

# TOWN OF COLCHESTER

# SUBDIVISION REGULATIONS

ADOPTED BY RESOLUTION OF THE TOWN PLANNING BOARD

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## ARTICLE 1

### ENACTMENT, AUTHORIZATION, PURPOSE, WAIVER

#### **Section 101: Enactment and Authorization**

Pursuant to the authority granted to the Town in Article 16 of the Town Law, the Town Board of the Town of Colchester authorizes and empowers the Planning Board of the Town of Colchester: to approve plats and preliminary plats within that part of the Town of Colchester outside the limits of any incorporated city or village; and to pass and approve the development of plats already filed in the office of the Clerk of Delaware County if such plats are entirely or partially undeveloped.

#### **Section 102: Title**

These Regulations shall be known as the "Subdivision Regulations of the Town of Colchester".

#### **Section 103: Purpose**

The purpose of these Regulations is to provide for orderly, efficient growth within the community, and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health, and welfare of its population.

#### **Section 104: Administration**

These Subdivision Regulations shall be administered by the Planning Board.

#### **Section 105: Building Permits**

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

#### **Section 106: Waivers and Modifications**

Waivers:

- A) Upon written request from the subdivider, the Planning Board may waive, subject to appropriate conditions, the provisions of any or all of such improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety, and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision. The Planning Board shall set forth its reasons for approval or disapproval of a requested waiver in the minutes in which the determination is made.
- B) Design Innovations:  
When design concepts which are imaginative and beneficial to the public interest are proposed by the subdivider, the Planning Board may modify the requirements of these Regulations and impose additional conditions as necessary to permit the accomplishments of such concepts.

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C) Procedure:

Applications for waivers or modifications shall be submitted in writing by the subdivider at the time the Sketch Plan is submitted to the Planning Board. The request shall state fully the grounds for hardship which may warrant a waiver being granted.

**Section 107: Fees**

Application and inspection fees shall be set by Town Board resolution.

**ARTICLE II**  
**DEFINITIONS**

**Section 201: Word Usage:**

The following general rules of construction shall apply to the language used in these regulations:

- A. Except where specifically defined, all words used in these standards shall carry their customary meaning. Words used in the present tense shall include the future; words used in the singular shall include the plural, unless the context clearly indicates otherwise.
- B. The word “shall” is always mandatory. The word “may” is permissive. “Building” or “structure” includes any part thereof. The word “person” includes an individual person, a firm, a corporation, a co-partnership, and any other agency of voluntary action.

**Section 202: Key Terms and Definitions**

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

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

**Boundary Line Adjustment** - The adjustment of a boundary line for the expressed purpose of transferring a portion of one lot to another adjoining lot and will be incorporated into one deed. The Planning Board shall retain discretion in deciding which proposal will be defined as a boundary line adjustment. The portion of the land to be transferred to an adjoining lot shall be incorporated into the deed of that lot.

**Buildable Lot** – A parcel of land that can be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare.

**Building Permit** – A permit issued by the Code Enforcement Officer which indicates the applicant has submitted an approved application and plan for building construction in compliance with the Town of Colchester requirements.

**Building Site** – A site able to support a habitable structure, sanitary system and well which meet the standards established under the New York State Board of Health “Waste Treatment Handbook for Construction of Individual Household Systems” and meets all local regulations.

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

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

**Driveway Standards** – The standards and specifications adopted by the Town Board and Delaware County Department of Public Works for the construction of driveways and related improvements as they may relate to town, county or state roads.

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**Easement** – Authorization by a property owner for the use of any designated part of his property by another, and for a specified purpose, including but not limited to utilities, roadways, and the preservation of open space, environmentally sensitive areas, scenic views, or wetland buffers.

**Easement, Conservation** – A legal document written in the form of a deed, in which a landowner permanently restricts the future development of real property for the purpose of preserving or maintaining the scenic, open, historic, agricultural, or natural condition, character, significance or amenities of that property.

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

**Environmental Assessment Form (EAF)** – A form used by the Planning Board in the State Environmental Quality Review process to assist in determining the environmental significance or non-significance of an action or project.

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

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

**Final Plat** – Means a drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by this Law to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the Office of the County Clerk.

**Impervious Surface** – Any surface including soils having a percolation rate slower than 60 minutes.

**Lead Agency** – An agency principally responsible for carrying out, funding, or approving an action, and thereof responsible for determining whether an environmental impact statement is required in connection with the action and for the preparation and filing of the statement if one is required.

**Lot, block or site** – A tract, piece, parcel, plot, or portion of a subdivision or other parcel of land intended, as a unit for the purpose, whether immediate or future, of sale, lease, donation, or separate use. All lands that are contiguous and described under one deed shall be considered a single parcel unless previously approved by the Town of Colchester Planning Board.

