

SUBDIVISION AND DEVELOPMENT OF LAND

ARTICLE I

General Provisions

§1. Purpose and Authority

This chapter is enacted pursuant to the authority granted to the Town Board in Article 16 of the New York State Town Law and §10 of the Municipal Home Rule Law for the purpose of providing for the future growth and development of the Town and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population. By this chapter, the Planning Board is empowered to approve site plans and preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways, within that part of the Town outside the limits of any incorporated village.

§2. Title

This chapter shall be known as “Local law No. 1-2024, Chapter 350-145, the Subdivision and Development of Land Law of the Town of Barre.”

§3. Definitions

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and give this chapter its most reasonable application.
- B. In cases where words or phrases are not defined in this chapter but are defined elsewhere in the Town of Barre Code, the words or phrases shall have the meaning set forth elsewhere in the Code.
- C. When used in this chapter the following terms shall have the respective meanings set forth herein, except where the context shows otherwise:

CLUSTER OR AVERAGE DENSITY DEVELOPMENT – A subdivision plat or plats, approved pursuant to this chapter, in which the applicable zoning local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands.

CODE – Unless otherwise indicated, the Code of the Town of Barre.

CONCEPT PLAN – A sketch of a proposed site plan or subdivision. The purpose of a concept plan is to enable a developer to save time and expense in reaching general agreement with the Planning Board as to the form of the proposed layout and the objectives of this chapter prior to incurring substantial costs for preparation and review of a preliminary or final plan.

CONDITIONAL APPROVAL OF A FINAL PLAT – Approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the Orleans County Clerk.

EASEMENT - Authorization by a property owner for the use by another, for a specified purpose, of any designated part of the owner's property.

FINAL PLAT – A drawing prepared in a manner prescribed by §15 and the Planning Board that shows a proposed subdivision together with the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat, if such preliminary plat has been so approved.

FINAL PLAT APPROVAL – The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to the Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed, including, where applicable, that financial security be posted as set forth in §30 below. Such final approval qualifies the plat for recording in the office of the Orleans County Clerk, if required.

INFRASTRUCTURE – Roads, drains, sewers, water mains and appurtenances thereto, both private and intended to be turned over to the Town of Barre for maintenance and operation.

PLANNING BOARD – The Planning Board of the Town of Barre as established in Chapter 59 of the Barre Town Code.

PRELIMINARY PLAT – A drawing prepared in a manner prescribed by this chapter and the Planning Board, showing the layout of a proposed subdivisions, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, including preliminary plan and profiles, at suitable scale in such detail as required by this chapter.

PRELIMINARY PLAT APPROVAL – The approval of the layout of a proposed subdivision as set forth in a preliminary plat but subject to the approval of the plat in final form in accordance with the provisions of this chapter.

PRIVATE ROAD – Any undedicated road serving two or more parcels or two or more independently used and occupied buildings within a residential, commercial, or industrial development.

RESUBDIVISION – A change in a map of an existing, approved or filed subdivision plat involving only lot line alterations and not resulting in any increase in the number of lots, if such change does not affect any street layout shown on such map or area reserved thereon for public use or restricted by conservation easement and complies with applicable zoning.

SEQRA – The New York State Environmental Quality Review Act which is contained in Article 8 of the New York State Environmental Conservation Law. References herein also are intended to incorporate the implementing regulations of SEQRA contained in 6 NYCRR Part 617.

SITE PLAN – A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this chapter and Chapter 350 Article X, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. Plats showing lots, blocks or sites which are subject to review pursuant to authority provided for the review of subdivisions under this chapter shall continue to be subject to such review and shall not be subject to review as site plans.

STREET – A right-of-way for vehicular traffic, whether designated as a “street,” “highway,” “thoroughfare,” “parkway,” “road,” “avenue,” “boulevard,” “lane,” “place,” “alley” or however otherwise designated, but not including a private driveway serving a single property.

SUBDIVIDER – Any person, corporation, partnership or other organization which lays out any subdivision, as defined herein. The term “applicant” and “developer” may also be used to refer to a subdivider.

SUBDIVISION – The division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways, for the purpose of sale, transfer of ownership, or development. The transfer of agricultural parcels of at least 10 acres for the purpose of continued agriculture, shall not be included within this definition nor subject to these regulations.

- MAJOR SUBDIVISION – Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots, or any size subdivision requiring a new street or extension of municipal facilities such as Public Water and Public Sewer.
- MINOR SUBDIVISION – Any subdivision containing not more than four lots fronting on an existing street, not involving a new street or road of the extension of municipal facilities such as Public Water and Public Sewer and not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Code, or these regulations.
- PRIOR SUBDIVISIONS – If the same landowner with respect to the same parcel of land has previously effected at least one subdivision of such parcel, either minor or major, then for purposes of determining whether any subsequent proposed subdivision is major or minor, the applicant shall be treated as if all prior subdivisions are requested under such subsequent application. The avowed purpose of this provision is to prevent a single landowner from effecting a major subdivision over an extended period of time through a series of minor subdivisions.

TOWN ENGINEER – The duly designated Engineer of the Town of Barre or outside Professional Engineer engaged by the Town of Barre for a specific application.

TOWN ATTORNEY- The duly appointed Town Attorney or Attorney for the Town of Barre.

§4. Severability.

Should any section, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

§5. Reference to subdivision regulations.

Elsewhere in the Code there are references to subdivision regulations. All references to subdivision regulations are declared to be references to this chapter.

§6. Effect on other regulations.

- A. The adoption of this chapter shall not affect or impair any act done or right accrued prior to the time this chapter takes effect under regulations relative to subdivisions and site plans in the Town. It is the intent of this subsection to grandfather all parcels created prior to the date of enactment of this chapter with respect to the existence of said parcel as a separate lot. However, all parcels whenever created shall be subject to the provisions of this chapter for any and all site plans and subdivisions proposed after the date of enactment of this chapter.

- B. The adoption of this chapter shall not affect or impair any act done, offense committed or right accrued or acquired liability, penalty forfeiture or punishment incurred prior to the time this chapter takes effect under the regulations relative to subdivisions and site plans in the Town.

§7. Repealer.

All ordinances, local laws and regulations inconsistent herewith are hereby repealed, with the provision that violations of those ordinances, local laws or regulations and all amendments thereto shall remain violations to the extent that the matters in violation do not conform to the provisions of this chapter.

§8. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000. Each week's continued violation shall constitute a separate additional violation.

§9. Effect of unauthorized subdivision on permits.

Should a subdivision be created by deed or otherwise after the effective date of this chapter without following the rules and procedures set forth herein, then, in that event, no further permits or certificates shall be issued for the subdivided property including the original parcel from which the subdivision was created. Subdivisions of land created prior to the enactment of this chapter are not subject to the provisions of this section.

§10. Civil enforcement.

In addition to the actions authorized by §8 and §9, appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter, to prevent unlawful construction, to recover damages, to restrain, correct or abate any violation of this chapter or to prevent illegal occupancy of a building, structure or premises.

