

## **SUBDIVISION OF LAND**

### **Chapter 125**

## **SUBDIVISION OF LAND**

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[HISTORY: Adopted by the Board of Trustees of the Village of Lansing 4-7-1975 as L.L. No. 1-1975; amended in its entirety 12-5-1984 by L.L. No. 6-1984. Subsequent amendments noted where applicable.]

## GENERAL REFERENCES

Zoning -- See Ch. 145

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### ARTICLE I General Policy and Definitions

#### § 125-1. Declaration of policy.

By the authority of the resolution of the Village Board of Trustees of the Village of Lansing, to be adopted on or to be adopted pursuant to the provisions of Article 7 and § 4-412 of the Village Law of the State of New York, the Planning Board of the Village of Lansing shall be authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve development of entirely or partially undeveloped plats already filed in the office of the Clerk of Tompkins County and to conditionally approve preliminary plats. 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 Village. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed 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 Village General 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. In order that land subdivisions may be made in accordance with this policy, these Regulations which shall be known as, and which may be cited as, the "Land Subdivision Regulations of the Village of Lansing" have been adopted as a local law.

#### § 125-2. Definitions.

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

*Cluster subdivision* -- See § 125-17.<sup>1</sup>

*Developer* -- A subdivider or his or her agent, who shall lay out, propose, contract or perform the development of subdivided land, either immediate or future.

*Easement* -- A written authorization by a property owner for use by another party, and for a specified purpose, of any designated part of his property.

*Engineer* -- A person designated by the Board of Trustees to make the determinations required to be made by an engineer under this chapter.

*Improvements* -- When required, include but are not limited to the following: streets, water and sewer lines, drainage facilities, public utilities and land forming.

*Letter of credit* -- A form of security approved by the Planning Board and acceptable to the Board of Trustees guaranteeing that all improvements to be made by the subdivider in compliance with these Regulations will be made and providing funds for engineering and administrative review and inspection fees.

*Lot* -- Any parcel, plot, site or tract of land separated from other parcels, plots, sites or tracts by description as on a subdivision plat, survey map or by metes and

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<sup>1</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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bounds, for the purpose of transfer, conveyance, sale, lease or separate use;<sup>2</sup> provided, however, that the foregoing definition of “Lot” shall not apply to portions of a larger parcel, plot, site or tract of land that may have been leased or otherwise separately identified and/or for which a tax parcel may have been created (as reflected on tax maps for the Village of Lansing) if such portions of such larger parcel, plot, site or tract of land so leased or separately identified are part of a consolidated and planned project, such as an office campus, that is intended for un-subdivided development and for which development and improvements thereon are subject to special permit approval under Chapter 145 of the Village Code; and further provided, however, that the foregoing definition of “Lot” shall not apply to any parcel, plot, site or tract of land for which a tax parcel may have been created (as reflected on tax maps for the Village of Lansing) but for which parcel, plot, site or tract of land any required approvals of the Village have not been granted. **[Amended 12-17-07 by L.L. No. 11-2007]**

*Major subdivision* -- Any subdivision of land not classified by the Planning Board as a minor subdivision. This definition shall not include a “municipal subdivision”, as defined below. **[Amended 3-19-01 by L.L. No. 1-2001]**

*Minor subdivision* -- The subdivision of any land into not more than two (2) lots [initial lot plus one (1) new lot] and fronting on an existing street, not involving any new street or road or the extension of any municipal facilities, not adversely affecting the development of the remainder of the parcel or of adjoining property and not in conflict with any provision or portion of the Village General Plan, Official Map or Chapter 145, Zoning, if such exists, or these Regulations. After a subdivider has established four (4) contiguous lots, parcels or plots through minor subdivisions, any subsequent subdivision on the same street or on an intersecting street, submitted by said subdivider, may be classified by the Planning Board as a major subdivision, and if so, shall require preliminary plat and final plat approval and submission of all data required for such approval. This subdivision shall not include a “municipal subdivision”, as defined below. **[Amended 3-19-01 by L.L. No. 1-2001]**

*Municipal Subdivision* **[Added 3-19-01 by L.L. No. 1-2001<sup>3</sup>; Amended 7-9-01 by L.L. No. 5-2001]** – The subdivision of any lot into not more than two (2) lots (initial plus one (1) new lot), which subdivision is to be made at the request of or as a requirement of the Village of Lansing, in which case the Village of Lansing is to acquire the new lot for use as a public road right-of-way, or as part of a public road right-of-way, including for the purposes of extension, reconstruction, realignment, widening or reconfiguration of existing public roads, creation of new public roads, and addition to public roads of bicycle lanes, pedestrian lanes, sidewalks and landscaping (collectively, “public road purposes”), and in which case the remaining lot substantially retains its character prior to such subdivision as a developed or an undeveloped lot.

- A. The authority for review and approval of municipal subdivisions shall be retained by the Village Board of Trustees, and therefore a municipal subdivision shall be exempt from the application of these Land Subdivision Regulations, and shall not require the review,

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<sup>2</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>3</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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recommendation or approval of the Village of Lansing Planning Board. The Board of Trustees shall conduct its review of the municipal subdivision in conjunction with the Board of Trustees' consideration of acceptance of the new lot for public road purposes (as defined above). The Board of Trustees' review of a municipal subdivision shall not require submission of an application from the lot owner or from the Village itself, nor payment of an application fee. The Board shall conduct a public hearing, in accordance with the requirements of New York State Village Law applicable to consideration of acceptance of a public road. A municipal subdivision, approved by the Board, shall become effective upon filing in the Tompkins County Clerk's Office of a survey map defining the municipal subdivision, which map includes approval of the Board, signed by the mayor, together with a deed conveying the new lot from the lot owner to the Village. This review shall be deemed to satisfy the provisions of New York State Village Law concerning subdivision of land as applicable to municipal subdivisions. Municipal subdivisions shall be deemed to be Type II actions under the State Environmental Quality Review Act, and therefore exempt from review thereunder.

- B. **[Amended 7-9-2001 by L.L. No. 5-2001<sup>4</sup>]** (1) In the case of a lot containing a building (as such terms is defined in the Village of Lansing Zoning Law) at the time of approval of the municipal subdivision, if the remaining lot after conveyance to the Village would contain a nonconforming structure as a result of the diminishment in front yard setback, as a result of diminishment in lot size or as a result of increase in lot coverage, under applicable Village of Lansing Zoning Law District Regulations, then for the purposes of measuring the front yard building setback, for the purposes of measuring lot size and for the purposes of measuring maximum lot coverage for such lot, the measurement shall be deemed to include the area of the lot acquired by the Village in connection with the municipal subdivision. If the lot acquired by the Village is subject to a "build-to" rather than a front yard setback requirement, the "build-to" line established by the applicable provisions of the Village Zoning Law, whether now or hereafter set forth in the Village Zoning Law, shall govern, and the "build-to" line shall be measured in accordance with such applicable Zoning Law provisions. (2) In the case of a lot that does not contain a building (as such term is defined in the Village of Lansing Zoning Law) at the time of approval of the municipal subdivision, if the remaining lot after conveyance to the Village would become a nonconforming lot as a result of the diminishment in lot area, then (a) the terms of the Village Zoning Law section entitled "Nonconforming Lots of Record" shall apply to such lots as if it existed on the effective date of the Zoning Law, but (b) if, as a result of applying such terms no improvements would be permitted to be built on such lot, then the

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<sup>4</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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Village shall acquire the entirety of such lot, in order that no nonconforming lot that is not permitted to be built upon is created as a result of the municipal subdivision.

*Preliminary plat* -- Any drawings clearly marked preliminary plat showing the layout of a proposed subdivision containing all the supplementary data required by these Regulations and by the Planning Board in its action on the sketch plan.

*Sketch plan* -- Any drawings of the proposed subdivision made with sufficient accuracy and detail to be used by the Planning Board for the purpose of discussion and classification in accordance with the provisions of these Regulations.

*Street* -- Any street, avenue, boulevard, road, lane, parkway, alley or other way which is an existing State, County, Town or Village roadway or a proposed street shown on the Village General Plan or a street or way shown on a plat to be filed or duly filed and recorded in the office of the County Clerk. Streets include all land between rights-of-way, whether improved or unimproved. For the purpose of these Regulations, streets shall be classified as provided in § 125-21C.<sup>5</sup>

*Subdivider* -- Any person, corporation, firm, partnership, association or their agent, who shall lay out or propose any subdivision of land for the purpose of the sale or development, either immediate or future.

*Subdivision* -- The division of any parcel of land into two (2) or more parcels, lots, plots, tracts, sites or other division of land, for the purpose, whether immediate or future, of transfer of ownership whether or not new building or development is to occur immediately. Subdivision shall include resubdivision in whole or in part of any plat, filed or unfiled, which is entirely or partially undeveloped.

*Subdivision plat or final plat* -- The final map of all or a portion of the subdivision, with all supporting data, documentation and approvals, required by these Regulations and by the Planning Board, submitted to the Village Clerk for action by the Planning Board and which, if approved, shall be filed in the County Clerk's office.

*Warranty* -- A form of security required to guarantee all work performed and materials furnished against defect, failure, inadequacy or breakage.

*Zoning Officer* -- A person designated by the Board of Trustees to make the determinations required in this chapter.

## ARTICLE II

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<sup>5</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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### **Application Filing Procedure**

#### **§ 125-3. Application required.**

Whenever any subdivision of land is proposed to be made, and before any sale of any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted, or any existing permit used, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

#### **§ 125-4. Informal consideration.**

Prior to developing plans or submitting sketch plans of a subdivision for approval the subdivider may discuss with the Planning Board the scope and intent of the proposed subdivision. The purpose of such a meeting is to afford the subdivider an opportunity to consult informally at an early stage with the Board to conserve time and expense for the subdivider and create opportunity for achievement of a desirable subdivision in the public interest.

#### **§ 125-5. Sketch plan.**

- A. Submission of sketch plan. [**Amended 2-21-1989 by L.L. No. 2-1989<sup>6</sup>**]
  - (1) Any owner of land shall, prior to subdividing or resubdividing land, submit to the Village Clerk at least twelve (12) days prior to a regular meeting of the Planning Board ten (10) copies of a sketch plan of the proposed subdivision, which shall comply with the requirements of § 125-28 for the purposes of classification and preliminary discussion.
  - (2) All applications made in accordance with the terms of this section shall be accompanied by such fees as are determined in accordance with the provisions of § 125-18 of these Regulations.
- B. Discussion of requirements. The subdivider, or his 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 as determined by the Planning Board.
- C. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of these Regulations and shall, where it deems it necessary, make specific recommendations to be incorporated by the applicant in the next submission to the Planning Board.<sup>7</sup>
- D. Classification. Classification of the sketch plan is to be made by the Planning Board as to whether it is a minor or major subdivision as defined in § 125-2. The Board may require, however, when it deems necessary for the protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in §§ 125-6, 125-9, 125-10, 125-11, 125-12 and 125-15 of these

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<sup>6</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>7</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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Regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in §§ 125-7, 125-8, 125-9, 125-10, 125-11, 125-12, 125-15 and 125-16.

