

Chapter 98

SUBDIVISION REGULATIONS

[HISTORY: Adopted by the Town Board of the Town of Benton 1-14-2009 by L.L. No. 1-2009. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 35.

Zoning — See Ch. 110.

ARTICLE I

Declaration of Policy

§ 98-1. Legislative authority.

The Town of Benton Planning Board has the power and authority to approve plans for subdivisions within its corporate limits, exclusive of that part of the Town within the limits of any incorporated village pursuant to the provisions of Article 16, § 262, of the Consolidated Town Laws of New York State, as amended.

§ 98-2. Approval of plats.

The Planning Board of the Town of Benton is authorized and empowered to approve plats showing lots, blocks, or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of Yates County, and to approve preliminary plats with or without modifications within that part of the Town of Benton outside the limits of any incorporated Village.

§ 98-3. Planning Board policy.

It is declared to be the policy of the Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be safely used for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, erosion control, water supply, sewerage and other needed improvements; that all proposed lots and improvements therein shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Comprehensive Plan, if such exists, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds.

§ 98-4. Short title; adoption of regulations.

In order that land subdivision may be made in accordance with this policy, these regulations, which will be known and cited as the "Subdivision Regulations of the Town of Benton," have been adopted by the Town of Benton Planning Board and approved by resolution of the Benton Town Board.

§ 98-5. Conservation subdivision development.

The Town Planning Board has been granted the authority to permit a developer to propose a conservation subdivision development layout, or to require that a developer provide a conservation subdivision development layout as provided in § 278 of the Town Law of the State of New York by resolution of the Benton Town Board.

§ 98-6. Reconsideration of plats filed with County Clerk.

The Town Planning Board has been granted the authority to review plats already filed in the office of the County Clerk if such plats are entirely or partially undeveloped as provided in § 276 of the Town Law of the State of New York. Said plats shall be reviewed in accordance with the Subdivision Regulations of the Town of Benton. Only plats where 20% or more of the lots are undeveloped shall be subject to reconsideration under this section. Reconsideration shall be commenced upon a majority vote of the Town Planning Board at a regularly scheduled meeting of said Board. Any resident, officer, or duly established board of the Town may initiate a request for reconsideration which shall be voted upon by the Town Planning Board within 45 days of the date when the request is first presented to the Town Planning Board.

ARTICLE II
Definitions

§ 98-7. Definitions and word usage.

- A. Word usage. Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, unincorporated association, and a partnership as well as an individual. The word "lot" includes "parcel" or "plot." The word "building" includes "structure" and shall be construed as if followed by the words "or part thereof." The word "street" includes "road," "highway," and "lane"; while "watercourse" includes "drain," "ditch," and "stream." The word "may" is permissive.
- B. Definitions. Unless otherwise expressly stated, the following terms shall, for the purposes of these regulations, have the meanings indicated:

ACCESS MANAGEMENT — Controlling the location, spacing, and geometry of curb cuts (driveway intersections with public road rights-of-way) with the goal of maintaining traffic safety while preserving existing speed limits on public streets and roads.

ACCESS MANAGEMENT MAP — The map included in the State of New York Department of Transportation Policy and Standards booklet.

ACCESS MANAGEMENT PLAN — The access management plan as it pertains to the Town of Benton, Yates County and New York State.

ACCESS, NONCONFORMING (or NONCONFORMING ACCESS) — Access to a property or

property that is not in compliance with the access management plan of the Town of Benton. This shall include access, proposed roads, or lack thereof that do not comply with the access management map.

APPLICANT — The owner of land proposed to be subdivided or his or her agent. Proof of agency shall be required from the legal owner of the land proposed to be subdivided. See definition of “subdivider.” Proof of ownership may be a copy of the deed submitted by the owner, or a copy of the deed and a letter of permission from the owner if submitted by someone other than the owner (lawyer).

ARCHITECT — A person licensed as an architect by the State of New York.

BOARD — The Town of Benton Planning Board created pursuant to Article 271 of the Town Law of New York State statutes.

BOND — Any form of security including a cash deposit, surety bond, collateral, property, or letter of credit in an amount and form satisfactory to the Attorney for the Town. All bonds shall be approved by the Town Board wherever a bond is required by these regulations, or as a condition imposed by the Planning Board.

BUILDING PERMIT — An authorization issued by the Town Building Inspector or Town of Benton Zoning Officer to commence work on a structure in accordance with approved plans and specifications and in compliance with the New York State Uniform Fire Prevention and Building Code.¹

CERTIFICATE OF OCCUPANCY — A document which certifies that a structure is habitable.

CLUSTERING — See definition for “conservation subdivision development.”

CONDITIONAL APPROVAL OF A FINAL PLAT — The approval by the Planning Board of a final plat subject to conditions set forth in a resolution. Such conditional approval does not qualify a final plat for recording in the office of the Yates County Clerk nor does it provide authorization for the issuance of building permits.

CONSERVATION SUBDIVISION DEVELOPMENT — Also known as “cluster development” in § 278 of the Town Law of New York State. This type of development shall mean a subdivision plat or plats in which the Town Planning Board permits the modification of the Zoning Code to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands. The modification must occur at the same time the plat or plats are approved pursuant to this chapter. The purposes of such authorization will be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of the land.

CONSTRUCTION DETAIL — The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision pursuant to the requirements of these regulations.

CUL-DE-SAC — A minor street having but one end open to traffic and pedestrian access, and

1. Editor's Note: See Ch. 30, Fire Prevention and Building Construction.

the other end being permanently terminated by a vehicular turnaround.

DEDICATION — The deliberate unconditional appropriation of real property by its owner for any general and public use. Offers of dedication are subject to approval by the Town Board and/or the Highway Superintendent.

DEVELOPER — An individual, partnership or corporation or its agent holding title to a parcel of land to be developed or subdivided.

DOUBLE FRONTAGE LOT — A lot having at least two sides fronting on separate streets which do not intersect while adjoining the lot.

DRAINAGE DISTRICT — A special district established or extended pursuant to the Town Law of New York State statutes for the purpose of constructing or maintaining stormwater drainage facilities.

DRAINAGE EASEMENT or **DRAINAGE RIGHT-OF-WAY** — The lands or easements required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

EASEMENT — Authorization granted by a property owner for the use by another of any designated part of his or her property for a specified purpose not inconsistent with the general property rights of the owner.

ENGINEER — A person licensed as a professional engineer (P.E.) by the State of New York.

ENGINEER FOR THE TOWN or **TOWN ENGINEER** — The duly designated engineer working on behalf of the Town of Benton.

ENVIRONMENTALLY SENSITIVE AREAS — Land or land features critical to the maintenance of ecosystems.

ENVIRONMENTAL REVIEW — See “State Environmental Quality Review (SEQR).”

FINAL SUBDIVISION PLAT — See “subdivision plat.”

FLOODPLAIN — Areas subject to a one-percent-or-greater chance of flooding in any given year, as shown on the United States Department of Housing and Urban Development (HUD) Flood Insurance Rate Map.

GRADING PLAN — A plan showing all present and proposed grades for stormwater drainage and final site design.

IMPROVEMENTS — Those physical additions and changes to the land that may be necessary to produce functional lots, including, but not limited to, grading, paving, curbing, fire hydrants, water mains, sanitary sewers and drains, sidewalks, pedestrian access walkways and required plantings which may or may not be offered for dedication.

INDIVIDUAL SEWERAGE SYSTEM — A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage or other liquid wastes into the soil of the lot.

LETTER OF CREDIT — A letter taken out by the owner from a bank which guarantees the

Town that a specific amount of money will be kept available for the completion of construction of facilities to be dedicated. This security can be drawn on only by the Town and guarantees that certain or all improvements will be made in accordance with the approved plans.

LOT — A piece, parcel, or plot of land or other real property identified by legal description and/or tax account number which is filed or proposed to be filed in the County Clerk's office, and is intended as a unit for transfer of ownership or for development.

MONUMENT — A permanent reference marker set at points as may be required in this chapter.

MULTIPLE DWELLING — A dwelling consisting of three or more separate living units.

OFFICIAL MAP — The map, established by the Town Board under § 270 of the Town Law, showing the streets, highways, and parks heretofore laid out, adopted, and established by law, and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Planning Board, acceptance of dedication by the Town Board where appropriate, and the subsequent filing of such approved plats with the Clerk of Yates County.

