

# **Town of Marcellus**

## **Subdivision Regulations**

**Adopted March 9, 2009,  
by Local Law # 3 for the year 2009**

**Effective: April 1, 2009**

**Town of Marcellus Subdivision Regulations  
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## ARTICLE 1 - GENERAL PROVISIONS

### 101. Title

These regulations shall be known and may be cited as "Town of Marcellus, Subdivision Regulations of 2009". These Subdivision Regulations replace, in their entirety, any previous Subdivision Regulations which formerly applied in the Town of Marcellus.

### 102. Authority

The authority for these regulations is Local Law No. 3 for the year 2009 as adopted by the Town Board of the Town of Marcellus.

### 103. Purpose

It is hereby declared to be the policy of the Town of Marcellus that the subdivision and development of land for residential, commercial, and industrial purposes shall be guided and regulated in such a manner as to meet the following requirements for orderly and harmonious growth:

Subdivision approval in accordance with these regulations shall be a prerequisite:

- A. to the issuance of any (i) Building Permit for construction or (ii) certificate of occupancy, if Subdivision Approval is required but not obtained; or
- B. for any use of the subdivision land that requires Subdivision Approval; and
- C. for filing of any Subdivision plat in the Onondaga County Clerk's Office.

Land to be subdivided or developed shall be of such character that it can be used safely without danger to health, or peril from fire, flood, erosion, excessive noise or smoke, or other menace and each subdivided Lot shall have direct access to a public Street.

Proper provisions shall be made for Roads, drainage, water supply, sewage, and other appropriate utility services.

Coordination of existing and proposed Streets shall provide a safe, convenient, and functional system for vehicular circulation. Street names shall be designated in accordance with the procedure established by Onondaga County Local Law #5-1972, "Right of Way

Designations", effective January 1, 1973, as amended by Onondaga County Local Law #4-1980, effective August 4, 1980.

Streets shall conform to the then most current Road specifications approved by the Town Board of the Town of Marcellus, a copy of which are to be kept in the Town Clerk's Office.

All Streets, Blocks, Lots and buildings shall be arranged to facilitate fire protection and to provide ample access for firefighting equipment.

Land shall be subdivided or developed with due regard to topography so that the natural beauty of the land and vegetation shall be protected and enhanced through all reasonable means then available.

Subdivision shall take place so as to provide for, when reasonably possible, the proper provision of open spaces for active and passive recreation and for the proper locations of future sites for public buildings and areas such as schools, parks, playgrounds and other community services.

### 104. Effective Date

These regulations shall be effective for all subdivision applications filed on or after April 1, 2009.

### 105. Planning Board's Power to Establish Specifications

If (a) the Town Board shall not have established specifications for any improvement(s) involved in a subdivision or (b) if the Planning Board deems the specifications established by the Town Board are insufficient under the particular circumstances then present, then in either such event the Planning Board shall have the power to set specifications to be complied with; provided, however, the specifications set by the Planning Board shall not be less than the standards and specifications, if any, set by the Town Board.

**ARTICLE 2 – GENERAL TERMS AND DEFINITIONS**

201. **General Terms**

Terms used in these regulations and not defined herein shall have the same meanings as set forth in the Town of Marcellus Zoning Law, if defined therein. Except where specifically defined herein or in the Zoning Law, all words used in these regulations shall carry their customary meanings.

Unless the context clearly indicates otherwise, words used in the present tense shall include the future words used in the singular shall include the plural and words in the plural include the singular.

The words “shall” and “will” are mandatory. The words “may” and “should” are permissive.

The Article, Section and Subsection headings contained in these Subdivision Regulations are for reference and convenience only, and shall not enter into the interpretation of the Article, Section, or Subsection.

202. **Definitions**

For the purposes of these regulations, the following words or terms, as used herein, shall have the following meanings, unless the context clearly indicates otherwise:

**APPLICANT** – The Person signing the Application, as “Applicant”, to the Planning Board for the Approval of a proposed subdivision of land. If the Applicant is not the Subdivider, the written consent to the Application, and the Subdivider’s certification of the truth of all of the facts contained in the Application, shall be required from the Subdivider before the Planning Board shall take any action on the Application.

**APPLICATION** – The completed and signed form of Application for subdivision, then currently on file in the Town Clerk’s Office.

**ARCHITECT** - A person licensed as a professional architect by the State of New York, or licensed in a state with a reciprocal agreement with New York State.

**BLOCK** – An area of land bounded by Streets.

**BUILDING** - Includes structures or any part thereof.

**BUILDING, FRONT LINE OF** - The line created by the Face of the Building (as extended to the side boundary lines) nearest the front line of the Lot.

**BUILDING PERMIT** – The written authorization from the Codes Enforcement Officer required before commencing construction or other improvement, removal, relocation or demolition of any Building and before the installation of heating equipment or solid fuel burning devices. A Building Permit gives approval for the construction, subject to the conditions set forth in the Zoning Law and these Regulations.

**BUILDING SETBACK** – The distance as measured:

- A. from any Street Line to the Front Line Of the main or principal Building on a Lot;
- B. from, the Face of the side of a Building to the side Lot boundary line; and
- C. from the Face of the rear of a Building on a Lot to the rear Lot Lines.

The front property line and Street Line shall be determined to be the same line.

**CLUSTER DEVELOPMENT** – Shall have the meaning, if any, set forth in the Zoning Ordinance or Zoning Law of the Town, as such meaning shall change from time to time.

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

**CONDITIONAL APPROVAL OF A PLAT** – The approval by the Planning Board of a Plat (either Preliminary or Final) subject to the conditions set forth in the Planning Board’s resolution so conditionally approving that Plat. A Conditional Approval does not qualify a Final Plat for filing in the County Clerk’s Office unless and until all of the conditions have been satisfied by the Owner or waived by the Planning Board, as evidenced by a subsequent resolution of

the Planning Board. The Planning Board may condition any Final Plat Approval on the Owner and Town entering into an Agreement requiring the Owner to construct Infrastructure Improvements and/or Public Improvements, to provide security and insurance protecting the Town, in such amounts as the Town Board may require, and containing such other terms and conditions as the Planning Board and/or the Town Board may require.

**CONSTRUCTION DRAWINGS** – Maps, drawings, Plans and Plats, and/or specifications submitted as part of an Application, or required in these Subdivision Regulations, showing the specific location and design of Infrastructure Improvements and Public Improvements to be installed in the Subdivision as a condition of the Approval of the Plat by the Planning Board. The Construction Drawings must be stamped by an Architect or an Engineer; provided, however, with regard to the metes and bounds and topography of the lands to be subdivided, any map showing same may, in lieu thereof, be signed and stamped by a Surveyor.

**DEVELOPER** – Same as Subdivider.

**EASEMENT** – The written recorded authorization by the then Owner of real property for the use, by another Person, for a specified purpose, of all or any designated part of the Owner's real property.

**ENGINEER** – A person licensed as a professional engineer by the State of New York, or licensed in a state with a reciprocal agreement with New York State.

**ENVIRONMENTAL ASSESSMENT FORM (EAF)** – A form used by the Planning Board in the State Environmental Quality Review process to assist in determining the environmental significance or nonsignificance of an action or project. (See State Environmental Quality Review).

**ENVIRONMENTAL IMPACT STATEMENT (EIS)** – A written document required for each Type I and Unlisted Action, which the Planning Board determines may have a significant impact on the environment. (See State Environmental Quality Review).

**ESCROW** – A deposit of cash with the Town in lieu of an amount required under a performance or maintenance bonds, letter(s) of credit, or other forms of security required to be delivered by the Owner to the Town.

**FACE OF THE BUILDING** - The part of a Building on a Lot which is closest to a Lot boundary line, including sun parlors, porches and decks, whether enclosed or unenclosed, but does not include uncovered steps.

**FINAL PLAT** – See subsection “D” under “Plans and Plats.”

**FINAL PLAT APPROVAL OR APPROVAL OF A FINAL PLAT** – The signing of a Final Plat by a duly authorized officer of the Planning Board, pursuant to a resolution of the Planning Board, granting approval to the Final Plat. Final Plat Approval qualifies the Final Plat to be filed in the Onondaga County Clerk's Office.

**GRADING PLANS** – See subsection “C” under “Plans and Plats.”

**INFRASTRUCTURE IMPROVEMENTS** – Those Public Improvements to be constructed by or on behalf of the Subdivider on, over or within the lands involved in the Subdivision and to be eventually conveyed to the Town, by way of an easement or deed (e.g. Roads, storm sewer drainage facilities, water lines, and the like), before Approval of a Final Plat will be granted.

**LEAD AGENCY** – The agency having principal responsibility to make a determination of whether the Subdivision may have a significant impact on the environment. Generally, with regard to the Subdivision of land within the Town, the Planning Board will be the Lead Agency.

**LOT** – Land occupied or capable of being occupied by a Building and its accessory Buildings, together with such open spaces as are required, created in compliance with Town ordinances and local laws, having not less than the minimum area, width, depth and all other requirements for the zoning district in which said land is located, as set forth in the Zoning Law, and in compliance with all other applicable laws, rules and regulations.

**LOT IMPROVEMENT** – Any Building or other improvement to the land as may be required by the Planning Board (including but not limited to clearing, final grading, and Infrastructure Improvements) that constitute a physical betterment of real property.

**LOT WIDTH** – The width of a Lot measured along the Street Line.

**MINOR LOT ALTERATION** – A Minor Lot Alteration is (a) the transfer of land from one property owner to another involving

adjacent Lots which results in the mere adjustment of existing property lines or (b) the consolidation of two or more Lots into a lesser number of Lots and (c) does not create or increase a non conforming use and (d) does not result in the creation of new Roads, curb cuts, driveways, building Lots, or Infrastructure Improvements. Whether the adjustment of Lot lines is or is not a Minor Lot Alteration, is a determination to be made solely by the Planning Board. (See Section 305).

**NEGATIVE DECLARATION** – A statement by the Lead Agency indicating that a proposed subdivision will have no significant environmental impact.

**OFFICIAL MAP** – The map established by the Town Board of Marcellus under Section 270 of Town Law showing Streets, highways, private Roads, and parks heretofore laid out, adopted and established by law and any amendments thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

**OWNER** – The Owner or Owners of record of the fee simple absolute title to real property.

**PERFORMANCE BOND OR OTHER SECURITY** – A bond or other security as permitted by Section 277 of Town Law to assure the full and satisfactory completion of all required subdivision Infrastructure Improvements and Public Improvements, as specified in the Planning Board Resolution of Approval or Conditional Approval.

**PERSON** - Any one or more individual(s), partnership(s), corporation(s), limited liability company (or companies), or any other entity, or any combination thereof.

**PLANNED UNIT DEVELOPMENT OR “PUD”** – Shall have the meaning, if any, set forth in the Zoning Ordinance or Zoning Law of the Town, as such meaning shall change from time to time.