### § 125-6. Approval of minor subdivision.

- A. Application and fee.
- (1) Within six (6) months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall also conform to the requirements listed in § 125-29.
  - (2) All applications made in accordance with the terms of this section shall be accompanied by such fees as are determined in accordance with the provisions of § 125-18 of these Regulations. **[Amended 2-21-1989 by L.L. No. 2-1989; 4-16-1991 by L.L. No. 9-1991]**
- B. Number of copies. Ten (10) copies of the subdivision plat shall be presented to the Village Clerk at least twelve (12) days prior to a regular monthly meeting of the Planning Board.<sup>8</sup>
- C. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least twelve (12) days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required § 125-29 of these Regulations, was filed with the Village Clerk.<sup>9</sup>
- D. Endorsement of State and County agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the Southern Cayuga Lake Intermunicipal Water Commission (SCLIWC) and the Tompkins County Health Department. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County and State agencies. Endorsement and approval by the Tompkins County Health Department shall be secured by the subdivider before final approval of subdivision plat.<sup>10</sup>
- E. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the subdivision plat.
- F. Public hearing. Within sixty-two (62) days after the date of submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the Village and a notice of hearing shall be posted in at least three (3) prominent places in the Village at least five (5) days before such hearing. The subdivider shall send written notice by mail to all owners of Village property contiguous to

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<sup>8</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>9</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>10</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



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the boundaries of the property under consideration. Such notice shall state the nature of the request for subdivision approval, the time and place of the public hearing and such additional information as shall be required by the Village Zoning Officer. Such notice shall be mailed no less than five (5) days prior to the public hearing. Proof of mailing shall be filed with the Planning Board prior to the holding of the public hearing. **[Amended 12-6-1988 by L.L. No. 6-1988<sup>11</sup>]**

- G. Action on proposed subdivision plat. The Planning Board shall, within sixty-two (62) days from the date of the public hearing, approve, modify and approve or disapprove the final subdivision plat. However, the final subdivision plat shall not be signed by the authorized officer of the Planning Board for recording until the subdivider has complied with the provisions of §§ 125-9, 125-10, 125-11 and 125-12.<sup>12</sup>
- H. Number of minor subdivisions. After a subdivider has established four (4) contiguous lots, parcels or plots through minor subdivisions, any subsequent subdivision on the same street or on an intersecting street, submitted by said subdivider, may be classified by the Planning Board as a major subdivision and, if so, shall require preliminary plat and final plat approval and submission of all data required for such approval.

### § 125-7. Preliminary plat for major subdivision.

- A. Application and fee.
  - (1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the conditional approval of a preliminary plat of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in the form described in § 125-30 hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 7-728 and 7-730 of the Village Law and § 125-30 of these Regulations, except where a waiver may be specifically authorized by the Planning Board.
  - (2) All applications made in accordance with the terms of this section shall be accompanied by such fees as are determined in accordance with the provisions of § 125-18 of these Regulations. **[Amended 2-21-1989 by L.L. No. 2-1989; 4-16-1991 by L.L. No. 9-1991]**
- B. Number of copies. Ten (10) copies of the preliminary plat shall be presented to the Village Clerk at least twelve (12) days prior to a regular monthly meeting of the Planning Board.<sup>13</sup>
- C. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least twelve (12) days prior to which the application for conditional approval of the preliminary plat, complete and accompanied by the data required by § 125-30 of these Regulations and by the required fee, was filed with the Village Clerk.<sup>14</sup>

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<sup>11</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>12</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>13</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>14</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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- D. Subdivider to attend Planning Board meeting. The subdivider, or his 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, the 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 requirements of the Village Comprehensive Plan, the Official Map and Chapter 145, Zoning, if such exist.
- F. Public hearing. Within sixty-two (62) days after the date of submission of a preliminary plat, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the Village and a notice of hearing shall be posted in at least three (3) prominent places in the Village at least five (5) days before such hearing. The subdivider shall send written notice by mail to all owners of Village property contiguous to the boundaries of the property under consideration. Such notice shall state the nature of the request for subdivision approval, the time and place of the public hearing and such additional information as shall be required by the Village Zoning Officer. Such notice shall be mailed no less than five (5) days prior to the public hearing. Proof of such mailing shall be filed with the Planning Board prior to the holding of the public hearing. **[Amended 12-6-1988 by L.L. No. 6-1988<sup>15</sup>]**
- G. Action on preliminary plat.<sup>16</sup>
- (1) Within sixty-two (62) days after the date of such hearing, the Planning Board shall conditionally approve the preliminary plat with or without modifications, or the ground for disapproval shall be stated upon the records of the Planning Board.
  - (2) The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. Failure of the Planning Board to act within a sixty-two-day period shall constitute a conditional approval of the preliminary plat.
- H. Conditions of approval.
- (1) When granting conditional approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to the specific changes which it will require in the preliminary plat and the character and extent of the required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare.<sup>17</sup>
  - (2) The action of the Planning Board plus any conditions attached thereto shall be noted on two (2) copies of the preliminary plat. One (1) copy shall be returned to the subdivider and one (1) retained by the Village.<sup>18</sup>
  - (3) Conditional approval of a preliminary plat shall not constitute approval of the final plat, but rather it shall be deemed an expression of approval of the

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<sup>15</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>16</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>17</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>18</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these Regulations and the conditions of the conditional approval, if any.

- (4) Prior to approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form.

### § 125-8. Plat for major subdivision.

- A. Application and fee. The subdivider shall, within six (6) months after the conditional approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank from the Clerk of the Village. All applications made in accordance with the terms of this section shall be accompanied by such fees as are determined in accordance with the provisions of § 125-18 of these Regulations. If the final plat is not submitted within six (6) months after the conditional approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the preliminary plat. [Amended 2-21-1989 by L.L. No. 2-1989; 4-16-1991 by L.L. No. 9-1991<sup>19</sup>]
- B. Number of copies. A subdivider intending to submit a proposed final plat for the approval of the Planning Board shall provide the Village Clerk with a copy of the application and ten (10) copies [one (1) copy in ink on Mylar or velum] of the plat, the original and one (1) true copy of all offers of cession, covenants and agreements and two (2) prints of all construction drawings at least twelve (12) days in advance of the regular monthly Planning Board meeting at which it is to be officially submitted.<sup>20</sup>
- C. When officially submitted. The time of submission of the final plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least twelve (12) days prior to which the application for approval of the final plat, complete and accompanied by the required fee and all data required by § 125-31 of these Regulations, was filed with the Village Clerk.<sup>21</sup>
- D. Endorsement of State and County agencies. Water and sewer facility proposals contained in the final plat shall be properly endorsed and approved by the Southern Cayuga Lake Intermunicipal Water Commission (SCLIWC) and the Tompkins County Health Department. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County and State agencies. Endorsement and approval by the Tompkins County Health Department shall be secured by the subdivider before final approval of final plat.<sup>22</sup>
- E. Subdivider to attend Planning Board meeting. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the final plat.
- F. Public hearing. Within sixty-two (62) days after the date of submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This

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<sup>21</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>22</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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hearing shall be advertised at least once in a newspaper of general circulation in the Village and a notice of hearing shall be posted in at least three (3) prominent places in the Village at least five (5) days before such hearing. The subdivider shall send written notice by mail to all owners of Village property contiguous to the boundaries of the property under consideration. Such notice shall state the nature of the request for subdivision approval, the time and place of the public hearing and such additional information as shall be required by the Village Zoning Officer. Such notice shall be mailed no less than five (5) days prior to the public hearing. Proof of such mailing shall be filed with the Planning Board prior to the holding of the public hearing. [Amended 12-6-1988 by L.L. No. 6-1988<sup>23</sup>]

- G. Action on proposed final plat. The Planning Board shall, within sixty-two (62) days from the date of the public hearing, approve, modify and approve or disapprove the final subdivision plat. However, the final subdivision plat shall not be signed by the authorized officer of the Planning Board for recording until the subdivider has complied with the provisions of §§ 125-9, 125-10, 125-11, 125-12 and 125-22D. [Amended 3-19-1991 by L.L. No. 6-1991<sup>24</sup>]

### § 125-9. Establishing letters of credit.

- A. Estimate.
- (1) Before the Planning Board grants approval for the final subdivision plat, the subdivider's licensed professional engineer shall submit a preliminary estimate of cost of improvements. This shall be itemized in detail and shall consist of five (5) major sections, as follows:
    - (a) Water system.
    - (b) Sanitary sewers.
    - (c) Storm drains.
    - (d) Grading, paving and sidewalks.
    - (e) Miscellaneous.
  - (2) [Amended 3-19-1991 by L.L. No. 6-1991; 4-16-1991 by L.L. No. 9-1991<sup>25</sup>] This estimate shall be submitted to the Village Engineer together with a copy of the final subdivision plat. The estimate shall include the following items:
    - (a) Construction costs.
    - (b) Construction costs increase.
    - (c) Contingencies: ten percent (10%).
    - (d) Survey monuments and necessary stake out.
    - (e) As-built map (record plan).
    - (f) Street signs.
    - (g) Owner's guaranty: five percent (5%).
    - (h) Inspection (developer's engineer).
    - (i) Landscaping (where applicable).
    - (j) Lighting Plan.<sup>26</sup>

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<sup>23</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>24</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>25</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>26</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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- (k) Road maintenance and repair program costs (including but not limited to costs of snow and ice removal and salting and/or sanding roads and any other costs incurred in order to comply with the terms of § 125-22D).
  - (l) Temporary construction.
  - (m) Such other items as the Village may require.
- B. Letter of credit. In an amount set by the Village Board of Trustees, the subdivider shall file with the Village Clerk a letter of credit. The letter of credit shall be written so as to comply with the terms and conditions specified by the Village, as set forth in a specimen copy of a letter of credit that has been approved by the Village Attorney which copy is on file in the Village Office. Such letter of credit shall be issued by a bank or by the owner/subdivider with security acceptable to the Village Board of Trustees and shall be approved by the Village Board and the Village Attorney as to form, sufficiency and manner of execution.
- C. Additional conditions.
  - (1) The letter of credit shall be so written to allow the Village to draw from the funds to perform any and all work if the subdivider does not diligently, systematically and expeditiously perform the work.
  - (2) If the subdivider fails to perform in accordance with the Village standards and specifications or the site plan, then the Village shall give written notice of such failure, and the subdivider shall have a reasonable time not to exceed fifteen (15) days to properly perform as provided for in such notice. Failure of the subdivider to so correct and perform the work within such reasonable time, in no event to exceed fifteen (15) days from receipt of such notices, authorizes the Village to perform and properly complete such items contained in such notice forthwith and to be reimbursed for the cost thereof under the letter of credit of the subdivider to the Village in place and instead of the subdivider, as if the funds under such letter of credit were advanced to the subdivider. The subdivider will provide for such authority in the letter of credit that is issued to the Village under this project.
  - (3) The letter of credit also shall be written so as to allow the Village to draw from the letter of credit funds to reimburse the Village for all costs and expenses incurred by the Village, plus an administrative fee equal to twenty-five percent (25%) of such costs and expenses, in performing road maintenance and/or repair, including but not limited to snow and ice removal and application of salt and/or sand, for the proposed roads in the subdivision in any situation that the Village reasonably deems to be an emergency to which the subdivider has not satisfactorily responded. If the subdivider fails to perform such road maintenance and/or repair in the case of an emergency in a manner satisfactory to the Village and in accordance with the Village standards and specifications, and any conditions stated on the final subdivision plat or any conditions of final subdivision approval, the Village shall have the authority, as provided in the agreement required of the subdivider in accordance with § 125-22D, to perform such work and to draw from the letter of credit the cost thereof plus an administrative fee in accordance with the terms of the letter of credit. In order to satisfy the foregoing requirements, the letter of credit shall contain a provision enabling the Village to draw upon the letter of credit following delivery to the issues of the letter of credit of the certification by the Mayor of the Village of

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Lansing and the Engineer for the Village of Lansing that the developer has failed to properly or adequately or satisfactorily maintain, repair or complete any proposed road within the subdivision in accordance with the Subdivision Regulations of the Village, the final subdivision Approval for the subdivision and any conditions thereto, the final subdivision plat and/or any other application laws, regulations, rules or orders. [Added 3-19-1991 by L.L. No. 6-1991]

### § 125-10. Releasing funds during construction.

- A. Estimate of work performed. At such times as the subdivider and his contractor wish to have funds released to cover work performed, the subdivider's licensed professional engineer shall prepare an estimate of the work performed as of that date. The estimate shall use the same format and item breakdown as requested above for the preliminary estimate of cost of improvements. The licensed professional engineer shall certify that the quantity of items indicated in the estimate have, in fact, been installed as determined by his own measurements. The estimate shall be approved by the Village Engineer prior to release of funds.
- B. Retention of funds.
  - (1) To these periodic estimates the subdivider's engineer shall make a deduction of ten percent (10%) retained to cover the cost of cleanup, minor adjustments to manhole tops and site restoration.
  - (2) The release of the amount retained shall be accomplished according to the following formula: ten percent (10%) of the total construction costs shall be retained until one-half (1/2) of the project has been completed; that is, when fifty percent (50%) of the total construction cost has been released from the letter of credit. At this point, the amount retained will vary directly as the percentage of work completed. For example, for a project with a total construction of one thousand dollars (\$1,000.), ten percent (10%) is retained until fifty percent (50%) of the project is completed. At the sixty percent (60%) project completion stage, sixty percent (60%) of the retainage would be released with forty percent (40%) of the retainage being withheld. The amount retained will approach zero (0) as the end of the project is reached.
- C. Release of funds. The Village shall release from the letter of credit, upon satisfactory and approved installation of the sanitary and storm sewers, sixty percent (60%) of the money allocated for these items in the letter of credit. After approved lamping, testing, cleaning and sealing of manholes, an additional forty percent (40%) of the money set aside shall be released. Sewers may not be tested and lamped until the completion of rough road boxing, but shall be done prior to the placement of road materials. Any pipe repair work must be done in an approved manner by using acceptable patented repair sleeves or by removing and replacing damaged pipe. Repairs to sanitary sewers by using concrete patches or other inferior workmanship will not be permitted.
- D. Contingency funds and owners guaranty.
  - (1) The contingency item [ten percent (10%)] is intended to cover unforeseen costs from any extras or changes in quantities or types of materials used on the project.
  - (2) The contingency amount can be used at the Village's discretion to reimburse the inspection account or cover the cost of overruns that occur on the project.