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

**Major Realty Subdivision** – Any tract of land which is divided into five or more parcels where each lot is five acres or less and as defined under the NYS Public Health Law, Article 1115.

**MoA** – Memorandum of Agreement

**NYS DEC** – New York State Department of Environmental Conservation

**NYS DOH** – New York State Department of Health



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**NYC DEP** – New York City Department of Environmental Protection

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

**Official Submission Date** – Means the date on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed with the Planning Board.

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

**Owner** – The person (s) actually holding title of a parcel or tract of land.

**Parcel** – Contiguous land described by an individual deed description in a deed legally filed in the Delaware County Clerk’s Office. Contiguous land shall include all lands in an individual deed description whether or not traversed by a highway, street, or road.

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

**Planning Board** – The Colchester Town Planning Board as appointed by the Town of Colchester Town Board.

**Preliminary Plat** – Means a drawing or drawings clearly marked “Preliminary Plat” showing the layout of a proposed subdivision submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

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

**Quorum** – A majority of the full authorized membership of the planning board.

**Resubdivision** – A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or any area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Right-of-Way** – Strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or for another special use. The usage of the term “rights-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewer, storm drains, shade trees or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

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**Road, Collector** – A road which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major road.

**Road, Dead-End or Cul-de-Sac** – A road or portion of a road with only one vehicular traffic outlet.

**Road, Existing** – An existing State, County or Town road or highway, or other private roadway shown on a plat approved by the Planning Board or shown on a plat duly filled and recorded in the Office of the County Clerk prior to the effective date of these Regulations.

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

**Road, Minor** – A road intended to serve primarily as an access to abutting properties.

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

**Road Perimeter** – An existing road to which the parcel of land to be subdivided abuts on only one side.

**Road, Private** – A vehicular accessway which is built to Town Road Design Standards, but is not intended to be dedicated as a public highway.

**Road, Public** – Any State, County, or Town owned highway.

**Road Review Committee** – A committee appointed by the Town Supervisor to review plans and make periodic inspections during the construction phase of required improvements. The committee shall consist of one (1) member of the Planning Board, one (1) member of the Town Board, and the Town Highway Superintendent or his designee.

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

**SEQR** – State Environmental Quality Review Act

**Sewerage Area** – The area that is required to meet the sewerage site criteria and complies with regulations of the NYS DOH and the NYC DEP where applicable.

**Site** – The place of setting for any purpose or use on any lot or parcel of land or combination of contiguous lots or parcels of land.

**Sketch Plan** – Means a sketch of a proposed subdivision to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this Regulation.

**Soils Map** – A map of the proposed subdivision, at the scale of 1" = 2,000' or larger, showing the types of soils that are found there, and in accordance with the Delaware County Soils and Water Conservation District's soils mapping standards.

**Soil Profile Analysis** – The information derived from a deep test pit used to determine the suitability of a site for a septic system; depth to high seasonal water table, depth to frangipan (hardpan), depth to

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bedrock where present, depth to loose sand and gravel, the slope of the land through the location of the deep test pit, the estimate of area having similar soil characteristics, and the percolation rate.

**Soil Scientist** – A person having the qualifications of a qualified soil scientist as described in the Delaware County Soil and Water Conservation Districts’ “Criteria for Identifying Soil Characteristics,” which restricts on-site Wastewater Treatment Systems in Delaware County, New York.

**Stormwater** – Stormwater is water from rain or melting snow that doesn’t soak into the ground but runs off into waterways. It flows from rooftops, over paved areas and bare soil, and through sloped lawns while picking up a variety of materials on its way.

**Street** – See “Road”.

**Subdivider** – Any person, group of persons, firm or firms, corporation or corporations, or any legal entity having legal title to or sufficient interest in the land to be subdivided under these regulations or an authorized agent thereof.

**Surveyor** – Any person licensed by the state of New York as a land surveyor and capable of preparing stamped survey plats.

**Subdivision** – Division of any parcel of land into two (2) or more lots, blocks, or sites for any purpose whatsoever. The term “subdivision” shall include “re-subdivision”.

**Subdivision Inspector** – A person or committee appointed by the Town Board and Planning Board to inspect subdivision improvements.

**Subdivision, Major** – A subdivision containing five (5) or more lots, including lots previously divided off from the original parcel after the adoption of these subdivision regulations December 12, 1991.

**Subdivision, Minor** – A subdivision containing two (2), three (3), or four (4) lots, including all lots previously divided off from the original parcel after the adoption of these subdivision regulations on December 12, 1991.

