

**TOWN OF DAVENPORT**  
**SUBDIVISION REGULATIONS**

**ARTICLE 100. GENERAL PROVISIONS**

**101. Authority**

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

**102. Jurisdiction**

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

**103. Policy**

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

- A) That land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B) That proper provision shall be made for surface drainage, water supply, sewage and other needed improvements;
- C) That roads and streets shall be of such width, grade and location as to accommodate the prospective traffic, to follow the natural contours of the land, to afford adequate light and air, and to facilitate fire protection.

D) That all proposed lots shall be so laid out and of such size as to not cause any adverse effects, such as erosion, on neighboring properties.

**104. Building Permits**

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

**105. Resubdivision**

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

**106. Conditions**

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

**107. Waivers and Modifications**

A) Waivers

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

B) Design Innovations

When design concepts which are imaginative and beneficial to the public interest are proposed by the subdivider, the Planning Board may modify the requirements of these Regulations and impose additional conditions as necessary to permit the accomplishments of such concepts. As authorized by resolution of the Town Board, the Planning Board may, simultaneously, with the approval of a plat, apply the provisions of Section 28I of the Town Law, when applicable.

C) Procedure

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

**108. Amendments**

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

**109. Enforcement**

A) General

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

- 4) No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these Regulations.

B) Civil Enforcement

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

**110. Separability**

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

**111. Court Review**

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

**112. Liability**

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

**113. Title and Effective Date**

In order that land subdivisions may be made in accordance with the authority, jurisdiction, and policy as set forth above, these Regulations, which shall be known and cited as the "Town of Davenport Land Subdivision Regulations", have been adopted by the Planning Board on

\_\_\_\_\_, and approved by the Town Board on \_\_\_\_\_

**ARTICLE 200. DEFINITIONS**

**201. General Terms**

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

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

**202. Key Terms**

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

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

**BOUNDARY LINE ADJUSTMENT** - The adjustment of a boundary line between two (2) adjoining landowners as described in the Town of Davenport Boundary Line Adjustment Policy.

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

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

**DIVISION, SIMPLE** – Any subdivision of land containing not more than two (2) lots, where all the lots have frontage on an existing public road, not involving any new road or the extension of municipal facilities, and not adversely affecting the development of the remainder of the parcel of adjoining property.

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

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

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

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

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

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

**IMPERVIOUS MATERIAL** - Soil having a percolation rate slower than 60 minutes.

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

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

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

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

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

**PLANNING BOARD** - The Planning Board of the Town of Davenport, Delaware County, New York.

**PRELIMINARY PLAT** - A drawing or drawings clearly marked "Preliminary Plat" showing the salient features of a proposed subdivision, as specified in Article \_\_\_\_ of these Regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

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

**RESUBDIVISION** - Any change in a map of an approved or recorded subdivision plat if such change affects any road layout or any lot line shown on such plat or if it affects or changes any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

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

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

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

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

**ROAD, MINOR** - A road intended to serve primarily as an access to abutting properties

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

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

**ROAD, PRIVATE RIGHT-OF-WAY** - A new road intended to provide access to no more than three (3) lots that have been classified as a Minor Subdivision.

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

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

**SEASONAL HIGH WATER TABLE** - The elevation of groundwater during the extended wet season of a typical year, as determined by a soil scientist or licensed engineer.

**SEQRA** - State Environmental Quality Review Act, (SEQRA).

**SEWERAGE AREA** - The area that is required to meet the sewerage site criteria.

**SKETCH PLAN** - A sketch of a proposed subdivision showing the information specified in Article 600, Section 60I, of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these Regulations.

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

**SOIL PROFILE ANALYSIS** - The information derived from a deep test pit used to determine the suitability of a site for a septic system; depth to high seasonal water table, depth to fragipan (hardpan), depth to bedrock where present, depth to loose sand and gravel, the slope of the land through the location of the deep test pit, the estimate of the area having similar soil characteristics, and the percolation rate.

**SOIL SCIENTIST** - A person having the qualifications of a qualified soil scientist as described in the Delaware County Soil and Water Conservation Districts' "Criteria for Identifying Soil Characteristics, which restrict on-site Wastewater Treatment Systems in Delaware County, New York.

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

**STREET** - See ROAD

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

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

**SUBDIVISION, MAJOR** - Any subdivision of land not classified as a Minor Subdivision, including, but not limited, to any subdivision of six (6) or more lots, or any size subdivision requiring any new road to provide access or requiring the extension of municipal facilities.