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The owner's guaranty [five percent (5%)] assures the Village of funds to cover the legal and engineering costs or other costs incurred from the transfer of the contract to another contractor for completion.

- (3) This combined amount [fifteen percent (15%)] also constitutes a control figure which guarantees that certain items are completed, which include: survey monuments in place, as-built maps delivered, warranty bond established, final inspection completed and final acceptance by the Village of public improvements has been made. (See Appendix C for format to be used by subdividers in preparing monthly estimates.)

### **§ 125-11. Warranty of work and materials.**

- A. Term of warranty. The subdivider shall warrant all work performed and materials furnished against defect, failure, inadequacy or breakage for a period of two (2) years from the date of final acceptance of the work by the Village. Prior to the Village's acceptance of the developer's work, the developer shall deliver to the Village the developer's written warranty of the work, in form and substance satisfactory to the Village Attorney, together with security for the developer's obligations under the warranty, in accordance with the requirements of § 125-11B below. In the event of such defect, failure, inadequacy or breakage during said warranty period, the subdivider shall make the necessary repairs or replacements within two (2) days of the mailing of written notice by the Village. **[Amended 6-5-1995 by L.L. No. 4-1995]**
- B. Security for the developer's warranty. Together with the developer's warranty of the developer's work, the developer shall deliver to the Village financial security in the form of a warranty bond or letter of credit, in either case in form and substance satisfactory to the Village Attorney, or cash to be deposited in escrow in accordance with terms of an escrow agreement, in form and substance satisfactory to the Village Attorney. The amount of the warranty bond, letter of credit or cash escrow deposit shall equal twenty-five percent (25%) of the actual cost of the construction of the infrastructure or improvements to be dedicated to the Village, which actual cost shall be confirmed in writing by the Village Engineer. **[Amended 6-5-1995 by L.L. No. 4-1995]**
- C. Compliance guaranty. Should the developer fail, neglect or refuse to so comply within the specified time, the Village shall make the necessary repairs or replacements, for the account of the developer, and deduct all costs therefor from the moneys or securities being held by the Village to ensure compliance during the warranty period.

### **§ 125-12. Release of warranty.**

It shall be the subdivider's responsibility to notify the Village forty-five (45) days prior to the expiration of the warranty period. The Village will make a final inspection and establish a punch list of work to be corrected as part of the warranty. The subdivider shall make necessary repairs prior to completion of warranty period or the Village Board may extend the warranty by six-month increments or may take the security and do the work itself.

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### § 125-13. Default on previously approved plat.

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

### § 125-14. Issuance of permits.

No building/land use or Special Permit shall be issued by the Village until and unless a letter of credit of an amount and in a form satisfactory to the Village Attorney and Engineer have been established, and until all easements have been approved by the Village Attorney and Engineer and filed and recorded.

### § 125-15. Filing of approved final subdivision plat.

- A. Final approval. Upon completion of the requirements in §§§ 125-8, 125-9, 125-10, 125-11 and 125-22D of these Subdivision Regulations, and notation of such completion upon the final subdivision plat, the final subdivision plat shall be deemed to have received final approval and shall be signed by the Chairman of the Planning Board and shall be filed by the applicant in the office of the County Clerk. [Amended 3-19-1991 by L.L. No. 6-1991<sup>27</sup>]
- B. Filing. [Amended 12-6-1988 by L.L. No. 6-1988]
  - (1) Any subdivision plat must be filed or recorded within sixty-two (62) days of the date upon which such plat is approved or it shall become null and void.<sup>28</sup>
  - (2) The Planning Board may extend the time for filing and recording such plat beyond that permitted in Subsection B(1), if in its opinion such intention is warranted by the particular circumstances thereof, for not to exceed two (2) additional periods of sixty-two (62) days each.<sup>29</sup>
  - (3) Further extension.
    - (a) In the case of an approved subdivision plat covering property which, at the time of approval, is located in an area for which public sewer service is available and which plat has been designed for such public sewer service, the Planning Board may further extend the time for filing and recording such plat beyond that permitted in Subsection B(1) and (2) if:
      - [1] In its opinion such intention is warranted by the particular circumstances thereof; and
      - [2] Such circumstances include the inability of the applicant to obtain the required approval of the Tompkins County Health Department and/or any other required governmental agency due to the then unavailability of public sewer service to such property resulting from a governmental determination temporarily prohibiting the connection of such property or any portion thereof to the otherwise available public sewer system.

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<sup>27</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>28</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>29</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.



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- (b) Any such further extension granted by the Planning Board under this Subsection B(3) shall not exceed three (3) additional periods of sixty-two (62) days each beyond any previously granted extension periods, such that the period of time during which the subdivision plat must be filed or recorded shall not extend under any circumstances beyond a period of three hundred seventy-two (372) days of the date upon which such plat is approved.<sup>30</sup>
- C. Amendments to approved subdivision plats. [**Amended 10-5-1992 by L.L. No. 3-1992**]
- (1) No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been granted by the Planning Board and endorsed in writing on the plat, unless the plat is resubmitted, along with a written statement of the changes that the applicant desires, to the Planning Board and such Board approves such changes in accordance with the procedures outlined in Subsection C(2) below. In the event that any final 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, which proceedings shall be conducted at the expense of the person who has caused the recording absent such compliance.
- (2) After the Planning Board has granted approval of a final subdivision plat, minor changes, extensions or alterations of the plat shall be permitted only after review and approval by the Planning Board; and major changes, such as increased density or reduction of open space, shall be permitted only after a public hearing, conducted in accordance with the terms of § 125-8F, and review and approval by the Planning Board. The determination whether a change to an approved final subdivision plat is a "minor change" or a "major change" shall be made by the Planning Board in its sole discretion. In the event that a developer desires to make any change in an approved final subdivision plat, the developer shall deliver to the Village, along with a written description of the desired change and request for review by the Planning Board, a fee in an amount determined in accordance with the fee chart at § 125-18E(1) of these Regulations, and the applicant shall make an additional deposit to the escrow account held by the Village in connection with the subject subdivision in an amount deemed by the Code Enforcement Officer to be sufficient to reimburse the additional costs resulting from the Village's consideration of the desired amendment.<sup>31</sup>

### § 125-16. Public streets and recreation areas.

- A. Public acceptance of streets.
- (1) The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Village of any street, easement or other open space shown on such subdivision plat.
- (2) Furthermore, in the event that the Village performs maintenance or repair work on any proposed road indicated on a subdivision plat in a situation

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<sup>30</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>31</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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reasonably deemed by the Village to be an emergency to which the developer of the subdivision has not satisfactorily responded, such performance shall not be deemed to constitute or to be any evidence of acceptance by the Village of any such road. [Added 3-19-1991 by L.L. No. 6-1991]

- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Village of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board shall also require the filing of a written agreement between the applicant and the Village covering future deed and title, dedication and provision for the cost of grading, development, equipment, maintenance and liability of any such recreation area.<sup>32</sup>

### **§ 125-17. Application of § 7-738 of the New York State Village Law regarding cluster subdivision.**

Whereas, pursuant to resolution of the Board of Trustees, the Planning Board is empowered to modify applicable provisions of Chapter 145, Zoning, in accordance with the provisions of § 7-738 of the Village Law for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands, the following shall be the procedure and standards.

- A. Request of subdivider. A subdivider may request the use of § 7-738 simultaneously with or subsequent to presentation of the sketch plan in accordance with procedure described in § 125-5. Any submission subsequent to preliminary approval of a plat shall require a reapplication for sketch plan review.<sup>33</sup>
- B. Sketch plan. A subdivider shall present along with a proposal in accordance with the provisions of § 7-738, a standard sketch plan which is consistent with all the criteria established by these Subdivision Regulations including streets being consistent with the street specification, and lots being consistent with Chapter 145, Zoning.
- C. Purposes. This procedure shall be applicable only to lands zoned for residential purposes, and its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of Chapter 145, Zoning, applicable to the district or districts in which such land is situated and conforming to all other applicable requirements; however, when projects lie in more than one (1) zoning district, the Planning Board may permit the developer to cluster all the development allowable onto any portion of the tract.<sup>34</sup>
- D. Structures allowed. The dwelling units permitted may be, at the discretion of the Planning Board and subject to the conditions set forth by the Board of Trustees, in detached, semidetached, attached or multistory structures.

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<sup>32</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>33</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>34</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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- E. Park, recreation, open space or other municipal purposes. If the application of this procedure results in a plat showing land available for park, recreation, open space or other municipal purposes, directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth by the Planning Board.
- F. **[Added 6/2/03 by L.L. No. 2-2003]** Open Space. For the purposes of the provisions under this Section 125-17., open space (“Open Space”) shall be defined as follows: Open Space is intended to provide light and air, and is designated for either environmental, scenic or passive recreational purposes. Open Space shall include land within the Conservation Combining District and land that is undevelopable. Open Space shall not include driveways, parking areas, streets and/or other surfaces designed for vehicular travel, nor shall it include any land otherwise set aside for parks or other areas intended for active recreational purposes as permitted and/or other areas intended for active recreational purposes as permitted and/or required under the laws of the State of New York. In no event shall any area of a developable lot or any existing or future road right-of-way be deemed Open Space.

In a subdivision for which application has been made and approval granted under the provisions of this Section 125-17., no less than 20% of the “developable area” of the subdivision plat shall be designated as Open Space. For the purposes of these provisions, “developable area” shall be the gross area of the subdivision less (i) streets and/or other surfaces designated on the subdivision plat for vehicular travel and (ii) any land designated on the subdivision plat as being set aside for parks or other areas intended for active recreational purposes as permitted and/or required under the laws of the State of new York. The Open Space so created must be clearly labeled and noted on the subdivision plat so as to confirm (i) the use and rights in the Open Space of the property owners in the subdivision, (ii) the entity to which the Open Space is to be dedicated (e.g., a homeowners’ association), and (iii) the conditions of such dedication, all of which shall be approved by the Planning Board. The details as to the use and ownership of the Open Space are to be further set out in a declaration or other written instrument, approved by the Planning Board and recorded by the subdivider in the Office of the County Clerk concurrently with the filing of the approved subdivision plat. Such open Space, or a portion thereof (not less than the minimum 20% provided for above) designated by the Planning Board, shall be preserved in perpetuity, and the Planning Board, as a condition of its approval, may require an Open Space easement or other written instrument running in favor of the Planning Board. Any such easement or other written instrument running in favor of the Village shall also be subject to the approval of the Village Board of Trustees.