§11. Tax number not a waiver.

Assignment of a tax number or other mode of separate identification of a unit of land by the Assessor for the purpose of tax administration shall not be deemed to create or legitimize a division of land otherwise invalid hereunder.

§12. Fees and costs.

For each application for a site plan or subdivision, the Town of Barre shall collect a fee from the applicant. The schedule of these fees is established by resolution of the Town Board and updated from time to time. In addition to the fees which are designed to reimburse the Town for expenses of review by the Planning Board, the Town Board may authorize the charging of plan-specific fees for engineering review, SEQRA review and legal review for site plans and subdivisions submitted to the Planning Board. No permit or certificate of any kind shall be issued for any parcel of land or subdivision for which there are monies due to the Town of Barre pursuant to this chapter and resolutions enacted hereunder. Said fees shall be subject to the provisions of Article VI herein.

ARTICLE II

Submission Requirements for Subdivision

§13. Submission required.

Any applicant who proposes to develop a subdivision in the Town of Barre shall submit plats and other documents for approval as provided in this article.

§14. Preliminary subdivision plat application.

A. Completed subdivision application form, receipt for payment or required application fee, and 10 copies of the proposed subdivision plat and all supporting documents.

B. At a minimum the preliminary plat subdivision application submittal shall include:

(1) Preliminary plat. Drawn accurately to an acceptable scale not smaller than 50 feet to one inch. The items to be submitted are as follows:

- a. The name and address of the owner or owners of land to be subdivided and any professionals assisting in the application.
- b. The date of the map, approximate true North point, scale and title of the subdivision.

- c. An illustrative plan for lot and street layout indicating plans for connections to existing streets.
- d. The subdivision's boundaries and the current owners of all contiguous properties and the names of any adjoining developments.
- e. The total acreage of the subdivision, the number and dimensions of lots, including width, depth, and acreage or square footage of every proposed lot.
- f. An illustrative plan for wastewater disposal and handling stormwater runoff.
- g. The zoning classification and tax map number(s) of the property to be subdivided.
- h. The zoning regulations affecting the proposed subdivision including setbacks, density, coverage and other regulations.
- i. Watercourses, marshes, rock outcrops, floodplains and wetlands, and other important land features.
- j. Any concept plans for proposed recreational land, parks or other open of public spaces.
- k. All green areas, open space and screen plantings, giving the size and type of plantings to be used, if applicable.
- l. A stormwater pollution prevention plan (SWPPP).
- m. The location of all existing and proposed sidewalks, bikeways or footpaths both on the property and adjacent to it.
- n. Indications of compliance with requirements of the New York State Department of Health and the New York State Department of Environmental Conservation.
- o. Estimate of increase in water consumption.

- p. Further requirements. More detailed information may be required by the Board as a part of the preliminary submission in special cases.
- (2) The location of relevant natural features such as watercourses or rock outcroppings.
- (3) Completed Environmental Assessment Form, as required by SEQRA regulations.
- (4) Waiver of submission requirements. The Planning Board may waive, upon the request of the applicant, any of the above submission requirements if the Planning Board determines that such requirement is not necessary or appropriate for review of the subdivision.
- (5) Minor subdivisions shall follow the same procedural requirements as required for major subdivisions, except that preliminary and final approval may be granted simultaneously.

§15. Final Subdivision plat application.

- A. Completed subdivision application form, receipt for payment of required application fee, and 10 copies of the proposed subdivision plat and the supporting documents.
- B. At a minimum the final subdivision plat applications submitted shall include:
 - (1) The applicant shall submit a final subdivision plat, to a scale not smaller than 50 feet to one inch. The final subdivision plat shall contain the same information, except for any changes or additions required by decision of the Board, as shown on the preliminary plat. The preliminary plat may be used as the final subdivision plat if it meets the applicable requirements and is revised in accordance with the Board's decision. All revision dates must be shown. The items to be submitted are as follows.
 - a. Notation of any self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Board in accordance with this chapter.
 - b. Indications of compliance with requirements of the State Department of Health and/or State Department of Environmental Conservation.

- (2) Plan/profile of each street and utility easement, with an acceptable horizontal scale not to exceed 50 feet to one inch and vertical scale of five feet to one inch showing the following:
 - a. All pavement, storm drains, sanitary sewers, gas lines and waterlines with appurtenances.
 - b. Pavement and utility stationing including all horizontal and vertical control points and grades.
- (3) Signature and seal of a professional engineer and/or a land surveyor, both registered in New York State, or a qualified land surveyor under §7208, Subdivision (n) of the Education Law.
- (4) A North arrow.
- (5) Standard title block.
- (6) Final plat, and plan/profiles shall show all facilities, which the subdivision standards require. All lettering shall be neat and legible. All sheets shall be 24 inches by 36 inches in size. When more than one layout sheet is required all shall be the same size, each sheet shall be numbered in sequence and an index sheet of the same size shall be provided showing the entire subdivision to an appropriate scale.
- (7) In addition to the required drawings, the following documents shall be submitted as a part of the final submission.
 - a. An estimate of construction costs for the purpose of establishing a financial security to cover the full cost of all required improvements.
 - b. Final design of bridges and stormwater facilities and the inclusion of a stormwater management report.
 - c. Such other certificates, affidavits, endorsements or agreements as may be required by the Board in the enforcement of this chapter, including, but not limited to, zoning changes, variances, and special use permits.
 - d. Submission of a draft copy of a developer's agreement, if required by the Planning Board, identifying the special terms and conditions of any approval

at relating to inclusionary zoning or other special amenities provided in the subdivision.

- e. A Stormwater Pollution Prevention Plan (SWPPP) consistent with the terms of the preliminary plan approval shall be required for Final Subdivision Plat Approval.
 - f. A revised SEQR form, if such revisions were necessary.
- (8) A narrative description of the conditions or requirements for approval of the subdivision from the preliminary stage (if applicable). These conditions or requirements, to the extent possible, are to be illustrated on the final subdivision plat included with the application.
- (9) Further requirements. More detailed information may be required by the Board as part of the final submission in special cases.

ARTICLE III

Procedure for Filing Applications

§16. Compliance.

Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for the erection of a structure in a proposed subdivision or on a proposed site plan shall be granted, the developer or subdivider or their duly authorized agent shall apply in writing for approval of such subdivision or site plan in accordance with the following procedures, standards and requirements.

§17. Procedures for approval.

- A. Concept plan. Concept plan review is not required but is highly recommended for site plans and subdivisions. While concept plan review is conducted at an open meeting, it is not conducted as a public hearing. While the Planning Board acts in good faith, nothing from concept plan review shall be taken to mean that the application will be approved after preliminary and/or final review until the requirements for those approvals, if necessary, shall have taken place.
- B. Subdivisions and site plans. Subdivisions and site plans are subject to the procedures set forth below.