**PLANNING BOARD** – The Planning Board of the Town of Marcellus, Onondaga County, New York State.

**PLANNING BOARD CLERK** - The Clerk of the Planning Board.

**PLANS AND PLATS:**

A. **Sketch Plan** – A sketch of a proposed subdivision showing the information specified in Section 601 of these regulations, to enable the Subdivider to save time and expense to inform the Planning Board as to the form of the general layout of the proposed subdivision, and to obtain the Planning Board’s initial thoughts regarding the proposed subdivision shown on the Sketch Plan.

B. **Preliminary Plat** – A drawing or drawings (1) clearly marked “Preliminary Plat”, (2) meeting the requirements specified in Section 602 of these regulations, and (3) submitted to the Planning Board for Approval prior to submission of a Final Plat.

C. **Grading Plans** – Drawings comprised of:

(1) A Grading Plan showing the proposed grading for surface water runoff of the entire subdivision upon the completion of the Subdivision, containing the details required by these Regulations, and containing modifications, if any, as may be required by the Planning Board prior to the Approval of the Final Plat; and

(2) An Erosion and Sediment Control Plan. A drawing or drawings showing temporary erosion and sediment control measures to be implemented and maintained during construction to minimize the risk of sediment erosion and/or pollution. The temporary methods shown on the Erosion and Sediment Control Plan shall be coordinated with the permanent measures shown on the Grading Plan to the extent practicable to assure continuous erosion control throughout the construction and post-construction periods.

The Grading Plans shall include sufficient information to evaluate and identify the existing topography, vegetation, soil types, environmentally sensitive areas, the potential impacts of the proposed grading (temporary and permanent), and the effectiveness and acceptability of measures proposed to minimize soil erosion and off-site sedimentation both during and after construction. Measures other than those shown may be required by the Planning Board to be implemented during construction to compensate for field conditions or the method of the construction.

D. **Final Plat** – A drawing in final form, showing a proposed subdivision, containing all information and detail required by law and these regulations, and presented to the Planning Board for Approval and which, if approved, shall be duly filed and recorded by the Applicant in the office of the County Clerk.

**POSITIVE DECLARATION** – A statement by the Lead Agency indicating that a proposed subdivision will or may have a significant environmental impact, requiring an Environmental Impact Statement.

**PRELIMINARY PLAT** – See subsection “B” under “Plans and Plats.”

**PROFILE** – A drawing or drawings depicting a cross sectional view taken about the center of the subject (i.e. Road, utility, sewers, water mains or other structure) depicting land elevations for proposed and existing conditions and all other features the section bisects.

**PUBLIC IMPROVEMENTS** – Any drainage ditch, Road, sidewalk, pedestrian way, tree, off-road parking, recreation area, Lot Improvement, or other land or facility for which the Town may ultimately assume (or already has assumed) fee ownership, easement rights, and/or the responsibilities for maintenance and operation.

**PUBLIC OPEN SPACE** – Land, which the Town either owns or has Easement rights to, which has been officially designated as a place of public recreation or open space, including but not limited to parks, playgrounds, squares, plazas, and similar uses.

**PUBLIC RIGHT-OF-WAY** – The boundary lines of a Street, sidewalk or similar thoroughfare (which the Town owns or has Easements rights to) defining the corridors for public vehicular and pedestrian traffic.

**REGULATIONS** - “Regulations” or “these Regulations” shall mean, when the word Regulations starts with a capital “R”, these Subdivision Regulations of the Town of Marcellus.

**RE-SUBDIVISION** – Alteration of the size, shape, quantity or orientation of Lots, Lot lines or any other elements set forth on a Final Plat filed in the Onondaga County Clerk’s Office.

**ROAD** – The same as **STREET**.

**SECTION** - Depending on the context, either (1) a portion of the lands shown on a Preliminary Plat for which the Subdivider requests Final Plat Approval or (2) a reference to a particular provision in these Regulations or in the Town Law.

**SEQR or STATE ENVIRONMENTAL QUALITY REVIEW** – A process, required by SEQRA, to help government and the public protect and improve the environment. SEQR requires that environmental factors be considered along with social and economic considerations in government decision-making, including but not limited to Subdivisions. (See Environmental Assessment Form and Environmental Impact Statement). Compliance with SEQRA is required for all Applications.

- A. **Type I Action** – An action that is likely to have a significant impact on the environment as listed in SEQRA.
- B. **Type II Action** – An action, which will not have a significant impact on the environment and for which no Environmental Assessment Form, is required.
- C. **Unlisted Action** – An action that may have a significant impact on the environment as explained in SEQRA.

**SEQRA or STATE ENVIRONMENTAL QUALITY REVIEW ACT** – The New York Environmental Conservation Law, Article 8, including but not limited to, Sections 3–0301 (1)(b), 3–0301 (2)(m), 8-0109 and 8–0113 thereof, and the regulations promulgated thereunder, as those provision of law and regulations shall be amended from time to time.

**SIGHT DISTANCE** – The distance required to provide unobstructed view of an object, in accordance with standards published by the American Association of State Highway and Transportation Officials (AASHTO).

**SKETCH PLAN** – See subsection “A” under “Plans and Plats.”

**SOCPA** – The Syracuse-Onondaga County Planning Agency.

**STREET** – A Public Right-Of-Way for vehicular traffic that is publicly owned, open to the general public and has been accepted by the Town. The term includes designations such as highway, parkway, Road, avenue, boulevard, lane, place, drive, alley, and other variations. Streets are categorized as follows:

- A. **Arterial Street or Major Street** – One that is used primarily as a route for fast traffic between communities.
- B. **Collector Street** – One which carries traffic from minor Streets to a major Street including the principal entrance Streets of a residential development and Streets for circulation within such a development.
- C. **Minor Street or Local Street** – One that is used primarily as an access to abutting properties.
- D. **Marginal Access Street** – A minor Street that is parallel to and adjacent to an arterial Street and which provides access to abutting properties and protection from through traffic.
- E. **Cul-de-sac or Dead-end Street** – A minor Street with one end open for public vehicle access and the other end terminating in a vehicular turnaround. The length of a cul-de-sac Street shall be measured along the centerline from its intersection with the centerline of the Street from which it runs to the center of the cul-de-sac turnaround.

The various types of Streets are classified and further described in Section 509 of these Regulations.

**STREET LINE** – The common boundary of a Street Right-Of-Way, as distinguished from the pavement and the front property line of a parcel.

**SUBDIVIDER** – The Owner(s) of record of all of the land to be subdivided.

**SUBDIVISION** – (1) The division of any parcel of land into two or more Lots, Blocks, sites or parcels; or (2) combining two or more parcels of land into a lesser number of Lots, Blocks, sites or parcels; or (3) any modification of the size, the shape or a boundary of any parcel or parcels of land; but (4) shall not include a Minor Lot Alteration as defined in these Regulations, provided, however, a Minor Lot Alteration shall fully comply with the provisions of Section 305 of these Regulations and the provisions of Article 8 shall apply to any such violation of Section 305.

**SURVEYOR** - A person licensed as a professional land surveyor by the State of New York, or licensed in a state with a reciprocal agreement with New York State.

**TOWN** – The Town of Marcellus, excluding the incorporated Village of Marcellus.

**TOWN ATTORNEY** – The person or law firm designated by the Town Board to perform specific legal functions in connection with the administration of these Regulations.

**TOWN BOARD** – The Town Board of the Town of Marcellus, Onondaga County, New York State.

**TOWN CLERK** – The Clerk of the Town.

**TOWN CONSTRUCTION STANDARDS** – At any point in time, the most recent standards and specifications approved by resolution of the Town Board for the construction of new Roads, Infrastructure Improvements or Public Improvements. Town Construction Standards are to be kept on file in the Town Clerk’s Office.

**TOWN ENGINEER** – The Engineer or engineering firm designated by the Town Board to perform specific engineering functions in connection with the administration of these Regulations.

**TOWN LAW** – The Town Law of the State of New York, as amended from time to time.

**WATERCOURSE** – A bed or channel, whether natural or man-made, which carries flowing water (as distinguished from surface drainage over land). The water need not flow continuously.

**ZONING LAW** – The Zoning Ordinance of the Town, effective January 3, 2004, as it shall be amended from time to time.

The phrase “most recently approved by resolution of the Town Board” shall mean the Town Board’s resolution closest to the time then in question, which may or may not be the effective date of these Regulations.

**ARTICLE 3 - PROCEDURES TO OBTAIN SUBDIVISION APPROVAL**

301. **Subdivision Pre-Application Procedures - The Sketch Plan**

Fifteen days prior to a regular monthly meeting of the Planning Board, a Subdivider may submit for review 12 copies of the Sketch

Plan of a proposed Subdivision or Re-subdivision, and its supporting data as specified in Section 601, and an Environmental Assessment Form. This step does not require formal application, fees, or filing of a plat. The Subdivider should attend the next Planning Board meeting and the Planning Board may provide its initial thoughts about the Sketch Plan.

### 302. **Subdivision Preliminary Plat Application Procedures**

- A. Filing Application. At least 15 days prior to a regular meeting of the Planning Board, the Applicant shall file an Application in the form most recently approved by the Planning Board (signed and certified to by the Subdivider, and the Applicant, if different) with the Town Clerk for Approval of a Preliminary Plat of the proposed Subdivision or Re-subdivision. Twelve copies of (1) a completed Application, (2) the Preliminary Plat, meeting the requirements of Section 602, (3) the data specified in Section 602, (4) an EAF or an EIS (If Infrastructure Improvements or Public Improvements are involved, the Applicant shall submit a Long Form EAF or an EIS.) and (5) the appropriate fees set by the Town Board and on file in the Town Clerk's office shall be submitted.
- B. When An Application is Complete. An Application for Preliminary Plat Approval shall not be considered complete until (1) the requirements of Section 302A have been satisfied, (2) the Planning Board receives the Post Office receipts required by Section 302D, and (3) either (a) a Negative Declaration has been filed by the Lead Agency with the Planning Board Clerk or (b) a notice of completion of the draft Environmental Impact Statement has been filed by the Lead Agency with the Planning Board Clerk in accordance with the provisions of SEQRA. The time periods for review of a Preliminary Plat shall begin from the date the Application is determined by the Planning Board to be complete.
- C. Attendance at Meeting. The Applicant shall attend the Planning Board meeting to discuss the Preliminary Plat. The Planning Board shall study the practicality of the Preliminary Plat, taking into consideration the provisions of these Regulations including but not limited to the zoning district(s) of the land being subdivided, the requirements of the community, and the future development of adjoining lands as yet unsubdivided. SEQRA shall be complied with.