**Type I Action** – An action that is likely to have a significant effect on the environment as listed in Part 617.12 of the SEQR Law.

**Type II Action** – An action or class of actions which is listed in Part 617.13 of the SEQR Law

**Undeveloped Plat** – Those plats where twenty (20) percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

**Unlisted Action** – An action that may have a significant effect on the environment as explained in Part 617.2 of SEQR Law.

**Useable lot size** – The required minimum area suitable for sewerage and housing construction.

**Useable Soil** – Soil which possesses a satisfactory percolation rate and is above a boundary condition (bedrock, seasonal high water table, loose sand or gravel, or impervious material); it is determined by a deep test pit and is measured from the soil surface.

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**Wetlands** – An area of land, such as a marsh or swamp, that is saturated with moisture, contains hydric soils and has specific plant life and is regarded as the natural habitat of wildlife. These include all state and federally designated wetlands.

**ARTICLE III**

**REVIEW AND APPROVAL PROCEDURE**

**Section 301: Review Procedure for Minor Subdivisions**

Minor subdivisions shall be processed in the following steps:

1. Initial conference (optional).
2. Sketch Plan submittal and review.
3. Application for final plat approval.
4. Planning Board review.
5. Site visit (optional).
6. Public Hearing.
7. County 239-n review when needed.
8. Planning Board action on final plat.

**Section 302: Review Procedure for Major Subdivisions**

Major subdivisions shall be processed in the following steps:

1. Initial conference (optional).
2. Sketch Plan submittal and review.
3. Application for preliminary plat approval.
4. Planning Board review.
5. Site visit (optional).
6. Public Hearings.
7. Planning Board action on preliminary plat.
8. Application for final plat approval.
9. Planning Board review.
10. Public Hearing (optional).
11. County 239-n review when needed.
12. Planning Board action on final plat.

**Section 303: Initial Conference (Optional)**

The subdivider may request an appointment with the Planning Board for the purpose of discussing a proposed application prior to the formal submittal. The Planning Board Clerk shall notify the subdivider of the time, date, and the place that the Planning Board will meet to discuss a proposed application and ensure it will relate to the Town of Colchester rules and regulations and the Town Comprehensive Plan. This meeting is intended to assist the subdivider in the planning and preparation of a sketch plan and ultimately the preliminary or final plat to save both time and money in preparing maps and plans. The plan will be classified as a minor or major subdivision by the Planning Board as defined by this law. Subdivisions classified as minor may proceed directly to preparation of a final plat without submission and approval of a preliminary plat.

This step does not require formal application, fee, or filing with the Planning Board.

**Section 304: New York State Department of Health**

New York State Department of Health approval may be required for any subdivision containing (5) or more lots and meeting the requirements of a realty subdivision. Early contact by the subdivider with this Department is advised.

**Section 305: Sketch Plat submittal**

All subdividers shall submit a sketch plat for Planning Board review prior to submitting a final application. The Planning Board shall review, comment on and request changes to the plat as deemed necessary. The Planning Board may schedule a site visit. The Planning Board may classify the subdivision as minor or major from the sketch plat.

**Section 306: Application for Preliminary Plat Approval – Major Subdivisions**

All major subdivisions shall be subject to the Preliminary Plat requirements, as specified herein. The subdivider shall file an application for approval of the Preliminary Plat on forms available from the Town Clerk accompanied by all documents specified in Article IV herein. All changes and recommendations from the sketch plat must be incorporated into the preliminary plat submittal. Such application shall be filed at least ten (10) days prior to the meeting at which it is to be considered by the Planning Board.

**Section 307: Public Hearing for Preliminary Plat**

Following the review of the Preliminary Plat and supplementary material submitted for conformity to this law, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Board shall hold a public hearing. This hearing shall be held within sixty-two (62) days of the official submission date of the plat. The subdivider shall attend the hearing. This hearing may also fulfill the requirements of the SEQR act on the draft environmental impact. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before the hearing. The applicant shall notify all adjoining property owners by certified mail at least ten (10) days prior to the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate. The applicant shall provide proof of mailing for adjoining property owners at the same time of the public hearing.

**Section 308: Action on Preliminary Plat**

Within sixty-two (62) days from the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the preliminary plat and state its reasons for disapproval. 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. Within five (5) days of the Planning Board decision, the action of the Planning Board shall be noted on three (3) copies of the Preliminary Plat and reference made to any modifications determined. One (1) copy shall be returned to the subdivider, one (1) copy shall be filed in the clerk's office, and the remaining copy shall be retained by the Planning Board.

