

**SUBDIVISION REGULATIONS
TOWN OF MIDDLETOWN
DELAWARE COUNTY, NEW YORK**

ADOPTED BY:

THE MIDDLETOWN TOWN PLANNING BOARD: OCTOBER 25, 1984

APPROVED BY:

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AMENDED BY:

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TOWN OF MIDDLETOWN
SUBDIVISION REGULATION

ARTICLE 100. GENERAL PROVISIONS

101. AUTHORITY

By the authority of the resolution of the Town Board of the Town of Middletown, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Middletown is authorized and empowered to review and approve plats for the subdivision of land.

102. JURISDICTION

Land within the unincorporated portion of the Town of Middletown may be subdivided into lots, blocks, or sites, with or without roads or highways, only if approved by the Planning Board in accordance with the procedures and requirements as set forth in these Regulations, and only if the approved plat is duly filed in the office of the County Clerk of Delaware County, New York. Construction, excavation, filling, re-grading, clearing of vegetation or other similar activities shall not begin within any area proposed or intended for subdivision until said subdivision shall have been approved, or conditionally approved, by the Planning Board.

103. POLICY

It is declared to be the policy of the Planning Board to consider land subdivision as part of a plan for the orderly, efficient, and economical development of the Town. This means, among other things:

- A) That land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace, and without resulting in significant and/or irreparable damage to the ecology of the area in which it is located;
- B) That proper provision shall be made for surface drainage, water supply, sewage and other needed improvements;
- C) That all proposed lots shall be so laid out and of such size as to not cause any adverse effects, such as erosion, on neighboring properties;
- D) That roads shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to follow the natural contours of the land.

E) That in proper cases, and when required by the Planning Board, provisions shall be made for parks and playgrounds of suitable size, character and location for recreational purposes and to be shown on the subdivision plat.

104. BUILDING PERMITS

No building permit shall be issued for the erection of any building within a proposed subdivision until said subdivision has been duly approved by the Planning Board and filed in the office of the County Clerk. However, the Building Inspector may issue a single building permit for a single family residence based upon the entire tract of land where there is no other existing residence within the proposed subdivision and where the location of the proposed building is in accordance with an approved Preliminary Plat.

105. RESUBDIVISION

A resubdivision, as defined herein, is subject to the same procedures, rules, and regulations applicable to an original subdivision.

106. CONDITIONS

Regulation of the subdivision of land and the attachment of reasonable conditions is an exercise of valid police power delegated by New York State to the Town. The subdivider or developer has the duty of compliance with reasonable conditions laid down by the Planning Board for design, dedication, improvement, and restrictive use of the land so as to conform to the physical and economical development of the Town and to the safety and general welfare of the future plat owners in the subdivision and the community at large.

107. WAIVERS AND MODIFICATIONS

A) Waivers

Where the Planning Board finds that, because of the special circumstances of a particular case, extraordinary hardship may result from strict compliance with these Regulations, the application of any of the requirements herein related to layout and platting of land for subdivision, provided, however, that any such waiver will not have the effect of nullifying the spirit and intent of these standards, the Comprehensive Plan, the Official Map, or any other regulations or ordinance, if such exists.

B) Design Innovations

When design concepts which are imaginative and beneficial to the public interest are proposed by the subdivider, the Planning Board may modify the requirements of these Regulations and impose additional conditions as

necessary to permit the accomplishments of such concepts. As authorized by resolution of the Town Board, the Planning Board may, simultaneously, with the approval of a plat, apply the provisions of Section 281 of the Town Law, when applicable.

C) Procedure

Applications for waivers or modifications shall be submitted by the subdivider at the time the Sketch Plan is submitted to the Planning Board. The Application shall state fully the grounds and all the facts relied upon by the Applicant.

108. AMENDMENTS

These Regulations may be amended by the Planning Board after public hearing on such amendments and subject to the approval of the Town Board. Any proposed preliminary subdivision plat which has not received conditional approval prior to the effective date of an amendment to these Regulations, or any conditionally approved preliminary subdivision plat where an application for Final Plat approval has not yet been received within six (6) months of the date of conditional approval, shall fully comply with any amendment to these Regulations.

109. ENFORCEMENT, VIOLATIONS, AND PENALTIES

A) General

- 1) It shall be the responsibility of the Planning Board to bring to the attention of the Town Attorney any violations or lack of compliance herewith.
- 2) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Board in accordance with the provisions of these Regulations, and filed with the County Clerk.
- 3) The subdivision of any lot or parcel of land, by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these Regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these Regulations.
- 4) No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these Regulations.
- 5) Lots may be advertised and contracted for sale only after Preliminary Plat approval has been granted by the Town Planning Board. No sale shall be finalized on any lot in the subdivision until Final Plat approval has been granted by the Town Planning Board.

B) Civil Enforcement

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these Regulations, or prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure, or premises: and these remedies shall be in addition to the penalties described in a separate local law.

110. SEPARABILITY

Should any section or provision of the Regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Regulation as a whole or any part thereof other than the part so declare to be invalid.

111. COURT REVIEW

Any person aggrieved by any decision of the Planning Board relative to a subdivision may have such decision reviewed by a special term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules, providing the proceeding is commenced within thirty (30) days after the filing of the decision in the office of the Planning Board, as all set forth in Section 282 of Town Law.

112. SUBDIVISIONS IN PROGRESS

This Regulation shall not apply to subdivisions already filed in the office of the County Clerk pursuant to Real Property Law 334 and where a substantial investment has already been made prior to the effective date of this Regulation. A substantial investment is the physical layout and preliminary construction work of new roads.

113. TITLE AND EFFECTIVE DATE

In order that land subdivisions maybe made in accordance with the authority, jurisdiction, and policy as set forth above, these Regulations, which shall be known and cited as the “Town of Middletown Land Subdivision Regulations”, have been adopted by the Planning Board on October 25, 1984 and approved by the Town Board on December 11, 1984. Amended by the Planning Board, after public hearing on July 8, 1989 and approved by the Town Board on July 11, 1989, to be effective August 1, 1989.

ARTICLE 200. DEFINITIONS

201. GENERAL TERMS

Except where specifically defined, all words used in these standards shall carry their customary meaning. Words use in the present tense shall include the future; words used in the singular shall include the plural, unless the context clearly indicates otherwise.

The word “shall” is always mandatory. The word “may” is permissive. “Building” or “structure” includes any part thereof. The word “person” includes an individual person, a firm, a corporation, a co-partnership, and any other agency of voluntary action.

202. KEY TERMS

For the purpose of these Regulations, certain words and terms shall have the following meaning:

APPLICANT – The owner of the land proposed to be subdivided or his duly appointed representative. Consent shall be required from the legal owner when a representative makes application.

BUILDING PERMIT – A permit issued by the Building Inspector which indicates the applicant has submitted an approved application and plan for building construction in compliance with the Town of Middletown requirements.

CONSTRUCTION DRAWINGS – The maps and/or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Board as a condition of the approval of the plat.

EASEMENT – Authorization by a property owner for the use of any designated part of his property by another, and for a specified purpose.

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

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

ENVIRONMENTAL IMPACT STATEMENT (EIS) – A written document required for each Type I and Unlisted Action which the Planning Board determines may have a significant effect on the environment.

ESCROW – A deposit of cash with the Town in lieu of an amount required and still in force on a performance or maintenance bond.

FINAL SUBDIVISION PLAT OR FINAL PLAT – A drawing in final form, showing a proposed subdivision containing all information and detail required by law and these Regulations to be presented to the Planning Board for approval and which, if approved, shall be duly filed and recorded by the applicant in the office of the County Clerk.