Prior to or simultaneously with the filing of the approved subdivision plat in the Office of the County Clerk, and prior to the sale of any lots within the subdivision, the subdivider shall form and organize the approved entity to which the Open Space is to be dedicated (e.g., a homeowners’ association), which entity and its organizational documents shall (i) include all owners of property within the subdivision, (ii) provide for adequate contributions from all property owners to cover ongoing maintenance, insurance, tax and other common expenses for the

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Open Space, and (iii) otherwise satisfy the Planning Board as to all other matters associated with the ownership and upkeep of the Open Space and the governance of such entity. In addition thereto, such entity and its governance shall at all times be in compliance with all laws and regulations of the State of New York, including, but not limited to, all rules and regulations of the New York State Attorney General's Office.

Notwithstanding anything to the contrary set forth in this Section 125-17, all Village zoning requirements relating specifically to setbacks shall apply to those portions of the subdivision plat bordering adjacent parcels that are not part of such plat.

- G. Plat submission. Upon determination that such sketch plan is suitable for the procedures under § 7-738 of the Village Law and subsequent to the resolution authorizing the Planning Board to proceed, a preliminary plat meeting all of the requirements of the resolution shall be presented to the Planning Board and thereafter the Planning Board shall proceed with the required public hearings and all other requirements of these Regulations.
- H. Filing and notation on Zoning Map. On the filing of a plat in the office of the County Clerk in which § 7-738 of the Village Law has been used, the subdivider shall file a copy with the Village Clerk who shall make appropriate notations and reference thereto on the Village Zoning Map.<sup>35</sup> The Clerk shall notify the Zoning Officer when such a plat is filed.

### **§ 125-18. Payment of fees. [Added 4-16-1991 by L.L. No. 9-1991]**

- A. General provisions regarding all fees.
  - (1) The Planning Board shall hold no public hearing nor take any action on, or in connection with, the consideration, review, analysis, inspection, endorsement or approval of any application made pursuant to these Regulations unless and until all applicable application fees, public hearing fees and agenda processing fees have been paid in full to the Village with receipt therefor provided to the Planning Board, and all applicable review fees and inspection fees have been either paid in full to the Village with receipt therefor provided to the Planning Board or deposited in full in escrow with the Village, as hereinafter set forth, with evidence of such deposit provided to the Planning Board. Notwithstanding the foregoing, and as detailed elsewhere in this § 125-18, if at any point during the review or inspection process either the amount paid or the amount deposited in escrow, as the case may be, is determined by the Village to be inadequate, the applicant may pay, or deposit in escrow, as the case may be, the amount necessary to eliminate the inadequacy. In the event that the applicant fails to so pay or replenish the escrow account, further action by the Planning Board shall be suspended until the applicant has either paid the necessary amount or deposited the necessary amount in the escrow account.
  - (2) All fees shall be calculated in accordance with this § 125-18 of these Regulations by the Zoning Officer or the Village Clerk. If there exists any

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<sup>35</sup>Editor's Note: The Zoning Map is included at the end of Ch. 145, Zoning.  
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question as to the amount of a required application, public hearing or agenda processing fee, the Zoning Officer, Village Clerk or the Village Clerk's designee shall consult with the Village Engineer or the Village Attorney and recalculate said fees in accordance with the recommendation of the same; such recalculation of said fees shall be final. Questions regarding the amount of required review and inspection fees shall be resolved in accordance with Subsection A(5) below. All fees shall be collected by the Village Clerk or the Village Clerk's designee who shall issue a receipt stating the purpose of the payment or deposit in escrow. A copy of this receipt must be delivered to the Planning Board along with the subject application as evidence of payment or deposit in escrow of the required fees.

- (3) Notwithstanding any provision herein that might be construed to the contrary, all application fees, public hearing fees and agenda processing fees paid to the Village in accordance with this § 125-18 shall be nonrefundable unless miscalculated, and returned to the applicant should an application be disapproved by the Village, reduced in scale by the applicant or otherwise partially or wholly abandoned. Notwithstanding the foregoing, if a project is reduced in scale as a requirement of the Village, the Village shall return to the applicant any part of an application fee paid to the Village in excess of the application fee that would be due on the reduced-scale project. All review fees and inspection fees paid to the Village in accordance with this section shall be nonrefundable unless miscalculated and except in accordance with the provisions of Subsection A(6) below.
- (4) The fees payable in accordance with this § 125-18 shall compensate the Village for costs incurred in administration of applications submitted to, and for review and inspection performed by, the Village as required by and in accordance with applicable laws and regulations. Such costs shall include only those incurred in the Village's performance of such administration, review and inspection as is necessary or customarily undertaken by the Village, acting through its officers, boards, commissions, contractors, consultants or employees, taking into account the nature, scope, costliness, size and impacts of the project.
- (5) At any time subsequent to the applicant's initial submission to the Village of all materials constituting the application in regard to a given project, and the applicant's payment of any applicable application, public hearing and agenda processing fee, the applicant may request and schedule a conference with the Zoning Officer of the Village to review the balance of the fees to be incurred by the applicant during the course of the Village's review, SEQRA-related review and inspection of the project. In the event that the applicant questions any of the Zoning Officer's determinations in regard to the setting of fees for the applicant's project during this conference, the applicant shall prepare a written report stating the Zoning Officer's position and the applicant's position on each question and deliver a copy of said report to the Village Clerk for distribution to each member of the Planning Board. In the event that such a report is received by the members of the Planning Board, the Planning Board shall discuss the questions presented in this report at the Planning Board's next regularly scheduled meeting. The applicant shall be required to attend such meeting in order to respond to any questions raised by the Planning Board as a result of its review of the report. Any determinations made by the Planning

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Board as a result of its discussion of the report during a Planning Board meeting shall be final.

- (6) Notwithstanding any provision of this section to the contrary, in the event that, following completion of the review, SEQRA-related review or inspection performed by the Village in connection with the subject project, the actual costs of the Village's review, SEQRA-related review or inspection differ from the amount(s) originally required to be paid or escrowed by the applicant in the form of review fees or inspection fees, either the applicant shall pay, within thirty (30) days of notice of the same, any additional amount necessary to cover the Village's actual costs, or the Village, within ninety (90) days of determining the same, shall return to the applicant any amount paid or escrow funds deposited by the applicant in excess of the Village's actual costs, as the case may be. Once a project has been completed, and the Village has received all fees due in accordance with the provisions of this chapter, and, if necessary, has returned any sums due to the applicant in accordance with this § 125-18A(6), the applicant and the Village shall execute a written statement confirming that all required fees have been paid in full to the Village; that the Village has no claim against the applicant for any additional fees required to be paid in accordance with this § 125-18; and that the applicant has no claim against the Village for the return of any fees paid in excess of amounts due and payable to the Village in accordance with this § 125-18. This statement shall include an accounting of the Village's collection of all fees delivered by the applicant and of the Village's use or application of all review and inspection fees paid by the applicant.
- (7) An escrow account shall be established by the applicant in favor of the Village at a banking institution with offices in Tompkins County, New York, in any case that the review fee or the inspection fee required in accordance with these Regulations is determined to exceed one thousand dollars (\$1,000.). The account shall be established, and any necessary escrow agreement prepared, in a manner satisfactory to the Village Clerk, to the Village Attorney and to the Village Engineer. Notwithstanding the foregoing, the applicant may, at any time, elect to make payment in full to the Village of all sums required to be placed in escrow in lieu of establishing the escrow account. In any case that fees are not required to be placed in escrow, such fees shall be paid by the applicant to the Village in full in accordance with all terms of these Regulations.
- (8) If an escrow account is established hereunder, it shall be a segregated account, and no funds other than those required to be deposited in such account shall be commingled with the funds in such account.
- (9) For the purpose of determining fees for clustered subdivision applications, the provisions of this section shall apply to such projects as if each unit therein were an individual lot.
- (10) Once a fee has been set in accordance with § 125-18A(2), or modified in accordance with § 125-18A(5), C(3) or D(3), or finally adjusted in accordance with § 125-18A(6), the Village Clerk or Zoning Officer shall deliver a written notice of the same to the Board of Trustees, which notice shall state the name of the applicant, the name and location of the project, a brief description of the magnitude or scope of the project, the type of fee set, modified or finally adjusted and the amount of such fee.

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- B. Application fees, public hearing fees and agenda processing fees.
- (1) The application fee shall be a nonrefundable fee paid at the time of submission to the Village of an application to cover expenses related to the administration and processing of applications, including preparation of agendas and public hearing notices, clerical processing and preliminary processing of the application by planning, and/or legal and/or engineering personnel. The application fee shall be as follows:
    - (a) For submission of an application for a minor subdivision in accordance with § 125-6 of these Regulations, one hundred dollars (\$100.).
    - (b) For submission of an application for preliminary plat approval for a major subdivision in accordance with § 125-7 of these Regulations, one hundred dollars (\$100.), plus ten dollars (\$10.) for each proposed lot.
    - (c) For submission of an application for final plat approval for a major subdivision in accordance with § 125-8 of these Regulations, one hundred dollars (\$100.), plus ten dollars (\$10.) for each proposed lot.
  - (2) The public hearing fee shall be paid as follows. At the time that an application is filed with the Village for which a public hearing is required, the applicant shall pay a public hearing fee to the Village in the amount of fifty dollars (\$50.) to defer the costs of publishing and mailing the notice and application to appropriate parties, and the cost of transcribing the proceedings relating to the application. If the public hearing continues for more than one (1) meeting, necessitating republication and/or renoticing, an additional public hearing fee in the amount of fifty dollars (\$50.) shall be paid prior to each continued public hearing.
  - (3) If discussion of the application prior to the Planning Board's approval or denial of the same continues for more than one (1) meeting but the subsequent meetings do not require a public hearing, an agenda processing fee in the amount of twenty-five dollars (\$25.) shall be paid prior to each additional meeting at which the matter is continued without a public hearing.
  - (4) Public hearing fees and agenda processing fees may be waived in whole or in part, or may be modified by the Mayor, upon approval of a majority vote of the Board of Trustees, for good cause shown.
  - (5) In the case of applications for final plat approval, the Planning Board, in its discretion, may waive the application fee in those circumstances where final plat approval is granted simultaneously with preliminary plat approval.
- C. Review fees.
- (1) The review fee is intended to cover the cost of staff and professional services, including but not limited to costs for engineering, planning, legal and other consultants, incurred by the Village in connection with review of the submitted application materials for any preliminary and/or final subdivision approval. The review fee shall be due and payable prior to commencement of any review of the application.
  - (2) Review fee.
    - (a) The review fee shall equal the minimum amount, as stated below, plus the actual cost of review, as defined hereinafter. The minimum amount shall equal:

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- [1] One hundred dollars (\$100.) for a review of a minor subdivision application.
  - [2] Two hundred fifty dollars (\$250.) for review of an application for a preliminary plat for a major subdivision.
  - [3] Two hundred fifty dollars (\$250.) for review of an application for a final plat for a major subdivision.
- (b) The actual cost of review shall be equal to the total of all costs and expenses incurred by the Village both for independent consultant services, legal services, engineering services, planning services and/or any other services of outside consultants or contractors, as well as for the time of Village staff (administrative, engineering, planning, legal and other) devoted to reviewing the applicant's submission. The costs for consultant's services and for staff time shall be determined by multiplying the number of hours devoted to the project times the respective hourly rates for each consultant or staff person involved in the review, as such rates are charged to the Village or, in the case of Village staff, as determined from time to time by the Village Board of Trustees. For the purpose of determining the initial review fee to be delivered by an applicant to the Village, the actual cost of review shall be estimated in accordance with the fee chart provided at Subsection E of this § 125-18, and, as review progresses, the review fee shall be adjusted as provided in Subsection C(3) below to reflect the Village's actual cost of review.
- (3) If at any time during the review process the Village, or its consultants, estimate that the balance of review costs shall exceed the estimated cost of review used to determine the initial review fee then deposited in escrow, or paid to date, as the case may be, the Village Clerk or the Zoning Officer shall notify the applicant of such excess. The applicant shall add such sum to the escrow account, or pay such sum to the Village, within ten (10) days of the date of such notification. The applicant shall not proceed with any further work at the site of the project, and the Village shall not be obligated to proceed with any further consideration of the project, until the Village Clerk has verified that such sum has been paid or deposited in the applicant's escrow account.
  - (4) The Village may credit unexpended escrow funds deposited, and unexpended amounts paid, on account of the review fee against amounts due on account of the inspection fee, where such is required.
  - (5) In determining the amount of the review fee, the following provisions shall apply:
    - (a) As part of the application for preliminary plat approval, the applicant's licensed professional engineer shall provide to the Village a preliminary estimate of the cost of improvements along with the other items required for a preliminary plat application as set forth in these Regulations.
    - (b) As part of the application for final plat approval, applicant's licensed professional engineer shall provide to the Village a revised estimate of the cost of improvements along with the other items required for a final plat application as set forth in these Regulations.