- D. Notice by Applicant to Owners of Nearby Property. The Applicant shall notify, by certified mail return receipt requested, all Owners of property located both (a) within 500 feet of the outside perimeter of the proposed subdivision and (b) directly across any existing Street from the property to be subdivided, at least 10, but no more than 30, business days prior to the public hearing. The Notice shall set forth the date, time, place and purpose(s) of the public hearing. The notices shall be mailed to the mailing address on the most recent tax roll for the property Owners to be notified. At least three days prior to the public hearing the Applicant shall furnish the Planning Board with Post Office receipts of the mailings.
- E. Other Agencies. If applicable, the Plat shall be referred to SOCPA in accordance with Section 239-n of the General Municipal Law (see Section 304 H below).
- F. Procedures when the Planning Board Is the Lead Agency - Public Hearing, Notice and the Decision of the Planning Board. The following procedures shall apply when the Planning Board is the Lead Agency:
  - 1. Public hearing on Preliminary Plats. The time within which the Planning Board shall hold a public hearing on the Preliminary Plat shall be coordinated with any hearings the Planning Board, as Lead Agency, may schedule pursuant to SEQRA, as follows:
    - a) When an EIS is Not Required. If the Planning Board determines that the preparation of an EIS on the Preliminary Plat is not required, the public hearing on the Preliminary Plat shall be held within 62 days after:
      - (i) the receipt by the Planning Board Clerk of a complete Application under Section 302 C above; and
      - (ii) if the Application is subject to the mandatory review of SOCPA under Section 239-n of the New York General Municipal Law, either (a) receipt by the Planning Board of the recommendation of SOCPA or (b) more than 30 days have elapsed from SOCPA's receipt of the referral from the Planning Board without the Planning Board receiving such a recommendation from SOCPA.

b) When an EIS is Required. If the Planning Board determines that an EIS is required, and a public hearing on the draft EIS is held, the public hearing on the Preliminary Plat and the draft EIS shall be held jointly within 62 days after:

- (i) the filing of the notice of completion of such draft EIS.
- (ii) the Planning Board's receipt of a complete Application under Section 302 C; and
- (iii) if the Application is subject to the mandatory review of the SOCPA under Section 239-n of the New York General Municipal Law, either (a) receipt by the Planning Board of the recommendation of SOCPA or (b) more than 30 days have elapsed from SOCPA's receipt of the referral from the Planning Board without the Planning Board receiving such a recommendation from SOCPA.

If no public hearing is held on the draft EIS, the public hearing on the Preliminary Plat shall be held within 62 days of filing the notice of completion and the other requirements set forth at subsections (ii) and (iii) above have been satisfied.

2. Public Hearings: Notice by Planning Board, Length of Hearing. The hearing on the Preliminary Plat shall be advertised by the Planning Board at least once in a newspaper of general circulation in the Town at least five business days before such hearing if no hearing is held on the draft EIS, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate. The hearing on the Preliminary Plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

3. Decision. The Planning Board shall approve, with or without modification or conditions, or disapprove such Preliminary Plat as follows:

a) When an EIS Is Not Required. If the Planning Board determines that the preparation of an EIS on the Preliminary Plat is not required the Planning Board shall

make its decision within 62 days after the close of the public hearing; or

b) When an EIS Is Required. If the Planning Board determines that an EIS is required, and a public hearing is held on the draft EIS, the final EIS shall be filed within 62 days following the close of such public hearing. If no public hearing is held on the draft EIS, the final EIS shall be filed within 62 days following the close of the public hearing on the Preliminary Plat. Within 30 days of the filing of such final EIS, the Planning Board shall:

- (i) issue findings on the final EIS, which shall include either (1) a Negative Declaration or (2) the final EIS and a statement of findings on the Preliminary Plat as required under Section 8-0109(8) of SEQRA; and
- (ii) make its decision on the Preliminary Plat.

4. Grounds for Decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat, the Planning Board shall state in writing any modifications or conditions it deems necessary for submission of the Preliminary Plat in final form.

G. Procedures When the Planning Board is NOT the Lead Agency. When the Planning Board is not Lead Agency under SEQRA, the public hearing, notice and decision procedures will comply with Section 276 (5)(e) of the Town Law of the State of New York.

H. Certification and Filing of Preliminary Plat and Resolution. Within five business days of the adoption of the resolution granting Approval of such Preliminary Plat such plat shall be certified by the Planning Board Clerk as having been granted preliminary Approval and a copy of the Preliminary Plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the Subdivider and the Applicant (if different).

I. Filing of Decision On Preliminary Plat with Town Clerk. Within five business days after the date of the adoption of the resolution stating the decision of the Planning Board on the Preliminary Plat, the Planning Board Clerk, chairman, or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

J. When Approval of Preliminary Plat Becomes Null and Void.

Within six months of the Approval of a Preliminary Plat the Subdivider must submit an Application for Approval of a Final Plat of all, or a Section (which Section is shown as Section 1 on the Preliminary Plat) of, the lands shown on the Preliminary Plat. The Planning Board may revoke its Approval of the Preliminary Plat if a Final Plat Application is not submitted within six months of the Approval of the Preliminary Plat. Subject to the provisions of Section 303 B (2) below, which shall prevail where the Subdivision lands are to be developed in Sections, if an Application for Approval of a Final Plat is not submitted within three years of the Approval of the Preliminary Plat, the Approval of the Preliminary Plat, without any action by the Planning Board, shall automatically become null and void, unless within that three year period, the Planning Board and the Applicant or the Subdivider agreed, in writing, to extend the three year period.

K. Approval of the Preliminary Plat Shall Not Constitute Final Approval.

The Planning Board's Approval of a Preliminary Plat shall not constitute a Final Approval, and no Building Permit shall be issued based on the Approval of a Preliminary Plat. Rather, the Approval of the Preliminary Plat shall be an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Plat, which will be submitted for the Final Plat Approval of the Planning Board. Only when Final Plat Approval occurs, may a Plat be filed in the Onondaga County Clerk's Office, and Building Permits be issued. Prior to Approval of the Final Plat, the Planning Board may require additional changes as a result of further study or new information obtained.

L. Time Period Extensions. The time periods for the Planning Board to take action under this Section 302 may be extended by mutual consent of the Applicant (or Subdivider) and the Planning Board.

M. Requirements of Preliminary Plat if Subdivision is to Be Developed in Sections. If an Applicant desires to develop the subdivided lands in Sections:

1. Requirements of Preliminary Plat. The Preliminary Plat Application shall:

- a) state that fact;

- b) delineate, on the Preliminary Plat, the proposed Sections;
- c) set forth the sequence in which the Sections will be developed by numbering the Sections on the Preliminary Plat in the sequence the Sections will be developed (e.g. the first Section to be developed will be "Section 1", the second Section to be developed will be "Section 2", etc.); and
- d) set forth the date for Final Plat approval for each Section.

Each Section shall encompass at least the greater of (a) 10 Lots or (b) ten percent (10%) of the total number of Lots contained in the approved Preliminary Plat.

2. Time Limitations for Approval of Sections. The Application for Final Plat Approval for the first Section shall be subject to the time requirements set forth in Section 302 J. The Approval of the remaining Sections shown on the Approved Preliminary Plat shall expire and be null and void as to those Sections that shall not have been granted Final Approval and for which the Final Plat shall not have been filed before the time limitations set forth in Sections 303 B (2) (Development in Sections - Time Limitations) and/or 304 D (Duration of Conditional Approvals): provided, however, in the event the above provisions should, under the circumstances, conflict with the exemption period to which such Plat is entitled under the provisions of Subdivision (2) of Section 265.a of the Town Law, then Section 265-a(2) shall control.

N. Applicant to Reimburse Planning Board for Costs to Prepare or Review an EIS. As permitted in Section 8-0109(7)(a) of SEQRA, an Applicant shall reimburse the Town for all costs incurred by the Planning Board or the Town in preparing, or causing to be prepared, or reviewing a draft EIS or an EIS Statement, but the Applicant shall not be charged for costs incurred for both the preparation and review of such statements.

O. From Sketch Plan to Final Plat Application. Applications for Preliminary Plat Approval may be waived, and the Applicant may proceed from the Sketch Plan to the Application for Final Plat Approval, but only if the Planning Board determines, in its discretion, such action is without jeopardy to the public health,

safety and general welfare, and is appropriate in the particular situation.

**303. Subdivision Final Plat Application Procedures**

A. Application for Approval of Final Plat. Fifteen days prior to the regular monthly meeting of the Planning Board, and within six months after the approval of the Preliminary Plat, the Applicant shall file an Application for Approval of the Final Plat with the Town Clerk. The Application for Final Plat Approval shall include:

1. 2 duplicate original of the signed Application;
2. 12 copies of the proposed Final Plat;
3. 2 copies of the narrative required under Section 603 B, signed and certified to by the Engineer for the Developer and by the Subdivider (and Applicant if different from Subdivider);
4. 2 duplicate original sets of the data specified in Section 603;
5. The fee established by the Town Board; and
6. If any proposed water supply and/or sewage disposal facilities associated with the subdivision require approval by the Department of Health or the Department of Environmental Conservation, the Applicant shall provide evidence that at least preliminary approval has been granted, in writing, by those agencies.

Failure to timely comply with the above requirements may subject the Preliminary Plat Approval to become null and void as set forth in Section 302 J above.

B. Development in Sections.

1. Generally. In granting conditional or final Approval of a Final Plat, the Planning Board may: (1) permit the Plat to be subdivided and developed in two or more Sections (provided the requirements set forth in Section 302 M have been satisfied); and (2) in its resolution granting conditional or final Approval, set forth the requirements or conditions it deems necessary to insure the orderly development of all the lands shown on the Preliminary Plat be completed before the Final Plat for the Section(s) will be signed by the duly authorized officer of the Planning Board. Conditional or final Approval of the Section(s) of a Final Plat may, at the Planning Board's option, be granted concurrently with conditional or final

Approval of the entire Plat, and subject to any and all requirements imposed by the Planning Board.

2. Time Limitations and Other Requirements for Development in Sections. If Final Plat Approval is requested in Sections, then:

- a) The provisions of Sections 302 M shall have been complied with as part of the Preliminary Plat Approval process.
- b) Section 304 D shall be complied with;
- c) The Application for Approval of the Final Plat for the first Section (Section 1 on the Preliminary Plat) shall be filed no later than six months after the date the Planning Board granted Approval of the Preliminary Plat; provided, however if the Application for Final Plat Approval for the first Section is not filed within three years of the date of the Preliminary Plat Approval, such Preliminary Plat Approval shall be null and void, in its entirety, without any need for action by the Planning Board unless within that three year period, the Subdivider (or Applicant) and the Planning Board have agreed to extend that three year period; and
- d) An Application for approval of all Sections shown on the Preliminary Plat shall be filed within three years after the date Preliminary Plat Approval.
- e) If the requirements set forth at a, b, c or d above are not timely complied with, the Planning Board may revoke the Approval of the Preliminary Plat for all Sections for which a Final Plat has not been filed; provided, however, if Final Plat Approval for all Sections shall not have been granted within five years of the date of the Approval of the Preliminary Plat, then the Approval of all Sections shown on the Preliminary Plat which have not received Final Plat Approval shall automatically, without any action of the Planning Board, become null and void, unless the Subdivider (or Applicant) and the Planning Board, within the five year periods have entered into a written agreement extending the five year period.

3. Development in Sections - When the Preliminary Plat is Filed with the Town Clerk. When the Subdivider or Applicant files the Approved Final Plat for only the first Section of an approved Preliminary Plat in the Office of the Onondaga County Clerk, a copy of the entire approved Preliminary Plat

shall be filed by the Planning Board Clerk with the Town Clerk within 30 days of the Planning Board Clerk's receipt from the Subdivider or Applicant of a certified copy of the filed Final Plat for the first Section. (See Section 304 C).