LOT IMPROVEMENT – Any building, structure, place, work of art or other improvements to the land as may be required by the Planning Board, including clearing, final grading and drainage improvements that constitutes a physical betterment of real property. Certain lot improvements shall be properly bonded as provided in these Regulations.

LOT OR PARCEL – A tract, plot, or portion of a subdivision or other parcel of land intended, as a unit for the purpose, whether immediate or future, of sale, lease, donation or separate use.

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

MODEL HOME – A dwelling unit used initially for display purposes which typifies the types of units that will be constructed in the subdivision.

OWNER – The person or persons actually holding title of a parcel or tract of land.

OFFICIAL MAP – A map established by the Town Board pursuant to Section 270 of the Town Law showing roads, highways, parks, and drainage, both existing and proposed.

PERFORMANCE BOND – A bond as required by Section 277 of the Town Law to assure the full and satisfactory completion of all required subdivision improvements as specified in the Planning Board Resolution of Approval.

PLANNING BOARD – The Planning Board of the Town of Middletown, Delaware County, New York.

PLANNING BOARD ASSISTANT – A person appointed by the Planning Board and approved by the Town Board to assist the Planning Board with the administration of these Regulations. The person(s) will assist and instruct applicants with forms and procedures to ease administration. He may be directed

by the Planning Board to review the application, including a field trip to the site and to make recommendations.

PRELIMINARY PLAT – A drawing or drawings clearly marked “Preliminary Plat” showing the salient features of a proposed subdivision as specified in Article 600, Section 603 of these

Regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PUBLIC IMPROVEMENTS – Any drainage ditch, road, sidewalk, pedestrianway, tree, off-street parking, recreation area, lot improvement, or other facility for which the Town may ultimately assume the responsibilities for maintenance and operation, or which may affect an improvement for which Town responsibility is established. All such improvements shall be properly bonded.

RESUBDIVISION – A change in a map of an approved or recorded subdivision plat if such change affects any road layout on such map or any lot line or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivision. Any further subdivision of a previously defined Simple Subdivision shall be classified as a Major or Minor Subdivision.

ROAD, COLLECTOR – A road which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.

ROAD, DEAD-END OR CUL-DE-SAC – A road or portion of a road with only one vehicular traffic outlet.

PRIVATE RIGHT-OF-WAY – A vehicular accessway which is not intended to be dedicated as a public way.

ROAD, PRIVATE – Any private roadway which was previously shown on a plat approved by the Planning Board and filed and recorded in the Office of the County Clerk or any private roadway which is built to Town Road Standards, but is not accepted as a Town roadway.

ROAD, PUBLIC – Any State, County, or Town roadway.

ROAD, PAVEMENT – The wearing or exposed surface of the road right-of-way designed to be used by vehicular traffic.

ROAD PERIMETER – An existing road to which the parcel of land to be subdivided abuts on only one side.

ROAD REVIEW COMMITTEE – A committee appointed by the Town Supervisor to review plans and make periodic inspections during the construction phase of required improvement. The committee shall consist of one member of the Planning Board, one member of the Town Board and the Town Road Superintendent or his designee.

ROAD WIDTH – The width of the right-of-way between property lines measured at right angles to the centerline of the road at any given point.

SKETCH PLAN – A sketch of a proposed subdivision showing the information specified in Article 600, Section 601, of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these Regulations.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR) – It is a process to help government and the public protect and improve the environment. SEQR requires that environmental factors be considered along with social and economic considerations in government decisionmaking.

STREET – See ROAD

SUBDIVIDER – Any person, firm, corporation, partnership, or any legal entity who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION – The division of any parcel of land into two (2) or more lots, blocks, or sites for any purpose with or without the creation of new roads or highways and includes resubdivision and planned unit developments.

SUBDIVISION, MAJOR – Any subdivision creating more than ten (10) lots on a public road or any subdivision of five (5) or more lots on a private road.

SUBDIVISION, MINOR – Any subdivision creating:

- A) Four (4) to ten (10) lots on a public road;
- B) Two (2) to four (4) lots on a private road meeting Town specifications;
- C) Two (2) lots of twenty-five (25) acres or more on a private right-of-way.

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

TOWN CONSTRUCTION STANDARDS – The standards and specifications adopted by the Town Board for the construction of new roads and related improvements.

TYPE I ACTION – An action that is likely to have significant effect on the environment as listed in Part 617.12 of the SEQRLaw.

UNLISTED ACTION – An action that may have a significant effect on the environment as explained in Part 617.2 of SEQRLaw.

ARTICLE 300. APPLICATION PROCEDURE

301. GENERAL

Whenever any 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 duly authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the following procedures.

302. INITIAL CONFERENCE

Before preparing a sketch plan, the applicant should meet with the Planning Board or its assistant to discuss the procedure for approval of a subdivision and the requirements as they may pertain, including general layout of lots, new roads, reservation of lands, road improvements, drainage, sewer, fire protection and other similar matters.

The applicant will also be advised of the necessary forms for Sketch Plan review and of the requirements for compliance with New York State Environmental Quality Review Act procedures.

303. SKETCH PLAN REVIEW

A) Submission of Sketch Plan

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board or its assistant, at least ten (10) days prior to the regular meeting of the Board, three copies of a Sketch Plan and a complete application for the proposed subdivision, which shall comply with the requirements of Article 600, Section 601, for the purposes of classification and preliminary review and discussion.

The subdivider, or his duly authorized agent, shall attend the meeting of the Planning Board to discuss the requirements of these Regulations for road improvements, drainage, sewerage, water supply, fire protection, flood protection, and similar aspects, as well as the availability of existing services and other pertinent information.

B) Classification of Sketch Plan

At this time, the Planning Board shall classify the Sketch Plan as to whether it is a Minor or Major Subdivision as defined in these Regulations, provided all lots meet minimum standards in accordance with the Town Zoning Ordinance.

The Planning Board shall, as part of the subdivision review process, determine the applicability of the development limitations requirements for a particular subdivision proposal. The Planning Board shall apply the development limitation requirements of minimum lot size and frontage to particular parcels when, and only when, two or more of the development limitations exist to any degree within the proposed parcel.

If the Sketch Plan is classified as a Minor Subdivision, the subdivider shall then comply with the procedure outlined in Article 300, Section(s) 304 and 307 of these Regulations. If it is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined in Article 300, Section(s) 305, 306, 307, and 308 and Article 400.

C) State Environmental Quality Review Act (SEQR) Requirements

The Planning Board shall also determine the applicability of SEQR. An Environmental Assessment Form (EAF), to be completed by the applicant, is required if the proposed subdivision is classified as Type I or Unlisted according to the SEQR Act. A completed EAF will assist the Planning Board in determining the environmental significance of the project.

D) Sketch Plan Review and Recommendations

The Planning Board, in studying the Sketch Plan, shall take into consideration the requirements of these standards and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and width of roads, their relationship to the topography of the land, sewage disposal, drainage, lot sizes and arrangements, the further development of adjoining land, as yet unsubdivided, and the goals and objectives of the Town Comprehensive Plan and Zoning Ordinance as it may exist.

The Planning Board may transmit copies of the Sketch Plan to other interested officials or agencies of government for review and comment as may be necessary. Written comments, if any, from these officials and agencies shall be required within thirty (30) days of their receipt of Sketch Plan.

After reviewing the Sketch Plan and reports, as may be submitted, the Planning Board shall determine where the Sketch Plan meets the purposes of these Regulations and shall, as it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the next

submission to the Planning Board. Such recommendations shall be made within forty-five (45) days from the time the Sketch Plan was initially reviewed by the Planning Board.