- C. Site plan review. For the purpose of reviewing site plans, the provisions for subdivisions shall apply and the reference to "preliminary plat" or "final plat" shall be taken to mean "preliminary site plan" or "final site plan." In cases where reference is made to the filing of a plan in the Orleans County Clerk's office, such filing shall only be necessary for site plans when required by the Planning Board.
- D. Site plan review of additions, alterations and modifications to multifamily residential, commercial and industrial. Prior to issuing a zoning permit for the purposes described in § 350-91(E)(2) on any lot in any district, except for additions to single family or two-family dwellings, accessory structures for single family or two-family dwellings and agricultural structures, the Zoning Officer shall refer the site plans of such lot to the Planning Board for its review and approval in accordance with the provisions of this chapter.

§18. Resubdivision.

For a resubdivision, the same procedure, rules and regulations apply as for a subdivision except, if the proposed resubdivision consists solely of the simple alteration of lot lines, then normal subdivision procedure may be waived at the discretion of the Planning Board.

§19. Approval of preliminary plats.

- A. Submission of preliminary plats. A preliminary plat shall be clearly marked "preliminary plat" and shall conform to the definition and requirements provided in this chapter.
- B. Coordination with SEQRA. The Planning Board shall comply with the provisions of SEQRA under Article 8 of the Environmental Conservation Law and its implementing regulations.
- C. Receipt of a complete preliminary plat. A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of SEQRA. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.
- D. Planning Board as lead agency under SEQRA; public hearing; notice; decision.
 - (1) Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
 - (a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after the

receipt of a complete preliminary plat by the clerk of the Planning Board; or

(b) If the Planning Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

(2) Public hearing notice and length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing, if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

(2) Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

(a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing; or

(b) If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

- (3) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When approving a preliminary plat subject to modification, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

E. Planning Board not as lead agency under SEQRA; public hearing; notice; decision.

- (1) Public hearing on preliminary plats. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the preliminary plat within 62 days after the receipt of a complete preliminary plat by the clerk of the Planning Board.

- (2) Public hearing notice and length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

- (3) Decision. The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat as follows:

- (a) If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the preliminary plat.

- (b) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on such preliminary plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.

- (4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When approving a preliminary plat requiring modification, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

F. Certification and filing of preliminary plat. Within five business days of the adoption of the resolution granting approval of such preliminary plat, such plat shall be certified by the clerk of the Planning Board as having been granted preliminary approval, and a

copy of the plat and resolution shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner.

- G. Filing of decision on preliminary plat. Within five business days from the date of the adoption of the resolution stating the decision of the Board on the preliminary plat, the chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
- H. Revocation of approval of preliminary plat. Within six months of the approval of the preliminary plat, the owner must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Planning Board.

§20. Approval of final plats.

- A. Submission of final plats. Final plats shall conform to the definition provided by this chapter.
- B. Final plats which are in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this article, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days of its receipt by the clerk of the Planning Board.
- C. Final plats not in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this article the following shall apply:
 - 1. Planning Board as lead agency; public hearing; notice; decision.
 - a. Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
 - i. If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat or on a final plat when no preliminary plat is required to be submitted, shall be held within 62 days after the receipt of a complete final plat by the clerk of the Planning Board; or
 - ii. If the Planning Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.

b. Public hearing notice and length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing, if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

c. Decision. The Planning Board shall make its decision on the final plat as follows:

i. If the Planning Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or

ii. If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

d. Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

2. Planning Board not as lead agency; public hearing; notice; decision.

a. Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement or if no public hearing is held on the draft environmental impact statement, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the clerk of the Planning Board.

- b. Public hearing notice and length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing, if held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
- c. Decision. The Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat as follows:
 - c.i. If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.
 - c.ii. If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

§21. Approval and certification of final plats.

- A. Certification of plat. Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the clerk of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such clerk's office. A copy of the resolution shall be mailed to the owner. In the case of a conditionally approved plat, such resolution shall include a statement of the requirements, including the required financial security pursuant to §30, which when completed will authorize the signing thereof. Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board and a copy of such signed plat shall be filed in the office of the Town Clerk.
- B. Approval of plat in sections. In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may in its resolution granting conditional or final approval state

that such requirements as it deems necessary to insure the orderly development of the plat be completed before said sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat may be granted concurrently with conditional or final approval of the entire plat, subject to any requirements imposed by the Planning Board.

- C. Duration of conditional approval of final plat. Conditional approval of the final plat shall expire within 180 days after the resolution granting such approval unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend by not more than two additional periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

§22. Default approval of preliminary or final plat.

The time periods prescribed herein within which the Planning Board must take action on a preliminary plat or a final plat are specifically intended to provide the Planning Board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the Planning Board. In the event the Planning Board fails to take action on a preliminary plat or a final plat within the time prescribed therefor after completion of all requirements under SEQRA, or within such extended period as may have been established by the mutual consent of the owner and the Planning Board, such preliminary or final plat shall be deemed granted approval. The certificate of the Town Clerk as to the date of submission of the preliminary or final plat and the failure of the Planning Board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.

§23. Filing of decision on final plat.

Within five business days from the date of the adoption of the resolution stating the decision of the Board on the final plat, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.

§24. Filing of final plat; expiration of approval.

The owner shall file in the office of the Orleans County Clerk such approved final plat or a section of such plat within 62 days from the date of final approval, or such approval shall expire. The following shall constitute final approval: the signature of the duly authorized officer of the Planning Board constituting final approval by the Planning Board of a plat as herein provided; or the approval by the Planning Board of the development of a plat or plats already filed in the office of the Orleans County Clerk if such plats are entirely or partially undeveloped; or the certificate of the Town Clerk as to the date of the submission of the final plat and the failure of the Planning Board to take action within the time herein provided. In the event the owner shall file only a section of such approved plat in the office of the Orleans County Clerk, the entire approved plat shall be filed within 30 days of the filing of such

section with the Town Clerk. Such section shall encompass at least 10% of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of § 265-a of the New York State Town Law.

§25. Compliance with zoning regulations.

The lots shown on said plat shall at least comply with the requirements thereof, subject, however, to the provisions of §31, Cluster or average-density development.

§26. Reservation of parkland on subdivision plats containing residential units.

- A. Before the Planning Board may approve a site plan or subdivision plat containing residential units, such site plan or subdivision plat shall also show, when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes.
- B. Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town, based on projected population growth to which the particular site plan or subdivision plat will contribute.
- C. In the event the Planning Board makes a finding pursuant to Subsection B of this section that the proposed site plan or subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan or subdivision plat, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board. In making such determination of suitability, the Board shall assess the size and suitability of lands shown on the site plan or subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this subsection, shall be deposited into a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.

§27. Application for area variance.

Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance, pursuant to § 267-b of the New York State Town Law and Chapter 350 of the Barre Code, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. In reviewing such application, the Zoning Board of Appeals shall request the Planning Board to provide a

written recommendation concerning the proposed variance. The failure of the Planning Board to provide a written recommendation shall not prevent the Zoning Board of Appeals from acting on the application.

§28. Waiver of requirements.

The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

§29. Financial security.