- C. Dedication of Roads – Town Board. Acceptance of any offer of dedication of Roads, parks or other Public Improvements or Infrastructure Improvements shall rest solely with the Town Board. No Final Plat shall be signed by a member of the Planning Board until the Subdivider's offer of dedication is accepted by the Town Board.
- D. Dedication of Roads, Etc. Not Implied by Plat Approval. The Approval by the Planning Board of a Preliminary or Final Plat shall not constitute nor imply the acceptance by the Town of any Road, utility, recreation area, easement, park, open space, or other Public Improvement or Infrastructure Improvement shown on the Plat. All Plats should contain appropriate notes to this effect on the Plat.
- E. Final Plat Not Substantially the Same As Preliminary Plat. When a Final Plat is submitted which the Planning Board deems not to be in substantial agreement with the Preliminary Plat approval granted pursuant to Section 302, then the Application shall be considered, an Application for Preliminary Plat Approval, the Applicant shall be instructed to revise the Plat to state it is a Preliminary Plat and upon resubmission of the Plat as so amended, and the payment of any applicable fees, the Application shall proceed under Section 302 above as a new Application for Preliminary Plat Approval.
- F. When Final Plat is in Substantial Agreement with Preliminary Plat - Time for Planning Board to Decide - When Final Plat Application is Complete. Within 62 days from the date of submission of a complete Application for Final Plat Approval, which the Planning Board deems to be in substantial agreement with the Preliminary Plat approved under Section 302, the Planning Board shall grant Approval or Conditional Approval, or shall disapprove the Final Plat stating its grounds for the decision. This time period may be extended by mutual consent of the Applicant or Subdivider and the Planning Board.
- G. When Final Plat Application is Complete. An Application shall not be considered complete until the requirements of Section

303 A have been fully complied with by the Applicant, including but not limited to providing the data specified in Section 603.

- H. Sketch Plan to Final Plat Application. When the Planning Board determines no Preliminary Plat Application is required to be filed, the Application for Final Plat Approval shall follow the procedures under Section 302 regarding SEQRA, public hearing, notices, decision, referral to SOCPA, etc; provided however, in the case of a Minor Lot Alteration, the provision of Section 305 shall prevail regarding public hearings and referrals.

#### 304. **Final Plat - Approval and Filing**

- A. Final Plat Approval Always Conditioned on Town Board's Acceptance of Public Improvements and Infrastructure Improvements. An Application for Final Plat Approval may be submitted before or after the Town Board's acceptance of dedication of Roads, parks, easements, utilities or other Public Improvements or Infrastructure Improvements. If the Application is submitted before such acceptance by the Town Board, and the Application is in all respects complete and satisfactory to the Planning Board, the Planning Board shall grant Conditional Approval to the Final Plat, conditioning the Approval upon, at a minimum, the Town Board's acceptance of the Subdivider's offer of dedication to the Town of the new Roads and other Public Improvements and Infrastructure Improvements described in the Planning Board's Resolution, and such Conditional Approval shall be upon such other conditions as the Planning Board deems appropriate.
- B. Approval, Certification and Filings of Plats in Planning Board Clerk's Office - Notice to Subdivider of Decision. Within five business days of the adoption of a resolution granting conditional or final Approval of a Final Plat, a copy of such resolution and the Final Plat shall be filed in the office of the Planning Board's Clerk. A copy of the resolution shall be mailed by the Planning Board Clerk to the Subdivider (and to the Applicant, if the Subdivider and the Applicant are not the same). When a Final Plat is granted Conditional Approval, such resolution shall include a statement of the requirements and conditions which, when completed and satisfied, will authorize the signing of the Final Plat.

- C. Final Plat Approval - Delivery of Signed Final Plat and Notice to Applicant. Upon the Planning Board making a determination that all the requirements and conditions described in Section 304 B above and in the resolution have been completed, two duplicate originals of the Final Plat shall be provided by the Applicant to the Planning Board for signature by a duly authorized officer of the Planning Board: one signed Final Plat shall be filed by the Planning Board Clerk in the office of the Planning Board Clerk; and the second signed Final Plat shall be delivered to the Applicant with a notice that if Section 304 E of these Regulations is not timely complied with, the Planning Board Approval shall become null and void and a notice to that effect may be recorded by the Planning Board in the Onondaga County Clerk's Office against the real property involved in the Subdivision.
- D. Duration of Conditional Approvals. Conditional Approval of a Final Plat shall expire within the time period (not to exceed three years) set forth in the Planning Board's resolution granting Conditional Approval, (provided, however, if no expiration period is set forth in that resolution, the Conditional Approval shall expire 180 days from the date of the resolution) unless all requirements and conditions stated in such resolution have been completed and satisfied, as evidenced by a resolution of the Planning Board. The Planning Board may extend, by not more than two additional periods of 90 days each, the time in which a conditionally approved Plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.
- E. Filing of Final Plat by Applicant and Applicant's Delivery of Certified Copy to Planning Board. Within 62 days of the date the Final Plat was signed by a duly authorized Officer of the Planning Board, the Applicant or the Subdivider shall:
1. file the Final Plat in the Onondaga County Clerks Office; and
  2. deliver to Town Clerk a copy of the filed Final Plat, with the filing information shown thereon (including, but not limited to, the Map Number assigned to it by the Onondaga County Clerk), which copy shall be certified to by the Onondaga County Clerk.

If the Applicant or Subdivider does not comply with this Section 304 E, the Planning Board shall have the authority to nullify its approval and to file a Notice in the Onondaga County Clerk's

Office stating the Final Plat Approval is null, void and of no effect.

If either "1" or "2" above are not timely complied with, the Planning Board may direct the Town Attorney to file such a notice, (duly signed by an authorized representative of the Planning Board pursuant to a Planning Board resolution) that the Final Plat Approval is null and void.

- F. Default Approval of Plats. The time periods prescribed herein within which the Planning Board must take action on a Preliminary Plat or a Final Plat are intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended by mutual consent of the Subdivider or Applicant and the Planning Board. In the event the Planning Board fails to take action on a Preliminary Plat or a Final Plat within the time prescribed therefore after completion of all requirements under SEQRA, or within such extended period as may have been established by the mutual consent of the Applicant or the Subdivider and the Planning Board, such Preliminary or Final Plat shall, subject to the notice and ability to cure provisions below, be deemed granted approval (herein a "Default Approval"). The certificate of the Town Clerk as to the date of submission of the Preliminary or Final Plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. Notwithstanding anything provided in this Section 304 F, or elsewhere in these Regulations, Default Approval shall not occur unless and until the Applicant or Subdivider provide the Town Clerk with written notice (the "Notice") stating that if the Planning Board does not take the required action (and the required action shall be specified, with particularity, in the Notice) within 20 days of the Town Clerk's actual receipt of the Notice, Default Approval shall occur under this Section 304 F and the Subdivider shall be entitled to the Default Approval Certificate. No Default Approval shall occur if the Planning Board takes the required action within 20 days after the Town Clerk's actual receipt of the Notice.
- G. Notice of Resolution to Town Clerk. Within five business days from the date of the adoption of a resolution stating the decision of the Planning Board on the Final Plat, the Planning Board Clerk

shall cause a copy of such resolution to be filed in the office of the Town Clerk.

- H. Notice to Syracuse-Onondaga County Planning Agency - Impact upon Action by Planning Board on Application. When applicable, the Planning Board Clerk shall refer Preliminary and Final Plats to the Syracuse-Onondaga County Planning Agency ("SOCPA"), and no further action on the Application shall be taken until the earlier of (a) the Planning Board receives a recommendation from SOCPA or (b) 30 days have elapsed from SOCPA's receipt of the referral without the Planning Board receiving such a recommendation.
- I. Final Approval. The following shall constitute Final Approval: (1) the signature on the Final Plat by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution; or (2) the Approval by the Planning Board of the development of a Plat or Plats already filed in the Office of the Onondaga County Clerk if such Plats are entirely or partially undeveloped; or (3) the certificate of the Town Clerk as to the date of the submission of the Final Plat and the failure of the Planning Board to take action within the time herein provided.
- J. No Changes, Erasures, Modifications, or Revisions. No changes, erasures, modifications or revisions shall be made to the Final Plat for which Final Plat Approval has been given, unless the Final Plat is resubmitted to the Planning Board and the Planning Board approves the modifications. In the event that a Plat is filed in the Onondaga County Clerk's Office without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk, and/or file a notice in the Onondaga County Clerk's Office advising the public the Final Plat was modified without the Planning Board's approval and therefore is null and void.
- K. Subdivision Abandonment. The Subdivider, and/or the Subdivider's successor and/or assigns, may abandon a Subdivision pursuant to the provisions of Section 560 of the New York Real Property Tax Law.

305. **Minor Lot Alteration**

- A. Minor lot alterations shall be (1) within the Planning Board's jurisdiction; (2) not be a subdivision and (3) comply with these Regulations.
- B. If the Owner(s) of the lands involved in the relocation of boundary lines believe the matter is a Minor Lot Alteration, as that term is defined in Article 2, then at least 15 days prior to a regular meeting of the Planning Board, the Owner(s) shall complete an Application for a determination by the Planning Board that the proposal is a Minor Lot Alteration and requesting the Plat enclosed with the Application be granted Final Approval by the Planning Board. A complete Application includes: (1) an Application form completed and signed by all Owners of the real property involved in the Application; (2) a completed and signed EAF; (3) the appropriate fee to the Town Clerk, (4) 12 originals of the proposed Plat showing each new proposed Lot, the current boundary lines of the existing Lot(s), and the proposed new boundary lines for each Lot, which Plat shall be prepared and certified by a Surveyor, and (5) copies of both the existing and proposed deeds for the impacted properties.
- C. Within 62 days of receipt by the Planning Board of a complete Application for a determination of Minor Lot Alteration, the Planning Board will act on the Application. This time period may be extended by mutual consent of the Subdividers or Applicant and the Planning Board.
- D. The Planning Board shall have the exclusive right and power to make the determination of whether the matter described in the Application is or is not a Minor Lot Alteration. If the Planning Board, by majority vote, determines that the proposed change is a Minor Lot Alteration, the procedures below shall apply. If the Planning Board determines the matter is not a Minor Lot Alteration, the Application shall be denied.
- E. If the Planning Board determines the proposal is a Minor Lot Alteration:
  - 1. The Application shall be treated as an Application for Final Plat Approval;
  - 2. No public hearing shall be required;
  - 3. No referral to the County Planning Agency shall be required;
  - 4. Upon the Planning Board granting Final Approval, the provisions of Section 304 E shall apply regarding the approved Plat; and

5. Within 30 days of the Planning Board's approval, the Applicant shall record the approved deed(s) and provide the Planning Board Clerk with a copy of the recorded deed(s), with the recording information shown.

F. If the requirements of Sections 304E and 305E of these Regulations are not timely complied with, the Planning Board shall have the right to nullify its approval and to file a notice in the Onondaga County Clerk's Office stating that its approval is null and void and of no effect.