304. APPROVAL OF MINOR SUBDIVISIONS

The Board may require, where it deems it necessary for protection of the public health, safety and welfare, that a Minor Subdivision comply with all or some of the requirements specified for Major Subdivisions.

A) Application and Fee

Within six (6) months after Planning Board classification of the Sketch Plan as a Minor Subdivision, the subdivider shall submit an application in duplicate for approval of a Minor Subdivision Plat. Failure to do so may require resubmission of the Sketch to the Planning Board for reclassification.

The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations or conditions established by the Planning Board and to the requirements listed in Article 600, Section 602 or these Regulations. All applications for Plat approval for Minor Subdivisions shall be accompanied by a fee established by the Planning Board and on file in the Town Clerk's office.

Three (3) copies of the Minor Subdivision Plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regularly scheduled meeting of the Planning Board. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Minor Subdivision Plat.

An Environmental Assessment Form (EAF), completed by the applicant, for the proposed subdivision shall, if required, be available for review at this meeting of the Planning Board. The statement should consider potential impacts of the development as anticipated by the developer.

The time of submission of the Minor Subdivision Plat shall be considered to be the date of the regular monthly meeting of the Planning Board, at least ten (10) days prior to which the application for Plat Approval, complete and accompanied by the required fee and all data required by Article 600, Section 602 of these Regulation, has been submitted to the Planning Board Secretary.

B) Referrals

When applicable, the Secretary of the Planning Board, upon receipt of a Minor Subdivision Plat, shall present a copy of said Plat to the Delaware County Planning Board for their review and report in accordance with the provisions of Section 239-n of Article 12-B of General Municipal Law.

C) Public Hearing

A public hearing shall be held by the Planning Board within forty-five (45) days from the time of submission of the Minor Subdivision Plat for approval. The hearing must be advertised at least once in a newspaper or general circulation in the town at least five (5) days prior to the hearing. The applicant shall notify by Certified Mail, at least five (5) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with post office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

D) Action on Minor Subdivision Plat

The Planning Board shall, within forty-five (45) days from the date of said Public hearing, act to conditionally approve with or without modifications, disapprove or approve such Minor Subdivision Plat and so indicate on the Plat. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat. The Planning Board resolution granting conditional approval, with or without modification of the Plat, shall also empower a duly authorized officer to sign the Plat, upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval.

Within five (5) days of the resolution granting conditional approval, the Plat shall be certified by the Planning Board as conditionally approved. A copy of such certification shall be filed in the office of the Planning Board Secretary and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved Plat.

Conditional approval of a Plat shall expire on hundred eighty (180) days after the date of the resolution granting such approval. Within such 180 day period, or any extension thereof granted by the Planning Board, the conditionally approved Minor Plat must be submitted for the Planning Board Signature of Final Approval. Upon receiving the signature of the offices of the County Clerk in accordance with the provisions of Article 300, Section 307, of these Regulations.

In the event of disapproval of a Minor Subdivision Plat, the Planning Board shall fully set forth the reasons for such disapproval in its resolution and formally notify the applicant, in writing, of the reason(s) for disapproval.

305. PRELIMINARY PLAT FOR MAJOR SUBDIVISION

A) Application and Fee

Within six (6) months after Planning Board classification of the Sketch Plan as a Major Subdivision, the subdivider shall file an application for Approval of a Preliminary Plat of the proposed subdivision. Such Preliminary Plat shall be clearly marked "Preliminary Plat" and shall be in accordance with Article 600, Section 603 of these Regulations and all zoning ordinance recommendations, except where a waiver may be specifically authorized by the Planning Board.

Four (4) copies of the Preliminary Plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regular meeting of the Planning Board. The Application for Approval of the Preliminary Plat shall be accompanied by a fee set by the Planning Board and on file in the Town Clerk's office.

The time of submission of the Preliminary Plat shall be considered to be the date of the regular meeting of the Planning Board, at least ten (10) days prior to which the Application for Conditional Approval of the Preliminary Plat, complete and accompanied by the required fee and all data required by Article 600, Section 603, of these Regulations, has been filed with the Secretary of the Planning Board.

An EAF, completed by the applicant, for the proposed subdivision shall be available for review at the meeting of the Planning Board. The statement should consider potential impacts of the development as anticipated by the developer.

B) Referrals

When applicable, the Planning Board shall, upon initial review, refer the Preliminary Plat to the Delaware County Planning Board for their review and recommendation as required by Section 239-n of Article 12-B or the General Municipal Law. In addition, the Planning Board shall refer the Preliminary Plat to other County or State agencies which have or may have jurisdiction of review or approval of the subdivision. If the subdivision meets any Type I threshold listed in Part 617.12 or the SEQR regulations, lead agency for the SEQR process shall be determined according to procedures outlined in Section 617.6 or the SEQR regulations.

C) Study of Preliminary Plat

The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Preliminary Plat.

The Planning Board shall study the practicality of the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Where uncertainty exists with respect to the boundaries or criteria of the development limitation overlays, the Middletown Town Planning Board shall determine the extent of the development limitations in question. Particular attention shall be given to the arrangement, location, width and design of roads and their relation to the topography, water supply, sewage disposal, surface drainage, lot sizes and arrangement, potential flood hazards, the future development of adjoining lands as yet unsubdivided, and the recommendations and requirements of the Master Plan, the Official Map, and zoning regulations, if such exist.

The Planning Board may schedule a field trip to the proposed subdivision site accompanied by the applicant or his agent. In order to facilitate field inspection and review of the site, temporary staking along the centerline of all proposed roads at fifty-foot (50') intervals and front lot corners may be required.

D) Public Hearing

Within forty-five (45) days after the time of submission of a Preliminary Plat, the Planning Board shall hold a Public Hearing on said Plat. The Hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such Hearing. This Public Hearing shall also be used to solicit comments on the Draft EIS under SEQR, if required. The applicant shall notify, by Certified Mail, at least five (5) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with Post Office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

E) Action on Preliminary Plat

Within forty-five (45) days from the date of such Public Hearing, the Planning Board shall take action to approve, with or without modifications, or disapprove such Preliminary Plat and the grounds for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such Preliminary Plat may be extended by mutual consent of the subdivider and the Planning Board.

If the Planning Board disapproves the Preliminary Plat, it shall direct the Chairman to notify the applicant, in writing, of the specific reasons for disapproval.

A determination of no significant environmental impact (negative declaration) or a Draft EIS is required by the designated lead agency before the subdivision may be approved. The Planning Board shall notify other agencies who have authority to review the subdivision of this determination.

F) Approval of Preliminary Plat

When granting approval to the Preliminary Plat, the Planning Board shall state the conditions of such approval, if any, with respect to:

- 1) The specific changes which will be required in the Final Subdivision Plat;
- 2) The character and extent of the required improvements for which waivers may have been requested and which, in the Planning Board's opinion, may be waived without jeopardy to the public health, safety, morals, and general welfare;
- 3) The amount of the improvement or the amount of all bonds therefore which will be required as a prerequisite to the approval of the Subdivision Plat.

Within five (5) days of conditional Preliminary Plat approval, the action of the Planning Board, plus any conditions attached thereto, shall be noted on, or attached to, three copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Planning Board, and one forwarded to the Town Clerk.

Approval of the Preliminary Plat shall not constitute approval of the subdivision plat. Rather, it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat. Prior to approval of the Final Subdivision Plat, the Planning Board may require additional changes as a result of further study or new information obtained.

