

Town of Rochester  
Ulster County, New York



# SUBDIVISION REGULATIONS

DRAFT LOCAL LAW — MARCH 29, 2007

Town of Rochester Planning Board  
Town of Rochester Town Board

# Town of Rochester Subdivision Law

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## **ARTICLE I General Provisions**

### **§ 125-1 Authority**

- A. This Law is adopted under the authority provided to the Town of Rochester by the New York State Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act.
- B. The Town of Rochester Planning Board shall be authorized and empowered to approve preliminary and Final Plans of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Town of Rochester, pursuant to § 276 of the Town Law.
- C. The Planning Board shall be also authorized and empowered, to approve the development of those Plans, filed in the office of the County Clerk prior to August 21, 1962, where twenty percent or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- D. The Planning Board shall be further authorized and empowered, pursuant to § 278 of the Town Law pertaining to cluster development and simultaneously with the approval of a Plan or Plans, to modify applicable provisions of the Town of Rochester Zoning Law, subject to the conditions set forth in § 278 and later herein.
- E. The regulations that follow have been adopted by the Town Board of the Town of Rochester as local law pursuant to the authority of the New York State Municipal Home Rule Law. They repeal Subdivision Regulations enacted by the Town Board on August 21, 1962. Section 276.5(a) of New York State Town is hereby specifically superseded so as to permit exemption of certain subdivisions from the requirement to file Plans for Planning Board approval, pursuant to § 125-18 hereof. The definition of subdivision is also superseded to encompass divisions of lands for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development. Finally, the requirement for Final Plans to be submitted within six months of preliminary approval is superseded to provide for extensions of up to three years for this purpose for all phases.

### **§ 125-2 Purposes**

This Law is adopted for the following purposes;

- A. Promoting the orderly growth and development of the Town in accordance with the Town of Rochester Comprehensive Plan.
- B. Affording adequate facilities for the housing, transportation, distribution, comfort, convenience, health and safety of Town residents.
- C. Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.
- D. Conserving the Town's natural resources and protecting its attractive environment so as to maintain property values and otherwise provide for the general welfare of residents of the Town of Rochester.

### **§ 125-3 Jurisdiction**

- A. Regardless whether or not any formal conveyance by metes and bounds shall be made, when any subdivision of land is proposed and before any offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the subdivider or his

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authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this Law.

- B. It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- C. The regulations of this Law shall not apply to natural subdivisions or lot improvements as provided for herein (see § 125-18). The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying Plan presented that "These plans are acknowledged by the Town of Rochester, and for recording purposes only, to represent an exempt lot improvement in accord with Section 125-18 of the Town of Rochester Subdivision Regulations. No subdivision approval is required or given." No Plan so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.

### **§ 125-4 Interpretation, Conflict and Separability**

- A. The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board on August 21, 1962, including all amendments thereto preceding the enactment of this Law as local law.
- C. If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

### **§ 125-5 Waivers and Modifications**

- A. Applications for waivers or modifications of standards or procedures shall ordinarily be submitted in writing by the subdivider at the time the Preliminary Plan is filed. The application shall state fully the grounds on which it is made, the specific waiver or modification requested, the suggested alternative standard and the reasons why this alternative standard will achieve comparable protection of health and safety to the standards contained herein.
- B. The Planning Board may, by resolution, authorize a waiver or modification of the regulations of this Law when, in its opinion, unreasonable restriction will result from strict compliance, the requirements are clearly not applicable or an alternative standard will achieve improved protection of health and safety compared to the standards herein.
- C. Waiver and modification applications shall, in those instances where the Planning Board determines they could, if granted, have an impact on adjoining properties, be subjected to a public hearing.
- D. Any resolution by the Planning Board authorizing a waiver or modification of these regulations shall include the basis for its finding that unreasonable hardship will result from strict compliance with this Law and that the waiver or modification is justified by benefits accruing to the community.
- E. In authorizing a waiver or modification, the Planning Board shall attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of these regu-

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

### **§ 125-6 Appeals**

Any person or persons, jointly or severally aggrieved by the decision of the Planning Board or Town in regard to the administration of this Law may apply to the supreme court for review under article seventy-eight of the civil practice laws and rules.

### **§ 125-7 Violations and Penalties**

- A. Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a Final Plan has been prepared, approved and recorded in full compliance with the provisions of this Law, shall be deemed to have committed a violation of this Law and shall be liable for such violation.
- B. Any person found in violation of this Law shall be subject to a fine not exceeding three hundred fifty dollars (\$350) per lot, parcel or dwelling. All fines collected for such violations shall be paid over to the Town of Rochester.
- C. Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- D. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- E. The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.

### **§ 125-8 Amendments**

Amendments to this Law shall be made pursuant to the New York State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those specified herein, the State requirements shall prevail.

### **§ 125-9 Effective Date**

This Law shall be effective immediately upon enactment.

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## **ARTICLE II Definitions**

### **§ 125-10 General**

As used in this Law, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this Law are defined as mandatory.

A. For the purpose of this Law, the following terms shall be considered interchangeable:

- (1) The words "Law," "regulation(s)" and "Law."
- (2) The terms "Town" and "Town of Rochester."
- (3) The terms "subdivider" and "developer" and the terms "subdivision" and "development."
- (4) The terms "State Environmental Quality Review Act" and "SEQRA."

B. Unless otherwise expressly stated, the following definitions shall, for the purpose of this Law, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.

### **§ 125-11 Glossary of Terms**

The following is a list of specific terms, found elsewhere in the Law, along with definitions of their intended meaning:

**ADJUSTED TRACT ACREAGE** — The net lot area of a tract used for purposes of calculating permitted density, after deducting from the gross acreage certain proportions of areas with natural limitations, land within public rights of way and roads, as provided for all subdivisions under § 125-22.A hereof.

**ADVERSE IMPACT ON GROUNDWATER** — An adverse impact to ground water can be defined as a significant reduction in ground water levels or changes in ground water quality that limit the ability of a ground water user to withdraw ground water.

**ALLEY** — A permanent service way providing a secondary means of access to abutting lands.

**ALL-WEATHER SURFACED** — The surfacing of a street, parking area, access or walkway to a mud-free or otherwise permanently passable condition during all seasons of the year and under adverse weather conditions. Macadam, gravel, crushed stone and shale surfaces will all suffice to meet this test but the depth and installation of the material shall be subject to the approval of the Town Engineer.

**APPLICANT** — A landowner, developer or subdivider, as hereinafter defined, who has filed an application for subdivision Plan approval, including heirs, successors and assigns.

**BERM or SHOULDER** — That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

**BLOCK** — A tract of land or a lot or group of lots bounded by streets, public parks, railroad rights-of-way, watercourses, bodies of water, boundary lines of the Town, or by any combination of the above.

**BUILDING** — A structure formed of any combination of materials which is erected on the ground and permanently affixed thereto, and designed, intended or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind.

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**CENTRAL SEWAGE or WATER SUPPLY** — A sewage system or water supply system designed to serve more than one dwelling unit or building; not including the use of a single well or disposal system for two dwellings on the same parcel of land. See "ON-SITE SEWAGE or WATER SUPPLY " for further information.

**CLEAR SIGHT TRIANGLE** — An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street centerlines.

**COMMON OPEN SPACE** — A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way or similar public facilities.

**COMMON PROPERTY** — All of the land and improvements part of a subdivision which is to be jointly owned and maintained by the lot owners, lessees and/or members of the subdivision and identified as such by the subdivider on any Plan offered to the Town for approval.

**CONSERVATION AREAS (PRIMARY)** — Bodies of water, 100-year floodplains, Federal and State wetlands and slopes over 25% grade.

**CONSERVATION AREAS (SECONDARY)** — Viewpoints, stone walls, groves of large trees, rock ledges and other areas of value to a subdivision or as conservation features, as shall be determined by the Planning Board and subdivider.

**CONSERVATION SUBDIVISION** — A form of development for single-family residential subdivisions that permits a reduction in lot area and other development standards, provided there is no increase in the number of lots permitted under a conventional subdivision, given the specific site conditions, and no less than 50% of the total land area is devoted to permanent open space.

**COUNTY** — The County of Ulster, State of New York, and its planning agency.

**CUL-DE-SAC** — A minor street providing a single access to a group of lots with a turnabout area at the end of such street.