OFFICIAL SUBMISSION DATE — The date when a subdivision plat shall be considered submitted to the Planning Board, as provided in § 276 of the Town Law, and is hereby defined to be the date of the meeting of the Planning Board at which all required surveys, plans, and data described in accordance with Article VI of these regulations are submitted. The official submission date shall in no instance be prior to the date when all relevant procedures have been completed under the New York State Environmental Quality Review Act, where applicable.

OPEN SPACE — Space dedicated to the Town of Benton or set aside by easement or other manner in a form acceptable to the Town of Benton for use as a park, recreation area, wildlife preserve, forest area, or other similar use deemed acceptable by the Town of Benton.

OWNER — Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARENT PARCEL — A parcel of land as it existed on the effective date of these regulations.

PEDESTRIAN ACCESS WALKWAY — A right-of-way, municipally or privately owned, at least 12 feet in width, which cuts across a block to furnish access for pedestrians to adjacent streets or properties.

PERFORMANCE BOND OR GUARANTEE — Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board approves a plat, including performance bonds, escrow agreements, and other instruments acceptable in form to the Town.

PERMANENT HIGHWAY EASEMENT — A strip of land adjacent to an existing street right-of-way used for any public purpose. The front lot line shall be considered to be coincident with the permanent highway easement boundary. Front setbacks and other necessary lot measurements shall be measured from the permanent highway easement line. Where there is no requirement for a permanent highway easement, the front line shall be considered to be coincident with the existing right-of-way line, with front setbacks and any other necessary lot

measurements being measured from the existing right-of-way line.

PIN — A metal, concrete or granite reference marker set at final grade as may be required in this chapter.

PLANNING BOARD — The Town of Benton Planning Board as established pursuant to the provisions of Article 16 of the Town Law of the State of New York.

PREAPPLICATION PROCESS — An informal meeting between the Town Planning Board and a subdivider to develop an understanding of the general design and layout of the subdivision. Matters to be discussed include Town policies and procedures on the subdivision of land, a timetable for review, general agreement concerning the project design and on the statement of intent of the proposed subdivision.

PRELIMINARY PLAT — The preliminary drawing or drawings indicating the proposed manner or layout of the subdivision to be submitted to the Planning Board for its consideration and meeting the requirements of Article VI of these regulations.

PRIMARY OR MAJOR THOROUGHFARE — A dedicated major road intended as a route for traffic between other major roads, communities, shopping centers, or other such major generators. Major thoroughfares can usually serve to collect traffic from minor roads.

PRIVATE DRIVE — An undedicated access point serving three or four lots and providing ingress or egress to a road or street. Private drives must have reciprocal easements and a common maintenance agreement.

PRIVATE ROAD — An undedicated thoroughfare used as an ingress or egress to five or more properties with reciprocal easements and a common maintenance agreement.

RECORD SHEET — A map or plat which provides information concerning the actual location of improvements as built.

RESUBDIVISION — Revision of all or part of an existing plat previously filed with the Clerk of Yates County including consolidation of lots.

RIGHT-OF-WAY — See below.

- (1) **PRIVATE RIGHT-OF-WAY** — Existing land owned by a nonpublic agency or organization and occupied or intended to be occupied by transmission mains, gas pipe lines, rails, or other special use.
- (2) **PUBLIC RIGHT-OF-WAY** — Existing land owned by public agencies for use as a street or other public purpose.

SERVICE DRIVE — Minor ways which are used primarily for vehicular service to the back or side of properties otherwise abutting on a street.

SETBACK — The required space between any street or highway line and the wall of the main structure, including any attachment thereto, with the exception only of cornices or entrance steps.

SIGNIFICANCE DETERMINATION — A decision made by the lead agency at one or more points in the approval process. The decision establishes the degree to which the proposed project is likely to affect the environment.

SKETCH PLAN — A drawing prepared in accordance with Article VI of these regulations showing in general form the manner in which a tract of land is to be subdivided or developed.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) — A formal review pursuant to Part 617 of the New York Code Book of Rules and Regulations which encourages productive and enjoyable harmony between man and his environment and enhance human and community resources; and to enrich the understanding of the ecological systems, and natural, human and community resources important to the people of the Town of Benton.

STREET — Any street, avenue, boulevard, road, lane, parkway, alley or other way which is an existing state, county, or municipal roadway or way shown upon a plat heretofore approved pursuant to law or approved by official action or a street or way on a plat duly filed and recorded in the office of the Clerk of Yates County prior to the appointment of a Planning Board and the granting to such Board of the power to review plans, and includes the land between the street lines whether improved or unimproved and may comprise pavement, shoulders, gutters, sidewalks, parking area, and other areas within the street lines. For the purpose of these regulations, streets shall be classified as follows:

- (1) Collector streets are those which carry traffic from minor streets to the major system of arterial streets including the principal entrance streets of a residential development and streets for circulation within such a development.
- (2) Minor streets or local residential streets are those which are used primarily for access to the abutting properties.
- (3) Marginal service streets are streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
- (4) Alleys are minor ways which are used primarily for vehicular service to the back or side of properties otherwise abutting on a street.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

SUBDIVIDER, DEVELOPER — Any person, firm, corporation, partnership, or association, who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION — The division of any parcel of land into two or more lots, plats or sites, or any other division of land, for the purpose, whether immediate or future, to transfer ownership or building development rights, and shall include both resubdivision and any other movement or adjustment of the location of any existing lot line.

- (1) **MAJOR SUBDIVISION** — Any subdivision not comprising a minor subdivision under these regulations.
- (2) **MINOR SUBDIVISION** — Any subdivision of a single parcel existing at the effective date of these regulations and containing not more than four lots (over a ten-year period from the date of filing of a final subdivision plat at the office of the Yates County Clerk regardless of ownership) fronting on an existing street, not

involving any new street or road nor the extension of municipal facilities and, in the opinion of the Planning Board, not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, or Zoning Ordinance, if such exists, or these regulations.

SUBDIVISION PLAT or FINAL PLAT or PLAT — A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for review under these regulations, and which, if approved, may be duly filed or recorded by the applicant in the office of the Clerk of Yates County.

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

TOWN BOARD — The municipal governing board of the Town of Benton.

TOWN DEVELOPMENT PLAN, COMPREHENSIVE PLAN, TOWN PLAN or MASTER PLAN — A composite of the mapped and written proposals recommending the physical development of the Town prepared by the Planning Board pursuant to § 272-a of the Town Law which indicates the general locations recommended for various public works and reservations and for the general physical development of the Town and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

WETLANDS — Freshwater wetlands including lands and submerged lands, commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic and semi-aquatic types identified in Article 24 of the New York State Conservation Law.

ZONING MAP — The officially adopted map of the Town of Benton which shows the boundaries of the zoning districts.

ZONING OFFICER — The officer of the Town of Benton appointed and designated by the Benton Town Board. This official may also be referred to as the Building Inspector or Code Enforcement Officer as title and duties may be assigned by the Benton Town Board.

ZONING ORDINANCE — The officially adopted Zoning Ordinance or Zoning Local Law of the Town of Benton together with any and all amendments thereto.²

ARTICLE III Procedure for Filing Subdivision Applications

§ 98-8. Major subdivision approval required prior to sale.

Whenever any major subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell, any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his or her duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures contained in this article as follows.

2. Editor's Note: See Ch. 110, Zoning.

§ 98-9. Submission of sketch plan.

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Town of Benton Zoning Officer, or other officer duly appointed by resolution of the Town Board, at least 14 days prior to the regular meeting of the Board nine copies of a sketch plan of the proposed subdivision which shall comply with the requirements of Article VI, § 98-22, for the purposes of classifying the application as constituting a major or minor subdivision and for preliminary discussion. Said sketch plan shall be submitted accompanied by an application on forms available from the Town of Benton Zoning Officer.

- A. Discussion of requirements and classification. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspects, as well as the availability of existing services and other pertinent information. The Planning Board shall determine at this time the classification of the subdivision as major or minor, shall discuss the requirements of the New York State Environmental Quality Review Act, and shall inform the applicant of such decision. Subdivisions approved under § 98-12 shall be exempt from this section.
- B. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes and submission requirements of these regulations and shall, where it deems necessary, make specific recommendations in writing of items or modifications to be incorporated by the applicant in the next submission to the Planning Board.