G) Model Homes

For the purpose of allowing the early construction of Model Homes in a subdivision, the Planning Board, in its discretion, may permit a portion of a Major Subdivision, involving no more than three (3) lots, to be created in accordance with the procedures for Minor Subdivisions, provided said portion derives access from existing State, County or Town highway, and provided no future road or other improvement is anticipated where said lots are proposed. The subdivision plat for the "Minor" portion shall be submitted to the Planning Board simultaneously with the Preliminary Plat for the entire Major

Subdivision. After preliminary approval, the model may be constructed, subject to such additional requirements that the Planning Board may require.

306. FINAL PLAT FOR MAJOR SUBDIVISION

A) Application and Fee

The subdivider shall, within six (6) months after the approval of the Preliminary Plat, file with the Planning Board an application for approval of the Subdivision Plat in final form. The application and accompanying data shall conform to the requirements of Article 600, Section 604, of these Regulations. If the Final Plat is not submitted within the said six (6) months, the Planning Board may refuse to approve the Final Plat and require resubmission of the Preliminary Plat.

The subdivider shall provide the Planning Board Secretary with two (2) copies of the application, three copies of the Final Plat, the original and one copy of all offers of cession, covenants and agreements, and two prints of all construction drawings, at least ten (10) days in advance of the regular Planning Board meeting at which the Plat is to be officially submitted. The Application for Approval of the Final Plat shall be accompanied by a fee set by the Planning Board and on file in the Town Clerk's office.

The time of submission of the Final Plat shall be considered to be the date of the regular meeting of the Planning Board at least ten (10) days prior to which the Application for Approval of the Subdivision Plat, complete and accompanied by the required fee and all data required by Article 600, Section 604, of these Regulations, has been filed with the Secretary of the Planning Board.

Evidence shall be supplied that any proposed water supply and sewage disposal facilities associated with the Subdivision Plat requiring approval by the Department of Environmental Conservation and/or the New York State Department of Health shall have received at least preliminary approval(s) of such facilities.

B) Public Hearing

A Public Hearing on the Final Plat may be held by the Planning Board if the Board deems that there are substantial changes from the approved Preliminary Plat. Such hearing shall be held within forty-five (45) days after the time of submission of the Final Plat for approval and shall be advertised in the same manner as the previous public hearing for Preliminary Plat approval. Adjacent property owners shall also be notified by the applicant by the process specified in Preliminary Plat approval.

C) Action On Final Plat

The Planning Board shall, within forty-five (45) days from the date of submission of the Final Subdivision Plat, if no hearing is required (or within forty-five (45) days of second Public Hearing if required), approve, conditionally approve with or without modifications, or disapprove said Plat and so indicate on the Plat. This time period may be extended by mutual consent of the subdivider and Planning Board. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat.

A resolution of conditional approval shall also duly authorize and empower an officer of the Planning Board to sign the Plat for recording with the County Clerk. However, the Final Plat shall not be signed until the subdivider has complied with Article 400 of these Regulations. Conditional approval of a Final Plat shall expire one hundred eighty (180) days after the date of the resolution granting such approval, except that this time may be extended by the Planning Board for no more than two additional periods of ninety (90) days each.

If a Draft Environmental Impact Statement was required, the Planning Board's action on the Final Plat shall include either a negative declaration or the Final EIS and a statement of findings on the subdivision as required under Section 8-0109-8 of the SEQRA Act of 1975, as amended.

Within five (5) days of the Planning Board resolution of conditional approval, the Final Subdivision Plat shall be certified by the Planning Board as conditionally approved. A copy of such certification shall be filed in the office of the Town Clerk and a copy mailed to the subdivider.

307. FINAL APPROVAL AND FILING

The Chairman or other duly authorized officer of the Planning Board shall endorse the Board's final approval on the Plat only after it is satisfied that all required conditions, modifications, and improvements have been met and/or completed in accordance with the Planning Board's resolution of approval of the Plat and construction plans, or alternatively that a bond on the required amount and surety has been filed and that all other required conditions of the resolution of approval, including the payment of all fees and the approval of the New York State Department of Health, have been complied with. The Planning Board endorsement shall be by signature and date in ink on the original of the Plat (which shall be returned to the applicant for filing) and on a print of the Plat which shall be retained by the Planning Board in its files.

The approved Plat may be filed with the Delaware County Clerk within sixty (60) days of the date of the Planning Board endorsement. Any Subdivision Plat not so

filed, or recorded within sixty (60) days of the date which such Plat is approved, or considered approved by reasons of the failure of the Planning Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of sixty (60) days.

No changes, erasures, modifications, or revisions shall be made on any Subdivision Plat after approval has been given by the Planning Board and endorsed in writing on the Plat, unless the said Plat is first resubmitted to the planning board and such Board approves any modifications. In the event that any such Subdivision Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plat stricken from the records of the County Clerk.

308. STATUS OF ROADS, PARKS AND EASEMENTS

A) Acceptance by Town

Acceptance of any offer of cession of roads or parks shall rest with Town Board. The approval by the Planning Board of Subdivision Plat shall not be deemed to constitute nor imply the acceptance by the Town of any roads, parks or other areas shown on said Plat, and the Planning Board shall require the addition of appropriate notes to this effect on the Plat.

B) Maintenance

In the event that no offer of cession to the public is made for the roads, parks and required easements shown on the Plat, there shall be submitted with the Final Application copies of agreements or other documents providing for and fixing responsibility for suitable maintenance of such facilities and statements of all rights which exist with respect to the use of such property(ies). The adequacy of such documents shall be subject to Planning Board approval, based upon recommendations of the Town Attorney.

ARTICLE 400. REQUIRED IMPROVEMENTS FOR MINOR OR MAJOR SUBDIVISIONS

401. GENERAL

A) After adoption of a resolution approving a Final Subdivision Plat and before the Plat is endorsed by the Planning Board, the applicant shall be required to complete, at his expense and without reimbursement by the Town or any special district, all road, sanitary, storm drainage, and other improvements, including lot improvements as shown on the approved Construction Plans or as otherwise specified in the resolution. The Planning Board may, in a special

or particular circumstance of a particular case, modify or waive a requirement only by specific resolution.

B) ROAD CONSTRUCTION STANDARDS: MINOR AND MAJOR SUBDIVISIONS

- 1) Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush and other objectionable material. All ledge, large boulders and tree stumps shall be removed from the right-of-way.
- 2) Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Final Plat and be suitably covered with fill and topsoil, limed, fertilized and seeded.
- 3) Where the subdivision roads are to remain private roads, the following words shall appear on the recorded Plat: "All roads in this subdivision shall remain private roads or private rights-of-way and be maintained by the developer or lot owners and shall not be accepted or maintained by the Town until the road is improved to meet Donovan standards for acceptance.
- 4) On Minor Subdivisions consisting of two to four lots on private roads, the developer or contractor shall provide a surface treatment acceptable to the Road Review Committee.
- 5) Private rights-of-way may follow along adjacent property lines and shall follow all natural drainage courses.
- 6) No building permits will be issued until the Road Review Committee has approved all roads and/or released the financial guarantee secured.
- 7) When a Minor Subdivision is proposed consisting of: A) two lots of twenty-five (25) acres or more; or B) four to ten lots on a private road, then the following shall apply:
 - a) The minimum right-of-way width shall be fifty feet (50').
 - b) No minimum roadbed requirements are listed.
 - c) The angle of intersection with an existing road shall be maintained within ten degrees (10°) of a right angle.