**DEC** — The New York State Department of Environmental Conservation

**DEVELOPER** — The owner, or authorized agent of the owner; including but not limited to, any individual, partnership or corporation that undertakes a subdivision or any of the activities covered by this Law, particularly the preparation of a subdivision Plan showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of this project may vary.

**DRIVEWAY** — A defined private access from an individual lot to a public or approved private right-of-way.

**DWELLING** — A building arranged, intended, designed, or used, as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

- A. **DWELLING, SINGLE-FAMILY** — A building arranged, designed and intended, for and occupied exclusively by, one family.
- B. **DWELLING, TWO-FAMILY** — A building arranged, designed and intended for and occupied by two families living independently.

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- C. **DWELLING, MULTI-FAMILY** — A building arranged, designed and intended for and occupied by three (3) or more families living independently and having no cooking or sanitary facilities in common with any other dwelling unit; including apartment houses, apartment hotels, flats and garden apartments.

**EASEMENT** — A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

**EXISTING WATER** — Any year-round body of water not entirely contained within the perimeter of a property being subdivided or which, if contained within such perimeter, exceeds one acre in surface area.

**FRONTAGE** — That side of a lot abutting on a street or way and ordinarily regarded as the front lot, but it shall not be considered as the ordinary side of a corner lot.

**LOT** — A tract or parcel of land held in single or joint ownership, not necessarily shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed, or required. The term lot shall also mean parcel, plot, site, or any similar term.

- A. **LOT AREA** — The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

- B. **LOT IMPROVEMENT** — A division or redivision of land wherein lot area is shifted from one parcel to another so to improve the shape or dimension of each. See § 125-18 for further clarification.

- C. **LOT WIDTH** — The average of the widths of a lot at the building setback line and the rear lot line.

**NATURAL SUBDIVISION** — Parcels separated by an existing Town, County or State highway that is improved to passable condition for vehicular traffic.

**ON-SITE SEWAGE or WATER SUPPLY** — Any sewage system designed to; (1) treat sewage by subsurface means or (2) to provide water from a drilled well or spring; within the boundaries of an individual lot. See "CENTRAL SEWAGE or WATER SUPPLY" for further information.

**PARCEL** — An area of land resulting from the division of a tract of land for the purposes of transfer of ownership, use or improvement.

**PAVEMENT** — Improvement of the traveled portion of a roadway with a hard, solid surface material conforming to the standards of the Town of Rochester Road Law.

**PERFORMANCE or COMPLETION GUARANTEE** — A surety bond, certified check or other security meeting the requirements of Section 277 of the Town Law, and the terms of which are satisfactory to the Town Attorney, guaranteeing the subdivider will install all required or planned improvements.

**PERSON** — Any individual, firm, trust, partnership, public or private association or corporation, or other entity.

**PLAN** — A drawing, map, chart, plan or plotting indicating the subdivision or resubdivision of land, which in its various stages of preparation can include the following:

- A. **SKETCH PLAN** — A general plan, identified as such with the title "Sketch Plan" on the map, indicating existing site features of a tract and its surroundings and the general layout of the proposed subdivision, to be used as a basis for conceptual consideration by the Town, Planning Board site inspection and determining allowable density.



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- B. **PRELIMINARY PLAN** — A complete plan prepared by a registered professional engineer or licensed land surveyor, identified as such with the wording "Preliminary Plan" in the title, accurately showing proposed streets and lot layout and such other information as required by this Law.
- C. **FINAL PLAN** — A complete and exact plan, identified as such with the wording "Final Plan" in the title, with a professional engineer's or registered surveyor's seal affixed, and prepared for official recording with modifications as required during the review and approval of the Preliminary Plan.

**SECRETARY** — The clerk or secretary designated to accept applications, Plans, fees and correspondence on behalf of the Town of Rochester Planning Board.

**STREET** — A highway or road intended primarily for the purposes of vehicular traffic, including the following:

- A. **STREET, MINOR** — A road. the primary purpose of which is, to collect vehicular traffic from individual dwellings or places of business.
- B. **STREET, COLLECTOR** — A road. the primary purpose of which is, to collect vehicular traffic from minor streets and deliver it major traffic streets.
- C. **STREET, MAJOR** — A road. the primary purpose of which is, to collect vehicular traffic from collector streets and deliver it to destination points or arterial highways such Route 209.

**SUBDIVIDER** — Same as DEVELOPER.

**SUBDIVISION** — The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development, excepting lot improvements and natural subdivisions as defined in §125-18 of this Law.

- A. **MINOR SUBDIVISION** — a subdivision that does not involve improvements such as roads, recreational amenities or other common facilities and utilities.
- B. **MAJOR SUBDIVISION** — a subdivision where such improvements are to be provided, subject to the standards provided herein for construction or the financial guarantee thereof.

**SURVEYOR** — A land surveyor licensed by the State of New York.

**TOWN** — Town of Rochester, Ulster County, New York.

**TOWN BOARD** — Governing council — the Town of Rochester.

**TOWN ENGINEER** — A Professional Engineer licensed as such by the State of New York who may be appointed or hired on a consulting basis to provide engineering advice to the Town.

**TOWN LAW** — The New York State Town Law which governs the operation of all Towns within the State.

**TOWN ROAD SPECIFICATIONS** — The standards of the Town of Rochester pertaining to the approval of streets by the Town Highway Superintendent and the acceptance of such streets for formal dedication to the Town.

**WATERCOURSE** — A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations including intermittent streams but excepting drainage ditches, swales or diversion terraces.

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### **ARTICLE III Plan Submission and Review Requirements**

#### **§ 125-12 Procedures and Requirements for Minor Subdivisions**

The following procedures and requirements shall apply to minor subdivisions only (See Definitions). All other subdivisions and re-subdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified herein.

- A. Sketch Plan required. Submission of a sketch plan showing existing site features and a tentative layout of the subdivision shall be required as part of the Plan approval process for all minor subdivisions. The Planning Board shall use the sketch plan for determining the number of lots permitted using the adjusted tract acreage formula of § 125-22.A, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District. Metes and bounds descriptions of lots shall not be required.
- B. Application. Any person proposing to create a minor subdivision shall submit along with plans required below, five copies of an application for minor subdivision approval. This application may be in letter form and shall specify and/or be accompanied by:
  - (1) The name, address and telephone number of the property owner of record and those of the subdivider, if different.
  - (2) The name or number of the road where the proposed subdivision is to be located.
  - (3) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
  - (4) The type of water supply proposed.
  - (5) The type of sewer system proposed.
  - (6) The required fee or receipt for the same from the Planning Board Secretary.
  - (7) A completed Environmental Assessment as required by SEQRA.
- C. Final Plan. The subdivider shall submit seven (7) copies of a Final Plan and required supplementary data for the proposed subdivision. This Plan shall be prepared by a Professional Engineer or Surveyor and shall show all the lots proposed to be created. The Final Plan shall meet the following requirements:
  - (1) The subdivision Plan shall, ordinarily, be not less than 24" X 36" nor more than 36" X 48" in size.
  - (2) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.
  - (3) The Plan shall show the name of the municipality, name of the owner of record, North Point, graphic scale, and date.
  - (4) Soil types found on the site shall be shown unless the lots involved are lot improvements or contain existing sewage systems. Soil Conservation Service Classifications shall be used. Topography may be required at the discretion of the Planning Board on smaller lots.
  - (5) Existing public roads shall be identified by traffic route numbers and private roads by their posted names and numbers.

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- (6) Proposed lot or parcel lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The Plan shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider, and show adjacent lots already taken from the parcel.
  - (7) Such other pertinent information as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.
- D. Soil tests. Documentation as may be required by the Ulster County Department of Health or the Town of Rochester Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted. The Town of Rochester Planning Board shall be authorized to require such information for any subdivision where the lot sizes proposed, published soil data or other information suggests testing is warranted as a matter of public health.
- E. Street encroachment permits. A completed application to the Rochester Highway Superintendent, the State Department of Transportation or County Department of Public Works, as the case may be, for a street encroachment permit, shall also be required.
- F. Public Hearing. The Planning Board shall, within sixty-two (62) days of the receipt of a complete Final Plan by the Planning Board Secretary, shall hold a public hearing, advertising such hearing at least once in a newspaper of general circulation in the Town at least five (5) days prior to the hearing and providing such other notice as it deems appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.
- G. Action on Final Plan. The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize signing such Plan within sixty-two (62) days of the close of the public hearing, provided it has first acted upon the Environmental Assessment and made a Negative Declaration with respect to environmental impacts. Should the Board make a Positive Declaration and an Environmental Impact Statement be required, it shall proceed in the manner provided by New York State Town Law § 276.
- H. Certification, filing and signing of Final Plan. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the Final Plan, such Plan shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and Plan shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved Plan, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the Plan shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
- I. Time limits on conditional approvals. A conditional approval of a Final Plan shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board. No plan shall be signed by the Chair of the Planning Board until such time as all conditions are documented as satisfied, including approvals of other agencies as may be required.
- J. Approvals by default. In the event the Planning Board fails to take action on a Plan within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law
- K. Recording of Final Plans. All Final Plans shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.