§ 98-10. Administrative review.

- A. Applicability. This section shall apply only where the proposed subdivision is not subject to any other review under the Zoning Ordinance of the Town of Benton.³ In addition, all the lots shown on a proposed subdivision application shall comply with all subdivision and zoning requirements in that all lots and all the buildings thereon meet all applicable lot size, frontage, width, depth, area, setback, use, and number of primary uses. Further, the subdivision must be in compliance with the access management plan, and the Official Map, if any, of the Town of Benton, and which comply with one or more of the following:
 - (1) Combining of two or more existing tax parcels into a single parcel.
 - (2) The creation of parcels all of which are 20 acres or more in size for agricultural use in a zoning district where agricultural uses are allowed.
 - (3) The moving of a lot line between two adjacent properties not affecting the location of curb cuts or access to the property, drainage, nor any buildings situate on either parcel.
- B. Review.
 - (1) Upon submission of a subdivision application, the Zoning Officer shall initially determine eligibility of the subdivision application for administrative approval under this section within five calendar days of submission of the subdivision application.

3. Editor's Note: See Ch. 110, Zoning.

- (2) Upon initial determination of eligibility by the Zoning Officer, said subdivision application shall be reviewed by the Planning Board Chairman within five calendar days of the date of initial determination of eligibility by the Zoning Officer. If the Planning Board Chairman concurs that the subdivision application is eligible for administrative approval under this section, the applicant shall be so notified by the Zoning Officer.
- (3) Notice to the applicant shall include any modifications or clarifications to the application to ensure compliance with this section. Said notice shall also include the need to prepare final subdivision plats in accordance with the requirements of Article VI herein. Said notice shall be made within five calendar days of final determination of eligibility of the subdivision application for approval under this section.
- (4) All administrative review information will be brought before the Benton Town Planning Board for informative purposes.

C. Submission of final plat.

- (1) Upon receipt of notice, the applicant shall submit a final subdivision plat to the Zoning Officer within six months of the date of the notice.
- (2) If, after review, both the Zoning Officer and the Planning Board Chairman ascertain that the final plat meets all requirements of this section, the final plat shall be deemed approved.
- (3) If, for any reason, either the Zoning Officer or the Planning Board Chairman ascertain that the submitted plat does not conform to the requirements of this section, including but not limited to the requirements for final plats found in Article VI herein, the plat shall be returned to the applicant for correction or submission as a regular subdivision application to the Planning Board under § 98-12 herein, and shall not be deemed approved under this section.
- (4) The Planning Board Chairman shall, upon determination that the final plat is in full compliance with this section, witness said approval by affixing his/her signature to the following statement to the plat:

This plat has been reviewed and is approved as a final subdivision plat by the Town of Benton as being exempt from review under the Subdivision Regulations of the Town of Benton. Any change, erasure, modification, or revision of this subdivision plat, as approved, shall void this approval.

Signed this _____ day of _____, 20__ by

Chairman, Town of Benton Planning Board

- (5) Copies. The applicant shall furnish one paper copy of the approved final plat to the Town Planning and Zoning Office at the time of signature as described in Subsection C(4) above.

- D. Filing of plat. Upon approval and signing of the final subdivision plat by the Planning Board Chairman under this section, the applicant shall have 30 calendar days with which to file copies of the signed, approved, final subdivision plat at the office of the Yates County Clerk.

§ 98-11. Preliminary plat.

The following procedures apply to both major and minor subdivisions:

- A. Application and fee.
 - (1) Prior to the filing of an application for the approval of a subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat, which shall in all respects comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law, and Article VI, § 98-23, of these regulations.
 - (2) The application for approval of the preliminary plat shall be accompanied by a fee as established by the Town Board.
 - (3) Application for preliminary plat approval is to be submitted to the Town of Benton Zoning Officer, or other officer duly appointed by resolution of the Town Board, on forms provided by said officers at least 14 days prior to the regular monthly meeting of the Planning Board. Said application shall be accompanied by rendering of the application fee as described above, and is to be accompanied by such other material as specified in Article III, § 98-11B below.
- B. Other application requirements. Nine copies of the preliminary plat and nine copies of the draft environmental assessment form are to be submitted at the time of application for preliminary plat approval as specified in Article III, § 98-11A above. More copies of the preliminary plat and draft environmental assessment form may be requested of the applicant by the Planning Board if the Planning Board determines that other agencies, employees of the Town, or consultants should review said plat, or if additional agencies or individuals should review the draft environmental assessment form under the provisions of the New York State Environmental Quality Review Act.
- C. Official submission date of preliminary plat application. The official submission date of the preliminary plat application shall be the date of the next regular monthly meeting of the Planning Board which occurs after a preliminary plat application is made in compliance with these regulations and the procedures of Article III, § 98-11A and B. The official submission date shall in no instance be prior to the date when all relevant procedures have been completed under the New York State Environmental Quality Review Act, where applicable. The Planning Board shall deem incomplete any application not made in compliance with these regulations, and the procedures of § 98-11A and B.
- D. Subdivider to attend Planning Board meeting. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.
- E. Study of preliminary plat. The Planning Board shall study the practicability of the preliminary plat taking into consideration the requirements of the community and the best

use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the Town Comprehensive Plan, the Official Map, the access management plan, and the Zoning Local Law,⁴ if such exist.

- F. County official map, referral to County Planning Board. The Planning Board will also notify Yates County Commissioner of Public Works if the subdivision plat proposes structures or new streets having frontage on, access to, or is otherwise directly related to any existing County road, or if the county has adopted an Official Map, on any proposed county road. The Planning Board at its regular monthly meeting shall determine if the location of the property proposed for subdivision must be referred to the Yates County Planning Board under § 239-n of the General Municipal Law of New York State.
- G. County Planning Board notification, action, impact. Under the requirements of Section 239-n of the New York State General Municipal Law, whenever a proposed subdivision lies within a distance of 500 feet from the boundary of a municipality, or from the boundary of any existing or proposed county or state park or other recreation area, or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or drainage channel owned by the county or for which the county has established channel lines, or from the existing or proposed boundary of any county- or state-owned land on which a building is situated or the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agriculture and Markets Law, then the proposed subdivision shall be referred to the County Planning Board for review. The Town Planning Board shall determine if a preliminary plat application must be referred to the County Planning Board, and will direct the Town of Benton Zoning Officer or other duly appointed officer to file said preliminary plat application with the County Planning Board for review at its next regular monthly meeting. No action shall be taken on the preliminary plat application by the Town Planning Board until such time as a recommendation is received from the County Planning Board, although a public hearing may be held pursuant to § 98-11H of these regulations. If no recommendation is received from the County Planning Board within 30 days, the preliminary plat shall be deemed approved by the County Planning Board. If the County Planning Board disapproves or recommends modification of a proposed preliminary subdivision plat, the Town Planning Board shall not act contrary to such disapproval or recommendation of modification except by a vote of a majority plus one of all its members and then only after the adoption of a resolution fully setting forth the reasons for such contrary action.
- H. Public hearing on preliminary plat application. Within 62 days of the official submission date of a preliminary plat application, the Planning Board shall hold a public hearing. This time may be extended upon mutual consent of the Planning Board and subdivider. The hearing notice shall be advertised at least once in the official newspapers of the Town at least five days prior to the date of the hearing. If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of

4. Editor's Note: See Ch. 110, Zoning.

the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

I. Action of Planning Board on preliminary plat application.

- (1) Within 62 days of the date of the public hearing, the Planning Board shall approve, approve with modification, or disapprove the preliminary plat. This time may be extended upon mutual consent of the Planning Board and subdivider. The Planning Board shall adopt a resolution stating its findings and grounds for its decision on the preliminary plat. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
- (2) When approving with modifications a preliminary plat, the Planning Board shall by resolution and in writing to the subdivider state said modifications it deems necessary for submission of the final plat.
- (3) A certified copy of the Planning Board's action on a preliminary plat application shall be mailed to the subdivider within five business days.
- (4) If the Planning Board fails to act upon the preliminary plat application within the time period herein stated, the preliminary plat shall be deemed approved, and the Town Clerk shall issue a certificate specifying the official submission date and failure of the Planning Board to act upon the preliminary plat application at the request of the subdivider. This certificate shall be considered sufficient proof in lieu of any other evidence of approval of the preliminary plat.
- (5) In the case of a minor subdivision as determined by the Planning Board, the Planning Board may grant final approval or approval with modifications of the subdivision, subject to preparation of a final plat as defined in § 98-12.