- d) A reasonable grade shall exist within fifty feet (50') of intersections with existing roads subject to review by the Road Review Committee.
- e) Clear visibility at all intersections shall be maintained as described in Article 500, Section 504, of these Regulations.
- f) Adequate drainage is to be provided at intersections with existing roads acceptable to the Road Review Committee.
- g) A map of the subdivision, suitable for filing in the Office of the Delaware County Clerk, as required by New York State Law, shall be drawn by a licensed surveyor.
- h) Provisions shall be made for the proper installation of utilities. This means the establishment of utility easements or rights-of-way acceptable to the utility company having jurisdiction.

402. PERFORMANCE BOND AND COMPLETION OF IMPROVEMENTS

Before the Planning Board grants Final Approval of the Subdivision Plat, the Planning Board shall direct the developer to follow the procedure set forth in either subparagraph A) or subparagraph B) below:

A) In an amount set by the Planning Board from an estimate proposed by the Town Highway Superintendent or other duly designated officer, the subdivider shall either file with the Town Clerk a bond or financial guarantee satisfactory to the Planning Board covering the costs of the required improvements. Any such bond or financial guarantee shall comply with the requirements of Section 277 of the Town Law and further shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or other such period as the Planning Board may determine appropriate, not to exceed three years shall be set forth in the bond or financial guarantee within which required improvements must be completed.

– OR –

B) The subdivider shall complete all required improvements to the satisfaction of the Road Review Committee or other representative designated by the Town Board to fulfill such duties who shall file with the Planning Board a letter signifying the satisfactory completion of improvements required by the Board. For any required improvements not so completed and not approved, the subdivider shall file with the Town Clerk a bond, financial guarantee or certified check covering the costs of satisfactorily installing any

improvements not approved by the Road Review Committee. Any such bond shall be satisfactory to the Planning Board as to form, sufficiency, manner of execution and surety.

C) Modification of Bond

1) Extension Of Bond

The time period specified for the completion of all required improvements, as set forth in the bond, may be extended only by resolution of the Planning Board upon request in writing by the applicant, setting forth in detail the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested.

2) Reduction of Bond

An applicant may request in writing that the Planning Board authorize a reduction in the amount of the bond. Such request shall itemize the extent of required improvements remaining to be completed and the bond reduction requested. Upon approval of the Town Board, and after due notice and Public Hearing, the Planning Board may, if it determines that sufficient required improvements have been installed to warrant such action, reduce the face amount of the bond by an appropriate amount so that the new amount will cover the cost in full of all required improvements remaining to be completed, and any security deposited with the bond may be reduced proportionately.

403. MODIFICATION OF REQUIRED IMPROVEMENTS

If, at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Road Review Committee that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Road Review Committee shall, upon approval by the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and are not tantamount to the waiver or substantial alteration of the function of any improvements required by the Planning Board. If such modification affects the scope of work covered by the bond, the Planning Board may required or allow appropriate modification of such bond.

404. TEMPORARY IMPROVEMENTS

The applicant shall build or pay for all costs of temporary improvements required by the Planning Board. Prior to the construction of any temporary facility or

improvement, the developer shall file with the Town Clerk a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.

405. INSPECTION OF IMPROVEMENTS

A) At least five (5) days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Planning Board and shall notify the Road Review Committee in writing of the time when he proposes to commence construction of such improvements. The Committee will then make periodic inspections to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements, and utilities required by the Planning Board.

B) Final Inspection

A final inspection of all improvements will be made to determine whether the work is satisfactory and in agreement with the approved Final Plat and construction drawings. Upon a satisfactory final inspection report, action will be taken to release the performance bond covering such improvements and utilities (if a bond was filed). The Road Review Committee shall also notify the Planning Board that all work has been completed to its satisfaction.

C) Inspection Fee

An inspection fee, as may be promulgated from time to time, and on file with the Town Clerk, shall be paid to the Town prior to the time that Planning Board signs the Final Plat. No Building Permits nor Certificates of Occupancy shall be issued until all inspection fees (if required) are paid.

406. PROPER INSTALLATION OF IMPROVEMENTS

If the Road Review Committee finds, upon inspection, that, either the required improvements have not been completed in accordance with the plans and specification filed by the subdivider, or that the required improvements have not been completed within the period specified in the Planning Board resolution of approval or the expiration date of the performance bond (if one exists), such approval shall be deemed to have expired, unless upon request of the applicant, the period has been extended by resolution of the Planning Board.

If a bond has been filed, and if no application for the extension of such period has been made by the applicant, the Town Board may declare said bond to be in default. The Town Board shall then notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the Town's rights under

the bond. No Plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plat.

407. ESCROW DEPOSITS FOR LOT IMPROVEMENTS

A) Acceptance

Whenever, or by reason of the season of the year, any lot improvements required by these Regulations cannot be performed, the Road Review Committee may, nevertheless, permit the issuance of a Certificate of Occupancy, provided there is no danger to health, safety or general welfare, upon accepting a cash escrow deposit, in an amount to be determined by the Committee, for the cost of said improvements. The performance bond covering such lot improvements shall remain in full force and effect.

B) Procedures

All required improvements for which escrow monies have been accepted by the Town at the time of issuance of a Certificate of Occupancy shall be installed by the developer within a period of nine (9) months from the date of deposit and issuance of the Certificate of Occupancy. In the event that the improvements have not been properly installed at the end of the time period, the Road Review Committee shall give two (2) weeks written notice to the developer requiring him to install same; and, in the event the same are not installed properly in the discretion of the Road Review Committee, the Committee may request the Middletown Town Board to authorize the Town of Middletown to proceed to contract out the work for the sum not to exceed the amount of the escrow deposit. At the time of issuance of the Certificate of Occupancy for which escrow monies are being deposited with the Town, the applicant shall obtain and file with the Town, prior to obtaining the Certificate of Occupancy, a notarized statement from the purchaser or purchasers of the premises authorizing the Town of Middletown to install the improvements at the end of the nine (9) month period, in the event the same have not been duly installed by the developer.

408. CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy shall not be issued for the structure within a subdivision where the improvements are guaranteed by a performance bond unless it is determined by the Planning Board that the following conditions have been compiled with.

A) Status of Road Improvements

The improvement of the road or roads giving access to the structure has progressed to a stage deemed adequate by the Planning Board to render safe all-weather vehicular access for both routine and emergency purposes.

B) Maintenance Agreements

Written agreements have been filed providing for the maintenance of the bonded road or road in such all-weather passable condition, including snow removal and sanding, during the period between the issuance of the Certificate of Occupancy and the acceptance of the fully completed road by the Town Board. If the road is not to be offered for dedication to the town, maintenance agreements shall have been required in accordance with Section 308, Part B, maintenance of these Regulations.

ARTICLE 500. GENERAL IMPROVEMENTS AND DESIGN STANDARDS

The Planning Board, in considering an application for the subdivision of land, shall be guided by, but shall not be bound by the following considerations and standards, upon which the Planning Board shall be the determining agent. In general, these standards shall be deemed to be the minimum requirements, for the convenience, health, safety and welfare of the Town and shall be waived by the Planning Board only under circumstances set forth in Article 100, Section 107 herein.

501. GENERAL CONSIDERATIONS

A) Conformity to Official Map, Master Plan and Zoning Ordinance.

Subdivision shall conform to the Official Map of the Town and shall be in harmony with the Master Plan and Zoning Ordinance as they may exist.

B) Plats Straddling Municipal Boundaries

Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance from the Town Attorney that access is legally established and from the Road Review Committee that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundaries.

C) Monuments and Lot Corner Markers

Permanent monuments meeting specifications approved by the Road Review Committee as to size, type, and installation shall be set of such block corners,

angle points, points of curves in roads and other points as the Planning Board may require, and their location shall be shown on the Subdivision Plat.

D) Character of Land

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. Land shall conform to minimum lot size and dimensions in accordance with the Town of Middletown Zoning Ordinance.