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- L. County review. Applications for preliminary or Final Plan approval shall, where Ulster County has assumed such review authority, be subject to referral to the County pursuant to Sections 239-k and 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
- (1) the Town boundaries; or
  - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
  - (3) the right-of-way of any County or State highway, or
  - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or
  - (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
  - (6) the boundary of a farm operation in an Agricultural District.
- M. Neighboring municipality notification. Notice shall, as required by Section 239-nn of the General Municipal Law, be given to an adjacent municipality (town or village) whenever a public hearing is held by the Town of Rochester Planning Board regarding a subdivision review and approval on property that is within 500 feet of such adjacent municipality. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least 10 days prior to any such hearing. Such adjacent municipality may appear and be heard.

### **§ 125-13 Procedures for Major Subdivisions**

Major subdivision Plan submissions shall be subject to SEQRA review and be processed as follows:

- A. Sketch Plan required. Submission of a sketch plan as provided herein shall be required as part of the Preliminary Plan approval process for all major subdivisions. This plan shall be used to determine the number of lots permitted under the adjusted tract acreage formula of § 125-22.A, determine whether the subdivision will involve other agencies and make a preliminary classification of the subdivision as a Type I or Unlisted SEQRA action. The Planning Board shall also use the sketch plan for purposes of determining lead agency status, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan and such determinations as are made with respect to the plan shall be made within sixty-two (62) days of said meeting.
- B. When Planning Board is not lead agency or an EIS is required. Should the Planning Board not assume lead agency responsibilities in the SEQRA review of the subdivision, or should an Environmental Impact Statement be required, the provisions contained herein pertaining to public hearings, notices and decisions shall be modified as provided in § 276 of the Town Law.
- C. When Planning Board is lead agency and no EIS is required. If the Planning Board acts as lead agency and determines an Environmental Impact Statement is not required, the subdivider shall complete preparation of the Preliminary Plan as required herein and provide Part 1 of the SEQRA Long Form Environmental Assessment. The Planning Board, within sixty-two (62) days of the receipt by the Secretary of a Preliminary Plan which is complete except for a negative declaration filed pursuant to SEQRA, shall hold a public hearing on this Preliminary Plan, advertising such hearing at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and providing such other notice as it may deem appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.

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- D. Notice to adjacent property owners. Notices of major subdivision hearings shall be provided, by the applicant, to all adjacent property owners as identified in the latest tax assessment records of the Town of Rochester, including those for properties on the opposite side of any public or private road. Such notice shall be given by certified mail at least seven (7) calendar days in advance of such hearing. The Planning Board shall be authorized to waive this requirement where it is determined by the Board that adjainers have otherwise been afforded reasonable notice of such hearing as evidenced by their appearance at or knowledge of such hearing. No hearing shall be delayed where the Board determines the applicant has made reasonable attempts to notify all interested parties as provided herein.
- E. Action on Preliminary Plan. The Planning Board shall approve, with or without modifications, or disapprove the Preliminary Plan within sixty-two (62) days of the close of the public hearing, provided a negative declaration has first been filed pursuant to SEQRA.
- F. Grounds for action. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plan the Planning Board shall state in writing any modifications it deems necessary for submission of the Final Plan.
- G. Preliminary Plan certification. Within five (5) business days of the approval of any Preliminary Plan, such Plan shall be certified by the Secretary as approved and a copy of the Plan and approval resolution shall be filed in the Secretary's office with a copy of the resolution provided to the subdivider and also filed in the office of the Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- H. Time to submit Final Plan. The subdivider, within six (6) months of the approval of the Preliminary Plan, shall install or, pursuant to § 125.16, financially guarantee all subdivision improvements and submit the Plan in final form as provided herein. Preliminary Plan approval shall expire if a Final Plan is not submitted within six (6) months, unless the Planning Board shall have granted an extension of the preliminary approval based upon a phasing plan set forth as provided for submission of Final Plans by section, provided that no Preliminary Plan shall remain valid if a Final Plan has not been submitted within three (3) years.
- I. Action on Final Plan. When the Final Plan is in substantial agreement with the Preliminary Plan, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such Plan within sixty-two (62) days of its receipt by the Secretary. No additional public hearing shall be required. When the Final Plan is not in substantial agreement with the Preliminary Plan, the Preliminary Plan procedures shall apply to a Final Plan insofar as SEQRA review, public hearing, notices and decision.
- J. Certification, filing and signing of Final Plans. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the Final Plan, such Plan shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and Plan shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved Plan, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the Plan shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
- K. Final Plans by section. The Planning Board may permit any subdivision for which Preliminary Plan approval has been granted to be submitted in sections for Final Plan approval. Phasing plans may be required for larger subdivisions.
- L. Time limits on conditional approvals. A conditional approval of a Final Plan shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board. No plan shall be signed by the Chair

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of the Planning Board until such time as all conditions are documented as satisfied, including approvals of other agencies as may be required.

- M. Approvals by default. In the event the Planning Board fails to take action on a Plan within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law.
- N. Recording of Final Plans. All Final Plans shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.
- O. County review. Applications for preliminary or Final Plan approval shall, where Ulster County has assumed such review authority, be subject to referral to the County pursuant to Sections 239-k and 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
  - (1) the Town boundaries; or
  - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
  - (3) the right-of-way of any County or State highway, or
  - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or
  - (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
  - (6) the boundary of a farm operation in an Agricultural District.
- P. Neighboring municipality notification. Notice shall, as required by Section 239-nn of the General Municipal Law, be given to an adjacent municipality (town or village) whenever a public hearing is held by the Town of Rochester Planning Board regarding a subdivision review and approval on property that is within 500 feet of such adjacent municipality. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least 10 days prior to any such hearing. Such adjacent municipality may appear and be heard.

### § 125-14 Sketch Plans for Major Subdivisions

The Sketch Plan should be at a scale sufficient to show the entire tract on one sheet, and should show or include the following:

- A. The location of that portion which is to be subdivided in relation to the entire tract.
- B. An existing and natural site features analysis which depicts all structures, wood area, stream, natural features, stone walls, wetlands, outstanding views and other aspects of the property around which a subdivision plan should be designed.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.
- D. All streets or roads, streams, water, sewage and gas and power lines within 500 feet of the subdivision.
- E. The tentative layout of the remainder of the tract owned by the subdivider.
- F. North Point, graphic scale, date and name/address of subdivider and landowner.

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- G. A location map with sufficient information to enable the locating of the property.
- H. Proposed open spaces.
- I. Plans for future use of any remainder parcels.
- J. Part 1 of the SEQRA Long Form Environmental Assessment (optional at this stage but, if not provided in conjunction with the Sketch Plan, must be submitted with the Preliminary Plan).

### **§ 125-15 Preliminary Plan Requirements for Major Subdivisions**

- A. The Preliminary Plan shall be clearly and legibly drawn and ordinarily shall be not less than 24" X 36" nor more than 36" X 48" in size and should, when possible, show the entire tract to be divided.
- B. The Plan shall be based on the concepts presented in the Sketch Plan and contain the following information:
  - (1) Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within Ulster County. The name and address of landowner and subdivider shall also be provided.
  - (2) Location by Town, County and State. The plan shall also include tax map numbers for affected and adjacent parcels and a 1" = 2000' location map.
  - (3) North point, date and graphic scale.
  - (4) Boundaries of total tract and acreage contained within it.
  - (5) Locations, and where appropriate, dimensions of parks and public grounds, permanent buildings in, or adjacent to, the subdivision, open space easements and other significant existing site features.
  - (6) Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.
  - (7) Names of owners of abutting properties, and lines showing where they intersect.
  - (8) Existing contours at intervals of at least every five (5) feet. U.S.G.S. maps may suffice for the basis of this item. The Planning Board shall have the right to request greater detail when the scope or nature of the development demands the same.
  - (9) Proposed layout of streets, alleys and other public rights-of-way, including widths and proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment Laws, including profiles, cross-sections, and preliminary designs for bridges and culverts.
  - (10) The proposed layout, numbering and approximate dimensions and acreage of lots.
  - (11) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such.
  - (12) Building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown.