- A. Furnishing of security. Prior to the filing of the final plat, financial security sufficient to cover the full cost of the installation of infrastructure and improvements, as estimated by the Planning Board after consultation with the Town Engineer or other appropriate consultant designated by the Planning Board or a Town department designated by the Planning Board to make such estimate, where such departmental estimate is deemed acceptable by the Planning Board, shall be furnished to the Town by the owner.

- B. Security where plat approved in sections. In the event that the owner shall be authorized to file the approved plat in sections, as provided in this chapter, approval of the plat may be granted upon the filing of financial security sufficient to cover the costs of the required improvements in the section of the plat filed in the office of the Orleans County Clerk. The owner shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the County Clerk until security covering the cost of such improvements is provided.

- C. Form of security. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution, and shall be limited to:
 - (1) The deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state;
 - (2) An irrevocable letter of credit from a bank located and authorized to do business in this state;
 - (3) Obligations of the United States of America; or

- (4) Any obligations fully guaranteed as to interest and principal by the United States of America having a market value at least equal to the full cost of such improvements. If not delivered to the Town, such security shall be held in a Town account at a bank or trust company.
- D. Term of security agreement. Any such security agreement shall run for a term to be fixed by the Planning Board but in no case for a longer term than three years; provided, however, that the term of such security agreement may be extended by the Planning Board with consent of the parties thereto. If the Planning Board shall decide at any time during the term of the security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security or that the required improvements have been installed as provided in this section and by the Planning Board in sufficient amount to warrant reduction in the amount of said security, and upon approval by the Town Board, the Planning Board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the Planning Board.
- E. Default of security agreement. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Town Board may thereupon declare the said security agreement to be in default and collect the sum remaining payable thereunder, and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

§30. Cluster or average-density development.

A. Purpose

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

- (b) The land thus gained is preserved as permanent open space for the use and enjoyment of the residents of the area.

B. General conditions and requirements.

- (1) If a subdivider makes written application to the Planning Board for the use of this procedure, the Planning Board is hereby empowered to implement these provisions at its discretion if, in the Board's judgment, their application at the particular location is desirable and would contribute to the general well-being of the neighborhood and community and would benefit the Town.
- (2) The minimum area required to qualify for this procedure shall be 10 contiguous acres of land.
- (3) This procedure applies only to residentially zoned land on which residential developments are proposed.
- (4) In addition to the foregoing, an average-density development subdivision plat may be approved only if the Planning Board determines:
 - (a) That such development will not be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property or improvements within its proximity.
 - (b) That the proposed development is in conformity with the objectives of the Comprehensive Plan.
 - (c) That the gross density will be no greater than if the tract were developed in accordance with the existing zoning requirements.
- (5) The subdivider shall dedicate for open space purposes the same percentage of the entire tract as that by which the lot area has, on the average, been reduced.
- (6) The area dedicated for open space purposes, including playgrounds and parks, shall be in a location and shape approved by the Planning Board.

C. Specific requirements. Any subdivision plat considered under this procedure shall conform to the following standards, which are to be regarded as minimum requirements:

- (1) For the purpose of administering this regulation, the following method shall be used for determining the maximum number of dwelling units that shall be permitted in an average density development:
 - (a) Determine the total area, in acres, of the proposed subdivision. For the purpose of this section, the term "total area" shall include all the land within the proposed subdivision that is intended and usable for the following purposes: residences, playgrounds, neighborhood parks, interior streets and reserved open space, including easements for natural watercourses if these meet the open space standards set forth in Subsection C(3) hereof.
 - (b) Multiply the total area, in acres, as defined in Subsection C(1)(a) above, by the permitted density (units per acre) in the district. If more than one district is involved, determine the total area in each of the individual districts, multiply each total area (acres) by the permitted density (units per acre) appropriate to each district and sum the individual multiplications. The product or sum of products thus obtained represents the maximum number of dwelling units which may be permitted in a subdivision being considered under these provisions.
- (2) The sizes of lots in an average-density development may vary from the normal requirements of the district dimensions, but no lot dimension or area requirement of the district shall be reduced by more than 50% without the express consent of the Town Board.
- (3) Land reserved for open space shall, in the judgment of the Planning Board, be of a character and location suitable for whatever open space purposes the land shall primarily be reserved for, such as natural areas, wildlife preserves, conservation areas, outdoor recreation sites, neighborhood parks, nature centers, wetlands, memorial forests, natural watercourses or other open space uses. The Planning Board may require that the open space be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. Reserved open space shall not be narrower than 200 feet, except where necessary to provide a pathway or other means of access. An easement for a natural watercourse dedicated to the Town may be considered as open space for the purpose of this regulation if such easement is at least 200 feet wide.

ARTICLE IV

General Considerations

§31. Character of the development to be considered in decision making.

In making such determination regarding streets, highways, parks and required improvements, the Planning Board shall take into consideration the prospective character of the development, whether dense residence, open residence, business or industrial.

§32. General Requirements.

Before the approval by the Planning Board of a site plan or subdivision showing lots, blocks or sites, with or without streets or highways, the Planning Board shall require that the land shown on the plat be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare. Further, it is declared to be the policy of the Town of Barre to consider land subdivisions and site plans as part of a plan for the orderly, efficient and economical development of the Town and in a manner that is reasonable and in the best interests of the community. The Planning Board will be guided in its consideration of an application for a site plan or subdivision and development of land by the following general requirements:

- A. Streets and highways be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection, and to provide access of firefighting equipment to buildings. Such streets and highways shall be coordinated so as to compose a convenient system conforming to the Official Map and properly related to the proposals shown in the Comprehensive Plan of the Town.
- B. All streets or other public places shown on such plats be suitably graded and paved; street signs, sidewalks, streetlighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices (including necessary ducts and cables or other connecting facilities), sanitary sewers and storm drains be installed all in accordance with standards, specifications and procedures acceptable to the appropriate Town departments, except as hereinafter provided, or alternatively that a performance bond or other security be furnished to the Town, as hereinafter provided.
- C. Insofar as possible, all existing features of the landscape, such as large trees, rock outcrops, unusual glacial formations, water and flood courses, wetlands, historic sites and other such irreplaceable and environmentally sensitive areas and assets, should be preserved.
- D. Compliance with Comprehensive Plan and other laws.
 - (1) Subdivisions and site plans shall be in conformance with the Town Comprehensive Plan and all other local ordinances. Subdivisions and site plans shall conform to the streets, parks and other public ways or spaces shown on the Official Map of the Town, if any. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air, and to facilitate fire protection.