306. **Authority of Planning Board Regarding Improperly Subdivided Property**

A. History of Improper Subdivisions. The Town Board and the Planning Board are aware that although Subdivision Regulations have been in effect in the Town of Marcellus since 1958 certain owners of property have subdivided parcels of land of those owners without obtaining the necessary subdivision approval of the Planning Board by granting a deed to a portion or portions of the property which deed is thereafter recorded by the grantee under the deed. The Town Board and Planning Board are also aware that these newly created parcels are routinely shown on the tax maps as separate parcels even though the required Planning Board approval to the subdivision was not obtained by the grantor or the grantee in the deed. In some instances the grantee conveys the improperly subdivided parcel to an innocent third party who has no idea the parcel is not a properly subdivided lot with the Town of Marcellus and therefore the new owner is not entitled to receive building permits, certificates of occupancy and the like. This Section 306 is intended to provide a remedy to the owner of an improperly subdivided parcel.

B. The Planning Board May Approve a Lot which results from a Subdivision Not Previously Approved By The Planning Board. The Planning Board may, in its discretion, upon receipt of application of the Owner of a parcel of land which has been improperly subdivided without the Planning Board's previous approval (by the division of a parcel by deed, or otherwise) (hereinafter in this Section 306 an "improper subdivision") approve the proposed Subdivision Plat submitted with the application, which application and Plat shall contain all the information and meet the other requirements of a Final Plat, it being understood that the Plat may show that the one parcel shall remain one parcel after the Plat is filed. The approval of

the Planning Board may be given even if the application involves only one parcel of land. Among the considerations the Planning Board may consider in approving or not approving an application under this Section 306 are whether the Owner of the improperly subdivided parcel, or any family member of that Owner, had any involvement or knowledge of the improper subdivision, whether any of the owners of the lands involved in the improper subdivision have been contacted but refused to join in the subdivision application, whether the Subdivision application is complete, and whether the proposed Final Plat meets the requirements of a Final Plat.

If a Plat is approved as permitted in this Section 306, then from the date the approved Plat is filed in the Onondaga County Clerk's Office, and the Town Clerk receives a certified copy of that Plat, with the Map number assigned to it by the Onondaga County Clerk shown thereon, the lands shown on that approved filed Plat shall be deemed to have been properly subdivided: provided, however, the lands involved in the improper subdivision which are not shown on the approved filed Plat shall remain improperly subdivided lands subject to all the remedies available to the Town.

**ARTICLE 4 - REQUIRED IMPROVEMENTS**

The following is a list of required improvements to be installed by the Subdivider in connection with Final Plat Approval.

401. **Monuments**

Monuments shall be placed at all tract boundaries. Monuments may be required at Block corners, angle points, points of curvature, and points of tangency or horizontal curves, and at intermediate points. All monuments required by the Town Engineer or the Planning Board shall be installed by the Subdivider, at the Subdivider's sole cost, before any Plat will be signed.

All monuments shall comply with the specifications and other requirements for monuments most recently approved by resolution of the Town Board.

402. **Tract Grading**

Before grading and improving land to be subdivided, the Subdivider shall obtain Town approval of Grading Plans which shall assure adequate protection against excessive grades, surface water runoff, ponding, and soil erosion, both during and after completion of tract development. Compliance with approved Grading Plans shall be assured by undertaking and security acceptable to the Town Board.

403. **Street Grading**

All Streets shall be graded to the grades shown on the Street profiles and cross section plans and the specifications as submitted by the Applicant and approved by the Planning Board with the Final Plat, which Street profiles and cross section plans and specification shall, at a minimum, meet the most recent Street specifications most recently approved by resolution of the Town Board. Where installed by the Subdivider, all Streets shall be inspected and checked and approved, in writing, for accuracy and compliance by the Town Engineer. When installed by the Subdivider, three original "as-built" surveys, certified to the Town, showing the location of the pavement edges and the boundaries of the Roads and the location of other facilities and the boundaries of the easements granted in connection therewith as will be conveyed to the Town, and showing centerline Profiles, shall be furnished to the Town Board prior to acceptance by the Town Board.

404. **Pavement**

All pavements for Local Streets and Collector Streets shall be installed at the locations as shown on the Conditionally Approved Final Plat. All Roads, pavement, shoulders, and gradings shall conform to the then current specifications and requirements for those items most recently approved by resolution of the Town Board.

405. **Pedestrian Mobility**

A. Sidewalks.

1. Sidewalks shall be installed on one or both sides of a Street as the Planning Board may require, depending upon local conditions of public safety.

2. Sidewalks shall be constructed in accordance with provisions of the Americans with Disabilities Act (ADA) and shall comply with the specifications and other requirements for sidewalks most recently approved by resolution of the Town Board.

- B. Shoulders and Paths. Shoulders and Paths shall comply with the specifications and other requirements for shoulders and for paths, respectively, most recently approved by resolution of the Town Board.

406. **Storm and Surface Drainage**

All storm sewers and drainage facilities such as swales, gutters, catch basins, holding ponds, bridges, and culverts shall comply with the specifications and other requirements for those items, most recently approved by resolution of the Town Board, and shall be installed and the land graded for adequate drainage as shown on the Grading Plans submitted and approved with the Final Plat. These facilities shall be inspected and checked, and approved, in writing, for adequacy and compliance, by the Town Engineer.

407. **Sanitary Sewers**

All plans and specifications for sanitary sewers and sewage disposal facilities or individual septic tanks, if permitted, shall conform to the specifications and other requirements for those items most recently approved by resolution of the Town Board and the Onondaga County Sanitary Code, and shall be approved by the Onondaga County Department of Health and also approved, in writing, by the Town Engineer, for adequacy and compliance.

408. **Water and Fire Hydrants**

All plans and specifications for municipal or individual water supplies shall conform to the specifications and other requirements for water supplies most recently approved by resolution of the Town Board and the Onondaga County Sanitary Code, shall be approved by the Onondaga County Department of Health and shall also be approved, in writing, by the Town Engineer, for adequacy and compliance. Fire hydrants shall be placed along all water mains, shall be located for easy access by the Fire Department, and shall conform at a minimum to the maximum intervals and other requirements and specifications for fire hydrants most recently approved by resolution

of the Town Board, and shall be inspected and approved, in writing, by the Town Engineer, for adequacy and compliance.

409. **Trees**

Adequate tree planting shall be completed by the Subdivider. Street trees shall conform to the height, spacing, minimum diameter, support, and other specifications for trees most recently approved by resolution of the Town Board. Tentative tree species will be indicated on the Preliminary Plat and on the Final Plat. Trees may be planted on either side of the sidewalk unless the planting strip is less than eight feet wide, in which case, they shall be planted in the lawn area. Trees must be adequately supported by guy wires until firmly rooted.

410. **Street Signs**

Permanent Street signs showing the approved names of the intersecting Streets shall be erected by the Subdivider at each intersection prior to an offer of dedication. Street signs shall comply with the "Specifications" for Street signs most recently approved by resolution of the Town Board.

411. **Construction of Streets and Utilities - Paid by Developer**

The Subdivider shall construct and, unless and until accepted by the Town, shall maintain all sanitary sewers, water lines, drainage facilities, Streets, and all Public Improvements and Infrastructure Improvements at no cost or expense to the Town, in accordance with the specifications and other requirements most recently approved by resolution of the Town Board. Unless and until accepted by the Town, the Town shall have no obligations regarding same.

412. **Temporary Improvements - Bond Requirements**

The Subdivider shall build or pay for all costs of temporary improvements required by the Planning Board. Prior to the construction of any temporary facility or improvement, the Developer shall file with the Town Clerk a separate bond for temporary facilities, in form and substance satisfactory to the Town Board and the Town Attorney, which bond shall ensure that the temporary facilities will be paid for and properly constructed, maintained, and removed.

**ARTICLE 5 - DESIGN STANDARDS**

501. **General Requirements**

- A. Compliance with Minimum Standards. In the layout, development, and improvement of a subdivision, the Developer shall comply with all standards, specifications, codes, local laws and ordinances of the Town. In addition, the developer shall meet, at a minimum, the standards of design and principles of land subdivision, as described in this Article. If the Planning Board finds that because of unusual features or special conditions of the area to be subdivided or its immediate environs, the minimum standards referred to herein are insufficient to effectuate the purposes and intent outlined in Article 1, the Planning Board may impose such higher standards as will satisfy the purposes of Article 1.
- B. Flood Land. 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 involve danger to the health, life, or property, or aggravate the flood hazard, but such land within the area of the plan shall be set aside for such uses as shall not be endangered by periodic or occasional inundation.
- C. Conformity to Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town and be in harmony with the then current Comprehensive Plan.
- D. Natural Features. Natural features of the land to be developed shall be shown on plats as directed by the Planning Board. Natural features shall be protected and maintained during development, as feasible. Natural features include, but are not limited to, large trees, groves, rock outcroppings, streams, and wetlands.
- E. Multiple Driveway Cuts. Multiple driveway cuts onto an existing Road may not be approved if the parcel of land has enough developable space to support an internal Road.
- F. Site Runoff. In all proposed developments, the peak runoff flow rate of the discharge from a proposed site after development shall not exceed the peak runoff flow rate that prevailed prior to development. In general, this requirement will necessitate the design and construction of detention/retention facilities of various types. The design frequency shall be in accordance with the then current NYSDEC SPDES Storm Water regulations and

requirements, and such other requirements as the Planning Board may determine.

**502. Street Layout and Construction Specifications**

All Streets located within the Town that are offered to the Town for dedication and acceptance shall comply with the design standards and construction specifications and other requirements for Streets most recently approved by resolution of the Town Board, and in accordance with these Regulations.

**503. Approval of Plans**

- A. A preliminary meeting shall be held by the prospective dedicator of a Street with the Highway Superintendent and Town Engineer to review the requirements of the proposed Street(s).
- B. Prior to the start of construction, two sets of plans shall be submitted to the Town for review and approval by the Town Engineer and the Planning Board, and eventually by the Town Board. The plans shall be signed and sealed by a professional engineer, licensed in the State of New York.
- C. The plans shall include, at a minimum, the following information: site plan, horizontal and vertical alignments, grading and drainage, typical Sections, erosion control and other necessary information required for construction, as determined by the Town Engineer, Planning Board or Town Board.

**504. Commencement of Work and Permits**

- A. The Subdivider shall notify the Town Engineer at least 10 days prior to the start of work. Construction shall not commence until the plans have been approved, in writing, by the Town Engineer.
- B. No work requiring excavation, filling, cutting of pavement, drainage improvements or installation or maintenance of pipelines or utilities will be permitted within the right-of-way of any Town Road without the prior issuance of a permit. Individuals, corporations or other entities seeking such a permit shall make application upon such forms as provided by or acceptable to the Town Highway Superintendent. The application shall include plans detailing the proposed work.

**505. Materials and Workmanship**

All construction materials and workmanship shall be as shown on the approved plans, and in accordance with the current New York State Department of Transportation (NYSDOT) Standard Specifications for Construction and Materials and Addendums, unless those requirements have been amended by resolution of the Town Board, in which event the requirements most recently approved by resolution of the Town Board shall control. References to the Department or Engineer in the NYSDOT Specifications shall be understood to mean the Town and the Town Engineer, respectively. All materials shall be obtained from NYSDOT approved sources or sources approved, in writing, by the Town Engineer.