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- (13) All drainage easements shall be shown and marked as such.
- (14) Approximate final grades in areas of cut or fill shall be shown.
- (15) Any lots designated for uses other than residential shall be indicated.
- (16) Proposed covenants and restrictions and a management plan for the proposed Homeowners Association (HOA), if any.
- (17) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water source. This evidence may be in the form of logs from existing wells established by professional well drillers. A hydro-geological study shall be submitted to document the supply and address impacts on aquifers in the case of all subdivisions of 25 lots or more of less than five acres in size.
- (18) Where available, evidence from utility companies servicing the area indicating such utility companies are aware of and will provide service to the proposed subdivision.
- (19) An erosion and sedimentation control plan indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments (see "New York State Standards and Specifications for Erosion and Sediment Control").
- (20) A storm water management plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "New York State Stormwater Design Manual").
- (21) Documentation as may be required by the Ulster County Department of Health or the Town of Rochester Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted. The Town of Rochester Planning Board shall be authorized to require such information for any subdivision where the lot sizes proposed, published soil data or other information suggests testing is warranted as a matter of public health.
- (22) All applicable zoning data.
- (23) Completed applications to Town of Rochester, County of Ulster or the New York Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.
- (24) Detailed landscaping plans for such common areas or improvements as may require new landscaping
- (25) Plans for future use of any remainder parcels.
- (26) Tentative sites for houses, driveways and sewage systems, including, where required by the Planning Board, designated building envelopes.
- (27) Part 1 of the SEQRA Long Form Environmental Assessment, if not previously provided in conjunction with the Sketch Plan or the Preliminary Plan differs materially from the Sketch Plan proposal.
- (28) Such other pertinent information as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.



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### § 125-16 Requirements for Installation or Guarantee of Improvements

- A. After approval of the Preliminary Plan, the subdivider, in a manner consistent with the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to provide usable and desirable lots). Before requesting Final Plan approval the subdivider must:
- (1) Install all the improvements approved on the Preliminary Plan or required by these standards, or
  - (2) File with the Town Board a performance guarantee to insure installation and construction of those improvements at the standards required. Such guarantee shall meet with the approval of the Town Attorney as to form and procedure.
- B. The subdivider shall meet with the Town Engineer to develop a schedule, so that at the time each improvement is to be installed and upon its completion, adequate inspections can be made.
- C. This Section is designed to be consistent with § 277 of the New York State Town Law and the Town of Rochester hereby incorporates all authorities and requirements contained therein as part of this Law.
- (1) Posting — The performance guarantee must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
    - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Attorney and meets Town Law § 277 requirements.
    - (b) Be payable to the Town of Rochester.
  - (3) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee. Costs shall be assumed to escalate a minimum of 10% per year for purposes of determining the amount of a guarantee.
  - (4) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Rochester.
  - (5) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the subdivider and the Planning Board, be not more than three (3) years from the date of the Final Plan approval. Should an extension be granted the amount of the guarantee shall be increased as may be required to cover further cost increases as provided in subsection (3) above. Provisions may also be made, pursuant to the aforementioned Town Law § 277, for completion of improvements in phases.
    - (a) Return — When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements, may be released and returned.
    - (b) Default — In the event of default, the obligor and surety shall be liable thereon to the Town of Rochester for the cost of the improvements or parts thereof not installed. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision

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or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

- (6) Prior to the certification of any improvements or release of any guarantee, the subdivider shall pay all inspection and related costs (for professional services, meetings, advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this Law. Said payment shall be made to the Town of Rochester.
- F. Where improvements are being dedicated to the Town, the subdivider shall comply with the applicable requirements of any other Town Laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to guarantee maintenance and repair of those improvements for eighteen (18) months from the date of dedication. The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board. Similar maintenance agreements may be required for private streets and nothing herein shall be deemed to require acceptance of dedication by the Town under any circumstances.

### **§ 125-17 Final Plan Requirements for Major Subdivisions**

The Final Plan shall be prepared on one or more sheets of a uniform size coinciding with requirements of the Ulster County Clerk's office. Final Plan attachments and exhibits shall be numbered and labeled in accordance with the requirements of this Section and a "subdivision checklist" to be developed by the Town. The Final Plan shall include, in addition to the information required for the Preliminary Plan submission, the following:

- A. Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- B. Complete curve data for all curves included in the Plan.
- C. Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- D. Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation or drainage easements.
- E. Front building lines, shown graphically with dimensions.
- F. A final version of all restrictions and covenants, if any, the subdivider intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included. A final management plan for the HOA shall also be submitted, setting forth all relevant details of its proposed operation, as determined by the Planning Board.
- G. The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted Final Plan sections) are not required to be based upon field survey, and may be calculated. The location of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify the placement of the monuments.
- H. The Final Plan shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guaran-

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tee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.

- I. Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes, unless on-site sewage disposal systems are to be used.
- J. Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations off valves and fire hydrants, if any, unless private wells are to be used.
- K. Documentation of actual arrangements made with utility companies or agencies for supplying each lot in the subdivision.
- L. A key map for the purpose of locating the site to be subdivided, at a scale of not less than 2000 feet to one inch, showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 4000 feet or any part of the property proposed to be subdivided. U.S.G.S. quadrangle maps may suffice as a base for such a key map.
- M. Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- N. Copies of street encroachment or highway occupancy permits and complete final construction plans, including agreements as may be required to ensure maintenance of private streets.
- O. New submissions of Preliminary Plan data in any instance where there has been a change in the plans or the circumstances surrounding them.
- P. Such other pertinent information as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.

### **§ 125-18 Lot Improvements and Natural Subdivisions**

Lot improvements and natural subdivisions shall be exempt from the requirements contained herein provided three (3) copies of a plan prepared by a licensed Land Surveyor or Professional Engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below.

A. Parcels shall, to qualify as lot improvements:

- (1) Involve the addition of land to an existing parcel or lot line adjustment so as to:
  - (a) Improve ability of that parcel to comply with setback or other building standards; or
  - (b) Increase suitability of the parcel for building development; or
  - (c) Add to the availability of open space; or
  - (d) Clarify a boundary line location or produce a corrected deed if a map reflecting the same is desired for recording purposes.
- (2) Not substantially reduce the ability of the lot, from which the lot improvement parcel is taken or reconfigured, to comply with the applicable standards of this Law.
- (3) Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added.

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- B. Parcels shall, to qualify as a natural subdivision, be separated by an existing Town, County or State highway that is improved to passable condition for vehicular traffic.
- C. The Planning Board shall, within thirty-one (31) days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should the Planning Board fail to act in the provided time or make a finding that the plans do not meet the criteria, such plans shall be deemed rejected unless an extension is granted by the Planning Board. If the Planning Board finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Rochester, and for recording purposes only, to represent an exempt lot improvement in accordance with Section 125-18 of the Town of Rochester Subdivision Regulations. No subdivision approval is required or given." No person shall record plans for any lot improvement without so first obtaining the Planning Board's clearance.

### **§ 125-19 Fees**

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; such fee to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance, as well as the expenses connected with notices and hearings.

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### **ARTICLE IV Design Standards**

#### **§ 125-20 Application**

The design standards and requirements set forth in this Article shall be observed as minimums by the subdivider in the design of each subdivision within Town of Rochester. The Planning Board shall require more-restrictive standards where necessary to protect health, safety and welfare of the public, and where circumstances unique to the property so dictate.