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- (c) In the case of all subdivision applications, the terms "cost of improvements," "improvement cost" or "project cost" shall mean the costs of construction of all general site improvements (whether on or off the specific site involved) to be constructed by applicant such as grading, roads, drainage improvements, sewers, water lines and other similar items, but excluding the cost of dwelling units to be constructed on the subdivided lots. These terms shall herein be deemed to exclude land acquisition costs, architects fees, engineering fees and other similar nonconstruction costs.
  - (d) The applicant's engineer's estimates of the cost of improvements provided along with the preliminary or final plat application shall be reviewed by the Village Engineer, along with the balance of the information provided in the application, in the course of the Village Engineer's determination of the estimated cost of the improvements.
  - (e) An estimate of the cost of improvements prepared by the applicant rather than by the applicant's licensed professional engineer may be acceptable when, in the judgment of the Village Engineer, such estimate is reasonably accurate.
  - (f) Not later than thirty (30) days following submission of a complete application to the Village, the Village Engineer shall prepare a written estimate of the cost of improvements, along with a written calculation of the review fee, and deliver the same to the Zoning Officer and the Village Clerk.
  - (g) The Zoning Officer or Village Clerk then shall set the review fee in accordance with the chart provided at Subsection E below and collect the same from the applicant.
- (6) In addition to any other costs and expenses included in the Village's actual cost of review, the applicant shall reimburse the Village for all actual costs and expenses incurred by the Village for review or preparation of a draft and/or a final environmental impact statement, in any case that the New York State Environmental Quality Review Act (SEQRA) requires such a statement be prepared, as well as any other actual costs incurred by the Village in fulfilling the requirements of SEQRA. Such costs may include the cost of hiring consultants, the salary time of Village employees or the actual disbursements incurred as a result of the review or preparation of an environmental impact statement. In no event shall such costs exceed those established under SEQRA nor shall such costs be calculated in any manner contrary to the provisions of SEQRA.
- (7) In the event that the review fee exceeds one thousand dollars (\$1,000.), the applicant shall elect whether to pay the review fee in full directly to the Village or to deposit such amount in escrow. Such an escrow shall be established in accordance with all other escrow provisions of this § 125-18.
- (8) The final plat for any subdivision shall not be signed by the Planning Board chairman unless and until all review fees (and any other fees due and payable to the Village to date) have been paid, or escrowed, in full.
- D. Inspection fees.
- (1) In addition to any other fees required to be paid by the applicant as described in this section, in any case that the Village performs inspection of on-site or off-site improvements or developments, the applicant shall pay to the Village

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a fee (the inspection fee) to reimburse the Village for all actual costs incurred by the Village for all engineering, planning and highway inspection, as well as all legal, consulting, clerical and other consulting services used by the Village during the inspection process. The inspection fee shall be due whether inspection is performed in order to fulfill the requirements established by the Planning Board or Board of Trustees pertaining to the specific project in question, or whether inspection is performed to fulfill a general requirement of law or of these Regulations. The inspection fee shall include costs incurred in connection with inspections performed:

- (a) After final approvals have been given.
  - (b) In the course of building permit issuance.
  - (c) During the course of construction of any improvements including buildings, roads and other improvements.
  - (d) During the course of issuing any certificates of compliance or occupancy.
- (2) The Village Engineer shall provide a written estimate of the actual costs of inspection to the Zoning Officer and the Village Clerk and no later than thirty (30) days following the Planning Board's final approval of any subdivision application. The Village Engineer's estimate of the actual costs of inspection shall be equal to not less than one-half percent (1/2%) of the estimated cost of improvements, as such phrase is defined in Subsection C(5)(c) above. The Zoning Officer or Village Clerk shall establish the inspection fee as equal to the Village Engineer's estimate of the actual costs of inspection and collect this fee from the applicant. The applicant shall deliver the inspection fee to the Village not later than thirty (30) days following the date the applicant has been notified of such inspection fee. In the event that the inspection fee exceeds one thousand dollars (\$1,000.), the applicant shall elect whether to pay the inspection fee in full directly to the Village or to deposit such amount in escrow. Such an escrow shall be established in accordance with all other escrow provisions of this § 125-18.
- (3) If at any time during the inspection process the Village, or its consultants, estimate that the balance of inspection costs shall exceed the estimated cost of inspection used to determine the initial inspection fee then deposited in escrow, or paid to date, as the case may be, the Village Clerk or the Zoning Officer shall notify the applicant of such excess. The applicant shall add such sum to the escrow account, or pay such sum to the Village, within ten (10) days of the date of such notification. The applicant shall not proceed with any further work at the site of the project, and the Village shall not be obligated to proceed with any further consideration of the project, until the Village Clerk has verified that such sum has been paid or deposited in the applicant's escrow account.
- (4) Along with any application for final subdivision approval, the applicant shall provide to the Village an estimate of the cost of inspection by the Village, prepared by the applicant's licensed professional engineer. This estimate shall be reviewed along with the other information included in the application and in the prior review process in the course of the Village Engineer's determination of the estimated actual cost of inspection.
- (5) The inspection fee shall in no case be less than two hundred fifty dollars (\$250).

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- (6) Where applicable or where required, no final acceptance of proposed public improvements, and no final approval of site construction or site improvements shall be made and no certificate of compliance shall be issued, unless and until all inspection fees (and all review or other applicable fees required in this section) have been paid in full to, or fully escrowed with, the Village.

E. Calculation of application fees, review fees and inspection fees.  
**[Amended 4-16-1991 by L.L. No. 9-1991<sup>36</sup>]**

Type	Application Fee	Review Fee	Inspection Fee
Minor subdivision application	\$100.00	\$100.00, plus actual cost of review [see Subsection E(2) below]	Actual cost of inspection [see Subsection E(3) below]
Major subdivision Preliminary plat	\$100.00, plus \$10.00 per lot	\$250.00, plus actual cost of review [see Subsection E(2) below]	Actual cost of inspection [see Subsection E(3) below]
Final plat	\$100.00, plus \$10.00 per lot	\$250.00, plus actual cost of review [see Subsection E(2) below]	Actual cost of inspection [see Subsection E(3) below]
Plats/replats whose sole purpose is to dedicate land for public use	No charge	No charge	No charge
Plat reaffirmations	\$50.00, plus \$5.00 per lot		No charge
Amendment			
Minor	\$100.00	No charge	No charge
Major	\$100.00, plus \$10.00 per lot	\$250.00	No charge

NOTE: Public hearing fees for all types of applications shall equal fifty dollars (\$50.) per meeting requiring publication, and agenda processing fees for all types of applications shall equal twenty-five dollars (\$25.) per meeting not requiring publication, as explained in greater detail in Subsection B above.

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<sup>36</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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- (2) Actual cost of review.
  - (a) The actual cost of review, for the purposes of initially establishing the review fee in accordance with this § 125-18, shall initially be estimated as equal to the sum of:
    - [1] The initial estimate of engineering review costs, determined in accordance with Appendix B of these Regulations; plus
    - [2] The initial estimate of administrative review costs, determined as equaling one-fourth of one percent (1/4 of 1%) of the estimated cost of improvements; plus
    - [3] The initial estimate of legal review costs, determined as equaling one-fourth of one percent (1/4 of 1%) of the estimated cost of improvements.
  - (b) Note that the initial estimate of the review fee may be adjusted or modified in accordance with other provisions of this § 125-18, including but not limited to § 125-18C
- (3) Actual cost of inspection. The actual cost of inspection, for purposes of initially estimating the inspection fee in accordance with this § 125-18, shall initially be estimated as equal to not less than one-half of one percent (1/2 of 1%) of the estimated cost of improvements, as determined in accordance with, among other subsections, Subsection D(2) above. Note that the initial estimate of the inspection fee may be modified or adjusted in accordance with other provisions of this § 125-18, including but not limited to § 125-18D(3).

### ARTICLE III

#### General Requirements and Design Standards

##### **§ 125-19. Standards to be minimum requirements.**

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article V herein. The standards set forth hereafter apply only to newly constructed or reconstructed streets.<sup>37</sup>

##### **§ 125-20. Character of land; conformity to Village Comprehensive Plan and specifications required.<sup>38</sup>**

- A. 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.
- B. Conformity to Village Comprehensive Plan<sup>39</sup>. Subdivisions shall be in harmony with the Village Comprehensive Plan<sup>40</sup>.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Village specifications.

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<sup>37</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>38</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>39</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>40</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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### § 125-21. Street and pavement design.<sup>41</sup>

#### A. Introduction.

- (1) Streets, sidewalks and pathways are important to the developer because they can substantially affect the cost of land development. They are important to the community because they must be maintained in perpetuity. Both capital cost and maintenance costs can be reduced if streets are economically designed and constructed; and this is true not only of the pavement but also of the utilities such as water mains and sewers which usually follow the length and configuration of the streets.
- (2) The Village Comprehensive Plan sets forth the principles to be followed in designing the street system.<sup>42</sup> It contains maps which show the recommended street design for specific sections. Developers should become familiar with this material and must consult with the Village Planning Board in developing the street system for any major subdivision.

#### B. Arrangement.

- (1) Street systems shall be designed with due regard to the needs for: convenient traffic access and circulation; traffic control and safety; access for fire fighting, snow removal and street maintenance equipment; and stormwater drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.
- (2) Future extensions.
  - (a) The streets in contiguous subdivisions shall be coordinated so as to compose a convenient system to include construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities.
  - (b) Where a subdivision adjoins undeveloped land, its streets shall be laid out so as to provide suitable future street connections with the adjoining land when the latter shall be developed. A street thus temporarily dead-ended shall be constructed to the property line and shall be provided with a temporary turnaround of the same dimensions as for permanent dead-end streets if in excess of two hundred (200) feet, with a notation on the construction plat providing for temporary easements for the turnaround until such time as the street is extended. These same requirements shall apply at the discretion of the Planning Board in those cases where the adjoining land is another section of the same subdivision and which is not scheduled for development at the same time.
- (3) Streets shall be logically related to the topography, and all streets shall be arranged so as to allow as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
- (4) Where a subdivision abuts on or contains an existing or proposed primary street or other existing Village, County or State highway, the Village may require marginal access streets, reverse frontage with screen planting

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<sup>41</sup>Editor's Note: See also Appendix D and Figures 1 and 2.