§ 98-12. Subdivision plat (or final plat).

A subdivider proposing a minor subdivision as determined by the Planning Board shall, within six months of approval by the Planning Board of the preliminary plat, present to the Chairperson or Acting Chairperson of the Planning Board a final subdivision plat prepared as required in Article VI of these regulations and conforming to any modifications imposed by the Planning Board in its review, and containing such other approvals as may be required as defined in Article VI of these regulations. The Chairperson or Acting Chairperson of the Planning Board shall then be empowered to sign such final plat evidencing its approval by the Planning Board. In the case

of a major subdivision, the following procedures shall apply:

- A. Application for approval, final plat. The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form. Applications for final plat approvals are to be submitted to the Town of Benton Zoning Officer or other duly appointed officer on forms provided by said officers at least 14 days prior to the regular monthly meeting of the Planning Board. Said application shall be accompanied by submission of the number of copies of the final plat, an original final plat and other materials as specified in Article III, § 98-12B, below.
- B. Other application requirements. Eight copies of the final plat and one original final plat are to be submitted at the time of application for final plat approval as specified in Article III, § 98-12A, above. Additional copies of the final plat may be requested of the applicant by the Planning Board if the Planning Board determines that other agencies, employees of the Town, or consultants should review said plat. The subdivider shall also provide the original and one true copy of all offers of cession, covenants, and agreements, and three prints of all construction drawings.
- C. Endorsement of state, county, and local agencies. Water and sewer facility proposals contained in the final plat shall be properly endorsed and approved by the New York State Department of Health and the Department of Environmental Conservation in areas applicable to their jurisdiction. Application for approval of plans for sewer or water facilities will be filed by the subdivider with all requisite Town, county, and state agencies. See Article VI, § 98-28, for a list of additional approvals which may be required.
- D. Official submission date of final plat application. The official submission date of the final plat application shall be the date of the next regular monthly meeting of the Planning Board which occurs after a final plat application is made in compliance with these regulations and the procedures of Article III, § 98-12A and B. Any application not made in compliance with this section shall be deemed incomplete by the Planning Board.
- E. Public hearing.
 - (1) Within 62 days of the official submission date of a final subdivision plat application, the Planning Board shall hold a public hearing. This time may be extended upon mutual consent of the Planning Board and the subdivider. The hearing notice shall be advertised at least once in the official newspapers of the Town at least five days prior to the date of the hearing.
 - (2) The Planning Board may waive the requirement for this second public hearing if it deems the final plat to be in substantial agreement with the preliminary plat previously approved and modified according to any modifications required by the Planning Board during its review of the preliminary plat.
- F. Action of Planning Board.
 - (1) Within 62 days of the date of the public hearing, the Planning Board shall by resolution approve, approve with modification, conditionally approve with or without modifications, or disapprove the subdivision plat. This time may be extended upon mutual consent of the Planning Board and subdivider. The Planning Board shall adopt

a resolution stating its findings and grounds for its decision on the final plat. If the Planning Board waives the public hearing on the final plat, the final decision will be made within 62 days of submission of such final plat.

- (2) Conditional approval of a final subdivision plat is defined as the approval of the final plat subject to conditions set forth by the Planning Board in its resolution conditionally approving the final plat. Conditions may be, but are not limited to, some, all, or any of the following:
 - (a) Approval of Town, county, or state agencies having jurisdiction over sewer, water, roads, or other municipal service;
 - (b) Review and approval of some element of the design by a New York State licensed engineer or architect;
 - (c) Review by the State Attorney General's Office where a homeowners' association is involved;
 - (d) Review by the Town's Attorney of the adequacy of and performance bond or other surety required by the Planning Board;
 - (e) Issuance of a road cut permit by the County Commissioner of Public Works where access from the subdivision is onto a County road.
- (3) A certified copy of the Planning Board's action on a final subdivision plat application shall be mailed to the subdivider within five business days of the date of the Planning Board's action.
- (4) If a final subdivision plat is conditionally approved with or without modifications, or is approved with modifications, the Chairman of the Planning Board shall be empowered and required to sign the final subdivision plat when all requirements stated in the Planning Board's resolution concerning the final plat have been satisfactorily met.
- (5) The subdivider shall have 180 days to satisfy the requirements specified in the Planning Board's resolution concerning the final plat and to obtain the signature of the Chairman of the Planning Board as required herein. Upon failure to obtain such approval, the Planning Board may at its first meeting after such time frame has elapsed vote to extend by not more than two additional periods of 90 days each. Such time extension may be granted only at the written request of the subdivider. If such time frame has elapsed and no extension has been granted, the subdivider must reapply for review under these regulations beginning with the preliminary subdivision plat review stage and including the submission of the fees required therein.

G. Signing of the final subdivision plat.

- (1) Every subdivision plat submitted to the Planning Board for approval shall carry the following endorsement:

"Approved by Resolution of the Planning Board of the Town of Benton, New York, on the _____ day of _____, 20____, subject to all requirements and conditions of said Resolution. Any change, erasure, modification, or revision of this Subdivision Plat, as approved, shall void this approval."

Signed this _____ day of _____, 20____ by

Chairman, Town of Benton Planning Board

- (2) In the absence of the Chairman, the Acting Chairman may sign the subdivision plat. If there is a County Official Map, such endorsement shall stipulate that the subdivision plat does not conflict with the County Official Map, or in cases where the subdivision does front on, or have access to, or is otherwise related to roads or drainage systems shown on the County Map, that subdivision has been approved by the County Planning Board, in the manner specified by § 239-n of the New York State General Municipal Law. If the subdivision falls within the jurisdiction of the County Planning Board as set forth in § 239-n of the New York State Municipal Law, then such endorsement shall stipulate that the requirements of said law have been satisfied.

§ 98-13. Required improvements.

- A. Improvements and performance bond. Before the Planning Board passes a resolution approving with or without modifications, or conditionally approving with or without modifications, a subdivision plat, the subdivider shall follow the procedure set forth in the following:
 - (1) In an amount set by the Town Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond or other surety instrument acceptable to the Town Board to cover the full cost of the required improvements. Any such bond or other surety shall comply with the requirements of § 277 of the Town Law, and further shall be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year, or such other period as the Town Board may require, shall be set forth in the bond within which time required improvements must be completed. The bond or other surety instrument shall provide that an amount determined adequate by the Town Board shall be retained for a period of one year after the date of completion of the required improvements to assure their satisfactory condition.
 - (2) If a subdivider shall be authorized to file the approved final plat in sections, approval of the final plat may be granted upon the posting of a performance bond or other surety instrument to cover the full cost of all required improvements of each section as authorized or as outlined in Subsection A(1) above.

- (3) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Highway Superintendent and, where applicable, the Town Water Supervisor, and the Wastewater District Supervisor. A map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. The performance bond or other surety instrument shall not be released until such a map is submitted and approved by the Planning Board.
- (4) If utilities or roads are offered for dedication to the Town, the subdivider shall be required to post a maintenance bond in an amount, form, and term acceptable to the Town Board to pay for repair or maintenance of dedicated utilities or roads which prove defective following dedication.

B. Inspection of improvements.

- (1) At least five days prior to commencing construction of required improvements, the subdivider shall notify the Town of Benton Zoning Officer or other duly appointed officer in writing of the time when the subdivider proposes to commence construction of such required improvements.
- (2) The Town may employ an inspector to act as agent of the Planning Board for the purpose of assuring the satisfactory completion of improvements required by the Planning Board and shall determine an amount sufficient to defray costs of such inspection. The applicant shall pay the costs of such inspection to the Town Clerk before the subdivision plat is signed for filing.

C. Proper installation of improvements.

- (1) If the Town Highway Superintendent or Water and Wastewater Superintendent or other inspector hired by the Town finds upon inspection of the improvements performed before the expiration date of the performance bond or other surety instrument that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications previously filed by the subdivider.
- (2) No final plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved subdivision plat.

§ 98-14. Filing of approved subdivision plat.