#### **§ 125-21 General Site Requirements**

- A. Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.
- B. In addition, the Town may rely upon information contained in its Comprehensive Plan and, in determining and evaluating potential hazards use historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies or in professional practice, and Federal, State, or local policies.
- C. All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations.
- D. In all subdivisions, care shall be taken to preserve natural features such as trees, water courses, views, and historical features which will add attractiveness and value to the remainder of the land.
- E. Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the Planning Board and, where appropriate, DEC.
- F. Wherever possible, lot lines shall follow Town boundary lines rather than cross them, and reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands are prohibited.
- G. Each lot fronting on a named stream depicted on United States Geological Survey maps shall include a setback of 100 feet in depth from the high water mark of such stream. No principal structure shall be located within such setback. The Planning Board shall, however, be authorized to modify this requirement where necessary to accommodate reasonable use of property, provided other mitigating measures such as deed covenants limiting clearing near the stream are employed to protect stream quality.
- H. The subdivision shall avoid adverse impacts to existing groundwater users and/or surface waters. Elements related to wellhead protection areas, water uses, potential contaminant sources and related matters shall be included with the Preliminary Subdivision submission.

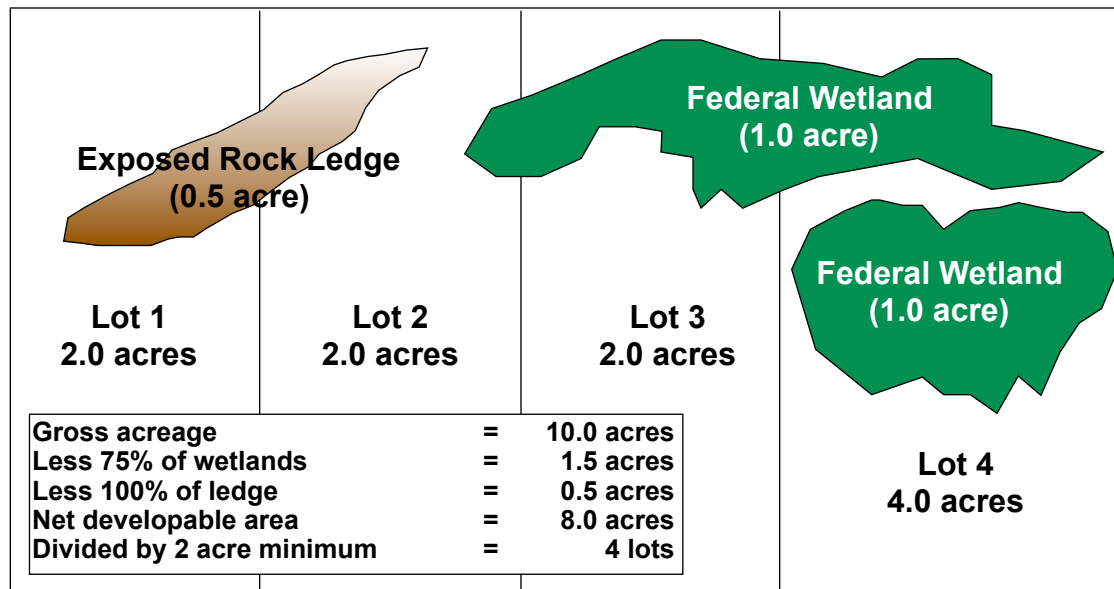
#### **§ 125-22 Subdivision Design**

- A. The maximum permitted density (number of dwelling units) for all new residential subdivisions, regardless of design, as a whole shall be determined as follows;

- (1) The following deductions shall be made from the gross acreage of the tract:

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- (a) 100% of all land within public rights of way (including proposed development roads),
  - (b) 100% of all land under existing water,
  - (c) 100% of any floodway,
  - (d) 100% of all exposed rock ledges of one-tenth acre or more in size,
  - (e) 75% of any designated 100-year floodplain outside the floodway,
  - (f) 75% of all Federal or State designated wetlands, and
  - (g) 50% of all slopes over 25% in grade; and
- (2) The net figure obtained after these deductions shall then be divided by the minimum lot area for the zoning district (see illustration following for a 10 acre tract in a 2-acre zone).



**Note:** Each lot proposed to be served by on-site sewage disposal systems must contain a minimum of one acre (43,560 square feet) of buildable land exclusive of State and Federal wetlands, slopes over 25% grade and FEMA designated floodplain areas. Therefore, Lot No. 4 in this illustration must be larger than the others to meet this standard. The total number of lots is controlled by the density calculation (see above) and the size of individual lots in the case of lots served by on-site sewage disposal systems is governed by the minimum lot size (2 acres in this case) and the buildable acre standard of §125-22.D, which, in the case of Lot No. 4, requires more than two acres to obtain a buildable acre of land.

### B. Conservation Design Criteria

The following planning and design standards shall apply to all subdivisions.

- (1) The proposed subdivision shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through planning of vegetation and land disturbance activities and avoiding the placement of impervious surfaces in locations having the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater.

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- (2) Stream valleys, swales, and other lowland areas may require adjoining buffer lands to be included in the conservation area.
- (3) Because of their resource values, all woodlands on any tract proposed for conservation subdivision shall be evaluated and especially valuable woodlands exceeding one acre shall be preserved and designated as conservation areas, to the maximum extent possible. Proposed site improvements shall be located, designed, and constructed to minimize the loss or degradation of woodland areas. Nothing herein shall prevent development of woodlands as a general principle if an entire site is wooded.
- (4) Subdivisions shall be designed to preserve woodlands along roadways, property lines, streams, swales, stone fences and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers (typically equal to the required side yard) between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, understory, and canopy vegetation.
- (5) No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems) shall be permitted on a site before the securing of Preliminary Subdivision Approval.
- (6) Areas comprising fields, pastures and meadows with fences, stone walls, tree copses, hedgerows and visually prominent places such as knolls and hilltops. shall be maintained where practicable by employing compact clustered residential designs in locations such as at the far edge of open fields.
- (7) All grading and earthmoving on slopes exceeding 15% grade shall be minimized. No site disturbance shall be allowed on slopes exceeding 25% grade, except grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 25% is feasible. Exceptions may also be granted where structures are built into the slope to minimize total disturbance. When building on slopes, applicants should take advantage of topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading entire sites flat.
- (8) Applicants shall, to the maximum extent practicable, protect significant natural areas containing rare or endangered plants and animals, as well as other features of natural significance identified by the Town's Comprehensive Plan or by the applicant's existing resources and site analysis by incorporating them into proposed conservation areas.
- (9) Where a plan will have an impact on an historic resource referenced in the Town Comprehensive Plan or identified by the Town Historic Preservation Commission, the developer shall mitigate that impact by modifying the design, relocating proposed lot lines, providing landscape buffers or using other approved means.
- (10) When trails are intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of ten (10) feet. The land area permanently designated for trails for public use may be credited toward any open space requirement.
- (11) Wherever feasible, the subdivider shall retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. Stone walls and hedgerows shall be employed in the development design where practicable. The subdivider shall also avoid placing buildings in the middle of open fields. However, septic systems and leach fields should generally be located in open fields, when possible.
- (12) Existing vegetation and topography should be used to buffer and screen new buildings if possible, unless they are designed and located close to the road in the manner historically found in

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the Town. Buildings should be sited in groups or tucked behind treelines or knolls rather than spreading them out across the landscape in a "sprawl" pattern. Clearing of vegetation at the edge of the road should be minimized, clearing only as much as is necessary to create a driveway entrance with adequate sight distance.

- (13) Curves should be created in driveways to increase the screening of buildings. Buildings should be sited so they do not protrude above treetops and crestlines of hills as seen from public places and roads. Vegetation should be used as a backdrop to reduce the prominence of the structure. Wherever possible, views should be opened up by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.