<sup>42</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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contained in a nonaccess reservation along the rear property line, deep lots with or without 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.<sup>43</sup>

- (5) Where a subdivision borders on or contains an existing or proposed railroad right-of-way or controlled access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for business, commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separation.
  - (6) Subdivisions containing twenty (20) or more lots shall have at least two (2) street connections with existing public streets or streets on the approved subdivision plat.
  - (7) Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of Chapter 145, Zoning. However, the Planning Board may require the reservation of a twenty-foot-wide easement for pedestrian or bicycle traffic or for utilities.
- C. Street types. The terms of this Subsection C are not intended, and shall not be construed, to alter or modify the requirements set forth in Chapter 145, Zoning, § 145-20 pertaining to the permitted number, size and type of curb cuts on roads within the Village. **[Amended 12-20-1993 by L.L. No. 18-1993]**
- (1) Culs-de-sac, dead ends and other roads not defined elsewhere. Culs-de-sac, dead ends and any other street or road not defined in Subsections C(2) through (8) below shall service only local traffic to provide access to a street or road type defined in Subsections C(2), (3) and (4) below. Examples of existing culs-de-sac in the Village are St. Joseph Lane and Ascot Place.<sup>44</sup>
  - (2) Local service and access roads. Local service and access roads shall provide connections between driveways on private property and the secondary and primary roads of the Village and surrounding municipalities. Through traffic shall not be permitted on this type of street, and speed limits on this type of street should not exceed thirty (30) miles per hour. The design and construction of this type of street should be related to its functions, as described in this subsection, and shall be as detailed in Section 1 of Appendix D.<sup>45</sup> Local service and access roads are intended to be relatively quiet, neighborhood streets. Examples of existing local service and access roads in the Village are Brook Way, Beckett Way, Highgate Circle and Craft Road.<sup>46</sup>

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<sup>43</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>44</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>45</sup>Editor's Note: Appendix D is included at the end of this chapter.

<sup>46</sup>Editor's Note: Appendix D is included at the end of this chapter.

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- (3) Secondary roads. Secondary roads shall provide connections between one part of the community and another, and are intended to channel the flow of traffic from residential neighborhoods and/or commercial centers to the primary road system. On secondary roads, truck traffic and traffic passing through the Village is intended to be minimal, and speed limits shall not exceed thirty (30) miles per hour. Secondary roads must be designed with the expectation that interruptions to traffic flow, resulting from entry to and exit from driveways, shall be frequent and expected by traffic traveling on such roads. Examples of existing secondary roads in the Village include Oakcrest Road, Burdick Hill Road, Cayuga Heights Road, Dart Drive, Graham Road and Cherry Road.
- (4) Primary roads. Primary roads are intended to carry a heavy volume of traffic, with a large percentage of such traffic traveling from one community to another, to an employment center (such as Cornell University) or to a commercial center (such as Pyramid Mall), rather than exclusively within the Village. Speed limits on primary roads may, in some cases, exceed thirty (30) miles per hour. Traffic flow on primary roads may be interrupted by traffic control devices such as traffic control signals, stop signs and turning lanes. Although existing primary roads in the Village, in some cases, provide access to driveways on private property, no future development of driveways from private property to a primary road shall be permitted except in accordance with specific approval from the Village Planning Board. Examples of existing primary roads in the Village include New York State Route 34, North Triphammer Road and Warren Road.
- (5) Regional arterial access roads. Regional arterial access roads are controlled-access roads with limited intersecting roads, designed to carry the heaviest volume of traffic of all road types. New York State Route 13 is the only regional arterial access road in the Village.
- (6) Private roads and drives. Private roads and drives are those in which ownership is retained by the property owner(s). They must provide for adequate access and traffic circulation, drainage, maintenance and ability to support expected traffic loads.
- (7) Service streets or loading space. Service streets or loading space provide rear access for commercial use.
- (8) Half streets. Half streets are areas of land reserved for future development of a street, of which only half the required width for the proposed street is located in the subdivision (along a boundary of the subdivision). They are deemed essential to the reasonable development of the subdivision in conformity with the other requirements of these Regulations, and the dedication of the other half will be required when the adjoining property is subdivided.<sup>47</sup>
- (9) Minimum maintenance roads. Special service roads, maintained by the municipality.<sup>48</sup>

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<sup>47</sup>Editor's Note: Original Sections 402.04 through 402.07, which followed this section, regarding design standards, street intersections, grading and shoulders and watercourses, were moved to the end of this chapter; see Appendix D.

<sup>48</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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### D. Improvements.

- (1) In addition to the required improvements specifically referred to elsewhere in these Regulations, plats shall provide for all other customary elements of street construction and utility service which may be appropriate in each locality as determined by the Village. Such elements may include, but shall not be limited to, street pavement, signs, trees, gutters, stormwater collection facilities, inlets, manholes, curbs, sidewalks, streetlighting standards, water mains, fire hydrants, fire alarm signal devices and sanitary sewers.<sup>49</sup>
- (2) All street improvements and other construction features of the subdivision shall conform to Village specifications which may be established from time to time and shall be subject to approval as to design, specifications and construction by the Village Engineer.
- (3) Pedestrian and bicycle easements shall be improved as required by the Planning Board.
- (4) All streets shall be named, and such names shall be subject to the approval of the Planning Board and Board of Trustees. Names shall be sufficiently different in sound and spelling from other street names in the County so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. Generally, no street should change direction by more than ninety degrees (90°) without a change in street name. Relating street names to features of local historical, topographical or other natural interest is encouraged.
- (5) Walkways shall be provided in accordance with the Village's Walkway Policy and Plan.<sup>50</sup>
- (6) The developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. In general, the street right-of-way shall be cleared of existing trees, except that existing trees may be preserved and additional trees planted within the street right-of-way with the approval of the Village Planning Board following an on-site inspection by at least one (1) member of the Planning Board and after receiving a recommendation from the Superintendent of Public Works where it deems that such trees are desirable and constitute no hazard to the public.<sup>51</sup>  
**[Amended 5-17-1993 by L.L. No. 8-1993]**
- (7) Fire hydrants shall be installed in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.
- (8) Streetlighting facilities shall be in conformance with the lighting system of the Village. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Village Electrical Inspector and recommended by the Village's Lighting Commission.<sup>52</sup> <sup>53</sup>

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<sup>49</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>50</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>51</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>52</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>53</sup>Editor's Note: Original Section 402.09, which followed this section, regarding monuments, was moved to the end of this chapter; see Appendix D.



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### E. Utilities.

- (1) The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- (2) Where topography is such as to make impractical the inclusion of utilities within the street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.<sup>54</sup>

### § 125-22. Maintenance of roadway.

- A. The developer shall be responsible for maintaining and protecting the roadway and temporary cul-de-sac and/or turnaround during the warranty period.
- B. If subsequent subdivision sections are built utilizing the roadway for access and/or haul road during construction, the developer shall be responsible for special maintenance provisions. These provisions could be placing or replacing topping, periodic cleaning and flushing of the road surface and repair of any structural damage.
- C. The developer shall submit a schedule of his proposed road maintenance program to the Village Engineer indicating how the roadway will be maintained, a timetable for the proposed maintenance and an estimate of cost. This schedule shall be reviewed and approved by the Village Engineer and shall become part of the project work. The approved estimated amount for maintenance shall be included in the letter of credit.
- D. Agreement by developer required. **[Added 3-19-1991 by L.L. No. 6-1991]**
  - (1) Following the approval of the preliminary subdivision plat by the Planning Board, and prior to the granting of approval of the final subdivision plat by the Planning Board, the developer shall execute and deliver to the Village an agreement in form and substance satisfactory to the Village and to the Village's Attorney confirming the developer's obligation to maintain and repair all proposed roads within the subdivision through the date of acceptance of said roads by the Village as public roads and conveyance to the Village of satisfactory title to such roads. This agreement shall provide, among other things:
    - (a) For the Village in an emergency situation to enter upon the subdivision premises in order to perform road maintenance and repair which the developer has failed to satisfactorily perform;
    - (b) That the Village shall be entitled to recover all expenses, plus an administrative fee equal to twenty-five percent (25%) of such expenses, incurred in performing any such actions in accordance with

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<sup>54</sup>Editor's Note: Original Sections 403.01 through 403.08, which followed this section and which made provisions for construction of streets, were moved to the end of this chapter; see Appendix D.

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the terms of the letter of credit established under § 125-9 of these Subdivision Regulations; and

- (c) That the developer shall indemnify the Village and hold the Village harmless from and against any costs, expenses, damages or claims incurred by the Village as a result of its performance of such actions.
- (2) The road maintenance and repair work that the developer is obligated to perform in accordance with these Subdivision Regulations and in order to comply with the terms of the agreement required pursuant to this subsection shall be performed to such standards as have been established by the Village at the time in question for the Village's roads, and shall include, but shall not be limited to, snow and ice removal and application of sand and/or salt to the proposed roads in the subdivision.

### § 125-23. Temporary cul-de-sac or turnarounds.

- A. In areas where a temporary cul-de-sac or turnaround is proposed, the developer shall provide sufficient details on the plan showing the road section, dimensions of the roadway and the materials proposed.
- B. The cul-de-sac or turnaround shall comply with materials shown in Figure 1<sup>55</sup>, except topping could be omitted.
- C. The developer shall provide cost in the letter of credit to cover the cost of proposed temporary construction.

### § 125-24. Lots.

- A. Sizes and configuration.
  - (1) Minimum size. Lot sizes, unless modified in subdivision review, must be in conformance with minimum lot sizes specified in Chapter 145, Zoning. Minimum lot size shall also conform to County Health Department regulations where no public sewer is available. In the case of any conflict between Chapter 145, Zoning, and the County Health requirements, the higher standard shall apply.
  - (2) Corner lots. In general, corner lots should be larger than interior lots to provide for proper building setback from each street and provide a desirable building site.
  - (3) Resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which a subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these Regulations.
  - (4) Block size. Blocks generally shall not be less than four hundred (400) feet nor more than one thousand two hundred (1,200) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian and bicycle

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<sup>55</sup>Editor's Note: Figure 1 is located at the end of this chapter.

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traffic where needed or desirable and may further specify, at its discretion, that a six-foot-wide paved footpath be included.

- (5) Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- B. Access.
- (1) Driveway access. Driveway access and grades shall conform to specifications of the Village. Driveway grades between the street and the setback line shall not exceed ten percent (10%).
  - (2) Private street access. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these Regulations.
- C. Lots to be buildable. The lot arrangement shall be such that in constructing a building in compliance with Chapter 145, Zoning, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.
- D. Site preparations.
- (1) Approval. Any cleaning, grading and/or shaping of the topography for nonagricultural purposes must have prior approval of the Planning Board and the Village Engineer, and is subject to the same restrictions and reviews as are subdivisions.
  - (2) Topsoil. If any topsoil is removed from its natural position in the process of grading the subdivision site, such topsoil or other material as approved by the Planning Board shall be replaced to a depth approximately equivalent to that existing prior to such grading, except in street, driveway and foundation areas.
- E. Monuments, bench marks and lot corner markers. Permanent monuments and one (1) or more bench marks meeting specifications approved by the Engineer as to size, type and installation shall be set at block corners, angle points, points of curves in streets and other points as the Engineer may require, and their location shall be shown on the subdivision plat.
- F. Natural features and preservation. The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, beaches, historic spots, vistas and similar irreplaceable assets.
- (1) Existing trees. No tree with a diameter of six (6) inches or more as measured three (3) feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the final subdivision plat. Removal of additional trees shall be subject to the approval of the Planning Board, except for dead or diseased trees. In no case, however, shall a tree with a diameter of six (6) inches or more as measured three (3) feet above the base of the trunk be removed without prior approval by the Planning Board.
  - (2) Shade trees. The Board shall require on all new streets one (1) hardwood shade tree to be planted at least six (6) feet from the street right-of-way, on the owner's side, at intervals of not less than one hundred (100) feet along both sides of said street.

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- G. Erosion prevention. All work shall comply with Chapter 124 of the Village Code- Village of Lansing Stormwater Management, Erosion and Sediment Control Law. **[Amended 12-17-2007 by L.L. No. 12-2007]**
- H. Stream protection. All streams designated on the Village of Lansing Zoning Map<sup>56</sup> which are located within or immediately adjacent to an improvement or a subdivision shall be protected by the subdivider. All channels and waterways must have erosion control carried out in accordance with Subsection G above.
- I. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.