E) Reservations and Easements

All reservations and easements shall be clearly indicated on the Final Subdivision Plat, along with appropriate notations indicating the rights which exist with respect to each such reservation and/or easement title, if vested in interests other than the developer, shall be clearly indicated on all reservations for park and playground purposes.

F) Subdivision Name

The proposed name of the Subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these Regulations.

G) Intended Use of Land

The intended use of the properties shall be in conformance with the Town of Middletown Zoning Ordinance and the district regulations.

If the intended use is not in compliance with the Town Zoning Ordinance, then the applicant shall apply for the proper variance or use permit prior to subdivision approval.

502. LOT IMPROVEMENTS

A) Lots to be Buildable

The lot size, width, depth, shape and arrangement shall be such that there will be no foreseeable difficulty for reasons of topography or other natural conditions in securing building permits to build on all lots in compliance with these Regulations, the New York State Health Department, Town Law 280(a), the Uniform Building and Fire Code, the City of New York, and a Town Zoning Ordinance as it may exist.

B) Side Lines

Side lines of lots shall generally be at right angles to straight road lines and radial to curved road lines, unless a variance from this rule will give a better road or lot arrangement.

C) Corner Lots

In general, corner lots should be larger than interior lots to provide for proper building setback from each road and to provide a desirable building site.

D) Driveways

Driveway grades within 15' of the road right-of-way shall not incline more than ten percent (10%) from the road and culverts must comply with the requirements of the Planning Board and the Superintendent of Highways. Driveway access shall also conform with the standards of the Town, County and State Highway Departments when necessary.

E) Access from Private Roads

The area proposed to be subdivided and all proposed lots shall have frontage on and direct access to a public road or private road which conforms to Town Law and construction specifications as prescribed in this Regulation. Such required improvements to a private road shall be a condition of subdivision approval.

F) Debris and Waste

No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried within any proposed right-of-way. Such material shall be disposed of in a manner approved by the Planning Board.

G) Soil Preservation and Final Grading

Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill, to retain the natural contours, to limit storm water runoff, and to conserve the natural vegetative cover and soil. No trees, top soil or excavated material shall be removed from its natural position except where necessary to the improvement of lots and the construction of roads and related facilities in accordance with the approved plan. Topsoil shall be restored to its original depth and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.

H) Performance Bond to Include Lot Improvement

The performance bond shall include an amount to guarantee completion of all requirements contained in Article 400 of these Regulations including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass, seeding, removal of debris and waste, and all other lot improvements required by the Planning Board.

503. ROAD LAYOUT

A) Location, Width and Construction

Roads shall be of sufficient width, suitably located and adequately constructed to conform with the applicable Town Highway Construction Specifications, accommodate the prospective traffic and to afford satisfactory access to police, fire fighting, snow removal and other road maintenance equipment. The arrangement of roads shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

B) Arrangement

The arrangement of roads in the subdivision shall provide for the continuation of major roads of adjoining subdivisions, and for proper projection of major roads into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic and other conditions make such continuance undesirable or impractical, the above conditions may be modified.

C) Minor Roads

Minor roads shall be laid out that their use by through traffic will be discouraged.

D) Special Treatment Along Major Roads

When a subdivision abuts or contains an existing or proposed major road, the Board may require marginal access roads, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

E) Dead-End Roads

The Planning Board may require, where needed or desirable along a dead-end road, reservation of a twenty foot (20') wide easement to the subdivision boundary to provide for the continuation of pedestrian traffic, utilities, and/or drainage facilities to the next road. The entrance at a dead-end road shall bear a "No Outlet" sign.

F) Intersections with Collector or Major Road

Minor or secondary road openings into such roads shall, in general, be at least five hundred feet (500') apart.

G) Road Jogs

Road jogs with center line offsets of less than one hundred twenty-five feet (125') shall be avoided.

H) Angle of Intersection

In general, all roads shall join each other so that for a distance of at least one hundred feet (100') the road is approximately at right angles to the road it joins. No road shall intersect with another at an angle of less than eighty degrees (80°).

I) Relation to Topography

The road plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all roads shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the roads. Grades of roads shall conform as closely as possible to the original topography.

J) Road Names

All road names shown on the Preliminary Plat and Final Plat shall be approved by the Planning Board. Proposed road names shall be substantially different in sound and spelling from present names in the town so as not to cause confusion. A road which is a continuation of an existing road shall bear the same name.

504. ROAD DESIGN

A) Conformity to Town Standards

In order to provide for roads of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, emergency vehicles, firefighting, snow removal, sanitation and road maintenance equipment and school buses, the following design standards, contained within these Regulations and those standards adopted by the Town and included here by reference, are hereby required. All roadway and related construction, whether to be offered for dedication or not, shall be the responsibility of the subdivider unless otherwise indicated, and shall be in accord with these standards and other relevant road standards developed by the Town of Middletown.

B) Other Improvements as Deemed Appropriate

The Planning Board may require the following improvements: sidewalks, gutters, road lighting, road signs, school bus pickup areas, water mains, sanitary sewers, storm drains, fire hydrants and other utilities.

C) Changes in Grade

All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Highway Superintendent so that clear visibility shall be provided for safe distance. A combination of steep grades and curves shall be avoided.

D) Visibility of Intersections

In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new road with an existing road), which is shown shaded on Sketch A, shall be cleared of all growth (except isolated trees) and obstructions above the level three feet (3') higher than the center line of the road. If directed, ground shall be excavated to achieve visibility. An easement for the enforcement of this provision shall be granted to the owner of the road and notation to this effect made on the Final Plat.

E) Watercourses

Where a watercourse separates a proposed road from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Highway Superintendent.

Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, there shall be provided a storm water easement or drainage right-of-

way as required by the Town Highway Superintendent, and in no case less than twenty feet (20') in width.

F) Road Signs

Road signs, of the type approved by the Town Highway Superintendent, including highway warning and directional signs, shall be provided by the subdivider and placed at all locations, within the road right-of-way and in locations approved by the Planning Board and Highway Superintendent.

G) Road Lighting Standards

Where required by the Planning Board, road lighting of a design and location approved by the appropriate utility company and the Planning Board shall be provided and installed by the subdivider.

H) Slope Easements

Where steep slopes beyond the road right-of-way may require maintenance, an easement may be required for such purposes.

I) Service Roads or Loading Space in Commercial Development

Rear service roads of not less than twenty feet (20') in width, or in lieu thereof, adequate off-road loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.

J) Free Flow of Vehicular Traffic Abutting Commercial Developments

In front of areas designed for commercial use, or where commercial use is contemplated, the road width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district.

K) Road Dedications and Reservations

1) New Perimeter Roads

Road systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-roads. Where an existing half-road is adjacent to a new subdivision, the other half of the road shall be improved and dedicated by the subdivider. The Planning Board may authorize a new perimeter road where the subdivider improves and dedicates the entire required road right-of-way width within his own subdivision.

2) Widening and Realignment of Existing Roads

Where a subdivision borders on an existing road which is narrower than the recommended right-of-way width as specified for such roads in these Regulations, or where a subdivision borders an existing road planned for widening or realignment in such a way as to require the use of some land in the subdivision, the Planning Board may require the subdivision plat to show such areas which shall be marked "Reserved for Road Alignment (or Widening) Purposes". Land reserved for such purposes may not be counted in satisfying yard or lot area requirements.

505. DRAINAGE IMPROVEMENTS

The Planning Board may require that the subdivider make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system.

A) Removal of Spring and Surface Water

The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result, of, the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the Town construction standards and specifications.