### **C. Conservation Subdivision Option**

A conservation subdivision is one where lots or dwelling units are clustered closer together on a tract with the specific objective of creating large usable sections of open space on the remainder of the property. Conservation subdivisions offer flexibility in design, facilitate the economical provision of streets and utilities and preserve open space. The following regulations shall apply to such development in the Town of Rochester:

- (1) The Town of Rochester Planning Board shall be authorized, simultaneously with the approval of plans under this chapter, to apply the provisions set forth in this section for the purpose of accommodating conservation subdivision projects. Section 278 of the Town Law, including but not limited to §§ 3(b), is hereby superseded so as to permit the increases in density and reductions in lot sizes and other changes in bulk requirements required to accommodate conservation subdivisions as provided herein. Conservation subdivisions shall be allowed anywhere within the Town of Rochester.
- (2) The Planning Board may authorize conservation subdivision, as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts, using the standards of §§ 125-22.B above as a guide.
- (3) Conservation subdivisions shall ordinarily include at least five (5) lots and 10 acres of contiguous land but the Planning Board may require conservation subdivision design practices to protect particularly valuable open spaces. The Planning Board shall have the authority to require the submission of an alternative Sketch Plan, for any subdivision of ten (10) lots or more, depicting how the property might be developed using this technique. This alternative Sketch Plan shall be used to ascertain the best method of developing a given property. The Planning Board shall apply conservation design criteria from §§ 125-22.B above to preserve vital open spaces identified in the Town Comprehensive Plan and related documents, while, at a minimum, maintaining the density allowed under the Town Zoning Law. No less than 40% of the gross acreage of any conservation subdivision shall be composed of open space.
- (4) The maximum permitted density (number of dwelling units) for any new residential subdivision shall be determined by applying the standards of § 125-22.A hereof. The Planning Board shall, however, be authorized to modify development standards as provided below and grant a density bonus of 20% where 50% or more of the tract is preserved as open space and conservation subdivision is proposed.
- (5) Only single-family detached and two-family dwellings (at the same dwelling units per acre) shall be employed in this concept. Multi-family dwellings shall be excluded.
- (6) Development standards for streets, lot size, lot width, lot coverage and lot depth may be reduced, provided no dwelling structure (single-family or two-family) is located on less than;



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- (a) thirty-two-thousand, six-hundred seventy (32,670) square feet of land where neither central/communal sewer nor central water facilities are to be provided, or where either central water facilities or central/communal sewer facilities are to be provided.
- (b) twenty-thousand (20,000) square feet of land where both central/communal sewer and central water facilities are to be provided.

A mix of lot sizes will be encouraged and up to 20% of the lots may consist of lots of (10) ten acres or more that shall be counted as open space for density calculation purposes if deed restricted from further subdivision. Such lots shall represent no more than 25% of the open space. Yard requirements may also be reduced, but in no instance to less than forty (40) feet for the front yard and twenty (20) feet for the side and rear yards. Notwithstanding these yard requirements, however, all principal structures shall be separated by a distance of at least forty (40) feet. Also, no more than 35% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures.

- (7) No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection. No more than 50% of the permanent open space may consist of wetlands, floodplains, slopes of 25% or more, water bodies and other undevelopable areas unless incorporated into the open space in such a manner as to make substantial practical use of these areas for trails, other active recreational uses (e.g. ballfields and golf courses) or similar development features, including use for stormwater and sewage treatment. Such determination shall, however, be solely in the discretion of the Planning Board. The Planning Board may also require open space linkages with adjoining properties, set-asides of active recreation area for residents and fronting of up to 50% of lots on open spaces. Open spaces within a property shall be contiguous with residential lots and linked to each other and public rights-of-way wherever possible to facilitate common use by the residents of the development.
- (8) The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement. The easement shall be titled to a home owner's association (HOA), land trust, municipality (if accepted by the governing body) or other public entity and placed under such management as to ensure the perpetual maintenance of the open space in its generally existing condition. Such land may be used for any open space purpose approved by the Town Planning Board, including farming, active or passive recreational use and similar activities that will effectively preserve open spaces and the existing landscape character, prior to the sale of any lots or dwelling units within the subdivision. Private, deed-restricted ownership for use in open spaces or agriculture may also be approved at the discretion of the Planning Board. The Town Board must approve the form of all conservation easements and may require the Town be designated therein as a party with rights to enforce such agreement.
- (9) Membership in any HOA to which open space is to be dedicated shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit. The subdivider shall have full responsibility for operation and management of the HOA until such time as 90% of the lots or units are sold. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the HOA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the HOA's cost and the HOA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The HOA must also have the ability to adjust the assessment to meet changing needs. Should requirements of Federal or New York State law differ from these provisions, the higher standards shall apply.
- (10) Wells and sewage treatment systems of either an individual or central or communal nature as defined herein may be located within or extend into open space areas provided that infrastruc-

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ture associated with such systems shall not count toward open space requirements and further provided that subsurface sewage disposal methods are employed, all required isolation distances are observed and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer and water facilities on a continuing basis.

- (11) The HOA shall be responsible for maintenance of all improvements including not only roads, utilities and recreation facilities, but also stormwater management improvements as required herein or by other Town or State regulations.
- (12) The following process shall be followed in preparing a conservation subdivision plan once the applicant or Planning Board has determined, from a Sketch Plan submission, that this is the form of development for the property in question. This process shall be in addition to normally applicable subdivision procedures.
  - (a) The applicant shall submit an existing resources and site analysis map giving a comprehensive analysis of existing conditions on the proposed development site. It shall include:
    - [1] Topography at contour intervals of no less five (5) feet. Slopes of 15-25% and exceeding 25% shall be clearly indicated.
    - [2] The location and delineation of ponds, streams, ditches, vernal pools, drains, and natural drainage swales, as well as the 100-year floodplains and designated wetlands.
    - [3] Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, old field, hedge-row, woodland and trees with a caliper in excess of fifteen (15) inches. The Planning Board may waive tree locational requirements within wetlands, floodplains, on slopes greater than 25%, and in other areas proposed to be conserved in their natural state.
    - [4] Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service.
    - [5] A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, and public forests.
    - [6] Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, sinkholes, and fault lines, based on available published information or more detailed data obtained by the applicant.
    - [7] All existing man-made features including but not limited to streets, driveways, farm roads, woods roads, trails, buildings, foundations, stone walls, wells, drainage fields, dumps, utilities, stormwater detention facilities and storage tanks.
    - [8] Locations of all historically significant sites or structures.
  - (b) After preparing the existing resources and site analysis map, applicants shall arrange for a site inspection of the property by the Planning Board and other Town officials. Based on the map and inspection, a four-step design process shall then be applied to determine the layout of proposed conservation areas, house sites, streets and lot lines, as described below:

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- [1] Proposed conservation areas shall be designated using the existing resources and site analysis map. Primary Conservation Areas shall be delineated comprising floodplains, wetlands and slopes over 25 percent. Secondary Conservation Areas shall also be delineated and prioritized for preservation.
  - [2] Tentative house sites shall be identified. They should generally be located not closer than 100 feet from Primary Conservation Areas and 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.
  - [3] Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation areas shall be minimized. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and facilitate access to and from homes in different parts of the tract.
  - [4] Upon completion of the preceding three steps, lot lines shall be drawn to delineate the boundaries of individual residential lots.
- D. Each new lot outside a conservation subdivision (see §§ B above) shall meet the minimum area, width and depth requirements set out in Chapter 140, Zoning. Additionally, all such lots served by on-site sewage disposal systems shall contain a minimum of one acre (43,560 square feet) of buildable land exclusive of State and Federal wetlands, slopes over 25% grade and FEMA designated floodplain areas.
- E. Pedestrian interior walks or trails may be required, where necessary to assist circulation or provide access to community facilities and open space. Such walks or trails shall have a right-of-way width of not less than 10 feet and be all-weather-surfaced for not less than 3 feet in width.
- F. Blocks shall not exceed 1,200 feet in length. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier unsubdivided area.
- G. Where a subdivision adjoins a major highway (one which is designated and marked for two lanes or more and carries at least 1,000 vehicles per day), the greater dimension of the block shall front along said highway, and interior streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five lots or more with frontages averaging less than 300 feet along the highway shall be subject to this requirement, if the Planning Board determines, after inspection, that safety demands restricting access.
- H. Cul-de-sac streets, permanently designed as such, shall not furnish access to more than 25 dwelling units. Cul-de-sac streets shall have, at the closed end, a turnaround with the right-of-way having an outside diameter of not less than 100 feet and shall be paved to a diameter of not less than 90 feet. An inside landscaped area of not more than 60 feet in diameter shall be encouraged. Drainage of cul-de-sacs shall preferably be toward the open end. The Planning Board shall have authority to require the use of loop streets and other alternatives to cul-de-sacs where such alternatives are available and preferable as a means of providing safe access to lots, making street connections or limiting environmental impacts. The Planning Board may also require turn-around areas along the way for safety purposes in the case of long cul-de-sacs.
- I. All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout.