- (2) The Planning Board shall consider the effect of any subdivision or site plan on agricultural operations within or adjacent to agriculture districts pursuant to Article 25AA of the Agriculture and Markets Law.
- E. Land subject to flooding and land deemed by the Board to be uninhabitable shall not be platted for residential occupancy nor such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the final plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.
 - F. In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further resubdivision.
 - G. No privately owned reserved strips controlling access to land dedicated or to be dedicated to public use shall be permitted.
 - H. No excess topsoil or subsoil shall be removed from the site unless approved by the Planning Board.
 - I. Standards for required improvements shall be appropriate for the public use and demand anticipated upon full development and shall be of sufficient size to accommodate development of proximate areas, if these are considered by the Board to be logically served through the subject property.
 - J. Applicants bear the responsibility of providing sound engineering design of all infrastructure, subject to the approval of the Town of Barre and the respective authorities having jurisdiction over existing infrastructure. The design shall be prepared by a professional engineer licensed to practice in the State of New York, who shall have had experience in infrastructure design. The design shall conform to the requirements set forth herein.

ARTICLE V

Specific Requirements

§33. Streets and roads.

- A. The arrangement of streets in a subdivision shall provide for the continuation of the principal streets in adjoining subdivisions and for their proper projection when adjoining

property is not subdivided and shall be of a width at least as great as that of such existing connection streets.

- B. Street systems shall be designed with due regard to the needs for convenient traffic access and circulation; traffic control and safety; access for firefighting, snow removal, and street maintenance equipment; and stormwater drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable.
- C. The streets in contiguous developments shall be coordinated so as to compose a convenient system. Where a development adjoins undeveloped land, its streets shall be laid out so as to provide suitable future street connections with the adjoining land when the latter shall be developed. A street thus temporarily dead-ended shall be constructed to the property line and shall be provided with a temporary turnaround of the same dimensions as for permanent dead-end streets if in excess of 200 feet, with a notation on the plan providing for temporary easements for the paved turnaround until such time as the street is extended. These same requirements shall apply at the discretion of the Planning Board in those cases where the adjoining land is another section of the same project which is not scheduled for development at the same time.
- D. Streets shall be designed in a manner that will accommodate the existing topography, and all streets shall be laid out so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided. Vertical curves where sight distances from planned driveways will be compromised must be addressed early in the design phase and brought to the attention of the Town.
- E. The contractor shall not operate tracked construction equipment on dedicated roads. The contractor/ developer shall be responsible for all site and roadwork damaged during construction operations and said damage shall be repaired, at the developer's/contractor's expense, prior to acceptance of dedication to the Town.
- F. Where the only access to the project is via an existing dedicated road, the contractor/developer shall request permission from the Town Board to use the road as a construction access. A financial guarantee shall be provided to cover damages to the road due to construction equipment.
- G. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance sufficient to accommodate a lot meeting the requirements of Chapter 350, Zoning, of the Barre Code. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Planning Board may require the reservation of an easement for pedestrian traffic or utilities. A cul-de-sac

turnaround shall be provided at the end of any permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, the length of permanent dead-end streets may be limited. For temporary dead ends, there shall be provided a suitable turnaround, constructed to Town specifications, together with an easement over any lands used for the turnaround but not being offered for permanent dedication.

- H. Triangles, circles or other traffic-channeling islands may be required at intersections where present or anticipated traffic conditions indicate their advisability for traffic control or safety.
- I. The developer shall take adequate measures to preserve desirable existing trees in suitable locations within the development. In general, the street right-of-way shall be cleared of existing trees, but occasional existing trees of unusual value may be preserved within the street right-of-way if approved by the Planning Board. New tree plantings are not allowed within the right-of-way, unless approved by the Planning Board and Highway Department. Planting of new trees may be required by the Planning Board.
- J. Traffic control and street identification signs shall be provided as part of the development. Street signs shall be required at the time the road is paved with the binder course of asphalt and prior to issuance of the first certificate of occupancy. The developer shall pay the Town Highway Department for the installation of the street signs or post an adequate security.
- K. All streets shall be named, and such names shall be subject to the approval of the Planning Board, Highway Superintendent, and by the office administering 911. Where feasible, the Assessor and Building Inspector shall assist in the numbering of the lots. To assist emergency personnel, the Assessor and Building Inspector shall review and approve the numbering of units, rooms or apartments in all complexes whether on a public or private road. Names shall be sufficiently different in sound and spelling from other street names in the Town of Barre and post offices contiguous to the Town of Barre so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. Relating street names to features of local historical, topographical, or other natural interest is encouraged.
- L. Permanent survey monuments shall be set in the boundary of rights-of-way at intersecting streets, PC and PT of curves, though the PI of short curves may be used instead where such is practical, at the discretion of the Highway Superintendent and/or the Town Engineer. Monuments shall be placed along the R.O.W. line on one side of the street only and at only one corner of intersecting streets. Adjacent monumented points shall be intervisible. Monuments shall not be placed in the roadway.

- M. Monuments shall be tied into the New York State Coordinate System or other datum acceptable to the Highway Superintendent and/or Town Engineer. Monument locations shall be shown on the subdivision record map, along with the coordinates. Field notes of ties to monuments or a tie sheet shall be recorded on the Monumentation As-Built.
- N. Iron pin markers shall be set at the beginning and ending of all curves along street property lines; at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots; and at all corner lots.
- O. In addition to the required improvements specifically referred to elsewhere in these regulations, subdivision plats and other developments shall provide for all other customary elements of street construction and utility service which may be appropriate in each locality, as determined by the Planning Board upon consultation with the Town Engineer and Highway Superintendent. Such elements may include, but shall not be limited to, street pavement, gutters, stormwater inlets, manholes, curbs, sidewalks, streetlighting, water mains, fire hydrants, fire alarm signal devices, and sanitary sewers. Underground utilities within the street right-of-way shall be located as required by the Highway Superintendent and/or the Town Engineer, and underground service connections to the street R.O.W. of each lot shall be installed before the street is paved.
- P. To promote and protect the public health, safety, and welfare it shall be the policy of the Town Board to control the number of entrances and exits onto and off state, county, and Town highways. As part of the process of approving sketches, maps, plots, plats, or plans, the Planning Board may, in appropriate circumstances, require that the applicant grant to the Town of Barre such easements as are required to provide access to contiguous properties onto a public highway via frontage or service roads, common driveways, or such other roadways as are required so that the number of entrances and exits onto and off state, county, and Town highways are not increased.
- Q. Standards for streets in nonresidential subdivisions and other developments with an internal circulation network shall be appropriate for the use intended and shall be established by the Planning Board upon advice of the Town Engineer.
- R. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.
- S. All roads, whether dedicated or private, shall set over the winter months prior to the final application of topping material. Prior to the placement of the top course of asphalt, the entire road shall be treated with "tack coat." The top material may be installed in the

spring of the following year or as approved by the Town Engineer. Binder shall be a tighter mix approved by the Town Engineer.

- T. Certificates of occupancy shall not be issued until the binder course is installed on all roads/drives, whether they are to be dedicated or private

§34. Private Roads.

- A. Private drives, may be proposed instead of public roads for site plans and subdivisions of:

- (1) Four or fewer single-family dwelling lots;
- (2) Four or fewer single-family dwelling lots;
- (3) Townhouses;
- (4) Condominiums; or
- (5) Commercial or industrial developments.