B) Accommodation of Upstream Drainage Areas

In a subdivision, a culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Planning Board and Town Highway Superintendent shall approve the design and size of the facility base on anticipated runoff from a "fifty year" storm under conditions of maximum potential development within the watershed. The applicant shall be responsible for submitting such computations to the Planning Board in sufficient detail to make possible the ready determination of the adequacy of the proposed drainage installations. Concentrated drainage from lots onto the road right-of-way shall not be permitted.

C) Effect of Downstream Drainage Area

The Planning Board may also require a study of the effects of the subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incidental to the development of the subdivision will overload an existing downstream drainage facility during a fifty-year storm, the Planning Board shall notify the owner of such

downstream facility and the Town Board of such potential condition. In such case the Planning Board shall withhold approval of the subdivision until provision has been made for the correction of said potential condition.

D) Wetlands

Areas shown on DEC maps as official freshwater wetlands shall be regulated according to the provisions contained in Article 24 or the NYS Environmental Conservation Law, including Subsequent amendments, which is adopted herein by reference.

E) Flood Plain Areas

Flood plain areas shall be those defined on the Official H.U.D. Flood Hazard Maps. These flood areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except at the discretion of the Planning Board.

F) Drainage Easements

Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road right-of-way, perpetual unobstructed easements shall be provided for such across properties outside the road lines and with satisfactory access to the road.

506. WATER FACILITIES

A) Wells and Central Water Systems

If developer is planning for wells and central water systems, he must conform to Part 75 of New York State Department of Health Regulations and other applicable regulations governing community water systems.

B) Water Mains and Fire Hydrants

Where required by the Planning Board, the subdivider shall install water mains and fire hydrants of the type and in a manner prescribed by the regulations of the appropriate water or fire district or other municipal agency having jurisdiction.

507. COMMUNITY SEWAGE FACILITY

If the applicant is proposing to install a community sewage system, then he shall install such sanitary sewer facilities in a manner prescribed by the Town of Middletown, any instituted sewer district and in accordance with the regulations

of the New York State Health Department and the New York City Board of Water Supply.

508. SIDEWALKS OR WALKWAYS

A) General

The Planning Board may require sidewalks or walkways as it deems necessary to provide for the safety of pedestrians. The construction of a walkway or sidewalk shall be of suitable materials approved by the Planning Board. Concrete, flagstone or gravel may be considered.

B) Easements for Pedestrian Access

The Planning Board may require, in order to facilitate pedestrian access from roads to schools, parks, public areas, and roads to neighboring areas, the reservation of perpetual unobstructed easements for such purposes.

509. UTILITY IMPROVEMENTS

A) General

In order to insure greater safety and improved appearance, all utility lines and related equipment for providing electric power and communication services shall, whenever required by law, be installed underground in the manner prescribed by the regulations of the utility company having jurisdiction. Underground utilities shall be located outside of the traveled way or roads but, except in usual circumstances, within the road right-of-way.

B) Easements

Where topography or other conditions are such as to make impractical the inclusion of utilities within road rights-of-way, perpetual unobstructed easement shall be provided for such utilities across properties outside the road lines and with satisfactory access to road.

ARTICLE 600. DOCUMENTS TO BE SUBMITTED

601. SKETCH PLAN

The Sketch Plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than four hundred feet (400') to the inch) to enable the entire tract to be shown on one sheet. The Sketch Plan shall be submitted showing the following information:

- A) A location map to indicate the relationship of the proposed subdivision to existing community facilities which will serve or influence the layout, such as existing road patterns, schools, parks and other public lands, local villages and hamlets, and special districts, including school, fire, agricultural, etc.
- B) All existing structures, burial grounds, railroad rights-of-way, existing property lines, wooded areas, streams or water-courses, flood hazard areas, wetlands, quarries or excavations, bedrock outcrops and other significant physical features within the area to be subdivided and within two hundred feet (200') thereof. Topographic conditions shall be indicated at contour intervals of not more than twenty feet (20'). U.S.G.S. maps are suitable.
- C) The name of the owner, the name of the professional person(s) responsible for the subdivision design, and the names of all adjoining property owners as disclosed by the most recent municipal tax records within five hundred feet (500') of any perimeter boundary of the subdivision.
- D) The proposed subdivision name, the tax map sheet, block and lot numbers, scales, north arrow and acreage involved.
- E) All the utilities currently available, including any existing easements, and all roads which are either proposed, mapped, or built.
- F) The proposed pattern and approximate dimensions and area of lots, road layout, recreation area, systems of drainage, sewerage and water supply within the subdivision area.
- G) All existing restrictions on the use of land, including easements, covenants, or zoning districts.
- H) Where private roads are proposed, the Plat shall show the minimum right-of-way and other design standards for simple subdivisions. Also a note to the effect that this is not a Town road shall be placed on the map.
- I) Verification of approvals of any variance request of special use permit applications previously granted.

602. MINOR SUBDIVISION PLAT

In addition to the information required by Section 601, the following shall be submitted for Minor Subdivisions only:

- A) A copy of such covenants or deed restrictions as are proposed to cover all or part of the tract.

- B) An actual field survey of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Planning Board or its assistant and shall be referenced and shown on the Plat.
- C) All lots shown on the Plat shall be able to provide for individual on-site sanitation and water supply facilities and shall be shown designed to meet the minimum specifications of any applicable State, County, Town or New York City agencies having jurisdiction.
- D) The proposed subdivision name, the name of the Town and County in which it is located, the date, north point, map scale, name and address of property owner and subdivider and the names of the adjoining property owners.
- E) The Plat shall conform with the filing requirements of the Delaware County Clerk's office.

603. MAJOR SUBDIVISION PRELIMINARY PLAT

The Preliminary Plat shall be submitted at a scale of one inch (1") equals one hundred feet (100'), or another scale approved by the Planning Board, whichever most clearly illustrates the subdivider's proposal. The Preliminary Plat shall be clearly marked "Preliminary Plat" and shall include:

- A) Proposed subdivision name, name of Town and County in which it is located, name and address of property owner, subdivider, engineer or surveyor preparing the plan, including license number seal, date, true north point and scale.
- B) The name of all subdivisions immediately adjacent, if any, and the names and addresses of the owners of records of all property adjacent to the subdivisions and within five hundred feet (500') of any perimeter boundary.
- C) The location of any zoning district lines, special districts, including school, fire, agricultural, or municipal boundary lines affecting the subdivision.
- D) Offers of cession of all land to be offered for dedication for roads, highways, easements, parks or other public facilities.
- E) The location of all existing structures and pertinent features, including railroads, water bodies, water-courses, wetlands, flood hazard areas, stonewalls, rock outcrops, wooded areas, and any other significant existing features that may influence the design of the proposed subdivision area plus accurate topography at a vertical contour interval of not less than twenty feet (20'). The topographic data shall be determined by field survey unless the

Planning Board specifically waives this requirement and/or permits the substitution of topographic information obtained from other sources determined satisfactory for the particular case.