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- J. If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area or dedicated to open space.
- K. Either of the two sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated.
- L. All lots shall front on the edge of a public or private street right-of-way (existing or proposed) and the right-of-way of the principal access to any subdivision shall be a minimum of fifty (50) feet in width. However, upon written request by the subdivider, the Town may grant a waiver from this and other street requirements of this Law to permit access to no more than four (4) single-family residential lots from a private drive, provided a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and that the lot in question is not capable of being subdivided further or is so restricted. Evidence of satisfactory shared arrangements for ownership and maintenance of the drive shall also be provided in the form of deed covenants. See also § 125-28.R hereof
- M. Monuments shall be placed at perimeter corners and the corner of each street, and markers set at the corner of each lot, consistent with surveyors' professional practice, to permanently and accurately define the metes and bounds of the block and lots created.

### **§ 125-23 Common Open Space**

- A. Except where such area would be less than one-half acre or the Planning Board shall waive the requirement, not less than 10% of the gross area of the entire tract, exclusive of lakes or ponds, shall be reserved for common open space directly accessible from the lots to be created. Such open space shall be suitable for recreational use of the residents of the subdivision or the general community. The following and similar facilities shall meet this requirement: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas. Such areas as are designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. No portion of the 10% requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise undevelopable areas. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same.
- B. The Planning Board may require the reservation of smaller parcels if they can be made contiguous to existing parks.
- C. If the Planning Board determines a suitable park or parks of adequate size cannot be properly located within a subdivision or is otherwise not practical, then the Board shall require, as a condition to approval of any such plan, a payment to the town in an amount set from time to time by resolution of the Town Board, which amount shall be available for use by the town for neighborhood park, playground or recreation purposes, including the acquisition of property.

### **§ 125-24 Water Supply**

- A. Where a central water supply is available within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, construct a system of water mains tied to such system and provide a connection for each lot.
- B. Plans and specifications for central water systems (i.e. extension of an existing system or a proposed new facility) shall be prepared by a professional engineer and shall conform to requirements of the Ulster County Department of Health and the local fire district(s). Suitable agreements shall also be established for the ownership and maintenance of such distribution system.

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### **§ 125-25 Sewage Disposal**

- A. All residential lots shall contain suitable areas for on-site sewage disposal systems or be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Environmental Conservation ("DEC"), shall be submitted with all preliminary subdivision Plans and design standards shall meet DEC requirements. Formal approval of DEC shall be required prior to Final Plan approval.
- B. When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivision and land developments shall be provided with an adequate sewage disposal system(s). Central sewage disposal systems shall also be required for all residential lots and non-residential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- C. Where connection to a central sewage disposal system is not required, on-site systems shall be provided in accordance with criteria set forth by the Ulster County Department of Health. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for on-site subsurface sewage disposal, where the Ulster County Department of Health does not control.
- D. Sanitary sewers shall not be used to carry storm water.

### **§ 125-26 Erosion and Sedimentation**

Should any subdivider intend, through road construction or installation of other subdivision improvements, to make land changes by grading, filling, excavating or the removal of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include but are not limited to hay bales, silt fences or other provisions or combinations thereof.

### **§ 125-27 Storm Drainage**

- A. Stormwater management. No application for major subdivision approval shall be reviewed until the Town of Rochester Planning Board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications of this local law and as required by New York State. All SWPPPs, except as noted above, shall provide for the following:
  - (1) A map depicting the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);
  - (2) Description of the soil(s) present at the site and the source of this data;
  - (3) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance.
  - (4) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

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- (5) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
- (6) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (7) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the sighting and sizing of any temporary sediment basins;
- (8) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- (10) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (11) A delineation of SWPPP implementation responsibilities for each part of the site;
- (12) A description and site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- (13) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
- (14) Comparison of post-development stormwater runoff conditions with pre-development conditions
- (15) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (16) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
- (17) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this local law.
- (18) The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- (19) Stormwater management practices shall be designed and constructed in accordance with the New York State Stormwater Management Design Manual and New York Standards and Specifications for Erosion and Sediment Control, provided that such practices shall maximize the use of natural stormwater management methods (e.g., grass swales) and minimize the use of dry above-ground stormwater detention facilities.
- (20) No land development activity in conjunction with any subdivision shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

**B. Stormwater management system maintenance.**

- (1) The stormwater management plan for any major subdivision shall contain an operation and maintenance plan prepared by the applicant and approved by the Town Engineer. The opera-

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tion and maintenance plan shall establish responsibilities for the continued operation and maintenance of all common stormwater management improvements, which shall include all stormwater management improvements designed to serve more than a single lot or dwelling. All such facilities associated with the approved subdivision plan shall be owned and maintained by a home owner's association (HOA) or such other entity as may be approved by the Town Board. The HOA or other approved entity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the requirements of this law. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

- (2) Prior to approval of any subdivision plan where common stormwater management improvements are required, the property owner, HOA or other approved entity shall sign and record a maintenance agreement covering all common stormwater management facilities. Such maintenance agreement shall be subject to the review and approval of the Planning Board and Town Attorney.
- (3) Stormwater detention and retention basins or facilities shall be inspected by a registered professional engineer licensed in the State of New York on behalf of the applicant or responsible entity on the following basis:
  - (a) Annually for the first five (5) years.
  - (b) Once every three (3) years thereafter.
  - (c) During or immediately after the cessation of a 100-year or greater storm event.

The professional engineer conducting the inspection shall be required to submit a written report to the HOA or other approved entity, with a copy to the Town of Rochester Building Department, within one (1) month following completion of the inspection. The report will present documentation and include pictures regarding the condition of the facility and recommend necessary repairs, if needed. Any needed repairs shall be implemented by the HOA or other approved entity within three (3) months of the report issuance date.

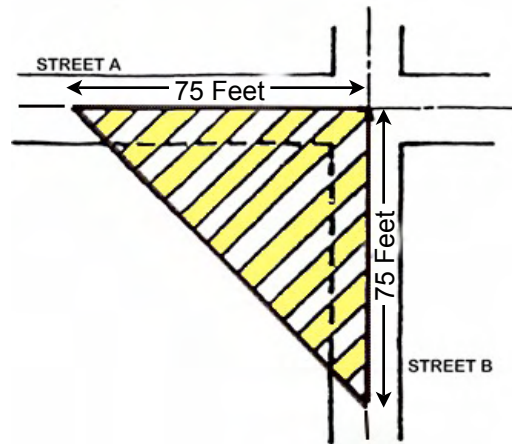
- (4) No person shall allow, or cause to allow, stormwater discharges into the Township's separate storm sewer system which are not composed entirely of stormwater, discharges from fire fighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources. The following connections are prohibited:
  - (a) Any drain or conveyance, whether on the surface or subsurface, which allows any non stormwater discharge including sewage, process wastewater, and wash water, to enter the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks.
  - (b) Any drain or conveyance connected from a commercial or industrial land use, except as may be approved by the Planning Board as part of a mixed-use development plan.
- (5) The Planning Board may require that a major subdivision plan include a set of best management practices (BMP's) from which the owner of any individual lot must choose in implementing stormwater management measures in conjunction with property development. Such BMP's shall be fully specified in the subdivision plans and imposed by restrictive deed covenant making reference to such plans. No person shall modify, remove, fill, landscape or alter any such on-lot stormwater management improvements or drainage easement, unless it is part of an approved maintenance program, without the written approval of the HOA or other approved entity.

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- (6) All requirements of the State of New York for Stormwater Pollution Prevention Plans (SWPPP's) are incorporated herein by reference and shall apply in addition to the above standards.

### § 125-28 Street Requirements

- A. The arrangement, character, extent, width, grade and location of all streets shall conform to the provisions found herein. Every subdivision shall have access to a public right-of-way.
- (1) In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to ensure circulation of vehicular and pedestrian traffic.
  - (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this Law.
  - (3) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sacs.
  - (4) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the extension of streets.
  - (5) Streets shall be laid out to intersect at ninety (90) degree angles. Where not possible, the minimum adjustment required may be approved provided that in no event, shall any street intersect another at less than seventy-five (75) degrees. Intersections of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs and other devices as may be required. Streets entering opposite sides of another street shall be offset a minimum of one-hundred-twenty-five (125) feet. Where impossible to create such offsets, such streets shall be laid out directly opposite one another utilizing stop signs or signals.
  - (6) Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
  - (7) Clear sight triangles shall be provided at all street intersections. No structure or vision-obstructing object other than utility poles, street lights, street signs, or traffic signs shall be permitted that obscures vision in these triangles above the height of thirty-six (36) inches and below ten (10) feet measured from the centerline grade of intersecting streets. Such triangles shall be established at seventy-five (75) feet from the point of intersection of the centerlines.