**Section 309: Effect of Preliminary Plat Approval**

Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with this law and all requirements set forth by the Planning Board in their review of the preliminary plat and the requirements of any other State or municipal authority having jurisdiction over the matter.

**Section 310: Application for Final Approval**

All major and minor subdivisions shall require Final Plat approval by the Planning Board. The subdivider shall file an application for final Plat approval on forms available from the Town Clerk and accompanied by documentation as specified in Article IV herein to the Planning Board. Such application shall be filed at least ten (10) days prior to the meeting at which it is to be considered by the Planning Board and no later than six (6) months after the date of preliminary plat approval.

**Section 311: Public Hearing for Final Plat**

A public hearing shall be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within sixty-two (62) days of the official submission date of the plat. The subdivider or authorized agent shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five (5) days before the hearing. For Major Final Plats, notice of the hearing shall be mailed by the subdivider to the owners as appear in the current tax rolls of all adjoining properties within one hundred fifty feet (150') of the subdivided property at least five (5) days before the hearing, unless waived by the Planning Board in its discretion.

**Section 312: Waiver of Public Hearing for Final Plat**

The second public hearing for major subdivisions may be waived if the final plat is in substantial agreement with the preliminary plat. All waivers must be requested in writing and a basis for the waiver being granted shall be included in the official Planning Board minutes.

**Section 313: County Planning Board referral**

In the event an application meets the requirements of the New York State General Municipal Law 239-n the application must be submitted to the Delaware County Planning Board for a recommendation at least (10) days prior to their regular monthly meeting.

**Section 314: Action on Final Plat**

The Planning Board shall approve, conditionally approve, or disapprove the final plat within sixty-two (62) days of the public hearing. If the public hearing has been waived pursuant to Section 312 above, the Planning Board shall act within sixty-two (62) days of the official submission date of the Final Plat. 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. The subdivider shall be notified of the final action of the Planning Board within five (5) days. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provision violated by the plat.

In the event an unforeseeable delay occurs the Planning Board may grant a reasonable extension beyond the sixty-two (62) days if the applicant and the Planning Board are in agreement.

**Section 315: Conditional Approval of Final Plat**

Upon conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the conditional approval resolution. Within five (5) days of such resolution, the plat shall be certified by the Planning Board Clerk as conditionally approved, and a copy filed in his/her office, and a certified copy mailed to the subdivider, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. A certified statement of the requirements shall accompany the plat which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of the requirement, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time not to exceed two additional periods of ninety (90) days each.

**Section 316: Filing of Plats in Sections**

Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided into two or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat.

**Section 317: Recording of Plat**

The subdivider shall record the Final Plat, or section thereof, in the Delaware County Real Property Tax Office and in the Office of the Clerk of Delaware County, New York, within sixty-two (62) days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the Office of the Clerk of Delaware County, New York. All plats filed must be signed by the Planning Board chairperson and stamped by a NYS licensed surveyor.



**ARTICLE IV**

**DOCUMENTS TO BE SUBMITTED**

**Section 401: Information Required for all Plat Submissions**

- A. Name and address of subdivider and authorized professional advisors, including license numbers and seals.
- B. Map of property, drawn to scale, at a scale of one (1) inch to fifty (50) feet, one (1) inch to one hundred (100) feet, or one (1) inch to two hundred (200) feet, showing:
  - 1. Subdivision name, scale, north arrow and date.
  - 2. Tax map including deed page and liber numbers.
  - 3. Subdivision boundaries, special districts (fire, school, agricultural, etc.) boundaries.
  - 4. Contiguous properties and names of owners.
  - 5. Existing and proposed roads, sidewalks, utilities, structures, drainage systems and drainage ways, easements and/or rights-of-way locations, widths, and other special features.
  - 6. Water courses, marshes with NYS Department of Environmental Conservation classification, wetlands (as classified by NYS DEC and the Army Corps of Engineers), wooded areas, public facilities and other significant physical features on or near the site.
  - 7. Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, water supply, and sewage disposal facilities.
  - 8. Land contours at no greater than five foot (5') intervals, or other suitable indicators of slope.
  - 9. Proposed alterations of existing topography.
  - 10. Designation of sewage disposal facilities.
  - 11. Location of deep test pits and percolation test holes.
  - 12. On-site wells or water supply.
  - 13. Proposed driveway locations.
- C. Copy of tax map(s).
- D. Existing restrictions on the use of land including but not limited to easements, covenants and zoning.
- E. Total acreage of subdivision and number of buildable lots proposed and acreage of lots.
- F. Building types, approximate size and cost.
- G. A SEQR Environmental Assessment Form and/or Environmental Statement.
- H. Where applicable, Highway Access Permits from the State, County, and/or Town must be secured.