- A. Final approval and filing. Upon completion of all requirements set forth in the resolution approving the final subdivision plat, inclusion of a notation to that effect upon the subdivision plat, and submission of the completed subdivision checklist available from the Code Enforcement Office, it shall be deemed to have final approval and shall be signed by the Chairman of the Planning Board. The owner shall file in the office of the Yates County Clerk such approved final plat or a section of such plat within 62 days from the date of final approval, as such term is defined in New York State Town Law § 276, Subdivision 11, as amended, or such approval shall expire. In addition, the subdivider shall furnish one paper copy of the signed final subdivision plat to the Town of Benton Zoning Officer.

- B. Subdivision plat void if revised after approval. No building permits shall be issued until a certified copy of the final subdivision plat, filed at the office of the County Clerk, has been delivered to the Town of Benton Zoning Officer. No changes, erasures, modifications, or revisions shall be made in any final subdivision plat after approval has been given by the Planning Board and endorsed in writing on the final subdivision plat, unless the said final subdivision plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such final subdivision plat is recorded without complying with this requirement, said recorded final subdivision plat shall be considered null and void, and the Planning Board shall institute proceedings to have said subdivision plat stricken from the records of the Clerk of Yates County.

§ 98-15. Resubdivision.

For a resubdivision, the same procedure, rules and regulations shall apply as for a subdivision.

§ 98-16. Public streets; recreation areas.

- A. Public acceptance of streets or other real property rights offered for dedication to the Town. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance on the part of the Town of Benton of any street, easement, or other open space shown on any such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground, or other recreation area shall have been shown on a subdivision plat, the approval of said subdivision plat shall not constitute an acceptance by the Town of said area. The Planning Board shall require the subdivision plat to be endorsed with appropriate notes to the effect. The Planning Board may require the filing in the office of the Clerk of Yates County of a written agreement between the applicant and the Town Board covering future title, dedication, equipment, and maintenance of any park or playground area.

§ 98-17. Start of construction.

Upon positing of an acceptable performance bond or other surety instrument in accordance with Article III, § 98-13A, of these regulations, and after approval and filing in the office of the Clerk of Yates County of the subdivision plat, the subdivider may initiate land sales or construction of the subdivision itself. The subdivider is required to give five days' notice to the Town of the construction of any required improvements.

§ 98-18. Residential cluster development.

- A. Intent. The intent of this section is to permit variation in lot size and housing type in suitable areas in order to encourage flexibility of design, to enable land to be developed in such a manner as to promote its most appropriate use, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open space, in accordance with § 278 of the New York State Town Law. This purpose is achieved by permitting lot sizes to be reduced in a subdivision tract if the overall density does not exceed that which otherwise is permitted in the applicable zoning district, and the land thus gained is preserved as permanent open space for the use and enjoyment of the

residents of the area and Town.

- B. Authorization to grant or deny residential cluster development. In accordance with § 278 of the New York State Town Law, the Town Board authorizes the Planning Board to permit variations in the dimensional requirements under its subdivision review powers. The Planning Board shall comply with all procedures and standards set forth in this regulation when implementing such power.
- C. Standards governing residential cluster development. Any residential cluster development shall conform to the following requirements:
 - (1) This procedure shall apply only to parcels of land that are a minimum of 10 acres in size. In addition, it shall be determined that such development will not be detrimental to the health, safety, or general welfare of persons residing in the vicinity, or injurious to property or improvements in close proximity, and that the proposed development creates an attractive residential environment which is in conformance with the Town's Comprehensive Plan, and that the gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements, and that the permanent retention of open space areas along with their care and maintenance is guaranteed.
 - (2) When such development is proposed adjacent to any existing residence or residential area, a buffer area of at least 30 feet in width from existing lot lines shall be maintained within the proposed development along any lot line that abuts an existing residential development area or in a conventionally platted residential map that has been filed with the Yates County Clerk.
 - (3) The size of lots in a residential cluster development may vary from the normal requirements of the district, but no dimensional or area requirement of the district shall be reduced by more than 50%.
 - (4) Single-family detached houses shall be subject to the following minimum setback requirements:
 - (a) Front yard: 25 feet.
 - (b) Rear yard: 25 feet.
 - (c) Side yard: 15 feet.
 - (5) All residential cluster development plans shall be prepared with competent professional assistance and shall be consistent with the spirit and intent of this chapter.
 - (6) In areas without public water and sewer, any reduction in lot size allowed under this article shall be dependent on approval of water and sewer provisions by the New York State Department of Health and the New York State Department of Environmental Conservation.
 - (7) Land not contained in lots or road rights-of-way.
 - (a) All the land not contained in the lots or road rights-of-way, if provided, shall be

contiguous or on either side of a watercourse and of such size and shape as to be usable for recreation, open space or agriculture.

- (b) Such land shall either be deeded to the Town or be held in corporate ownership by the owners of lots within the development, and, if held in corporate ownership, the developer shall incorporate into the deeds of all property within the development a clause giving to the owners an interest in such open land which shall be used for recreation, open space or agricultural purposes. No structure save those incidental to the recreational, open space or agricultural use shall be permitted thereon.
 - (c) The open space lands shall be subject to taxation unless deeded to the Town. In the case of such tracts, the developer may petition the Town to take over the land to be used in perpetuity as open space.
- (8) Special designs.
- (a) In cases where a developer has proposed a special design for groups of dwellings and garages, the Town Planning Board, after inspecting the plans and elevations, may recommend approval of smaller minimum lot sizes than those specified in § 110-18, Density Control Schedule, provided that the sanitary systems are approved by the New York State Departments of Health and Environmental Conservation, that the gross density does not exceed that normally permitted within the zoning district in which the property is located, and the layout is not detrimental to the health, general welfare, and aesthetic character of the community.
- (9) Construction shall start within one year of the date of approval and shall be completed within a time frame agreed to by the developer and the Planning Board. If such time frame is not met by the developer within the agreed-upon time frame, the residential cluster development approval may be revoked by the Planning Board.
- (10) Notice and hearing.
- (a) In the event that the organization established to own and maintain common property or a successor organization shall fail to maintain the common property in reasonable order and condition in accordance with the plan, the Town may serve written notice upon such organization or upon the residents and owners of the development setting forth the manner in which the organization has failed to maintain the common property in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be cured within 30 days thereof, and shall state the date and place of a hearing thereon which shall be held within 14 days of the notice.
 - (b) At such hearing, the Town may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within 30 days or any extension thereof, the Town, in order to preserve the taxable values of the properties within the development and to prevent the common property from becoming a public nuisance, may

enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and owners. Before the expiration of said year, the municipality shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common property, call a public hearing upon notice to such organization or to the residents and owners of the development to be held by the Town, at which hearing such organization or the residents and owners of the development shall show causes why such maintenance by the Town shall not, at the election of the Town, continue for a succeeding year.

- (c) If the Town shall determine that such organization is ready and able to maintain said common property in reasonable condition, it shall cease to maintain said common property at the end of said year. If the Town shall determine such organization is not ready and able to maintain said common property in a reasonable condition, the Town may at its discretion continue to maintain said common property during the next succeeding year, subject to a similar hearing and determination in each year thereafter.
- (d) The cost of such maintenance by the Town shall be assessed at the same proportion as each unit's assessed value bears to the total assessment of the development.

D. Review of residential cluster development. The applicant shall submit at successive stages a concept plan, preliminary plan, and final plan in accordance with the requirements of these subdivision regulations. The applicant at each stage shall provide the following information:

- (1) Proposed number of dwelling units and computation of overall residential density per gross acre.
- (2) A tabulation of the total number of acres in the proposed project; the percentage designated for each use area.
- (3) Proposed location and acreage for parks, playgrounds, natural watercourses and other open space.

ARTICLE IV

Development Standards for Subdivisions

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards.

§ 98-19. General.

- A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B. Land subject to flooding, and land deemed by the Planning Board to be otherwise uninhabitable, shall not be platted for residential occupancy nor for such other uses as may

increase danger to health, life, or property or aggravate the flood hazard on this or other property.

- C. Subdivisions shall conform to the streets and parks shown on the Official Map of the Town as may be adopted as it is developed and adopted by the Town Planning Board.
- D. Required improvements shall conform to Town specifications, on file at the Town Clerk's office.
- E. All major subdivisions will require review by Yates County Soil and Water Conservation District and the Agricultural and Farmland Protection Board.