**506. Inspection of Work**

- A. Inspection of the work will be performed periodically by the Town Codes Enforcement Officer and/or Town Engineer throughout construction, either of whom, on behalf of the Town, may reject any and all materials or workmanship that does not meet the approved plans and specifications. The Subdivider shall be responsible for survey and stakeout of all Roads and facilities, in accordance with the approved plans and specifications.
- B. In addition to the requirements of Section 504, the Subdivider shall notify the Town Engineer at least two days prior to placing subbase and/or asphalt materials. These materials shall not be placed until prior work has been inspected and approved by the Town Engineer.
- C. Upon substantial completion of the work, the Town Engineer will perform an inspection and prepare a check list of items requiring further attention by the Subdivider. A final inspection will be made after these items of work have been completed.

**507. Record Drawings**

Upon completion of the work, as evidenced by the written statement from the Town Engineer to the Town to that effect, the Subdivider shall submit to the Town Engineer one reproducible set and three paper sets of record drawings showing the as-constructed Road. Information to be included shall contain at a minimum Road centerline elevations, drainage pipe inverts, catch basin inverts and grade elevations, underdrain locations and all field modifications made to the approved plans during construction. If the Road is part

of a new subdivision, these drawings shall be in addition to those required by Article 3, Subdivision of Land, of these Regulations.

**508. Acceptance of Work and Conditions for Road Dedication**

No Road offered for dedication will be accepted as a Town Road unless the Road conforms to all of the following requirements.

A. The following conditions shall apply for acceptance of Roads.

1. All applications for dedication of a Road shall be made to the Town in writing and presented to the Town Clerk.
2. If a subdivision is involved, all of the requirements of these Regulations shall be complied with.
3. The Subdivider shall have had the land to be dedicated surveyed and mapped by a Surveyor in accordance with the requirements of Section 508A(4)(e), and after the survey approved by the Town Board, it shall be filed in the in the Town Clerk's Office.
4. The Subdivider shall, at its sole cost and expense, tender to the Town Attorney, at least 10 days prior to the then upcoming Town Board meeting:
  - (a) the originals of all deeds and easements, properly signed and acknowledged in recordable form;
  - (b) any necessary subordination or other agreements so as to convey an unencumbered interest in the proposed Roads and easement areas to the Town, properly signed and acknowledged in recordable form;
  - (c) a completed real property transfer gains tax affidavit (Form TP-584 or acceptable substitute) signed by the Subdivider;
  - (d) a completed Real Property Transfer Report, signed by the Subdivider;
  - (e) three originals of an "as-built survey" showing (i) the edge of pavement of any Roads, (ii) the boundaries of the lands described in the deed and/or easement, (iii) the location of the facilities (e.g., drainage, sidewalks, etc.) to be conveyed to the Town, (iv) all easements effecting the lands so described (by location on the survey and by Book and Page of recording), and (v) such other information as the Town Board may require.

The survey shall be an ALTA survey (all options, unless previously waived by resolution of the Town Board), and, if a subdivision is involved, three original prints of the Final Plat to be filed, all certified (an ALTA certification is required) to by the Surveyor to the Town;

- (f) A policy of title insurance, in an amount equal to the value of the lands and improvements located thereon and satisfactory to the Town Board, naming the Town of Marcellus as insured and insuring all of the property interests conveyed; and
  - (g) an original abstract of title, current to the date of recording of the deed(s) and/or easement(s), covering the lands the Subdivider intends to convey to the Town a fee title or easement interest. The Owner shall pay all recording fees; and
  - (h) the written approval of the Engineer, as to adequacy and compliance for the Infrastructure Improvements located within the areas described in the deed or easement.
5. The Subdivider shall provide a maintenance bond for the value of the completed Road construction in the amount fixed by resolution of the Town Board. The bond shall be conditioned for the faithful performance by the Subdivider of any repairs needed to correct or replace any and all damage to the Road(s) from the time of acceptance by the Town Board to the time of completion of the last building Lot on the Road(s), but in no case shorter than one year.
  6. Prior to the Town's acceptance, the written approval shall be obtained and shall be filed with the Town Clerk, by the Subdivider from the Onondaga County Department of Transportation regarding drainage and access where proposed Town Roads intersect County Roads.
  7. Prior to acceptance by the Town, approval shall be obtained and shall be filed with the Town Clerk, by the Subdivider from the New York State Department of Transportation regarding drainage and access where proposed Town Roads intersect State roads.
  8. Permanent signs, including Street names, stop and yield signs, and any other signs required by the New York State Manual of Uniform Traffic Control Devices ("MUTCD"), or by the Town, shall be provided by the Subdivider and installed in accordance with the MUTCD, the approved Final Plat and

site plan, if any. Street name signs showing approved Street names, shall be acceptable to the Town Highway Superintendent, and placed at all intersections.

- B. For those Roads that are partially completed and for which a Performance Bond is furnished to assure completion as required by these Regulations, a maintenance bond shall also be furnished for the value of the completed portion of Road in the amount and for the period as fixed by resolution of the Town Board. A Road will not be considered for dedication or acceptance until at least the binder course of pavement is installed, and approved, in writing, by the Town Engineer.
- C. For those Roads that are part of a phased project, separate deeds for the Road(s) and separate easements and all the other documents described in Sections 508A(4) and (5) shall be presented for each phase, with the final phase deed describing all previously presented deeds for the Road(s).

#### 509. Road Classifications

The following Road classifications shall be utilized for all new development in the Town of Marcellus. The arrangement, character, extent, width, grade and location of all Roads shall conform to the Town's Comprehensive Plan and the Town specifications and other requirements for Roads, most recently approved by the resolution of the Town Board, and shall be considered in relation to existing and planned Roads, topographic conditions, public convenience and safety and to proposed land uses to be served by such Roads. The Planning Board shall determine, in its sole discretion, the Road classification for each proposed Road.

- A. Arterial Roads or Major Roads. Designed for the efficient movement of through traffic at speeds which are as high as can be safely and reasonably allowed. Access to abutting properties is generally restricted with provisions at major traffic generators such as commercial or high-density housing provided.
- B. Collector Roads. Designed to provide access to abutting properties, and also to enable moderate quantities of traffic to move expeditiously between Local Streets and the arterial Road network.
- C. Minor or Local Streets and Cul-de-sac. Designed to provide access to immediately adjacent properties. Through movements

are generally discouraged by operational controls, such as controlled intersections, geometric restrictions, signs, etc.

- D. Major collector or minor arterials are designed for efficient movement of traffic within a large development or between major points in both urban and rural areas. Access to abutting properties is generally restricted with provisions at major traffic generators such as commercial or high-density housing provided.

#### 510. Geometric Standards

##### A. Street System:

1. Location and Construction. Streets shall be of suitable arrangement, character, extent, width, grade, location, and construction to conform to the Town's Comprehensive Plan and Town specifications and requirements most recently approved by resolution of the Town Board, and shall accommodate the prospective traffic, and afford access for fire fighting, snow removal, and other Road maintenance equipment. The arrangement of Streets shall be such as to cause no undue hardship to adjoining properties, shall be appropriate in relation to the proposed uses of the land to be served by such Streets, and shall be coordinated so as to compose a convenient system.
2. Arrangement. Local Streets in a new development shall be so laid out as to discourage through traffic, but the provision for the extension and continuation of Major Streets into and from adjoining areas (for example – temporary hammerheads) is required. At all times, the Street layout should be logically related to the topography of the land.
3. Special Treatment Along Major Streets. When a subdivision abuts or contains an existing or proposed arterial, major collector or minor arterial, the Planning Board may require Marginal Access Streets, reverse frontage with screen planting (minimum width 10 feet) contained in a non-access reservation along the rear property line, special setback requirements, extra deep Lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

4. Provision for Future Re-Subdivision. If the Lots resulting from the original development are large enough for re-subdivision, or if a portion of the tract is not subdivided, suitable access and Street opening for such an eventuality shall be provided. Re-subdivision of any Lot in an approved subdivision shall not be permitted within a minimum five year period from the date of approval of the original subdivision.
5. Cul-de-Sacs. Cul-de-sacs in the Local Street system shall not exceed 500 feet in length and must have a turnaround having an outside roadway diameter of at least 100 feet, and a Street property line diameter of at least 120 feet. The creation of Dead-End or loop residential Streets should only be permitted where the Planning Board finds that such development will not interfere with normal traffic circulation in the area.
6. Intersections with Local Streets and Collectors. Where the centerlines of Local Streets opening into opposite sides of a Collector Street are within 200 feet of each other, they shall be made to coincide by curving, angling, or redesigning the Local Streets.
7. Intersections with Collector or Major Arterial Roads. Minor or secondary Street openings into such Roads shall, in general, be at least 1,000 feet apart.
8. Reserve Strips. Reserve strips of land controlling access to Streets or the orderly extension of Streets for the development of adjacent property shall be prohibited, except where their control is definitely placed with the Town Board under conditions approved by the Planning Board.

**B. Street Design.**

1. Street right-of-way widths shall be as shown on the Official Map and/or Comprehensive Plan of the Town, and where not shown therein shall conform to the specifications and other requirements for Street width most recently approved by resolution of the Town Board. For specifications and requirements other than width, Streets shall conform to the specifications and other requirements for Streets most recently approved by resolution of the Town Board.

Additional widths may be required by the Planning Board upon findings that the same are required for:

- a) public safety, pedestrian mobility and convenience
- b) parking in commercial, industrial, or public use areas
- c) old Roads which do not provide the proper widths, and as a consequence, additional dedication is necessary.

Street Alignment, Street Grades, Street intersections, drainage standards, (e.g. pipe, structures, underdrainage and other drainage standards and requirements) for Streets and drainage facilities shall conform to the specifications and requirements for Streets and for drainage facilities, most recently approved by resolution of the Town Board.

- C. Drainage Facilities. All drainage pipe and appurtenant drainage structures (such as catch basins, man holes, culvert sizing, catch basin spacing and types, ditch sizing, underdrains, etc.) shall comply with the specifications and the other requirements for drainage pipe and appurtenant drainage structures most recently approved by resolution of the Town Board.

**511. Excavation and Embankment**

- A. All excavation and embankment work shall be performed in accordance with Section 203 of NYSDOT's Standard Specifications. Soils, rock and other material removed shall be utilized or disposed of in accordance with the approved plans. Embankment placement operations shall not be performed from November 1 to April 1, unless approved, in advance, in writing, by the Town Engineer.
- B. Prior to commencement of excavation or placement of embankment, all erosion control and temporary drainage facilities shall be in place and operable. The area shall be stripped to remove all topsoil, roots, organic matter, rubbish or other deleterious materials. Usable topsoil shall be stockpiled outside of the limits of work.
- C. Trench and culvert excavation shall be performed in accordance with Section 206 of NYSDOT's Standard Specifications and shall consist of the excavation of materials and backfill or disposal of excavated materials required for culverts, pipes and other minor structures including, but not limited to, catch basins, manholes, inlets, etc.