**Section 402: Minor Subdivisions**

The following shall be submitted with all applications for approval of a Final Plat for a minor subdivision:

- A. One (1) copy of the final plat to be submitted to the County Clerk, drawn with ink on appropriate material, plus two (2) paper copies, all stamped by a NYS licensed surveyor.
- B. Information specified under Section 401, updated and accurate.
- C. Sufficient data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line and boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.

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- D. On-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health and the requirements of any other State or municipal authority having jurisdiction over the matter and a statement to this effect shall be made on the application.
- E. Copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- F. Additional information as deemed necessary by the Planning Board to properly evaluate the application in accordance with the regulations set forth herein.
- G. Any required fees.
- H. A NYSEQR Environmental Assessment Form and/or Environmental Impact Statement.
- I. An actual field survey of the boundary lines of the tract, giving complete description by bearings and distances, made and certified by a New York State licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.

**Section 403: Preliminary Plat, Major Subdivision**

The following shall be submitted with all applications for approval of a Preliminary Plat for a major subdivision:

- A. Three (3) copies of the final plat map, drawn to scale and stamped by a NYS licensed surveyor. The map scale shall be one (1) inch to one hundred (100) feet unless otherwise specified by the Planning Board.
- B. All information specified under Section 401, updated and accurate.
- C. All parcels of land proposed to be dedicated to public use and the conditions of such use.
- D. Grading and landscaping plans.
- E. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
- F. The approximate location and size of all proposed waterlines, hydrants and sewer lines, showing connection to existing lines.
- G. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties, stormwater systems as designed to meet NYS DEC and/or NYC DEP stormwater requirements.
- H. Plans and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains, the character, width and depth of pavements and sub-base, the location of any underground cables.
- I. Preliminary designs for any bridges or culverts.
- J. The proposed lot lines with approximate dimensions and area of each buildable lot.
- K. An actual field survey of the boundary lines of the tract, giving complete description by bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.
- L. A copy of all covenants or deed restrictions intended to cover all or part of the tract.
- M. Where the preliminary plat submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
- N. Additional information as deemed necessary by the Planning Board to properly evaluate the application in accordance with the regulations set forth herein.

- O. Any required fees.
- P. A NYSEQR Environmental Assessment Form or Environmental Impact Statement.

**Section 404: Final Plat, Major Subdivision**

The following shall be submitted with all applications for approval of a Final Plat for a major subdivision:

- A. One (1) copy of the plat to be submitted to the County Clerk, drawn with ink on suitable material, plus two (2) copies and stamped by a NYS licensed surveyor. The map scale shall be one (1) inch to one hundred (100) feet unless otherwise specified by the Planning Board.
- B. Proposed subdivision name and the name of the Town and County in which the subdivision is located; the name and address of record owner and subdivider; name, address, license number and seal of the surveyor and/or engineer.
- C. Road lines, pedestrian ways, lots, easements and areas to be dedicated to public use, road names.
- D. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line, boundary line; such data shall be sufficient to allow for the reproduction of such lines on the ground.
- E. The length and bearing of all straight lines, radii, length of curves and central angles of all curves; tangent bearing shall be given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale, and true north point.
- F. All offers of cession and any covenants governing the maintenance of un-deeded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- G. Permanent reference monuments shall be shown and constructed in accordance with Planning Board specifications.
- H. Approval of the State Health Department of water supply systems and sewage disposal systems proposed or installed.
- I. An approved Environmental Impact Statement, if required.
- J. Construction drawings including plan, profiles, and typical cross-sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, and sub-base and other facilities.
- K. Evidence of ownership of property.
- L. Deed restrictions, existing and proposed, in form for recording.
- M. A certificate by the Subdivision Inspector certifying that the subdivider has complied with one of the following alternatives:
  - 1. All improvements have been installed in accord with requirements of this Law and with the action of the Planning Board giving approval of the preliminary plat, or
  - 2. A performance bond or certified check has been posted in sufficient amount to assure such completion of all required improvement.
- N. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in enforcement of this Law.

**Section 405: Re-subdivision of Land**

A re-subdivision, as defined herein, is subject to the same procedure, rules and regulations applicable to an original subdivision.

**Section 406: Conservation Easements**

- A. Any parcel of land, or portion thereof, which is being placed into a conservation easement, shall be considered a subdivision. The Town of Colchester Planning Board shall classify a conservation easement as a major or minor subdivision as appropriate and the Town's subdivision review procedures shall be followed.
- B. All remaining portions of land that retain development rights must meet the following criteria:
  - 1. The site must retain frontage and direct access to a public road.
  - 2. The site must have a suitable area for sewerage.
  - 3. The site must have a suitable water supply.
  - 4. The site must be large enough to relocate a new sewerage area and water supply which meet the standards of the NYS DOH and the NYC DEP where applicable.
  - 5. If vacant, the site must be a buildable lot by meeting the above criteria.
- C. The Town of Colchester Planning Board may waive any review criteria which could cause an undo hardship on the applicant or owner. All waivers must be requested in writing and the Planning Board must record the basis of the hardship for granting the waiver.

