions which include the following deviations from the Town of Forestport Site Review Law and the Town of Forestport Subdivision Rules and Regulations for any one of the following purposes:

1. To eliminate side and rear yard requirements to allow for innovative attached housing types;
2. To reduce side and rear yard requirements for existing structures on the site of a plat where, in unique and special circumstances, it will result in the more efficient use of land;
3. To reduce road frontages to allow cul-de-sacs;
4. To reduce lot areas, widths, depths, yard sizes, lot coverage, and road frontages to accomplish cluster development.

### **§3. General Criteria for Cluster Development**

The Planning Board may allow, or require, cluster development when the proposed development:

1. Will be in harmony with the general purpose, goals, objectives, and standards of the comprehensive plan and this law;
2. Complies with all applicable provisions of the Town of Forestport Site Review Law and the Town of Forestport Subdivision Rules and Regulations, except as modified pursuant to the authority of this law;
3. Will not have a substantial or undue adverse effect upon adjacent property, the



character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare;

4. Will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property;
5. Will be served adequately by essential public facilities and services such as roads, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; and
6. Will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

#### §4. Required Clustering

Cluster development may be required by the Planning Board to meet any one of the following objectives:

1. The clustering of development will reserve open space, recreational areas, large groves of trees, water courses and falls, beaches, historic spots, vistas and other similar assets, in furtherance of the comprehensive plan for the community;
2. The clustering of development will aid in the provision of road right-of-ways or for the protection of future road right-of-ways in furtherance of the comprehensive plan for the community;
3. The clustering of development will provide for the more economical and efficient provision of municipal utilities and road services.

#### §5. Determination of Overall Development Density

Cluster development subdivision applications shall include the submission of a sketch plat showing a conventional, unclustered subdivision which complies with all provisions of the Town of Forestport Site Review Law and the Town of Forestport Subdivision Law. The purpose of this sketch plat shall be to aid the Planning Board in determining the maximum number of dwelling units permissible, the overall development density, on the parcel under the Town of Forestport Site Review Law and the Town of Forestport Subdivision Law. All lots on the sketch plat shall be buildable lots. The Planning Board shall make a determination of the maximum permissible number of dwelling units permissible on the parcel prior to the acceptance of an application for a cluster development subdivision.

#### §6. Approval of Cluster Open Space

The area, configuration, location, ownership, use and maintenance of residual open spaces created by clustering shall be subject to review and approval of the Planning Board.

#### §7. Use of Cluster Open Space

Cluster open space may be made accessible to all residents of the subdivision or available for the use of the general public unless the Planning Board finds that the size, location, type of development, or cost of development or maintenance of such cluster open space, or the

availability of public open space, would make public use undesirable or unnecessary.

#### §8. Undedicated Cluster Open Space

If cluster open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any other specifications deemed necessary by the Planning Board.

### **ARTICLE XI      FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS**

#### §1. Required Public Improvements

All public improvements required pursuant to this law shall be constructed and completed to the standards required by state and local laws, rules, and regulations, including the Town Road Specifications. Applicants for subdivision plats shall provide the town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public required improvements.

#### §2. Time Limit on Installation of Improvements

The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this article, shall be completed within one year from the date of the approval of the subdivision plat. Road improvements shall be completed within two years from the date of approval of the subdivision plat. At the end of such time, if the required public improvements are not completed and accepted by the town, the town may use as much of the financial security required by this article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.

#### §3. Extension of Time Limit

The developer may request an extension of time to perform required public improvements provided reasonable cause can be shown for the inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months.

#### §4. Inspections of Improvements

At least five days prior to commencing construction of required public improvements the developer shall pay to the town clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.

#### §5. Financial Security Options

Acceptable financial security shall be provided to the town in the form of a bond executed by a surety company, a certified check, or an irrevocable letter of credit drawn in favor of the town. Any such financial security shall be presented to the town clerk in an amount equal to the cost of construction of the public improvements required by the planning board pursuant to this law.

#### §6. Review of Proposed Financial Security

All required public improvements shall be shown on subdivision plats and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the developer.

#### §7. Schedule of Improvements

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the town clerk, the Town and the developer shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the developer as work is satisfactorily completed.

#### §8. Staged Refunding of Financial Guarantees

At such times as the developer wishes to have guarantee funds released in consideration of work performed and accepted, the developer shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements. The developer, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the Town, by the appropriate municipal inspectors, and by the town fiscal officer. If the statement is approved by the town fiscal officer, the statement shall be

forwarded promptly to the town clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the developer. Where the financial guarantee provided by the developer makes staged refunding possible, the town clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the developer.

#### **§9. Acceptance of Required Public Improvements**

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

#### **§10. Maintenance Guarantee Required**

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten percent of the financial guarantee originally required of the developer. The developer may provide a maintenance guarantee by one of the methods provided for in Article XI above, but no maintenance bond shall be for less than \$5,000 face value. All maintenance guarantees required by this section shall commence immediately upon acceptance of the required public improvements by the municipality and shall extend for two years from the June first next succeeding the acceptance of the required public improvements.

### **ARTICLE XII      WAIVERS**

#### **§1. Grounds for improvement waivers**

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or the Land Use Regulations.

#### **§2. Procedural Waiver**

The Planning Board may waive the application and review procedure as provided for in this law if the Planning Board determines that the proposed subdivision is of minor significance. Such waiver shall be in writing, and shall include the specific factual findings upon which the waiver was based.