512. **Subgrade**

- A. Prior to placement of subbase material, the Road subgrade shall be brought to the true line and grade, as shown on the approved plans and cross sections. The subgrade shall be proof-rolled with a smooth steel-wheeled roller weighing not less than 10 tons (or other equipment as approved, in writing, by the Town Engineer), and shall be witnessed and approved by the Town Engineer. Depressions and soft areas shall be filled with suitable materials and compacted.
- B. After approval of the subgrade, fabric material (Mirafi 500X) or an alternate approved, in writing, by the Town Engineer, shall be placed on the subgrade surface for the full width of the proposed pavement. Placement shall be in accordance with the manufacturer's recommendations.

513. **Subbase**

- A. Subbase materials shall be furnished, placed and compacted in conformity with the lines, grades and thicknesses most recently approved by resolution of the Town Board and as indicated on the approved plans, and in accordance with Section 304 of NYSDOT's Standard Specifications. The type, source, gradation and material characteristics shall be approved, in writing, by the Town Engineer prior to placement of the materials.
- B. Compaction and testing shall be performed in accordance with Section 203 of NYSDOT's Standard Specifications. Prior to placement of asphalt material, the Road subbase shall be brought to the true line and grade, as shown on the approved plans and cross sections. The subbase shall be proof-rolled with a smooth steel-wheeled roller weighing not less than 10 tons (or other equipment as approved, in writing, by the Town Engineer), and shall be witnessed and approved by the Town Engineer.

514. **Drainage During Construction**

All construction activities shall be conducted in a manner to ensure satisfactory drainage at all times. Existing culverts and drainage systems shall be maintained in satisfactory operating condition throughout the course of work or until new drainage facilities are operational. If it becomes necessary to interrupt existing surface drainage prior to completion of the new facilities, temporary drainage

shall be provided, subject to the prior written approval of the Town Engineer.

515. **Bituminous Pavement**

- A. Bituminous pavement materials shall be furnished, placed and compacted in conformity with the lines, grades and thicknesses and other requirements for those items, most recently approved by resolution of the Town Board and as indicated on the approved project plans, and in accordance with Section 400 of NYSDOT's Standard Specifications.
- B. Asphalt concrete top course shall be placed only during the period May 1 to October 15, unless approved, in advance, in writing by the Town Engineer. In areas of new development, the top course shall not be placed until a minimum 75% of the proposed development is complete, unless approved in advance, in writing, by the Town Engineer.
- C. The Town reserves the right to have pavement cores taken on all new Road construction, the cost of which shall be borne by the Subdivider.

516. **Maintenance and Protection of Traffic**

Where new construction is being performed in areas of existing homes and/or businesses, continuous access to and from driveways shall be provided, and the traveled way shall be adequately signed and barricaded to protect the traveling public.

517. **Blocks and Lots**

- A. Blocks.
  - 1. The lengths, widths, and shapes of Blocks shall be determined with due regard to:
    - (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
    - (b) The requirements as to Lot sizes and dimensions set forth in the Zoning Law.
    - (c) Satisfactory provisions for convenient access, circulation, control and safety of Street traffic.
    - (d) Limitations and opportunities of topography.

2. All Blocks in a Subdivision should have a minimum length of at least 500 feet with a maximum length of 1,200 feet. Any Block containing individual Lots shall be at least two Lot depths in width. Modifications of the above requirements are possible in commercial and industrial developments.
3. In large Blocks with interior parks, in exceptionally long Blocks, or where access to a shopping center, transportation, playground, school or other community facility is necessary, a crosswalk with a minimum right-of-way of 12 feet and a paved walk six feet in width shall be provided.

**B. Lots.**

1. The Lot size, width, depth, shape, and orientation, and the minimum building setback lines shall comply with the Zoning Law and shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
2. Lot dimensions shall conform to the requirements of the Zoning Law, for the zone in which located.
3. Corner Lots shall be one and one-half (1½) times as wide as the average of non-corner Lots in the subdivision.
4. Lot depth should not exceed three times Lot Width.
5. Driveway grades between the Streets and the setback line should not exceed ten percent (10%).
6. Lots shall be of such useable area (size, dimension, slope, shape, and proportion) that variances will not be required to construct reasonable sized future improvements, including but not limited to additions, decks, garages, pools, and outbuildings.

Lots fronting on Cul-de-sacs shall have a minimum 60 feet Lot Width.

**518. Building Lines**

The minimum building setback shall be controlled by the provisions of the Zoning Law.

**519. Utilities**

Where sanitary sewer, storm sewer, water, gas, electrical, Street lighting, or other public utility facilities are to be located within a Street, their location and installation shall be constructed so that they may be added to, repaired, or enlarged at minimum cost.

If easements are used at the rear of Lots to provide such facilities, an easement to the Town shall be required and shall have a minimum width of at least 20 feet (where Lots back up to each other, this would require a 10 foot easement from each Lot).

**ARTICLE 6 - REQUIREMENTS OF DOCUMENTS TO BE SUBMITTED FOR SUBDIVISION APPROVAL**

**601. Sketch Plan**

The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale to enable the entire tract to be shown on one sheet. The Sketch Plan shall be submitted showing the following information:

- A. A location map to indicate the relationship of the proposed subdivision to existing community facilities which will serve or influence the layout, such as existing Road patterns, schools, parks and other public lands, local villages and hamlets, and special districts, including school, fire, agricultural, etc.
- B. All existing structures, burial grounds, railroad rights-of-way, existing property lines, wooded areas and hedgerows, streams or Watercourses, flood hazard areas, wetlands, quarries or excavations, bedrock outcrops, and other significant physical features within the area to be subdivided and within 200 feet thereof, as requested by the Planning Board.
- C. The name of the Subdivider, the name of the Person responsible for the subdivision design, and shall identify any adjacent property owned by the Subdivider, or any one of the Subdividers if there be more than one.
- D. The proposed subdivision name, the tax map sheet, Block and Lot numbers, scale, north arrow, and acreage involved.

- E. Upon the Planning Board's request, all the utilities currently available, including the location of all existing easements and the location of all Roads, and pedestrianways, which are either proposed, mapped, or built.
- F. The proposed pattern and approximate number and average size of Lots, Road layout, and recreation area, and, if requested by the Planning Board, proposed surface water drainage, sewerage and water supply within the subdivision area.
- G. All existing restrictions on the use of land, including easements, covenants, or zoning divisions.
- H. A request to use a different scale for the Preliminary Plat, if applicable, and the reason(s) for the request.

602. **Subdivision Preliminary Plat**

The Preliminary Plat shall be submitted at a scale of one-inch equals one hundred feet (1" = 100'), or another scale approved by the Planning Board, prior to the submission of the Application. The Preliminary Plat shall be clearly marked "Preliminary Plat" and shall include:

- A. The proposed subdivision name, the name of the Town and Onondaga County, the name, mailing address and telephone number of the Subdivider and Applicant (if different from the Subdivider), the Engineer or Surveyor who prepared the Plat (including license number and seal), the date of the Preliminary Plat (all revised versions of a Preliminary Plat shall contain a "Revised Date" and shall set forth, with particularity, the revisions made on that date), true north point and scale.
- B. The name of all immediately adjacent subdivisions, if any, and the names and addresses of the Owners of record, as shown on the most recent tax rolls of the Town, of (1) all properties adjacent to the subdivision and within 500 feet of any perimeter boundary and (2) all properties directly across existing Streets. The names of those Owners shall be shown on the Preliminary Plat, along with the recording information for the deeds under which the Owners took title.
- C. The location and dimensions of all property lines, the total acreage of the proposed subdivision, the zoning district(s) of the property, the location of any zoning district boundary lines (both

on and adjacent to the lands involved in the Subdivision), special districts or municipal boundary lines affecting the subdivision (including but not limited to the Village of Marcellus).

- D. The location of all parcels of land, if any, proposed to be dedicated to the Town for Roads, pedestrianways, sidewalks, easements, parks, or other Public Improvements or Infrastructure Improvements and the conditions, if any, of such dedication, and all lands to be reserved by the Owner.
- E. The location of all existing structures and pertinent features, including railroads, water bodies, Watercourses, wetlands, flood hazard areas, stone walls, rock outcrops, wooded areas, hedge rows, ponds, creeks, drainage ways, burial grounds, large trees, and all other significant existing features that may influence the design of the proposed subdivision area and located within the lands for which subdivision Approval is being requested or within 200 feet of any outside perimeter of these lands, and shall show which of the above will be retained, removed, or installed.
- F. The location of existing sewers, water mains, culverts, and drains serving the property, with pipe sites, grades, direction of flow, and existing easements (shown by location and book and page of recording).
- G. The width, location, and names of any Roads or public ways or places shown on the Official Map or in the Comprehensive Plan, within the area to be subdivided.
- H. The width, location, and grades of all proposed and existing easements (clearly delineated as "Existing" or "Proposed") (each existing easement should also show the book and page of recording) and Road Profiles of all Roads, sidewalks and pedestrianways proposed by the Applicant.
- I. Topographical contours, with intervals of five feet (or less if required by the Planning Board), including elevations on existing Roads shall be provided.
- J. The location and size of all proposed and existing (delineated as "Existing" or "Proposed") water lines, valves, fire hydrants, and sewer lines, or alternative means of water supply or sewage disposal and treatment, including sites for on-site systems as provided in the Public Health Law.

- K. Profiles of all proposed water and sewer mains shall be provided.
- L. If required by the Planning Board, the results of soil percolation test(s) and soil suitability test(s) shall be provided.
- M. Grading Plan indicating the approximate location and size of proposed drainage lines, their profiles and connection to existing drainage lines, or alternative means of disposal, including existing and proposed drainage easements.
- N. An Erosion Control Plan shall also be submitted as part of the Grading Plans.
- O. Construction Documents, including but not limited to construction plans, profiles, cross-sections, and other drawings as required to show the proposed location and types of all Roads, sidewalks, Road lighting (and Road lighting standards), trees, curbs, water mains, sanitary sewers, storm drains, pavement and sub base, manholes, catch basins and all other Public Improvements and Infrastructure Improvements required by Article 5 and any other Infrastructure Improvements and Public Improvements required by the Planning Board or proposed by the Applicant.
- P. Preliminary designs of any bridges or culverts, which may be required by the Planning Board, or which the Applicant desires to construct.
- Q. The proposed Lot lines with the dimensions and acreage of each Lot shown. Lots shall be numbered.
- R. An actual field survey, certified to the Town, the Subdivider, the Applicant, and the Title Company, which will insure title to the lands to be conveyed to the Town, of the boundary perimeter lines of the lands to be subdivided, giving complete descriptive data by bearings and distances made and certified to by a Surveyor.
- S. The lands to be subdivided shall be marked by monuments in the ground as required by Section 401.
- T. The Planning Board shall have the right to require additional monuments. The location of all existing and proposed monuments (delineated as existing or proposed) shall be referenced on the Preliminary Plat and shall be shown as "existing" on the Final Plat.
- U. Where the topography or design is such as to make difficult the inclusion of required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of the proposed permanent easements over or under private property, which permanent easements (1) shall not be less than 20 feet in width, and (2) shall provide satisfactory access to an existing or proposed Road or Public Open Space shown on the Preliminary Plat or Official Map.
- V. A copy of any covenants or deed restrictions that are intended (or required) to cover all, any part of, the Subdivision.
- W. If the Preliminary Plat submitted for Approval covers only a part of the Subdivider's entire real estate holdings in the area, then a map shall be provided, having a scale of not less than one-inch equals four hundred feet (1" = 400'), showing all such lands of the Subdivider in relationship to the lands that are included on the Preliminary Plat.
- X. A site location map, at a maximum scale of one-inch equals two thousand feet (1" = 2000') showing the location of the Subdivider's real property with respect to surrounding properties and Roads including all utility lines.
- Y. Copies of all existing easements and existing covenants or deed restrictions shall accompany the Application.
- Z. Areas to be dedicated for Infrastructure Improvements or Public Improvements shall be identified as such on the Preliminary Plat, with the understanding the Town Board makes the ultimate decision as to whether the Town will accept title or easement(s) to these areas.
- AA. Notations explaining any drainage, slope, Road widening, park area or other reservations or easements, as may be required by the Planning Board, including any self-imposed restrictions or covenants.
- BB. To insure conformity with Section 503 (B)(6), the Planning Board may require, as part of the Preliminary Plat Application, that the Applicant submits site plans for Lots.