**Section 407: Boundary Line Adjustment Policy**

Boundary Line Adjustments may be approved by the Planning Board when an applicant proposes to transfer land to an adjoining property owner in such a way that no new lots are created. When such a Boundary Line Adjustment is proposed, the Planning Board shall determine if the adjustment will adversely affect any property involved. If not, the Planning Board may waive the procedural requirements of major and minor subdivisions and allow the Boundary Line Adjustment without further review.

**Section 408: Boundary Line Adjustment Procedures**

Prior to classifying an application as a Boundary Line Adjustment the following materials shall be submitted to the Planning Board for review:

- A. A completed application for Boundary Line Adjustment along with a sketch plat, as defined in these subdivision regulations.
- B. The applicant shall submit a copy of the deed for each property involved in the Boundary Line Adjustment, and if both landowners are not present at the meeting, a statement of authorization from the landowner or landowners who are absent.
- C. The applicant shall submit an unexecuted copy of the deed that will carry out the proposed property transfer. This deed must indicate that the proposed property cannot be conveyed separately from the tract to which it is added unless resubmitted as a subdivision for review to the Town Planning Board.
- D. The portion of the property to be transferred must be surveyed and that survey submitted to the Planning Board.
- E. When these items have been submitted to the Planning Board, the Board shall review the materials and within sixty-two (62) days either approve the Boundary Line Adjustment or classify the application as a major or minor subdivision. The Planning Board may consult with the Town Attorney during this period, if necessary. No public hearing will be required.

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- F. If the Boundary Line Adjustment is approved, the Planning Board shall sign the “Boundary Line Acceptance Form” to allow the applicant to file the new deed and map with the Delaware County Real Property Tax Office and the County Clerk.
- G. The fee for the application and review of a Boundary Line Adjustment is thirty dollars (\$30).

**ARTICLE V**  
**DESIGN, STANDARDS AND REQUIRED IMPROVEMENTS**

**Section 501: Road Design Standards**

Conformity with the Town of Colchester Comprehensive Plan

The arrangement, width, location and extent of major roads and all minor roads should conform and be in harmony with the General Plan and Official Map of the Town. Roads not in the General Plan or Official Map should conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

Arrangement

Residential minor roads shall be designed to discourage through traffic, whose origin and destination is not within the subdivision.

Location

When a proposed subdivision is adjacent to or contains a State highway, the Planning Board may seek information from the New York State Department of Transportation as to the status of said highway in reference to right-of-way and direction. The Planning Board may require a marginal road approximately parallel to and on each side of such right-of-way at a distance suitable for an appropriate use of the intervening land as for park purposes in residential districts, or for commercial or industrial purposes. Such distance shall also be determined with regard for the requirements of approach grades and future grade separation. Railroad right-of-way shall receive similar consideration.

Intersections

Roads shall intersect one another at right angles. No intersections of roads at angles less than 90 degrees shall be approved. Road intersections shall be rounded with a radius of twenty-five (25) feet measured at right-of-way line when said intersection occurs at right angles. Intersections with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

Dead-End Roads

Each dead-end road shall be provided with a turn-around deemed sufficient by the Town Highway Superintendent for snow plowing. Dead-end roads designed to be so permanently shall not be permitted unless provided with a turn-around.

Half Roads

Dedication of a half road shall be prohibited.

Access

In commercial and industrial districts, definite and assured provision shall be made for service access such as off-road parking, loading and unloading consistent with and adequate for the use proposed.

Names and Numbers

Names of new roads shall not duplicate existing or platted roads. New roads that are extended or are in alignment with existing roads shall bear the name of the existing roads.

Road Signs

The subdivider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections prior to acceptance of the constructed roads.

Trees

If roadside trees are provided, they should be outside of the road right-of-way and planted in such a manner as not to impair visibility at any corner or corners.