- B. The Planning Board will review all private roads in relation to access, ability to support traffic loads, traffic circulation, drainage and maintenance. All private roads shall be named and marked with an approved sign for adequate identification for emergency and fire situations. The conditions and standards for private drives are as follows:

- (1) The length of the drive may vary but shall be designed for convenience to traffic, effective police and fire protection, safety and ease of maintenance.
- (2) Prior to final approval, the applicant shall obtain the State Attorney General's approval or no action letter for the private road.

§35. Sidewalks.

- A. Sidewalks shall be required on one side of the street in any subdivision that has closed roadside drainage, concrete gutter or curbs.
- B. Subdivisions with open ditch roadside drainage do not require sidewalks, but they may be provided at the option of the developer.

§36. Easements.

- A. It shall be the responsibility of the developer to furnish easements to the Town of Barre, as required, for the installation and permanent operation of storm sewers, sanitary sewers, water mains or access roads where required.
- B. Easements to be granted to the Town of Barre for any proposed development must be prepared and presented to the Planning Board Attorney prior to final approval of the project. After final approval, but prior to signing of the map, the developer shall cause the easements to be recorded in the Orleans County Clerk's office at the developer's expense. The developer shall then furnish a time stamped copy to the Planning Board Attorney as proof of filing.
- C. These easements shall be prepared prior to the approval of the detailed plan and be so written as to be contingent upon the Town's approval of said plan. Applicants bear the responsibility and costs for preparation of the easement maps and assuring their transfer to the Town of Barre and recording in the County Clerk's office.
- D. All access and utility easements granted to the Town must have an access to a dedicated street.
- E. The Town of Barre reserves the right to require easements for anticipated future utilities where, in the opinion of the Planning Board pursuant to the recommendation of the Town Engineer, such easements are justified by the estimated rate of growth of the area in question.
- F. Where a development is traversed by a watercourse, drainageway, channel, or stream or contains a pond which crosses a property line, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage and to accommodate the twenty-five-year flood area of such watercourse. Access on easement from a dedicated highway sufficient to permit passage of maintenance equipment should be provided. Piping of the watercourse may be provided.
- G. Stream easement width to accommodate drainage shall be determined by the Planning Board, based upon the recommendation of the Town Engineer, and may include provisions for pedestrian access, if required by the Planning Board.

§37. Utilities.

- A. Generally. If required by the New York State Public Service Commission ruling (tariffs) for all public utilities, utilities shall be underground, including electric, telephone and cable TV. Utility companies shall obtain the necessary approvals and permits prior to starting construction.
- B. Water.
- (1) Where public water is not available, water supply may be approved from private wells, provided that the subdivider must submit to the Town results of an approved water quality sample from the Orleans County Health Department or certified testing laboratory tested to health department standards prior to issuance of a building permit. Development plans shall contain a note stating that the Town is not responsible for quantity or quality of any well supply.
 - (2) The criterion of design will normally be that pipes shall be sized to obtain the required fire flow at the critical point in the development while satisfying the average daytime domestic draft, and in no case shall be less than ISO standards.
 - (3) Where public water is not available, the developer may be required to install fire suppression ponds or similar on-site storage to aid fire protection.
 - (4) When private wells are to be used, as well as individual sewage leach fields, the developer must satisfy the requirements of the Orleans County Health Department regarding separation and pollution of the private well.
- C. Sanitary sewer. Sanitary sewers shall be provided wherever the proximity of existing sewers makes it possible and economically feasible. They shall be designed in accordance with the standards set forth by the New York State Department of Environmental Conservation, Town Engineer, and such other agency as has jurisdiction over design, construction and/or final operation or maintenance. The developer shall be responsible to secure the approval of the appropriate agency to connect the new sanitary sewers to the agency's existing sewers, prior to start of construction. Sanitary sewers are to be extended to the limits of the project.
- D. Private sewage disposal systems. Individual private septic systems may be permitted instead of sanitary sewers where sanitary sewer service is too distant to be provided economically and sewer service is not proposed in the Comprehensive Plan. The applicant shall provide information sufficient to demonstrate compliance with the regulations and procedures of the Orleans County Health Department.
- E. Drainage and stormwater and storm sewers.

- (1) It is the Town's policy to control both the quantity and quality of stormwater runoff. Facilities shall be designed to take the runoff from streets, lawns, paved areas and runoff areas. Full engineering attention shall be given to the interception and conveyance of stormwater by the street drainage system, a system of backlot-lie drainage swales and main drainage channels through the development.
- (2) Stormwater quantity and quality management shall be provided for all new land development (including redevelopment) where, in the judgment of the Town Engineer, it is considered necessary in order to provide drainage control and to protect water quality.
- (3) An adequate and comprehensive drainage system shall be provided to convey the stormwater runoff originating within and outside the development in accordance with the natural direction of runoff for the total upland watershed area affecting the development. Such drainage systems shall have sufficient capacity to accommodate the potential future runoff based upon the probable land use and ultimate development of the total watershed area upland of the development.
- (4) The preservation and improvement of natural watercourses is important to the overall drainage plan in the Town of Barre. When developing a site that has a natural watercourse (numbered tributary), this watercourse should be designed to conform to the standards directed by the Highway Superintendent or Town Engineer. Improvements shall be performed and paid for by the applicant as part of the development costs.
- (5) No developed or rebuilt area shall discharge stormwater into adjacent culverts and channels at a rate greater than what occurs under a natural undeveloped condition. The fact that downstream facilities are inadequate prior to development and, therefore, flood at certain times, does not imply that increasing the frequency at which they will flood by allowing additional runoff from a development will be acceptable.
- (6) Stormwater leaving the site shall be discharged to a recognized drainage course via easements dedicated to the Town.
- (7) If the Town deems it desirable and appropriate to remedy a downstream flooding situation, they may, at their discretion, require an impoundment area of a size and type which can assist in rectifying the downstream flooding situation. This downstream flooding situation might be a case where backyards flood rather frequently or where downstream piping systems are overtaxed, possibly causing backup into cellars, yards, etc. The cost of any excess facilities is subject to negotiations with the developer.