- F) Location of existing sewers, water mains, culverts and drains serving the property, with pipe sites, grades, direction of flow and existing easements.
- G) The width, location and names of any roads or public ways or places shown on the Official Map or in the Master Plan, if such exists, within the area to be subdivided including existing easements and right-of-way; and the right-of-way width, location, grades, proposed easements and road profiles of all roads or public ways proposed by the developer, contours with intervals of five feet (5') or less as required by the Planning Board, including elevations on existing roads.
- H) Approximate location and size of all proposed water lines, valves, fire hydrants, and sewer lines or alternative means of water supply or sewage disposal and treatment, including sites for on-site systems as provided in the Public Health Law, profiles of all proposed water and sewer mains. If septic systems are proposed, the results of soil bearing and soil percolation tests shall accompany the Preliminary Plat. Where on-site water supply systems are proposed, the quality and quantity of water available shall be indicated.
- I) Storm drainage plan indicating the approximate location and size of proposed lines, their profiles and connection to existing lines or alternative means of disposal, including existing and proposed drainage easements. Temporary measures to control erosion during construction phase shall also be shown.
- J) Construction plans, profiles, cross-sections and other drawings as required to show the proposed location and types of all improvements required by Article 500 and the Planning Board.
- K) Preliminary designs of any bridges or culverts which may be required.
- L) The proposed lot lines with approximate dimensions and area of each lot and the total acreage of the subdivision. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances made and certified by a licensed land surveyor. Corners of the tract shall be located on the ground and marked by monuments as approved by the Planning Board or its assistant and shall be referenced and shown on the Plat.
- M) A copy of any covenants or deed restrictions that are intended to cover any lot in all or part of the tract.
- N) If the Preliminary Plat submitted for approval covers only a part of the subdivider's entire holding in the area, then a map shall be prepared, at a scale

of not less than one inch equals four hundred feet (1" = 400'), showing the entire tract as it relates to the parcel included on the Preliminary Plat.

- O) A site location sketch, at a maximum scale of one inch equals two thousand feet (1" = 2,000'), showing the general situation of the applicant's property with respect to surrounding properties and roads, including all utility lines.

604. MAJOR SUBDIVISION FINAL PLAT

The Final Plat, to be approved by the Planning Board and filed in the Office of the County Clerk, shall be drawn at the same scale as the Preliminary Plat. When more than one (1) sheet is required, an additional index map on the same size sheet shall be prepared and included for filing showing to scale the entire subdivision with lot and block lines clearly legible. The Final Plat submission shall show:

- A) Proposed subdivision name or identifying title, the name of the Town and County in which it is located, the name and address of the owner of record and of the subdivider (if other than owner), the name, certification and seal of the registered engineer or licensed land surveyor who prepared the Plat, the names of the owners of record of adjoining properties and of properties directly across the road.
- B) Road lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- C) The location and dimensions of all boundary lines of the proposed subdivision and all existing and proposed road lines, lot lines, easements and rights-of-way, with sufficient data to readily determine the location, bearing and length of all such lines and to reproduce such lines upon the ground. The Plat shall show the boundaries of the property, location, graphic scale and true north point.
- D) All offers of cession and all covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their form and legal sufficiency.
- E) Notations explaining any drainage, sight, slope, road widening, park area or other reservations or easements, as may be required by the Planning Board, including any self-imposed restrictions or covenants.
- F) Lots and blocks within a subdivision shall be numbered and lettered in accordance with the prevailing Town practice.
- G) Permanent reference monuments and lot corner markers shall be shown and their location referenced on the Final Plat.

- H) A site location map, at a scale no greater than one inch equals two thousand feet (1" = 2,000'), showing the location of the applicant's property with respect to surrounding land and roads.
- I) Construction drawings including plans, profiles, and typical cross-sections, as required, showing the proposed location, size, grade and type of roads, sidewalks, road lighting standards, curbs, water mains, sanitary sewers, storm drains, pavement and sub-base, manholes, catchbasins, and other improvements as required by the Planning Board or proposed by the subdivider.
- J) The following notes shall be placed upon the Final Plat:
 - 1) No Building Permit shall be issued to any property owner within this subdivision other than to the owner or applicant unless all improvements are completed and approved in accordance with the Planning Board's resolution of approval of this Plat.
 - 2) Sanding, snowplowing and other similar maintenance of highways within this subdivision shall be the responsibility of the developer until such time as the Town accepts the roads.
- K) Endorsement of Approval by the New York State Department of Health with regard to sewage disposal and water supply systems. No modification may be made after Department of Health certification.
- L) Statement from the appropriate town officials certifying that required improvements have been satisfactorily installed or that an acceptable bond for such installation has been filed with the Town Clerk.
- M) Notation for endorsement by Planning Board Chairman as follows:

"Approved by Resolution of the Middletown Planning Board"

(Chairman) _____ (Date)

GENERAL ROAD IMPROVEMENTS

The following design standards apply according to road classification.

<u>Description</u>	<u>Minor Subdivision Two lots; each 25 acres or more</u>	<u>Minor Subdivision Two to four lots on private roads</u>	<u>Major Subdivision Five lots or more not on public road</u>
Minimum Row Width	50'	50'	50'
Minimum Pavement	12' of cleared access	18' of cleared access	18'
Maximum Grade	N/A	12%	10% - grades up to 12%
Minimum Grade	N/A	1%	1%
Minimum Shoulder Width	N/A	3'	5'
Minimum Ditch Width	where possible, water drainage shall meet natural drainage course(s)	4' per ditch where possible from shoulder to opposite or back side of ditch	4' per ditch where possible from shoulder to opposite or back side of ditch
Slope Grade (cut and fill)	N/A	N/A	1 on 2
Crown Slope	N/A	N/A	½" /foot or more
Shoulder Slope	N/A	N/A	1" /foot or more
Turnaround diameter on dead-end road	N/A	N/A	90' surface width minimum; 120' right- of-way minimum
Minimum centerline radius of curve	N/A	200'	200'
Minimum radius at intersection	N/A	N/A	20' right-of-way, 30' surface
Minimum tangent length	N/A	N/A	100'

Minimum sight distance	N/A	N/A	150' along road, 75' across corner at intersection
Minimum length of vertical curve	N/A	N/A	$L=50A$ L – Length of vertical curve in feet A – Algebraic difference in grades
Sidewalks (if required)	N/A	N/A	1 at 4

TOWN OF MIDDLETOWN

ADDITIONAL DESIGN STANDARDS FOR NEW ROADS
IN MAJOR SUBDIVISIONSNEW ROAD BED

Compacted 12" minimum using 8" of coarse bank run gravel with no larger than 6" stone and top 4" to be crushed or screened gravel which will pass through a 2" screen or equivalent.

All roadways are to be stabilized with salt or calcium, including shoulders.

- 1) Calcium chloride – Minimum 11 ton/mile
- 2) Sodium chloride – Minimum 18-20 ton/mile
- 3) Liquid calcium –

The following materials are not acceptable for final grade or sub-grade: top soil, clay, mud, plain dirt, trees, brush, or stumps. If sub-grade is of poor material, more gravel may be required.

Optional – A hard surface road may be constructed by the developer. It requires a minimum double surface treatment of no less than ½ gallon per square yard of bituminous material as recommended by Town Highway Superintendent. First course no less than No. 1 stone, second course No. 1A.

SIDE SLOPES

Remove brush for sight distance and seed and mulch all disturbed areas. Top soil need not be replaced on road slopes.

SHOULDERS

Shoulders shall be gravel rather than dirt to permit drainage from road bed.

BRIDGES

Where a bridge is necessary, it is to be 24' wide, carry a maximum legal New York State load, accommodate the water flow of a 50-year storm, and any wood used in construction shall be pressure treated. Bridge plans shall be prepared by a New York State licensed engineer and shall be submitted to the Town Highway Superintendent for approval in consultation with the County Highway Department prior to the start of construction.

DRIVEWAYS

At ditch centerline, driveways shall be at least 3” below lowest point of road shoulder. All driveways shall have a landing area of at least 20’ in length as measured from the centerline of the highway ditch.

APPLICATIONS FOR TOWN TAKEOVER

All applications must conform to Sections 170 and 171 of the Town Highway Law. There may be additional requirements by the Town Board before dedication is considered.