**Section 502: Road Construction Standards**

- A. Road improvements shall be installed at the expense of the subdivider.
- B. All roads in major subdivisions shall be built in accordance with the Town of Colchester Road Specifications and the specifications of this Article.
- C. In addition, major subdivision roads shall conform to the additional standards:
  - 1. Shoulder Slope: One (1) inch per foot or more.
  - 2. Maximum Grade: Ten (10) percent generally; nine (9) percent on horizontal curves; grades of up to 13 percent shall be allowed for up to 10 percent of road length pending Planning Board review; no grade within sixty (60) feet of an intersection shall exceed three (3) percent.
  - 3. Minimum Grade: One (1) percent.
  - 4. Minimum Length of Vertical Curve:  $L=60A$ ; where L equals the length of the vertical curve in feet and A equals the algebraic difference in grade.
  - 5. Alignment Grades: Road alignments shall avoid, to the greatest extent practicable, areas where native slope exceeds 25 percent as measured from twenty (20)-foot contour intervals.
  - 6. Minimum Centerline Radius of Horizontal Curve: 200 feet.
- D. Design Standards for Roads In Minor Subdivisions
  - 1. Road Bed:
    - a. Six (6) inches well-graded bank run gravel.
    - b. Driving surface minimum ten (10) feet in width.
    - c. Ditch to ditch minimum roadway width twenty (20) feet.
  - 2. Drainage
    - a. Culverts – plastic preferred.
    - b. Minimum fifteen (15) inches in diameter.
    - c. Minimum twenty-four (24) feet in length.

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3. Ditches
  - a. Minimum two (2) feet depth below centerline.
4. Intersections
  - a. Ninety (90) degree angles for first twenty (20) feet.
  - b. Minimum fifteen (15) feet return radius.
  - c. Sight easements to be provided.
5. Curves
  - a. Minimum fifty (50) feet radius.
  - b. Maximum six (6) percent grade on curve.
6. Maximum Grade
  - a. Six (6) percent for first twenty (20) feet.
  - b. Twelve (12) percent beyond first twenty (20) feet.
7. Turnouts
  - a. Twelve by fifty (12x50) feet surface turnout for roads over two hundred (200) feet in length.
  - b. Turnout to be located midway along road.
8. Right-of-Way
  - a. Thirty (30) feet minimum.
9. Turn-around
  - a. "T"-type turn-around at last driveway entrance.
10. Maintenance
  - a. Written agreement required.
  - b. Statements in deeds required.
  - c. No town takeover stated in deeds.

### **Section 503: Sidewalks**

Sidewalks may be required and shall be installed as follows:

- A. Sidewalks shall be installed at the expense of the subdivider at such locations as the Planning Board may deem necessary.
- B. Sidewalks shall be constructed to comply with the detail specification of the Planning Board.
- C. Sidewalks shall be concrete or other approved material and have a minimum width of four (4) feet in residential areas and five (5) feet in commercial and industrial areas.

### **Section 504: Utilities**

Public utility improvements may be required and shall be installed as follows:

- A. Fire Protection: Hydrants to be of size, type and location specified by the Insurance Services Organization.
- B. Street Lighting: Poles, brackets and light to be of size, type and location approved by the local power company.
- C. Electricity: Power lines shall be placed underground where required by Public Service Commission standards.
- D. Utility Services: Shall be located from six (6) to eight (8) feet from the front property line to the center line of the utility service between the side-walk and curb line.



**Section 505: Water Supply**

If, in the opinion of the Planning Board, it is feasible, desirable or otherwise required by law to require a public water supply system, such system shall be installed at the expense of the subdivider to the approval of the New York State Department of Health.

**Section 506: Sewage Disposal**

- A. If, in the opinion of the Planning Board, it is feasible and desirable to require a sanitary sewer system, such system shall be installed at the expense of the subdivider to the approval of the Planning Board in accordance with plans approved in accordance with the requirement of any other State or municipal authority having jurisdiction.
- B. All sanitary sewage disposal systems shall meet the requirements of the State or municipal authority or authorities having jurisdiction.
- C. Dry sewers may be required in those parts of the town deemed to have sufficient population density to merit community sanitary sewer systems in the future. Such requirements shall be in general harmony with the General Plan for the Town.

**Section 507: Lots**

Location

All lots shall abut by their frontage to approved roads to ensure suitable access.

Double Frontage Lots

Frontage on two roads, other than corner lots, shall be discouraged.

Pedestrian Easements

In order to facilitate pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements up to twenty (20) feet wide may be required. In heavy traffic areas, sidewalks will be required in addition.

Lot Lines

Side lot lines shall be approximately at right angles to the road or radical to curved roads. On large size lots and except when indicated by topography, lot lines shall be straight.

Corner Lots

Lots for residential use shall have extra width to permit appropriate building set back from and orientation to both roads.

**Section 508: Unique and Natural Features**

Unique physical features such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours and similar features shall be preserved where possible. Also, streams, lakes, ponds and wetlands shall not be unnecessarily altered. All surfaces must be graded and restored within six (6) months of completion of subdivision so no unnatural mounds or depressions are left. Original topsoil moved during construction shall be returned and stabilized by approved methods. Damage to existing trees should be avoided.