§ 98-20. Streets; lots; easements; landscaping; floodplain; recreational space.

- A. Streets. The following regulations shall govern the layout of streets:
 - (1) Subdivisions shall be so designed as to provide a street pattern which is curvilinear in design. The design of the street pattern shall be based upon a local residential or minor street pattern connected to a residential collector street system.
 - (2) The arrangement of streets in new subdivisions shall make provisions for the continuation of existing streets in adjoining areas, or their proper protection where adjoining land is not subdivided, at the same or greater width insofar as such may be deemed necessary for public requirements.
 - (3) Local residential streets shall be designed so as to discourage through traffic.
 - (4) All right-of-way street widths and street pavements shall be measured at right angles or radial to the center line of the street and shall not be less than the following:
 - (a) All streets: 50 feet.
 - (b) Pavement: 20 feet.
 - (5) Whenever possible, streets should intersect at right angles, and in no case shall they intersect at angles of less than 60°.
 - (6) The grades of streets shall be in accordance with specifications established by the Town Highway Superintendent and Planning Board Chair and such grades as submitted on subdivision plats shall be approved by him or her prior to final approval by the Planning Board.
 - (7) All proposed subdivisions shall be designed to provide access to adjacent properties. When a proposed subdivision abuts an existing subdivision, the subdivider shall make every attempt to design the street system of the proposed subdivision to connect with dead-end or "stub" streets of the existing subdivision.
 - (8) The following standards shall apply to cul-de-sac streets:
 - (a) A cul-de-sac should be located, if possible, so that it drains toward its entrance.
 - (b) Unless there is an expectation of extending the street through to the adjoining property, a cul-de-sac street should never be brought to the property boundary

line, but should be placed so that the lots can back on the property line of the subdivision.

- (c) There must be either a cul-de-sac or turnaround every 500 feet.
 - (d) All culs-de-sac shall have a turnaround at the end of the street which shall have a minimum right-of-way radius of 100 feet, the outer curb at the turnaround shall have a minimum radius of 75 feet, and minimum paving width of 20 feet which creates a minimum turning radius of 55 feet at the inside curb.
- (9) If a dead-end street is of a temporary nature, a similar turnaround shall be provided as specified above, and provisions made for future extension of the street through to adjacent property and reversion of the excess right-of-way to the adjoining properties.
 - (10) New half or partial streets shall not be permitted, except that wherever a proposed subdivision borders a half or partial street, the Town Planning Board may require that the other part of the street be platted in the proposed tract if it is found that such a requirement would increase the effectiveness of the circulation system in the area.
 - (11) Multiple intersections involving a junction of more than two streets shall be prohibited.
 - (12) Local residential streets and residential collector streets shall not intersect with arterial streets at a distance of less than 800 feet, measured from center line to center line, unless so indicated in the access management plan.
 - (13) The minimum distance between center line offsets at street jogs shall comply with § 110-49 of the Town of Benton Zoning Ordinance.
 - (14) No street shall have a name which will duplicate or so nearly duplicates as to be confused with the names of existing streets within the county. The continuation of an existing street shall have the same name.
 - (15) The minimum radius of horizontal curves, minimum length of vertical curves, and minimum length of tangents between reverse curves, and the location of curb cuts on Town roads shall be in accordance with specifications established by the Town Highway Superintendent, and said items shall be approved by him or her prior to final approval of the subdivision plat by the Planning Board.
 - (16) The Highway Superintendent shall approve of highway plans including road sides in writing, and shall have the right to inspect during construction of same.
 - (17) Adequate street rights-of-way providing future points of access shall be provided as necessary where lots in the proposal are large enough to permit resubdivision or if a portion of the tract is not subdivided.
 - (18) Where a subdivision abuts or contains an existing or proposed major traffic street, the Planning Board may require marginal access streets, rear service alleys, reverse frontage lots, or such other design elements as will provide protection for abutting properties, reduction in the number of intersections with the major street, and separation of local and through traffic.

- (19) Upon completion of a side, access, or service street abutting a lot with a driveway connection to a public street, the Town Planning Board may require a driveway or driveways to the side, access, or service street and closure of the driveway connection to the public street.
- (20) Planned access shall be provided for parcels which are the result of subdivisions occurring after the effective date of these regulations.
- (21) Planned access shall address the provisions of this chapter, other state and local requirement, and the following:
 - (a) Parcels which are the result of a subdivision do not have the right of individual and exclusive access to state and local roads. The number of driveways or other connections shall be the minimum number necessary to provide reasonable access to these parcels, not the maximum available for the frontage.
 - (b) Access shall be provided to the road with the lowest functional classification serving the proposed development.
 - (c) Access should be internalized. Access to residential parcels within a subdivision should be obtained from an access road or an interior road.
 - (d) If the parcel which is proposed to be subdivided has frontage on two or more roads, internal parcels should share access to such roads.
 - (e) The access system for the proposed subdivision should be coordinated with existing, proposed, and planned streets outside the subdivision.
 - (f) Where potential subdivisions abut other undeveloped parcels, cross-access easements linking the internal circulation system to the abutting properties shall be provided, consistent with the § 110-49 of Town of Benton Zoning Ordinance.
- (22) To the fullest extent possible, intersections with major traffic streets shall be located according to the adopted § 110-49 of the Benton Zoning Ordinance.
- (23) Where a subdivision abuts or contains an existing street of inadequate right-of-way width, additional right-of-way width in conformance with Town Code § 110-49 of the Town of Benton Zoning Ordinance shall apply.
- (24) Shared driveways, cross-access driveways, interconnected parking, and private roads constructed to provide access to parcels internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land. Operation and maintenance agreements for these facilities should be recorded with the deed.

B. Lots. The following regulations shall govern the layout of lots:

- (1) The lot size, width, depth, shape, orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (2) All lots shown on the subdivision plat must conform to the minimum requirements of

- the Town of Benton Zoning Ordinance⁵ as to area and dimensions for the zone in which the subdivision is located.
- (3) Each lot shall front on a street built to specification of the Town of Benton.
 - (4) Corner lots shall have extra width sufficient for maintenance of required building lines on both streets as required in the Town of Benton Zoning Ordinance.
 - (5) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
 - (6) Side lines of lots shall be at right angles to the center line of straight streets, and radial to the center line on curved streets.
 - (7) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, or similar circumstances, the Town Planning Board may, after reviewing pertinent information supplied by the subdivider or the subdivider's engineer, require the modification of such lots.
 - (8) Block length and width or acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Town of Benton Zoning Ordinance⁶ and to provide for convenient access, circulation control and safety of street traffic, including both vehicular and pedestrian modes.
 - (9) Blocks intended for commercial or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.
 - (10) Lot sizes and dimensions in excess of the minimum standards of the Zoning Law⁷ shall be required by the Planning Board should the Board find that the size and dimensions of lots as proposed endanger the health, safety, or welfare of the community or the environment.
 - (11) Depth and width of parcels laid out or reserved for nonresidential use shall be sufficient to provide satisfactory space for off-street parking and unloading, or such other use as is proposed, consistent with the provisions of the Town Zoning Local Law.⁸
 - (12) If remnants of land exist after subdividing, they shall be incorporated into existing or proposed lots or, if acceptable to the Town, proposed for dedication to the Town for public use where they are found to have value to the public.
 - (13) All subdivisions shall contain a variety of lot sizes to avoid monotonous development. The Planning Board shall have the right to require the applicant to change proposed lot sizes to avoid every lot in a subdivision being the minimum lot

5. Editor's Note: See Ch. 110, Zoning.

6. Editor's Note: See Ch. 110, Zoning.

7. Editor's Note: See Ch. 110, Zoning.

8. Editor's Note: See Ch. 110, Zoning.

size or the same lot size. Refer to Town of Benton Zoning Law Density Control Schedule⁹ for minimum lot sizes.