- (8) The developer shall comply with the requirements set forth in the Phase II State Pollution Discharge Elimination System (SPDES) General Permits for Stormwater Runoff from Construction Activity, as well as the current New York State Stormwater Management Design Manual.
- (9) Stormwater management facilities associated with developments subject to Phase II SPDES General Permits for Stormwater Runoff from Construction Activity shall be designed to comply with the New York State Stormwater Management Design Manual. Where the standards in this chapter are not consistent with the SPDES General Permit Requirements, the more restrictive shall apply. The Town reserves the right to require more stringent standards in circumstances where the Town Engineer determines more stringent standards are warranted.
- (10) Drainage easements shall be reserved where road runoff must cross private property. Easement width is to be established by the Town Engineer and approved by the Planning Board.
- (11) Easements shall be provided along all natural watercourses and dedicated facilities. Additional easements may be required to maintain drainageways where deemed necessary by the Town of Barre. Easement width is to be determined by the Town Engineer and approved by the Planning Board.
- (12) The developer and his engineer shall be responsible for furnishing, as part of their plans to be presented before the Planning Board, full and sufficient details of all hydraulic structures. This includes, but is not limited to, cross sections of drainage channels, details of headwall construction, erosion control structures, special manholes, detention facilities and all such other items as may be necessary to establish fully the methods and materials to be followed in construction.
- (13) All culverts placed in existing streams shall be designed to ensure that the upstream water surface elevation will not be increased by placing this structure in the path of flow.
- (14) On certain projects there may be key elevations which must be adhered to, as determined by the Town Engineer. These key elevations may be finished floor, lowest architectural opening or basement floor elevations. Applicant's engineer/surveyor shall certify these key elevations in writing, prior to the issuance of a certificate of occupancy.
- (15) The Town has determined that stormwater detention basins will be required because continual upstream development tends to overtax both downstream natural

watercourses and man-made drainage facilities. In addition, increased rates of stormwater runoff cause environmental problems downstream such as highly erosive velocities, flooding and overtopping of the banks. Consequently, it has been determined to insist upon detention basins and to have these detention basins designed in a manner compatible with the particular problem. Due to the topography of the Town of Barre, detention facilities will be off-stream ponds.

- (16) The developer is responsible for providing and transferring to the Town permanent easements of a location and type adequate to encompass and to service and maintain the facilities. Such easements are to be approved by the Planning Board Attorney prior to final subdivision approval.
 - (17) If not adjacent to a public right-of-way, an easement shall be provided for access for purposes of maintaining the detention/retention basin. The easement size and location shall be approved by the Town Highway Superintendent.
 - (18) Innovative design for sediment control by the developer shall be encouraged. As a guideline, sediment sinks/settling ponds and interceptor swales shall normally be used to intercept and detain for settling all sheet flow and channel flow from disturbed areas of the development project upstream from the location where such discharge enters either the natural stream system, another watercourse, or a storm drain system, or where it would enter upon undisturbed areas or the land of others.
- F. Flood hazard prevention shall include the control of soil erosion of land surface and drainage channels and the prevention of inundation and excessive groundwater seepage by comprehensive site grading and the establishment of adequate elevations of buildings, building openings and roadway above the observed, anticipated, or computed water levels of storm sewers, streams, channels, floodplains, detention basins and swales.
 - G. Particular attention shall be paid to development in the vicinity of creeks and their floodplains. No alteration of the existing characteristics of the areas shall take place without the specific approval of the Town as to the adequacy of the protective measures taken, if any, and the effects of such development on upstream and downstream reaches of the watercourse and adjacent properties.
 - H. All development proposed within the special "flood hazard area," as defined by the Federal Insurance Administration, shall comply with the various regulations set forth by the Federal Insurance Administrator and in Chapter 175 of the Barre Code, Flood Damage Prevention, when applicable.
 - I. Provisions shall be made for draining the surface of each lot by proper grading and the construction of swales, ditches or drains.

- J. Provisions shall be made for piping of roof and cellar drainage into the street drainage system. The developer and his engineer, however, must design and provide that cellar floors will be at an elevation higher than the pavement to permit the street drainage system to run fully surcharged without causing backup or flooding in the cellars. In lieu of this, the developer may request from the Town permission to drain the cellars with sump pumps and appropriate double-check valves.
- K. In special conditions, where topography permits or dictates, cellar drainage may be conveyed to main drainage swales where it can be deposited if no nuisance will be caused or created to abutting or downstream property owners. In such instances, the cellar floor shall be so designed as to be above the level of the project design flood to assure no backup or flooding of the cellar.
- L. No laundry, sanitary, or kitchen waste shall be discharged to a storm drainage system. Further, no drain connections from garages or driveways shall be permitted to enter drainage swales where soap suds and detergents from car washing operations could cause a nuisance to abutting or downstream property owners.
- M. Storm drain laterals shall have outside cleanout.
- N. No cellar drainage, roof drainage, drain connections from garages, and/or any other stormwater shall be conveyed to sanitary sewer system.
- O. No cellar drainage, roof drainage, drain connections from garages, and/or any other stormwater shall be conveyed to sanitary sewer system.
- P. All lots shall be so graded and positive drainage provided such that oncoming drainage from upland lots shall be conducted across the lower lots in a manner which will not cause a nuisance to the downstream property owner, and not in such a manner as to cause a safety hazard to structures or property.

§38. Lighting.

- A. Lighting facilities shall be required along all new streets where designated by the Planning Board. Light spacing, fixtures and underground conduit shall meet with the requirements set forth by the Planning Board and electric corporation having jurisdiction in the service area. Streetlight poles, bases and wiring are to be leased from the power company. All costs are paid by the lighting district formed for the proposed subdivision.
- B. The developer shall provide adequate streetlighting and fixtures at the locations shown on the plans and as directed by the Town Planning Board.

§39. Trees and plantings.

- A. The Planning Board, as a condition of approval, may require the placement of trees, shrubs or other plantings in a subdivision or site plan.
- B. The developer shall place trees at the locations shown on the plans and as directed by the Planning Board.
- C. The developer shall at the completion of planting operations remove all rubbish, dirt, and rejected materials no longer necessary for the completion of the remaining work.
- D. The developer shall replace, without cost to the Town and as soon as weather conditions permit and within a specified planting period, all dead plants and all plants not in vigorous, thriving condition. The plants shall be free of dead or dying branches and branch tips and shall bear foliage of a normal density, size and color. Replacements shall closely match adjacent specimens of the same species. Replacements shall be subject to all requirements stated in this specification.
- E. Trees planted in accordance with these specifications shall be guaranteed for one year from the date of initial acceptance by the Town. Trees found dead or not in a healthy growing condition shall be replaced by trees of the same size and species by the developer at his own expense.
- F. The guarantee of all replacement plants shall extend for an additional period of one year from the date of their acceptance after replacement. If replacement plant material is not acceptable during or at the end of the said extended guarantee period, the Town may elect subsequent replacement or credit for each item.

§40. Standards and procedures during development and construction.

- A. No construction or grading work shall begin prior to final Planning Board approval including provisions for financial security set forth in §30.
- B. The developer shall take all necessary measures to control dust resulting from his construction operations and to prevent spillage of excavated material on public roads. When appropriate, the Planning Board may require that an allowance be provided in the letter of credit or other financial security to guarantee compliance with this provision.
- C. All construction shall at all times be subject to inspection by the Town Board, its agents, representatives, and authorized employees. Such inspectors may stop the work when the developer or his contractor has no competent foreman in charge of the work, or when the

work or materials does not meet these specifications, or when circumstances are such that continuance of that particular phase of the work would not be in the best interests of the Town.