**Section 509: Public Open Spaces and Sites**

Consideration shall be given to the allocation of areas suitably located for community purposes and be made available by one of the following methods:

- A. Dedication to the Town.
- B. Reservation of land for the use of property owners by deed or covenant.
- C. Reservation for acquisition by the Town within a reasonable period of time. Said reservation shall be made in such manner as to provide for a release of the land to the subdivider in the event the Town does not proceed with the purchase.
- D. If the Planning Board determines that suitable park or parks of adequate size cannot be properly located in the plat or is otherwise not practical, the Board may require, as a condition to approval of the plat, a payment to the Town of a sum to be determined by the Town Board, which sum shall constitute a trust fund to be used by the Town exclusively for neighborhood park, playground or recreational purposes including the acquisition of property.

**Section 510: Unsuitable Land for Subdivisions**

As a safety measure for the protection of the health and welfare of the people of the Town, that portion of a lot proposed for subdivision which is found to be unsuitable for subdivision due to harmful features (e.g., drainage problems) shall not be divided until adequate methods are formulated by the subdivider and approved by the Planning Board.

**ARTICLE VI**

**FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS**

**Section 601: Required Improvements**

- A. All public improvements required pursuant to the approval of subdivision plats shall be constructed and completed to the standards required by State and local laws, rules and regulations prior to final endorsement of a subdivision plat.
- B. The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Article, shall be completed within one (1) year from the date of the approval of the subdivision plat. Road improvements shall be completed within two (2) years.
- C. The applicant may request an extension of time to perform required public improvements provided he/she can show reasonable cause for inability to construct and install said improvements within the required time. At the end of such extension of time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Article to construct and install, maintain or perfect the improvements as necessary to meet all applicable State and local laws, ordinances, rules and regulations.
- D. At least five (5) days prior to commencing construction of required public improvements, the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements and to assure the satisfactory completion of public improvements required by the Planning Board.

**Section 602: Required Financial Security**

Applicants for subdivision plat approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks and other public improvements commonly required of applicants for subdivision plat approvals.

Acceptable financial security shall be provided to the Town in one of the following ways:

- A. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this Law.
- B. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this Law.
- C. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to this Law.

**Section 603: Review of Proposed Financial Security**

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

**Section 604: Schedule of Improvements**

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

**Section 605: Staged Refunding of Financial Guarantees**

At such times as the applicant wishes to have guarantee funds released on consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a certain date. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements.

The applicant, after preparing such statement, shall submit it for review, approval and signature by an engineer acting on behalf of the Town, by the appropriate municipal inspectors and by the Town Fiscal Officer. If the statement is approved by the Town Fiscal Officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the surety company of financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

**Section 606: Acceptance of Required Improvements**

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

**Section 607: Required Maintenance Guarantee**

Upon acceptance of the required public improvements, a maintenance guarantee shall be established. All such guarantees shall be for ten (10) percent of the financial guarantee originally required of the applicant. The applicant may provide a maintenance guarantee by one of the methods provided for in Section 602 of this Article, but no maintenance bond shall be for less than five thousand dollars (\$5,000.00) face value. All maintenance guarantees required by this section shall commence

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immediately upon acceptance of the required public improvements by the municipality and shall extend for two (2) years there from or for two (2) years from the June first succeeding the acceptance of the required public improvements, whichever period is longer.

**ARTICLE VII**

**MISCELLANEOUS PROVISIONS**

**Section 701: Penalty Provisions**

- A. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resist the enforcement of any of the provisions of these Subdivision Regulations shall, upon conviction, be deemed guilty of a violation. Each week an offense is continued shall be deemed a separate violation of these Regulations.
- B. In addition to the penalties provided by statute, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of these Regulations.

**Section 702: Certification and Filing with County**

The Town Clerk is hereby directed to forthwith file a certified copy of this Regulation with the Clerk of Delaware County.

**Section 703: Enforcement**

A) General

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

B) Civil Enforcement

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

**Section 704: Court Review**

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

**Section 705: Liability**

Nothing in these Regulations, including the approval and signature of any subdivision plat, shall be construed to insure or in any way guarantee any subdivision or building, structure, improvement, installation or use therein against defect, failure or other shortcoming, and the Town shall not be liable for same.

**Section 706: Severability**

If any clause, paragraph, section or part of these Regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, section or part of these Regulations.

**Section 707: Effective Date**

These Regulations shall take effect immediately upon resolution of approval by the Town Board.