- C. Easements. An easement shall be provided for all natural drainageways and all utility lines when such utility line or lines do not fall within a dedicated right-of-way. All easements shall be plotted on the preliminary plat and final subdivision plat. A clause shall be inserted in the deed of each lot affected by an easement indicating that the easement exists and its purpose. Except as further required in this section, easements shall have a minimum width of 20 feet. Where a subdivision is traversed by a drainageway, channel, or stream, a drainageway easement conforming substantially with the lines of such watercourse shall be provided. The easement shall be a minimum of 20 feet wide or such width as will be adequate to preserve natural drainage and provide sufficient width for maintenance. Where it is found that additional easement width is needed, such width shall be determined by the Town Planning Board in consultation with the Highway Superintendent and such other parties as the Planning Board deems appropriate. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines. All utility lines which are primarily intended to provide service to the lots within the subdivision shall be installed underground at a depth and at such locations as will minimize risk of interruption of services.
- D. Landscaping and ground cover.
- (1) All lot areas which are not covered by structures or paving shall be properly seeded by the developer.
 - (2) The developer shall provide a liberal and functional landscaping scheme for the entire subdivision. Each lot shall be provided with a minimum of two trees which shall be in addition to the street shade trees. This requirement may be waived by the Town Planning Board in wooded areas where the subdivider intends to maintain existing trees.
 - (3) Individual homeowners may, by written agreement with the subdivider and builder, seed and landscape their yards independently.
 - (4) When a proposed subdivision borders upon an existing commercial or industrial establishment, or any other use which, in the opinion of the Town Planning Board, may be visually detrimental to the tranquility of the future residents of the subdivision, the Town Planning Board may require a landscape screen to buffer the subdivision from the visually noncompatible use.
- E. Preservation of natural features.
- (1) Topsoil shall be removed and stockpiled during construction from all areas where soil is to be either cut or filled. Said stockpile is to be seeded if it is not reused as specified herein within 14 days. After construction all areas not built or paved upon shall be covered with topsoil applied to a depth of not less than six inches. All said covered areas shall be established by seeding or planting. At no time shall topsoil be removed from the subdivision without written permission from the Town Planning Board.

9. Editor's Note: See § 110-18, Density Control Schedule.

- (2) To the fullest extent possible, all existing trees and shrubbery shall be conserved by the subdivider. Special consideration shall be given to the arrangement and ultimate improvement or development of the lots to this end. Precautions shall also be taken to protect existing trees and shrubbery during the process of grading the lots and roads. No tree with a circumference of 25 inches or more as measured three feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street or in a construction area as shown on the final subdivision plat.
 - (a) Where there is a question as to the desirability of removing a tree or group of trees which serve to add interest and variety to the proposed subdivision, in order to allow for use of the land for a lot or lots, the Town Planning Board may, after proper investigation, require modification of such lots.
 - (b) Where any land other than that included in public rights-of-way is to be dedicated to the public use, the developer shall not remove any trees from the site without written permission from the Town Planning Board.
 - (3) Where a subdivision is traversed by a natural lake, pond, or stream, the boundaries or alignment of said watercourse shall be preserved unless, in the opinion of the Town Planning Board, a change or realignment will enhance the development and beauty of the subdivision or the utilization of such features by the future residents of the subdivision. All proposed changes shall be in accordance with the New York State Stream Conservation Law in affect at the time of the approval of the final subdivision plat.
 - (4) Unique physical features such as historic landmarks sites, rock outcroppings, hilltop lookouts, desirable natural contours, and similar features shall be preserved if possible.
 - (5) The subdivider shall remove all stockpiles of dirt or any other material within six months of completion of each section or phase of the subdivision.
- F. Floodplain. If any portion of the land within the subdivision is subject to inundation or flood, as shown on the United States Department of Housing and Urban Development Flood Insurance Rate Map, such fact and portion shall be clearly indicated on the preliminary plat and the prominent note on each sheet of such map whereon any such portion shall be shown.
- G. Self-imposed restrictions. The owner may place restrictions on the development greater than those required by the Town of Benton Zoning Ordinance.¹⁰ Such restrictions, if any, shall be indicated on the final subdivision plat.
- H. Modification of standards. The Town Planning Board may modify the specified requirements of these regulations in any individual case where, in said Board's judgment, such modification is in the public interest, or will improve the general health, safety, or welfare of the affected public.
- I. Required recreation areas. Land may be reserved for recreation space in locations

10. Editor's Note: See Ch. 110, Zoning.

designated on the Comprehensive Plan or elsewhere where the Town Planning Board deems that such reservations would be appropriate. The area to be preserved shall possess suitable topography, general character, and adequate road access necessary for its recreational purposes.

- (1) Before the Planning Board may approve a subdivision plat containing residential units, such subdivision plat shall also show, when required by such Board, a park or parks suitably located for playground or other recreational purposes. Land for park playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular subdivision plat will contribute.
- (2) In the event the Planning Board makes a finding pursuant to Subsection I(1) that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board.
- (3) Where the Planning Board requires land to be set aside for parks, playgrounds, or other recreational purposes, the Planning Board shall require that the site be graded, loamed, and seeded and may require it to be fenced.
- (4) When an area for park, playground, or recreational purposes shall have been required on the subdivision plat, the approval of said subdivision plat shall not constitute an acceptance by the Town of such an area.
- (5) Land set aside for recreation space shall be considered part of the permanent open space required for subdivisions.

ARTICLE V Improvements

§ 98-21. Improvements required.

The developer, before the approval of the subdivision plat, shall complete all improvements to the satisfaction of the Highway Superintendent, the Water and Sewer Superintendent, and any other inspector which may be appointed by the Planning Board or Town Board, or shall post a performance bond or other surety in a form acceptable to the Town Board which is sufficient to insure the satisfactory completion of the following required improvements. The Planning Board may grant requests for waivers, subject to appropriate conditions. All such improvements shall comply with the standards and specifications for improvements for the Town of Benton.

- A. Streets. Shall be constructed, graded, and paved in accordance with the standards and specifications on file in § 110-49 of the Town of Benton Zoning Ordinance.
- B. Storm drains, culverts, catch basins, and other drainage structures shall be installed in

accordance with the standards and specifications on file in the Town Zoning office and in accord with the final map approved by the Planning Board. All pipe shall comply with the requirements of the current New York State Highway Department specifications governing construction of these facilities. The location, length, depth, size, grade, and type of pipe shall be designated in the plans. If unusual conditions are discovered at the time of construction, which are not provided for on the plans, the Town Highway Superintendent, or other parties as designated by the Planning Board, shall determine the type and extent of construction required to overcome such conditions.

- C. Curbing and gutters shall be constructed on both sides of all streets shown on all proposed subdivision plats and in accord with the § 110-49 of the Town of Benton Zoning Ordinance.
- D. Driveway aprons shall be required between the curbing and the sidewalk and shall conform with § 110-49 of the Town of Benton Zoning Ordinance.
- E. Street signs shall be of metal and shall be installed at the intersection of all streets in conformity with Town specifications at the locations approved by the Planning Board.
- F. Street trees shall be planted in every subdivision at intervals from 40 feet to 60 feet along both sides of the street. Existing trees may be taken into consideration when determining the above. Street trees shall be a minimum of 10 feet from the right-of-way. The average trunk circumference shall be five inches. Such trees shall be of a species and at locations approved by the Planning Board. No trees shall be planted within 25 feet from an existing or proposed streetlight or street intersection.
- G. Shade trees. Other than within the road right-of-way, shade trees may be required when the Planning Board shall deem it necessary, taking into consideration the existing trees on the lots. The average trunk circumference shall be at least five inches. Such trees shall be of a species and at a location approved by the Planning Board.
- H. Sanitary sewers/waste treatment facilities. Sanitary sewers and waste treatment disposal facilities shall be required where a public sanitary sewer is reasonably accessible. The subdivider shall connect or provide for connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sewer systems shall be approved by the New York State Department of Health, the Watershed Inspector, the Sewer and Water Superintendent, and other Town health officials where appropriate. The construction is subject to the supervision of the Watershed Inspector, the Town Sewer and Water Superintendent, or the appropriate health agencies as determined by the Planning Board.
- I. Public water connections. If available, the subdivider shall connect with a public water main and provide a water connection for each lot in accordance with Town standards, procedures, and supervision. Fire hydrants shall be required and shall be installed in the location approved by the Town Sewer and Water Superintendent, the Fire Chief, and other appropriate entities as specified by the Planning Board, and in accord with the New York State Board of Fire Underwriters. The New York State Department of Health review will be required where specified by New York State statute or regulation.
- J. Block corner monuments. Permanent monuments shall be set at block corners and at

intervals of approximately 500 feet, or such other distance as the Planning Board may determine appropriate, and their location shall be shown on the subdivision plat. Monuments shall also be set to mark all underground utilities. Iron pipes shall not be considered permanent monuments for the purpose of these regulations. Standards for monuments are on file in the Town Zoning office.