603. **Subdivision Final Plat**

The Final Plat shall be drawn at the same scale as the Preliminary Plat and shall conform to the filing requirements of the Onondaga County Clerk. When more than one sheet is required, an additional index map on the same size sheet shall be prepared and included for filing showing to scale the entire subdivision with Lot and Block lines clearly legible. The Final Plat submission shall include:

- A. A Final Plat, showing all of the information required to be shown on the Preliminary Plat under Section 602 above, except:
  - 1. The words "Preliminary Plat" shall be replaced with "Final Plat"; and
  - 2. If only a Section of the lands shown on the Preliminary Plat is included in the Application for Final Plat Approval, the Section number shall be included on the Final Plat for which Approval is requested; and
  - 3. The date of the Final Plat shall be updated to within 30 days of the Applicant's filing of the Application for Final Plat Approval; and
  - 4. All preliminary designs shall be finalized.
- B. A narrative, certified to by the Subdivider (and by the Applicant if different) as being true, accurate and complete, shall accompany the Final Plat Application and shall state, with particularity, each and every insertion, deletion, change or revision:
  - 1. appearing on the Final Plat when compared to the Preliminary Plat approved by the Planning Board;
  - 2. appearing in the documents submitted for Final Plat Approval which differ from the final information submitted to obtain Preliminary Plat Approval; and
  - 3. shall further state no other additions, deletions, changes or revisions were made to the Plat or to the documents submitted for Preliminary Plat Approval.
- C. Sufficient data to enable the Planning Board to determine readily the location, bearing and length of every Road line, Lot line, boundary line, and to reproduce such lines upon the ground. The length and bearing of all straight lines, radii, length of curves, and central angles of all curves and tangent bearings shall be given for each Road and for all lands the Subdivider intends on conveying an interest in to the Town, by deed or easement. All dimensions and angles of the lines of each Lot

shall also be given. All dimensions shall be shown in feet and decimals of a foot. Where applicable, this data shall be referenced to monuments and ties into other reference points previously established.

- D. The Final Plat shall show, by proper designation thereon, (1) all Public Open Spaces, Public Improvements and Public Infrastructure for which proposed deeds or easements to the Town shall be included and (2) the lands, if any, which will be reserved by the Subdivider shall be identified with particularity. For any of the latter, there shall be submitted with the Final Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore. All offers of cession and all covenants governing the maintenance of undeeded open space shall require the approval of the Planning Board and the Town Attorney as to form and legal sufficiency.
- E. Roads, pedestrianways, Lots, reservations, easements, and other Public Improvements and Infrastructure Improvements to be dedicated to public use shall be shown as such on the Final Plat, and the proposed deeds, easements etc. shall be provided with the Application.
- F. Permanent reference monuments and, if required by the Planning Board, Lot corner markers shall be shown and their location referenced on the Final Plat.

**ARTICLE 7 - WAIVERS AND MODIFICATIONS**

701. **Hardship - Variances**

Where the Planning Board finds that extraordinary hardships shall result from strict compliance with these Regulations, it may vary the Regulations so that substantial justice may be done and the public interest secured; provided, however such variation will not have the effect of nullifying or substantially impairing the intent and purpose of the Official Map, the Zoning Law, the Comprehensive Plan, or these Regulations. Any variance granted by the Planning Board shall not be deemed a variance of the Zoning Law, and any variance from the provisions of the Zoning Law must be obtained as set forth in the Zoning Law. The Application shall state fully the grounds upon which the variance is being requested and shall set forth, with particularity, the extraordinary hardship that shall result if the

variance is not granted. The Applicant also agrees to provide an appraisal, by an appraiser acceptable to the Planning Board, establishing, with particularity, the difference in value of the lands (1) when used for the best permitted use without a variance and (2) when used for the purposes described in the requested variance

**702. Waivers**

- A. Applications for waivers of standards or procedures shall be submitted, in writing, at the time the Preliminary Plat Application is filed. The Application shall state fully the grounds upon which it is made.
- B. The Planning Board may, by resolution, authorize a waiver or modification of the standards or procedures herein when, in its opinion, unreasonable restriction will result from strict compliance; provided, however, such waiver or modifications shall only be applicable to:
  - 1. Subdivisions involving a minor adjustment of existing Lot lines or Lot lines shown on an approved, yet unfiled plat map, without the creation of new Streets, curb cuts, infrastructures or building Lots.
  - 2. Subdivisions involving the elimination of existing Lot lines so as to consolidate one or more Lots into a lesser number and not involving the creation of new Streets, curb cuts, infrastructure or building Lots.

No waiver shall be granted which would substantially change the character of an area or compromise the purposes of these Regulations.

**703. Conditions**

In authorizing a waiver or variance, the Planning Board may attach conditions and require such guarantees, bonds and/or other security and protection for the Town as it may deem necessary to assure compliance with the objectives of these Regulations.

**ARTICLE 8 – ENFORCEMENT, REMEDIES AND PENALTIES**

**801. Compliance**

Every current and future owner of real property in the Town shall comply with these Regulations, including but not limited to the provisions related to Minor Lot Alterations. If any deed which alters the size, shape, quality or orientation of any Lot or Lots, is recorded in the Onondaga County Clerk’s Office before these Regulations have been fully complied with, then:

- A. Both the grantor and the grantee named in that deed shall be in violation of these Regulations; and
- B. Every Lot which was so altered shall be in violation of these Regulations.

**802. Enforcement**

The provisions of these Regulations shall be enforced by the Code Enforcement Officer and/or by the Marcellus Town Board.

**803. Remedies and Penalties for Violations**

The penalties and liabilities for violating these Regulations, and the rights and remedies of the Town for any infraction or violation of these Regulations, are:

- A. In the event that there is a violation or infraction of these Regulations, no building permit, certificate of occupancy, or any other certificate, license, or permit shall be issued by the Town of Marcellus or any official, board, or employee of the Town in connection with the real property, or any part thereof, which is in violation of these Regulations, unless and until such real property shall be subdivided in accordance with, or otherwise brought in full compliance with, these Regulations.
- B. If any construction shall have commenced either with or without a building permit upon any of the real property which is in violation of the Regulations, the Code Enforcement Officer shall promptly issue a stop-work order.
- C. Every person in violation of these Regulations shall be subject to a fine of not less than twenty-five and 00/100 dollars (\$25.00) and not more than two hundred fifty and 00/100 dollars (\$250.00), for each violation or infraction of these Regulations.
- D. Each day an infraction or violation of any provision of these Regulations shall continue, after notice of such infraction or

violation from the Town, shall be considered a separate infraction or violation.

- E. The Town shall also have all other remedies available at law and in equity, including, without limitation the right to obtain injunctive relief.
- F. The Town shall also have:
  - 1. The right to obtain an order directing the recorded deed which caused the violation of these Regulations to be expunged from the records in the Onondaga County Clerk's Office;
  - 2. The right to direct that the assessment rolls showing the real property which is in violation of these Regulations list that real property with the same identifying information (i.e., the same tax map parcel number(s), property number(s), lot size, lot dimensions, and all other property identifying features, but not necessarily the same assessed value) as existed prior to the recording of the deed, the recording of which resulted in a violation of these Regulations; and
  - 3. The right to file, in the Onondaga County Clerk's Office, a Notice, indexed against the real property which is in violation of these Regulations, stating the real property is in violation of these Regulations and no building permits, certificates of occupancy, or any other license, permit or certificate will be issued by the Town for the real property described in the Notice, or any part thereof, unless and until the violation is cured and a subsequent Notice, signed by the Town, stating the violation has been cured is recorded in the Onondaga County Clerk's Office.
- G. The Town shall be entitled to recover from each person in violation of these Regulations, any and all costs the Town incurs in connection with enforcing these Regulations with regard to those lands, including but not limited to all costs the Town incurs in exercising any or all of the rights and remedies stated in Subsection F above. Such costs shall include, but not be limited to, attorney fees and disbursements (whether or not litigation is commenced), engineering fees and disbursements, recording fees, filing fees, survey fees and disbursements, and court costs.

H. Any judgment obtained by the Town for a violation of these Regulations shall become a lien against all the real property involved in that violation.

#### **ARTICLE 9 - VALIDITY - SEVERABILITY**

Should any Section or provision of these Regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect or impair the validity of these Regulations as a whole, or of any other part thereof, but such decision shall be restricted solely to the specific Section or provision found to be invalid, and then, only to the circumstances under which the Section or provision was found to be invalid.

#### **ARTICLE 10 - AMENDMENTS**

These rules and Regulations may be amended, altered, revised or replaced by the Town Board, from time to time, by local law.

#### **ARTICLE 11 - THE INTENTION TO SUPERSEDE PROVISIONS OF TOWN LAW SECTION 276**

By adopting the Local Law making these Regulations effective, pursuant to authority provided in the Municipal Home Rule Law of the State of New York, including but not limited to, Section 10(1)(ii)(a)(12) and Section 10(1)(ii)(d)(3) thereof, the Marcellus Town Board intends that the provisions of these Regulations shall supersede the provisions of Section 276 of the Town Law of the State of New York, and Section 239-n of the New York General Municipal Law, including but not limited to, the provisions of Town Law Section 276, subsections: 4 ("Definitions"); subsection 5(d)(ii) ("Public Hearings") (but only for Minor Lot Alterations); 6(d) ("Final Plats not in substantial agreement with the approved preliminary plat"); 7(b) ("Approval of plats in sections"); 7(c) ("Duration of conditional approval of final plat"); 8 ("Default approval of preliminary or final plat"); 11 ("Filing of final plat") and Section 239-n of the General Municipal Law (but only for Minor Lot Alterations). The above number references to particular Subsections of Section 276 of the Town Law are intended to be illustrative and not exclusive, it being the intent that these Regulations shall supersede (a) the provisions of Section 276 of the Town Law of the State of New York, and (b) with regard to the Minor Lot Alterations only, the provisions of Section 239 of the General Municipal Law.