### **§ 125-25. Removal of springwater, surface water and subsurface water.**

All subdivision plans shall be related with natural drainage pattern and comply with Chapter 124 of the Village Code- Village of Lansing Stormwater Management, Erosion and Sediment Control Law. **[Amended 12-17-2007 by L.L. No. 12-2007]**

### **§ 125-26. Recreational Land. [Amended 11-4-1996 by L.L. No. 2-1996]**

- A. Recreational Areas Shown on the Village Greenway Plan.
  - (1) In the event that a park, playground, trail, path, route or other recreational area is shown on the Village Greenway Plan, and all or any portion of such recreational area is located within a property proposed to be subdivided for recreational purposes, the subdivision plat for such property must show either (a) such recreational areas or (b) an area or areas that do not currently appear on the Village Greenway Plan but, if substituted for the areas within the property to be subdivided shown on the Village's Greenway Plan, would be comparable in total area and would be likely to accomplish the goals and purposes of the Village's Greenway Plan, in accordance with the requirements of this Section 125-26. These recreational areas shall be referred to as the "Subdivision's Greenway Area." The Planning Board may require that the Subdivision's Greenway Area be reserved for recreational purposes (at least to the extent of the minimum Recreational Area, as defined in Section C below), provided that the Planning Board has made a finding in the course of its review of the proposed residential subdivision that a proper case exists for requiring such area for recreational purposes.

In making this finding, the Planning Board shall consider that (a) all areas identified in the Greenway Plan as constituting a part of the Greenway are intended to be suitable for recreational land within the Village and that (b) present and anticipated future needs for park and recreational facilities within the Village, based on projected population growth to which the particular subdivision shall contribute, indicate that all portions of the proposed Greenway are suitably located for recreational purposes within the Village. In order to confirm these findings, the Planning Board shall investigate the proposed area,

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<sup>56</sup>Editor's Note: The Zoning Map is included at the end of Ch. 145, Zoning.  
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which investigation shall include, but may not be limited to, an on site visit by a member of either the Planning Board or Greenway Committee.

### B. Recreational Areas Not Shown on the Village Greenway Plan.

In the event that (1) a property proposed to be subdivided for residential purposes does not include any park, playground, trail, path, route or other recreational area shown on the Village Greenway Plan, or (2) the Subdivision's Greenway Area is less than the Minimum Recreational Area (as defined in Section C below), or (3) the Planning Board determines in the course of its review of the proposed residential subdivision plat, that the Subdivision's Greenway Area is either (a) not suitable for recreational land within the Village and/or (b) not suitably located for recreational purposes within the Village, then the Planning Board may require that the proposed subdivision plat show proposed alternative recreational areas. These alternative or additional recreational areas shall be referred to as the "Alternative Recreational Area." The Planning Board may require that such Alternative Recreational Area be shown as recreational area on the plat provided that the Planning Board has made a finding in the course of its review of the proposed residential subdivision that (a) such Alternative Recreational Area is suitable for recreational land within the Village and that (b) present and anticipated future needs for park and recreational facilities within the Village, based on projected population growth to which the particular subdivision shall contribute, indicate that such Alternative Recreational Area is suitably located for recreational purposes within the Village.

### C. Calculation of Amount of Property to be Identified as Recreational Areas.

(1) Proposed subdivision plats for residential property are required to show recreational area having a total acreage of not less than one (1) acre for every thirty (30) dwelling units, or lots proposed to be developed with thirty (30) dwelling units, or six (6%) percent of the total acreage of the entire property to be subdivided, whichever result is greater. This required acreage shall be referred to as the "Minimum Recreational Area".

(2) In the event that the Subdivision's Greenway Area has a total acreage of less than the Minimum Recreational Area, the Planning Board may require (after making the findings set forth in Section B above) that subdivision plat must show Alternative Recreational Area, the acreage of which, together with the Subdivision's Greenway Area, equals the Minimum Recreational Area. In the event that the Subdivision's Greenway Area exceeds the Minimum Recreational Area, the subdivision plat shall specifically identify the portion of the Subdivision's Greenway Area in excess of the Minimum Recreational Area. If the property proposed to be subdivided does not include any portion of the Village Greenway, and the Planning Board has required that the plat show Alternate Recreational Area, the acreage of the Alternative Recreational Area must be not less than the Minimum Recreational Area.

(3) If the Subdivision's Greenway Area exceeds the Minimum Recreational Area for the proposed subdivision, the developer/applicant and the Village shall use good faith efforts to reach agreement concerning the incorporation into the Greenway of the excess property in the Subdivision's Greenway Area above the Minimum Recreational Area.

### D. Fees in Lieu of Recreational Area.

(1) Only in the event that the Planning Board, in its sole judgment, determines after due inquiry in accordance with the terms of this Section 125-26, that the property described on the proposed subdivision plat does not include (a)

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any areas(s) suitable for recreational purposes or (b) enough area to equal the Minimum Recreational Area suitable for recreational purposes, whether on account of the topography, location or size of potential recreational area, or the proximity of such area to existing or planned sections of the Village Greenway, or otherwise, then the Planning Board is authorized to require that the applicant/developer pay a fee in accordance with the provisions of Section D. In such event, the applicant/developer must, at its expense, (a) file in Miscellaneous Records in the Tompkins County Clerk's Office a written notice of the requirement for the payment of such fee and the amount to be paid, which notice is indexed to the deed to the subdivision property; (b) deliver to the Village the filing receipt therefor; (c) add to the final subdivision plat a note confirming the requirement for payment of said fee and the amount to be paid, and (d) once the fee has been paid, record in the Tompkins County Clerk's Office a notice signed by the Village Mayor or Treasurer confirming receipt of such payment.

- (2) The fee required in lieu of recreational area shall equal Seven Hundred Fifty and 00/100 (\$750.00) Dollars multiplied by the total number of dwelling units permitted to be developed within the subdivision as proposed by the developer, minus the number of existing dwelling units and unimproved, separate lots or parcels within the subdivision property before subdivision occurs. The applicant/developer shall deliver payment in full of this fee in advance of the Planning Board Chairman's signing the final subdivision plat, however, the applicant/developer may defer payment of this fee, at the applicant/developer's discretion, by delivering to the Village, prior to the Planning Board Chairman's signing the final subdivision plat, a letter signed by the applicant/developer confirming the applicant/developer's agreement to pay such fees in installments as follows. If the applicant/developer elects to pay this fee in installments, an installment in the amount of Seven Hundred Fifty and 00/100 (\$750.00) Dollars per new dwelling unit shall be due and payable prior to the issuance of the building permit for the construction of each one of the dwelling units to be developed within the subdivision. The Planning Board Chairman shall not sign the final subdivision plat until either said fee or said letter has been delivered to the Village. The Code Enforcement Officer shall not issue a building permit for construction of any dwelling units within the subdivision until such fee has been paid as stated above.
- (3) In the case of a subdivision in which the Planning Board has determined that the proposed subdivision plat includes some Subdivision Greenway Area and/or Alternative Recreational Area that is to be designated as such on the final plat in accordance with this Section 125-26 (collectively, the "Total Recreational Area"), but the Total Recreational Area is less than the Minimum Recreational Area, then the applicant/developer shall pay a fee, based upon the calculation made in accordance with Subsection D(2) above, in lieu of the difference between the Total Recreational Area and the Minimum Recreational Area. This fee shall equal the fee for the entire subdivision calculated in accordance with subsection D(2) above, multiplied by a fraction, the numerator of which is the difference between the Total Recreational Area and the Minimum Recreational Area, and the denominator of which is the Minimum Recreational Area.

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- (4) Notwithstanding any term or provision of this Section 125-26 to the contrary, in no case shall the fee calculated in accordance with subsection D(2) above equal more than six (6%) percent of the cumulative value of the entire property that is the subject of the subdivision, which value is calculated on the basis of the requested subdivision approval having been granted. In the event that the applicant/developer believes that this limit would be exceeded by the calculation made in accordance with subsection (2) above, the applicant/developer may present to the Planning Board competent financial data, which must include a currently dated appraisal by a licensed real estate appraiser, supporting the conclusion that the fee exceeds six (6%) percent of the value of the subdivision property as stated in the applicant/developer's appraisal. In such event, the applicant/developer may pay the fee in installments, as indicated in subsection (2) above, but each installment shall equal the total fee to be paid divided by the number of dwelling units permitted to be developed in the subdivision.
- (5) The Village shall deposit all fees received in accordance with the terms of this Section into a trust fund to be used by the Village exclusively for park, playground or other recreational purposes anywhere within the Village, including the acquisition of property for recreational purposes, the improvement and maintenance of property for recreational purposes, the improvement of existing recreational areas in the Village and the development of the Village Greenway.

E. Exception for Subdivisions Resulting Only in Lot Line Changes.

The terms of this Section 125-26 shall not apply in any case of a subdivision of residential property that shall result in the creation of no new lots, but is intended only to modify, alter, shift or rearrange the locations of the boundary lines of existing lots. As an example of a situation to which this exception would apply, in the event that the owners of two adjoining parcels wish to add property from one parcel to the other, resulting in the boundary line between the two lots being shifted, and as a result of such actions subdivision approval is required although no new lot is created, the terms of this Section 125-26 would not apply to such subdivision approval process.

F. Reservation of Recreational Area by Dedication or Other Means.

- (1) In the event that the applicant/developer shall convey to the Village fee title to the recreational area depicted on the final subdivision plat, title shall be conveyed in unencumbered, marketable condition. Prior to conveyance, the applicant/developer shall deliver such title and other documentation, including an updated title abstract, certified survey map, draft deed and tax searches, as may be required by the Village attorney. Such requirements shall not exceed those imposed in connection with the dedication of a road to the Village.
- (2) The applicant/developer may, in lieu of conveyance of fee title and with the Planning Board's consent, convey to the Village an easement, right-of-way, or other interest approved by the Planning Board, to the required recreational area, in form and substance satisfactory to the Village attorney. In such event, the applicant/developer's conveyance of an easement, right-of-way or other interest shall, among other things, be unencumbered or delivered together with the consent of any mortgagee or other party having a prior interest in such property, shall be permanent and shall enable the development, use, maintenance and repair of the recreational area substantially in the same manner as if fee title to the recreational area had been conveyed to the Village.

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- (3) Prior to the applicant/developer's conveyance to the Village of either fee title or an easement, right-of-way or other interest in or to the recreational area, the applicant/developer shall, at its expense, remove from the area to be conveyed all man-made structures or items, including, but not limited to, all construction debris, as well as any fallen trees, unless directed otherwise by the Planning Board. This requirement shall not obligate the applicant/developer to clear any living trees or other growth from the recreational area, or to grade, cut or fill the recreational area.
- (4) Whether the applicant/developer conveys to the Village fee title to the recreational area, or an easement, right-of-way or other interest in such area, such conveyance shall be completed, to the satisfaction of the Village's attorney, prior to the issuance of the first building permit for the construction of any dwelling unit within the subdivision.

### G. Requirements for Subdivision Plat.

The subdivision plat shall include, in addition to the description of the boundary of the recreational area, each of the following features:

- (1) the metes and bounds of all boundaries of the area, including length and bearings of all lines and radii, lengths, arc lengths and bearings of chord distances of all curves;
- (2) existing natural and topographical features, such as bodies of water, trees, rock outcroppings and any structures;
- (3) existing, and if applicable, proposed changes in grade and contours of the area and the immediately adjacent areas;
- (4) a description of the improvements to be made to the recreational area, by the developer, if any, detailing, at a minimum, any construction of improvements to the surface of the recreational area; and
- (5) any notation of fees required to be paid by the applicant/developer in lieu of recreational property in accordance with subsection D(1) above.