#### **§3. Conditions for waivers**

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

## **ARTICLE XIII VIOLATIONS & PENALTIES**

### **§1. Violations and Penalties**

1. If any land is used or divided into lots, blocks or sites in violation of this Local Law, no building or septic system permit or certificate of compliance shall be issued by the Town Codes Enforcement Officer until there is compliance with the provisions of this Local Law.
2. Whenever a violation of this Local Law occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Codes Enforcement Officer. Upon the receipt of a written complaint or upon his own initiative, the Codes Enforcement Officer shall conduct an investigation, and issue his findings in writing. If the Codes Enforcement Officer finds that any of the provisions of this Law have been or are being violated, he shall notify in writing the person(s) responsible for such violation indicating the nature of the violation and order the action necessary to correct it.

The failure or refusal of the person or persons responsible for such violation to take corrective action ordered by the codes enforcement officer shall be an offense punishable under Paragraph 3 of this section.

3. Any violation of this law is an offense punishable by a mandatory fine of \$500.00 for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a mandatory fine of \$1,000.00; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a mandatory fine of \$2,500.00. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
4. The Town Board may institute any appropriate action or proceedings to prevent unlawful division of land, to restrain, correct or abate any violation of this law, or to prevent the use or occupancy of said land; and upon the refusal of the Town Board to institute any such appropriate action or proceeding for a period of ten days after written request by a resident of the

town, to proceed, any resident of the town may institute such appropriate action or proceeding in like manner as such Town Board is authorized to do.

#### **ARTICLE XIV      SUPERSEDE**

##### **§1. Supersede**

1. This law intends to supersede all provisions of the Town of Forestport Site Review Law dated July 1986 and amendments thereto, specifically the following Sections of the Site Review Law as amended are hereby null and void:

- a) Section 5.2-C-9
- b) Definitions of minor and major subdivision as set forth in Local Law 1 of the year 2004.
- c) Section 10.4 of Local Law 1 of the year 2004 as it incorporates a subdivision violation.

#### **ARTICLE XV      OFFERING PLAN**

##### **§1. Offering Plan**

The developer shall comply with §352-e of the General Obligations Law or obtain a Cooperative Policy Statement #7 application and complete it.

#### **Appendix A**

##### **Town of Forestport Subdivision Law**

I. Purpose: The purpose of this appendix is to set forth the plat requirements for both minor and major subdivisions, and shall be provided by the developer to the surveyor performing the work.

II. Plat Requirements: The plat shall contain the following information:

A. A title block containing subdivision name, name of town and county, date (different for each revision), scale, surveyor's name/company.

B. A certification block with the following statement:

“As owner, I hereby certify that I have caused the land described by this plat to be surveyed, divided, mapped, dedicated, and access rights reserved as represented on the plat. – Date – Owner Signature

- C. A stamp or seal from the surveyor (and engineer if appropriate) showing license number.
- D. The approved stamp for date and signature by the Planning Board Chairman:
- E. Notes containing any covenant and deed restrictions.
- F. The plat itself should cover all of the land being subdivided, at a scale of not more than 100 feet per inch and not less than 50 feet per inch, including any residual land retained by the owner, and shall include the following:
  - 1. The name of all subdivisions and owners of record for lots immediately adjacent to the parcel being subdivided.
  - 2. The following boundaries, if they exist, in the area adjacent to the subdivision or on the parcel: municipal boundaries, flood hazard areas, wetlands, property boundaries, easements, rights-of-way.
  - 3. Parcels to be dedicated to public use and conditions.
  - 4. Buildings, water courses, wells, septic systems and sewer lines, wooded areas, and other significant features on the parcel and adjacent parcels.
  - 5. Contour intervals of five feet (or two feet when required by the planning board).
  - 6. Width and location of streets and roads, and shall indicate the names of all existing and proposed streets and roads.
  - 7. Location of all proposed facilities.
  - 8. Storm drainage, culverts (with sizes indicated) and arrows indicating direction of flow.
  - 9. Details such as cross-sections, plans, drains, etc.
  - 10. Lot lines of all proposed lots, including bearings, distances, corners, and monuments (with descriptions).
  - 11. Area of each lot (not to include area inside public rights-of-way).
  - 12. North point prominently indicated on the plat and oriented to coincide with the locator map.

- G. Additional Markings Required to be Displayed on the Plat. One or more may be selected as determined by the Planning Board.
1. Wetlands Restrictions Apply -  
Lot(s) subject to any development, housing, building and use restrictions under Article 24, State of New York Environmental Conservation Law.
  2. Floodplain Restrictions Apply -  
Lot(s) subject to any development, housing, building and use restrictions under National Flood Insurance Program.
  3. Subdivision Restrictions Apply -  
Further Subdivision of Lot(s) prohibited as an agreed-on condition for approval of this plat.
  4. Building Restrictions Apply -  
Lot(s) subject to building restrictions as an agreed-on condition for approval of this plat. Restriction is as follows:
  5. Water Supply/Sanitation Certification -  
All sanitation and water supply facilities are designed to meet the minimum specifications of the County Department of Health.  
Licensed Engineer Name  
License Number  
Date
  6. Certification of Monumentation -  
Surveyor certifies that monuments have been set as shown on the plat.
- H. Special Marking Required.
- I. Where applicable, a note, duly acknowledged by signature of the subdivider, stating: "Approval of this plat does not constitute town acceptance of the indicated, stated, or referenced improvements" – Date – Owner signature
- J. Locator Maps: One or more locator maps shall be included on the plat to clearly locate the subdivision of interest.
- K. Conflicts of Requirements: If conflicts between this appendix and the primary subdivision law occur, the planning board shall be contacted for resolution.
- L. Waiver of Plat Requirements: The Planning Board may waive any of the requirements in this appendix in the event that the information is not applicable or necessary.