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- (8) Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than ten (10) tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider shall so indicate in writing on the Final Plans to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Planning Board as to form.
  - (9) No open development areas, as described in § 280-a.4 of the New York State Town Law, shall be approved in the Town of Rochester. Nothing herein, however, shall preclude applicants from applying for variances and exceptions as provided for under § 280-a.3 of the New York State Town Law to construct individual structures on existing lots as of the date this law is adopted. Applications for building permits on existing private roads shall be subject to a prior determination by the Town of Rochester Highway Superintendent that such road is passable and meets the requirements of New York State Town Law.
  - (10) Lots located on an existing street or right-of-way not meeting these street standards may be furthered subdivided only if such existing street or right-of-way is improved to the maximum extent practicable to meet current standards, as shall be determined by the Town of Rochester Highway Superintendent. Lots located on streets or right-of-ways that cannot be improved to meet current standards shall be limited to a maximum of 10 lots or one lot per five (5) acres, whichever shall be less. Such lots may also be subdivided under § 125-28.R hereof.
- B. Alleys may be permitted, but in no case shall an alley provide the only means of access to a lot. Alleys are required on the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking. Alleys shall be limited in length to 800 feet per block.
- C. Profiles: No street grade shall be less than one (1) percent or exceed the following, with due allowances for reasonable vertical curves:

Type of Street or Way	Maximum Grade
Major Traffic Streets	8% (10% for up to 250 feet*)
Collector Streets	10% (12% for up to 250 feet*)
Minor Streets	12% (14% for up to 250 feet*)

\* With approval of Town of Highway Superintendent

Streets shall have a grade not to exceed two percent (2%) for a distance within fifty (50) feet of the street right-of-way line of any intersecting street.

- D. Cross Section: The cross-section gradients of streets shall be not less than two percent (2%).
- E. Vertical and horizontal visibility (measured 3.5 feet eye level to tail lights 1.5 feet above ground level) shall be no less than the following:

Type of Street or Way	Minimum Visibility Distance
Major Highways	500 feet
Collector Streets	300 feet
Minor Streets	250 feet
Streets shorter than 500 feet	150 feet

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F. The minimum right-of-way widths for streets are as follows:

Type of Street or Way	Minimum Right-of-Way Width
Major Streets	60 feet
Collector Streets	50 feet
Minor Streets	50 feet
Alleys	25 feet

G. Cul-de-sacs shall a right-of-way with an outside diameter of not less than 100 feet and shall be paved to a diameter of not less than 90 feet (see also § 125-22.H). A hammerhead alternate design may be utilized with the approval of the Town Highway Superintendent.

H. The entire width of the travel way of each street in a proposed subdivision shall be graded and suitably prepared for installation of paving and drainage structures, in accordance with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to minimum standards of the Town Road Specifications.

I. The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

Type of Street	Minimum Shoulder Width	Minimum Clearance Beyond Shoulder	Minimum Pavement Width
Major Streets	4 feet	2 feet	24 feet
Collector Streets	3 feet	2 feet	20 feet
Minor Streets	3 feet	2 feet	18 feet

J. Unless otherwise specified herein, pavement construction shall be in accordance with specifications and standards contained in the Town Road Specifications, except that private roads not intended for dedication to the Town of Rochester do not require macadam pavement.

(1) Street shoulders shall be constructed with materials as specified by the Town Road Specifications. The entire shoulder area shall be uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.

(2) Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of three (3) feet horizontally to one (1) foot vertically in a cut or fill section. In special cases, the Town Engineer may require more-rigid standards.

K. In commercial or multi-family subdivisions or any other case where other similar intensive uses exist or are anticipated, curbs may be required, if such construction is deemed necessary for public safety by the Planning Board, based on consultation with the Town Engineer and shall be constructed to according to good engineering practice.

L. Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Planning Board, and shall be sufficient to support the street or the adjacent land, as the case may be. Where the grade of the street is three (3) feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.

M. All streets, including cul-de-sacs and alleys, shall be constructed as shown on the Preliminary and Final Plan approved by the Planning Board and in conformity with the Town Road Specifications, ex-

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cept as provided herein. Approval of the Town Highway Superintendent shall also be required for all road plans, regardless whether they are proposed for dedication or not. Where such Law does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation for local streets.

- N. Four-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the subdivider at his own expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not be repeated within the Town and shall be subject to Planning Board and Ulster County approval.
- O. Street lighting is the responsibility of the applicant to provide, and the lot owners to maintain and operate. The Planning Board may determine when and if street lighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not street lights are initially installed, the developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.
- P. Shade trees and other natural buffers along any proposed street right-of-way shall be retained to the maximum extent possible and cuts and fills which would necessitate removing such cover shall be minimized. Wide swath cuts or removal of natural vegetation shall not be permitted without compelling safety reasons.
- Q. No driveway, street or drainage facility or structure shall be constructed or altered within a state right-of-way, and no drainage facility of the New York State Department of Transportation or County of Ulster shall be altered or connected onto without first obtaining a permit from the New York State Department of Transportation or County of Ulster. No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Rochester shall be altered or connected onto without first obtaining a permit from the Town of Rochester Highway Superintendent.
- R. Individual driveways serving only one single-family each shall not be subject to street improvement requirements of this Law or on the Town Road Specifications. Also, private drives (as distinguished from private streets allowed in all circumstances, provided they meet the standards of this article) shall be permitted provided they do not serve more than four (4) single-family dwellings and meet the specific standards of §125-22.L hereof, and further provided that the Town of Rochester is given satisfactory evidence, in the form of deed covenants, that the private status of said road is permanent and that the following construction standards are met:

Type of Street or Way	Minimum Right-of-Way Width
Minimum Right-of-Way	25 feet
Minimum Pavement Width	16 feet
Minimum Shoulder Width	2 feet

Pavement may consist of any all-weather surface satisfactory to the Town Engineer (if one shall be appointed) and Town Highway Superintendent. All drainage plans shall also be subject to approval of the Town Engineer (if one shall be appointed) and Town Highway Superintendent.

- S. Nothing contained herein shall be construed in any way to require the Town of Rochester to accept dedication of any street. These regulations are intended, rather, to set standards of construction for private streets and a proposed dedication of any such streets shall be subject to the specific dedication requirements of the Town Road Specifications.

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### **§ 125-29 Affordable Housing Incentives**

- A. This section is enacted pursuant to the authority of the Municipal Home Rule Law authorizing towns to adopt a local law which amends or supersedes any provision of the Town Law in relation to property, affairs or government of the town.
- B. The Town Board of the Town of Rochester hereby enacts this section superseding §§ 3 of § 277 of the Town Law so as to grant authority to the Town of Rochester Planning Board to waive certain and limited dimensional requirements of the Town of Rochester Zoning Law with respect to lots in residential subdivisions. The Town of Rochester Planning Board is hereby authorized to modify, when reasonable, with respect to subdivision plans for residential subdivisions, the lot area, lot width and/or lot depth requirements provided in the Town of Rochester Zoning Law. Such authority shall be limited to a maximum of 20% of the residential lots created and be further limited to those lots restricted to development for affordable housing, which shall be of the same type as the remainder of the subdivision (e.g. multi-family dwellings would not be permitted in a single-family development). Affordable housing is, for the purposes of this regulation, hereby defined as housing to be sold, subject to a plan approved by the Town of Rochester Planning Board, at prices not exceeding 150% of the median sales price for existing single-family dwellings within the Town for the most recent year as reported by the New York State Office of Real Property Services. A developer taking advantage of this provision shall provide evidence of compliance with this standard throughout the sales period subject to a program approved by the Town of Rochester Planning Board at the time of Preliminary Plan approval.
- C. Any modification granted by the Planning Board may be subject to such conditions as the Planning Board may determine reasonably necessary to promote public health, safety and general welfare. Such waiver shall also be limited to the minimum necessary to achieve the purpose of creating affordable housing supplies within the Town. The Town of Rochester Planning Board shall be under no obligation to approve any modification that, in its judgment, based on evidence presented by the subdivider, does not establish need.