K. Utilities. All utilities shall be installed underground.

ARTICLE VI

Specifications for Sketch Plans, Preliminary Plats, and Subdivision Plats

§ 98-22. Sketch plan for major and minor subdivisions.

- A. The sketch plan initially submitted to the Planning Board shall be based on Tax Map information or some similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall show the following information:
- (1) The location of the portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
 - (2) All existing structures, wooded areas, streams, and other significant physical features, within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
 - (3) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
 - (4) A copy of the Tax Map showing adjoining properties.
 - (5) All the utilities available, and all streets which are either proposed, mapped or built.
 - (6) If applicable, the proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply.
 - (7) All existing restrictions on the use of land including easements, covenants, and zoning lines.
 - (8) Before a land transfer is filed with the County Clerk, the Town Zoning Officer and Planning Board Chairman will review the proposed division and decide whether or not a survey will be required. Criteria that may trigger a survey will include but are not limited to:
 - (a) A steep slope greater than 12%.
 - (b) A lot size less than 20 acres.
 - (c) A buildable lot where there is a question about lot lines.
 - (d) A building lot that is not approved for construction.
- B. The Zoning Officer and the Planning Board Chairman may require that the proposed

division be brought before the Planning Board for review. The applicant has a right to appeal any decision by the Zoning Officer and Planning Board Chairman.

§ 98-23. Preliminary plats for major subdivisions.

Preliminary plats submitted to the Planning Board shall be drawn to scale of not more than one inch equal to 100 feet, and shall show the following information:

- A. The location of the property with respect to surrounding property and streets. There shall also be included a key map at a scale of one inch equals 500 feet showing all streets, streams, and property within 1,500 feet of the applicant's property. All property held by the applicant within 2,000 feet must also be identified.
- B. The location and approximate dimensions of all existing property lines (including the entire area proposed to be subdivided and the remainder of the tract owned by the current owner of record or the subdivider).
- C. All pertinent features, such as existing structures, streets, railroads, water bodies, streams, swamps, and large trees, that may influence the design of the subdivision and topography at a contour interval of not more than five feet.
- D. The approximate location, dimensions, and area of all proposed and/or existing lots.
- E. The names of all property owners of record, or the names of developments within 500 feet of the proposed subdivision.
- F. The name and address of the owner or owners of the land to be subdivided, the name and address of the subdivider, if other than the owner. Further, the name of the land surveyor, engineer, or landscape architect will be added if required.
- G. The date, source of the north point, and scale.
- H. Acreage of the tract to be subdivided to the nearest tenth of an acre.
- I. Proposed provision of water supply, fire protection, disposal of sanitary waste, and stormwater drainage.
- J. The application deadline date for submission of materials for the review of the preliminary subdivision plat by the Planning Board.
- K. The approximate location of any proposed buildings.
- L. The location of the required setback lines for principal structures as delineated in the Town's Zoning Ordinance.¹¹
- M. The approximate location of the sewage disposal system, and the results of a percolation test conducted within such area.
- N. Provision of street signs.
- O. Each block shall be numbered and the lots within each block shall be numbered

11. Editor's Note: See Ch. 110, Zoning.

consecutively in accordance with the procedure established by the Town. The total number of residential lots shall be noted on the plat.

- P. The approximate location and dimensions of all property proposed to be set aside for playground or park use.
- Q. The location, width, and approximate grade of all proposed streets. Approximate elevations shall be shown at the beginning and end of each street, at street intersections, and at all points where there is a decided change in the slope or direction of the street. Profiles of all proposed streets shall be provided at a scale of not more than one inch equal to 100 feet.

§ 98-24. Additional information required.

In its review of the sketch plan or preliminary plan, the Planning Board may require additional information it deems important to the design of a particular subdivision in order to better provide for the health, safety and welfare of both the present and future inhabitants of the Town.

§ 98-25. Final subdivision plat for major subdivisions.

- A. All subdivision plats shall bear the stamp and signature of a New York State licensed land surveyor, engineer, or landscape architect.
- B. All subdivision plats shall contain the information as required for a preliminary plat as defined herein.
- C. Major subdivision plats shall be accompanied by separate construction detail sheets, and both shall be submitted to the Planning Board for approval as follows:
 - (1) Drawing, scale and size of plat. The subdivision plat and construction detail sheets shall be clearly and legibly drawn. In areas zoned for lots of a minimum permitted size of 20,000 square feet or more, maps and profiles shall be at a scale of one inch equals 100 feet. In areas zoned for minimum allowable lot sizes of less than 20,000 square feet, maps and profiles shall be at a scale of one inch equals 50 feet. Maps shall be on uniform size sheets in accordance with the applicable New York State statutes. Whenever any project is of such size that more than one sheet is required, an index map on the same size sheet shall accompany these sheets. The construction detail sheets shall show all improvements as required in § 98-26 below.
 - (2) Information to be shown on plat:
 - (a) Proposed subdivision name or identifying title which shall not duplicate or too closely approximate that of any other development in the Town.
 - (b) Locations, names and widths of existing streets, highways and easements, building lines, parks, and other public properties.
 - (c) Locations and widths of all streets and sidewalks, together with names of streets, and location, dimensions, and status of all easements proposed by the subdivider.
 - (d) Lot areas in square feet.

- (e) Lot lines with accurate dimensions and bearings of angles.
- (f) Sufficient information to readily determine the location, bearing, and length of all lines, and to reproduce such lines upon the ground.
- (g) Radii of all curves and lengths or arcs.
- (h) Location, material and approximate size of all monuments.
- (i) The accurate outline of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant or by a homeowners' association for the common use of the property owners of the subdivision.
- (j) Any additional information which the Planning Board shall direct to protect the public health, safety, and welfare.

§ 98-26. Construction detail sheets.

Construction detail sheets shall show the following information:

- A. Profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection, in both directions, shall be shown. All elevations must be referred to established United States government or approved local bench marks, where they exist within 1/2 mile of the boundary of the subdivision.
- B. Any other information which the Planning Board, in its review of the sketch plan, preliminary plan or subdivision plat, may have deemed of importance in the design and review of a particular subdivision in order to better provide for the health, safety, and welfare of both present and future inhabitants of the Town.
- C. The Planning Board may require, where steep slopes exist, that present and proposed elevations of all proposed streets shall be shown every 100 feet at five points on a line drawn at right angles or, if on a curve, radial to the center line of the proposed street. Said five elevation points shall be at the center line of the street, each property line, and points 30 feet inside each property line abutting the street.
- D. Plans and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes, and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains, and fire hydrants; and the exact location and size of all water, gas, electric, or other underground utilities of structures.
- E. All erosion control devices as required by the Town of Benton Zoning Law,¹² Yates County Soil and Water Conservation District and New York State Department of Conservation Law.

12. Editor's Note: See Ch. 110, Zoning.

§ 98-27. Certificates and bonds.

In addition to the subdivision plat and other requirements as described above, the following shall also be presented to the Planning Board:

- A. A certificate that there are no tax liens on the property being subdivided.
- B. A performance bond or other survey instrument in a form acceptable to the Town Board in such amount as is acceptable to the Town Board as necessary to complete all street and utility improvements.

§ 98-28. Approvals needed.

Before approved plans can be signed by the Chairperson or Acting Chairperson of the Planning Board as being approved, the following approvals shall be required where applicable:

- A. All proposed curb cuts onto Town roads, all proposed streets and intersections shall be subject to the approval of the Town Highway Superintendent.
- B. All proposed municipal water and sewer hookups shall be approved by the Water and Sewer Superintendent where applicable.
- C. All extensions to existing municipal water and sewer mains and hookups therein shall be approved by the New York State Department of Health.
- D. All wastewater disposal systems shall be approved by the Town of Benton Watershed Inspector.
- E. All proposed curb cuts onto county roads shall be subject to the approval of the County Highway Superintendent.
- F. All proposed curb cuts onto state highways shall be subject to the approval of the New York State Department of Transportation.
- G. All wastewater disposal systems shall be approved by the Town of Benton Watershed Inspector.