- D. Costs incurred for inspection shall be borne by the developer, and sufficient funds shall be part of the letter of credit.
- E. Failure of the Town, the Town Engineer, their agents, employees or representatives, to reject improper work or inferior material during construction shall not be construed as, nor imply, final acceptance. If subsequent inspection, operation, or circumstances cause defects to become evident, the developer shall make, or cause to be made, such cuts or other exposures of the work as may be required to determine cause of such defects. Such defects shall then be corrected to the satisfaction of the Town at the expense of the developer.
- F. The developer is solely responsible to the Town for proper construction of utilities. It will normally be of benefit to both the developer and the Town to have Town representatives deal directly with the developer's contractors where such are employed, both as a matter of expediency and to avoid needless liaison. However, such action shall not be construed as relieving the developer of his prime responsibility to the Town.
- G. The developer is solely responsible to the Town for proper construction of utilities. It will normally be of benefit to both the developer and the Town to have Town representatives deal directly with the developer's contractors where such are employed, both as a matter of expediency and to avoid needless liaison. However, such action shall not be construed as relieving the developer of his prime responsibility to the Town.
- H. Care shall be taken to protect persons and property as well as avoid potentially hazardous conditions or nuisances. The developer and his contractor shall comply with all stipulations of the Occupational Safety and Health Act of 1970 and all revisions and amendments thereto.
- I. The developer shall warrant all work performed and materials furnished against defect, failure, inadequacy, or breakage for a period of one year from the date of final acceptance of the work by the Town Board. Money for warranty shall be deposited with the Town prior to the acceptance of the work. In the event of such defect, failure, inadequacy, or breakage during said warranty period, the developer shall make the necessary repairs or replacements within 10 calendar days of the mailing of written notice by the Town Board or its Engineer.
- J. Should the developer fail, neglect, or refuse to so comply within the specified time, the Town shall make the necessary repairs or replacements for the account of the developer

and deduct all costs therefor from the moneys or securities being held by the Town to ensure compliance during the warranty period.

- K. All construction work shall be properly staked out by competent engineering personnel in accordance with the approved plan.
- L. Where work is left incomplete, because of weather or other reasons, it shall be protected. Roadbeds shall be left well-drained, sanitary sewers (and storm drains where applicable) shall be temporarily plugged and so protected that surface water, mud, silt, and debris cannot enter. Sewer laterals, water services, and valves shall be suitably marked with stakes and shall be protected.
- M. The road base should not be used by the contractor for material deliveries or as a construction haul road. In the event the developer has to use the subdivision road for material delivery, the developer will be responsible for any road damage and/or stone base contamination. Any contaminated stone will, at the developer's expense, be removed from the road and replaced with clean stone. Many times this damage is not discovered, but the road starts to fail years before it should.
- N. The developer shall obtain from the proper Authorities all necessary permits and pay for all fees for building or blasting or construction work within public streets.
- O. At the time the facilities are constructed and prior to the mass grading operations, applicants/ developers shall contact the Town Engineer so that an inspection can be made in the field to assure that all siltation facilities are constructed, prior to the actual mass grading.
- P. Direct discharge from dewatering pumps and surface runoff from the construction sites to storm sewers, culverts, streams, or ditches shall not be permitted. Intercept and conduct surface runoff and discharge from dewatering pumps to siltation ponds before discharge to natural drainage channels.
- Q. No topsoil or subsoil shall be removed from the site unless approved by the Planning Board.
- R. Sediment control facilities are to be constructed as required by the Town and NYSDEC. These facilities shall conform with Guidelines for Urban Erosion and Sedimentation Control, published by the New York State chapter of the Soil and Water Conservation Society. The Town reserves the right to modify or order periodic maintenance of soil erosion control measures.

- S. No building permit for any permanent building within a subdivision shall be issued by the Building Inspector until after the record sheet of the subdivision plat has been approved by the Planning Board and has been filed in the office of the Orleans County Clerk.
- T. Where a permit is desired for the occupancy of a building in the subdivision prior to the completion of all of the improvements shown on the approved construction sheet of the subdivision plat, in addition to the other requirements of the Building Inspector, the road and utilities serving the building shall be completed to a degree satisfactory to the Town Engineer. This shall be a minimum of the binder course of asphalt being placed in front of the dwelling.

§41. Dedication of land to the Town.

The following procedure shall apply with respect to any property to be deeded to the Town for roads, park, open space, drainage or other use:

- A. The developer shall present a proposed warranty deed with lien covenant showing a description of the land.
- B. The developer shall provide an abstract of title showing clear title to the property being deeded to the Town. This abstract shall be examined by the Town Attorney. Should the Town Attorney determine that it is in the best interest of the Town to obtain a fee title insurance policy, they shall notify the developer or his representative and it shall be the responsibility of the developer to provide and pay for said fee title insurance policy.
- C. The Town Board shall review the proposal for dedication and, if appropriate, pass a resolution accepting dedication.
- D. It shall be the responsibility of the developer to record the deeds of dedication in the Orleans County Clerk's office and to pay any and all recording and related fees.
- E. In the case where the land being dedicated is on the tax rolls, the developer shall also deposit with the Town funds to cover 150% of any estimated tax liability until the property can be removed from the tax rolls on the next taxable status date.
- F. The dedication procedure is not complete until the above procedure has been complied with.

ARTICLE VI
Payment of Fees

§42. Policy on fees.

It is the policy of the Town of Barre that developers should pay their own way. Therefore, the fair and reasonable costs incurred by the Town in reviewing applications and for inspecting improvements which will be dedicated to the Town will be the responsibility of the developer. An application for site plan review shall be accompanied by a fee amount that is set from time to time by Town Board resolution.

§43. Application fee.

Each applicant shall be charged an application fee. The purpose of the application fee is to cover the following:

- A. Publication fee;
- B. Review by the Planning Board;
- C. The attendance of the Town Attorney and the Town Engineer at Planning Board meetings, where appropriate; and
- D. Administrative costs, including processing and review by other Town personnel including the Building Inspector, Planning Board Secretary and Town Highway Superintendent.
- E. The application fee will be set by resolution from time to time by the Town Board after reviewing actual costs incurred for these services in typical developments and the fees charged for similar services in other towns in Orleans County.

§44. Reimbursable Costs.

Costs incurred by the Town for attorney and/or consultant fees or other expenses in connection with the review of an application pursuant to this chapter may be charged to the applicant. The Town Board has the discretion to require an applicant to pay anticipated fees and costs into escrow, held by the Town, by resolution. Any unused funds paid into escrow shall be returned to the applicant within 30 days upon final determination of the application, or withdrawal of the application.

§45. Inspection fees.

Necessary fees incurred by the Town in the inspection of developments as they progress. These may include but are not limited to the following:

- A. Roads, streets and highways, including the laying out, excavating and installation of base, intermediate and top coats;
- B. Water supply systems, including mains, valves, tees, hydrants and other appurtenances;

- C. Sanitary sewers and their appurtenances;
- D. Drainage systems and storm sewers, including individual lot grading, swales, pipes, retention or detention ponds and their appurtenances;
- E. Sidewalks which are to be dedicated to the Town;
- F. Private drives or roads which serve two or more properties and which are designed to withstand emergency vehicle loading.

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