### § 125-27. Compliance required; inspections; completion.

- A. Purpose. The purpose of these specifications is to assure that streets, utilities and parks which are to be turned over to the Village for maintenance shall be so constructed as to cause a minimum of maintenance and a maximum of benefit to the Village. Failure of the developer, his agents, employees or subcontractors to comply shall be considered sufficient cause by the Village not to accept the street, utilities and parks or any portion thereof for dedication until all work is satisfactory.
- B. Inspection.
  - (1) All construction shall at all times be subject to inspection by the Village. The work may be stopped when the developer or his contractor has no competent foreman in charge of the work, or when the work or materials does not meet these specifications or when circumstances are such that continuance of that phase of the work would not be in the best interest of the Village.
  - (2) Costs incurred for inspection services shall be borne by the developer, and sufficient funds shall be part of the letter of credit.
  - (3) Failure of the Village to reject improper work or inferior material during construction shall not be considered as, nor imply, final acceptance. If



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- subsequent inspection, operation or circumstances cause defects to become evident, the developer shall make, or cause to be made, such cuts or other exposures of the work as may be required to determine the cause of such defects. Such defects shall then be corrected to the satisfaction of the Village at the expense of the developer.
- (4) At least five (5) days prior to commencing construction of the required improvements the subdivider shall notify the Village Engineer, in writing, of the time when he proposes to commence construction of said improvements.
- C. Responsibility for work. The developer is solely responsible to the Village for proper construction of streets, utilities and parks. It will normally be of benefit to both the developer and the Village to have municipal representatives deal directly with the developer's contractors where such are employed, both as a matter of expediency and to avoid needless liaison. Nevertheless, such action shall not be construed as relieving the developer of his prime responsibility to the Village.
- D. Safeguarding existing utilities, other property and persons.
- (1) The developer, or his contractor where work and responsibility have been so delegated, shall locate all existing sewers, water mains, underground conduits, gas mains or other utilities in the work area prior to commencing operations. Appropriate utility officials shall receive prior notice of intent to start construction, and their recommendations and orders shall be followed.
- (2) Care shall be taken to protect persons and property, as well as to avoid potentially hazardous conditions or nuisances. The developer and his contractor shall comply with all stipulations of the Occupational Safety and Health Act of 1970, and all revisions and amendments thereof.
- E. Stake out.
- (1) All construction work shall be properly staked out by competent personnel in accordance with the approved plan. Such stake out shall be in sufficient detail to ensure correct elevations of tops of structures, proper crowns, slopes and alignments.
- (2) Where pavement base courses or subgrades are left unfinished during the winter, they shall be restaked in the spring and regraded accordingly.
- F. Protection of uncompleted work. Where work is left uncompleted, because of weather or other reasons, it shall be protected. Road beds shall be left well drained, sanitary sewers (and storm drains where applicable) shall be so protected that surface water, mud, silt and debris cannot enter. Sewer laterals, water services and valves shall be suitably marked with stakes and shall be protected.
- G. Final drawings. Prior to acceptance of the utilities by the Village the developer shall submit an as-built plan. This plan shall be drawn to scale and shall indicate by dimensions, angles and distances, as applicable, the location of sewer and drain Y-branches, laterals, septic tank cleanouts, manholes, catch basins, hydrants, valves, curb shutoffs, road profiles and center line elevations and final grading plan showing swales and ditches. The plan shall show easements and dedicated roadways. As-built plans shall be submitted to the Village on a reproducible Mylar or equivalent.<sup>57</sup>
- H. Full completion of work and cleanup.
- (1) Prior to acceptance of the utilities by the Village, the developer shall fully complete the work and leave the site in a neat and orderly condition. Slopes,

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<sup>57</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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- drainageways and other graded areas shall be fully stabilized by planting grass or other vegetation or by such means acceptable to the Village.
- (2) Grading between adjacent lots as well as between lots and the street area shall have a continuity without abrupt changes in elevation or unfinished ground surface.
  - (3) All areas shall be so graded that runoff from higher elevation lots does not create a nuisance on lower elevation lots. To this extent lots shall normally be graded to drain front-and-back with street gutters taking the front drainage and shallow swales taking the back-lot-line drainage.
  - (4) Valve boxes, manhole covers and curb shutoff boxes shall be left at a proper elevation.
- I. Permits. The developer shall obtain from the proper authorities all necessary permits for building or blasting or construction work within public streets.
  - J. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Village Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

### ARTICLE IV

#### Documents to be Submitted

**§ 125-27.1. Applicant/developer's mortgagee's consent. [Added 4-17-1995 by L.L. No. 2-1995]**

In the event that the property that is the subject of the requested subdivision approval, or any part thereof, is encumbered with a mortgage, or other similar lien or security interest, at the time that subdivision approval is being requested, the applicant/developer shall deliver to the Village, in advance of the Planning Board Chairman's signing the final subdivision plat, an original document in recordable form, executed and acknowledged by the mortgagee or lienholder, including the following. This document shall state the mortgagee's acknowledgment of the proposed subdivision of the subject property, together with the mortgagee's consent to the subdivision, and the document shall include either waiver of the mortgagee's rights to foreclose against the Village's approval of the subdivision, even though subdivision approval is placed on record subsequent in time to the recording of the mortgage, or the mortgagee's subordination of its rights under its mortgage to the Village's subdivision approval. In these cases, the Planning Board Chairman shall not sign the final plat until such time as said document has been delivered to the Village and approved by the Village Attorney.

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### § 125-28. Sketch plan submission; contents.<sup>58</sup>

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 two hundred (200) feet to the inch] to enable the entire tract to be shown on one (1) sheet. Ten (10) copies of the sketch plan shall be submitted, showing the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The tax map sheet, block and lot numbers, if available.
- E. All the utilities available, and all streets which are either proposed, mapped or built.
- F. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage and water supply within the subdivided area.
- G. All existing restrictions on the use of land including easements, covenants or zoning districts.

### § 125-29. Minor subdivision plat submission; contents.<sup>59</sup>

The developer shall submit ten (10) copies of the subdivision plat. The plat shall include the following information:

- A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to 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 engineer and shall be referenced and shown on the plat. Identification of proposed sidewalk location as per Section 145-20.1[**Amended 8-2-2021 by L.L. No. 3-2021**]
- C. All on-site sanitation and water supply facilities shall be designed to meet the minimum specification of the State Department of Health, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- D. Proposed subdivision name, name of the Village and the Town and County in which it is located.
- E. The date, North point, map scale, name and address of record owner and subdivider.
- F. The plat to be filed with the County Clerk shall be printed upon Mylar or velum or be clearly drawn in India ink upon Mylar or velum. The size of the sheet shall be eight and one-half by eleven (8 1/2 x 11) inches minimum or thirty-four by forty-four (34 x 44) inches maximum.

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<sup>58</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

<sup>59</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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### § 125-30. Major subdivision preliminary plat and accompanying data.

The following documents shall be submitted for approval:

- A. The developer shall submit ten (10) copies of the preliminary plat prepared at a scale of not more than one hundred (100) but preferably not less than fifty (50) feet to the inch, showing<sup>60</sup>:
  - (1) Proposed subdivision name, name of Village, Town and County in which it is located, date, true North point, scale and name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
  - (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
  - (3) The zoning district, including exact boundary lines of district if more than one (1) district, and any proposed changes in the zoning district lines and/or the text of Chapter 145, Zoning, applicable to the area to be subdivided.
  - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
  - (5) The location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of six (6) inches or more as measured three (3) feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.
  - (6) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow. (7) Contours with intervals of one (1) foot on slopes of two percent (2%) or less; two (2) feet on slopes of two percent (2%) to ten percent (10%) and five (5) feet on slopes of ten percent (10%) or more. The Planning Board may alter the contour intervals depending on the site.
  - (7) The width and location of any streets or public ways or places shown on the Official Map or the Village Comprehensive Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
  - (8) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; profiles of all proposed water and sewer lines.
  - (9) A Stormwater Pollution Protection Plan in accordance with the provisions of Chapter 124 of the Village Code-Village of Lansing Stormwater Management, Erosion and Sediment Control Law
  - (10) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width

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<sup>60</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

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and depth of pavements and subbase and the location of manholes, basins and underground conduits.

- (11) Preliminary designs of any bridges or culverts which may be required.
- (12) The proposed lot lines with approximate dimensions and area of each lot.
- (13) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the Official Map.
- (14) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Village Engineer, and shall be referenced and shown on the plat.
- (15) An erosion control plan in accordance with the provisions of Chapter 124 of the Village Code-Village of Lansing Stormwater Management, Erosion and Sediment Control Law

- B. If the application covers only a part of the subdivider's entire holdings, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract. The part of the subdivider's holdings submitted shall be considered in the light of the entire holdings.
- C. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract

### § 125-31. Major subdivision final plat and accompanying data.<sup>61</sup>

The following documents shall be submitted for final plat approval:

- A. Ten (10) copies of the plat. The plat to be filed with the County Clerk shall be printed upon Mylar or velum, or be clearly drawn in India ink upon Mylar or velum. The size of the sheets shall be eight and one-half by eleven (8 1/2 x 11) inches minimum or thirty-four by forty-four (34 x 44) inches maximum, including a margin for binding of two (2) inches, outside of the border, along the left side and a margin of one (1) inch outside of the border along the remaining sides. The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the North point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show and comply with the following:
  - (1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of

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<sup>61</sup>Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.  
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- record owner and subdivider and the name, license number and seal of the licensed land surveyor.
- (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
  - (3) Sufficient data acceptable to the Village Engineer to determine readily the location, bearing and length of every street line, lot line and boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.
  - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
  - (5) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
  - (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
  - (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing Village practice.
  - (8) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Village Engineer. When referenced to the State system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Village Engineer and their location noted and referenced upon the plat.
  - (9) All lot corner markers shall be permanently located satisfactorily to the Village Engineer, at least three-fourths (3/4) inch (if metal) in diameter and at least twenty-four (24) inches in length, and located to the ground to existing grade.
  - (10) Monuments of a type approved by the Village Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Village Engineer.
- B. Construction drawings including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and detailed plans for bridges, culverts or similar structures. Profile drawing requirements shall be as follows:

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- (1) Drawings shall be prepared with the following scales:
  - (a) Horizontal scale: one (1) inch equals fifty (50) feet.
  - (b) Vertical scale: one (1) inch equals ten (10) feet (or other scale approved by the Planning Board).
- (2) All profiles shall show the existing natural grades, the typical cross section of existing or proposed roads, the center lines of intersecting roads and a system of survey stations.
- (3) The center-line profile of the proposed roads with dimensions on vertical curves, and notation as to gradient and critical elevations.
- (4) The invert profile and location of all storm and sanitary drainage structures (manholes, catch basins, etc.) in street right-of-way and in drainage easements.

### **ARTICLE V Waivers**

#### **§ 125-32. Waiver of improvements.**

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

#### **§ 125-33. Conditions of waivers.**

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

#### **§ 125-34. Enlarging a lot.**

Where the Planning Board finds that a proposed purchase of a parcel of land is for the purpose of enlarging the purchaser's existing lot; is contiguous to land already owned by the prospective purchaser; does not require any connecting municipal facilities, street or road; will be combined by the purchaser with the original parcel, and will become one (1) parcel; and will conform to all laws, regulations and Comprehensive Plan provisions, the Planning Board may approve such enlargement, subject to appropriate conditions, and may waive any or all other Subdivision Regulations contained herein.

### **ARTICLE VI Administration, Enforcement and Penalties**

#### **§ 125-35. Violation to be deemed offense.**

The violation of any rule or regulation approved by the Board of Trustees herein shall be deemed an offense against such regulations.

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### **§ 125-36. Penalties for offenses.**

Unless statutory provisions prevail, a violation of any provision of this chapter shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both. Each day that such violation continues shall constitute a separate violation.

**§ 125-37. Action in addition to penalties.** In addition to other penalties, the Village of Lansing may institute any appropriate action or proceeding to prevent the unlawful erection, construction, alteration or use of any building, structure or premises in violation of the requirements of this chapter or any other applicable federal, State or local law.

### **§ 125-38. Court review.**

Any person or persons, jointly or severally, aggrieved by any decision of the Planning Board concerning such plat may have said decision reviewed by a special term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules, provided that the proceeding is commenced within thirty (30) days after the filing of the decision in the office of the Planning Board, as set forth in § 7-740 of the Village Law.

### **§ 125-39. Compliance required prior to issuance of permit.**

- A. No building/land use permit, Special Permit or certificate of compliance shall be issued except where all the provisions of these Regulations have been complied with.
- B. If the Zoning Officer receives an application for a building/land use permit or Special Permit for a lot which constitutes subdivision of land which has not been approved by the Planning Board and recorded in the County Clerk's Office, said applicant shall be referred to the Planning Board for further action pursuant to and in accordance with the terms and provisions of this chapter.



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