**SUBDIVISION, MAJOR REALTY** - Any tract of land which is divided into five or more parcels where each lot is five acres or less and as defined under the NYS Public Health Law, Article 1115.

**SUBDIVISION, MINOR** - Any subdivision of land containing not more than five (5) lots, where all the lots have frontage on an existing public road, not involving any new road or the extension of municipal facilities, and not adversely affecting the development of the remainder of the parcel or adjoining property.

**SURVEY** – An actual field delineation of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Planning Board or its agent and shall be referenced and shown on the Plat.

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

**TYPE I ACTION** - An action that is likely to have a significant effect on the environment as listed in Part 617.12 of the SEQRA Law.

**UNLISTED ACTION** - An action that may have a significant effect on the environment as explained in Part 617.2 of SEQRA Law.

**USABLE LOT SIZE** - The required minimum area suitable for sewerage and housing construction.

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

## **ARTICLE 300. APPLICATION PROCEDURE**

### **301. General**

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

### **302. Initial Conference**

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

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

### **303. Sketch Plan Review**

#### A) Submission of Sketch Plan

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

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

#### B) Classification of Sketch Plan

At this time, the Planning Board shall classify the Sketch Plan as to whether it is a Minor, Major, Major Realty or Boundary Line

Adjustment, as defined in these Regulations. To be classified as a Simple Division the subdivider shall comply with the procedure outlined in Section 310 of these regulations. If the Sketch Plan is classified as a Minor subdivision, the subdivider shall then comply with the procedure outlined in Article 300, Section(s) 304 and 307 of these regulations. If it is classified as a Major Subdivision, the subdivider shall then comply with the procedures outlined in Article 300, Sections(s) 305,306, 307, 308 and Article 400. If the sketch plan is classified as a Major Realty subdivision, the subdivider shall comply with all procedures outlined for a Major Subdivision and Sections 309 & 510. If the sketch plan is classified as a Boundary Line Adjustment, the applicant shall follow procedures as outlined in Article 310.

#### C) State Environmental Quality Review Act (SEQRA) Requirements

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

#### D) Sketch Plan Review And Recommendations

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

The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site as indicated by the development limitations maps on file in the Town Office. If the site falls into areas on the soils map denoted as having "severe" or "very severe" limitations, within flood hazard areas, or areas of steep slope, or areas of unique hydrologic or natural habitat areas (including wetlands), the Planning Board may require the subdivider to consult with appropriate technical review or assistance agencies (such as, but not limited to, the Soil Conservation Service, Department of Environmental Conservation, Army Corps of Engineers, and State Health Department) to determine appropriate measures to mitigate or eliminate any problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or subdivider. The Planning Board may require that design techniques, such as clustering, be used to avoid development in these critical

areas and shall not approve a preliminary or final plat which has failed to adequately address these critical resource concerns (soils, flood hazards, steep slopes, hydrologic and natural habitat resources).

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

After reviewing the Sketch Plan and reports, as may be submitted, the Planning Board shall determine whether the Sketch Plan meets the purposes of these Regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant into the next submission to the Planning Board. Such recommendations shall be made within sixty-two (62) days from the time the Sketch Plan was initially reviewed by the Planning Board.

### **304. Approval of Minor Subdivisions**

#### **A) Application and Fee**

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

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

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

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

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

B) Referrals

When applicable, the Secretary of the Planning Board, upon receipt of a Minor Subdivision Plat, shall present a copy of said Plat to the Delaware County Planning Board for their review and report in accordance with the provisions of Section 239-n of Article 12-B of General Municipal Law and Article 25-AA of the Agriculture and Markets Law.

C) Public Hearing

A public hearing shall be held by the Planning Board within sixty-two (62) days from the time of submission of the Minor Subdivision Plat for approval. The hearing must be advertised at least once in a newspaper of general circulation in the town at least five (5) days prior to the hearing. The applicant shall notify by Certified Mail, at least ten (10) days in advance, the owners of property abutting the proposed subdivision and directly across any adjoining road and shall furnish the Planning Board with post office receipts as proof of notification. The Planning Board may notify other persons as it deems necessary.

D) Action on Minor Subdivision Plat

The Planning Board shall, within sixty-two (62) days from the date of said Public hearing, act to approve, conditionally approve with or without modifications, or disapprove such Minor Subdivision Plat and so indicate on the Plat. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat. The Planning Board resolution granting conditional approval, with or without modification of the Plat, shall also empower a duly authorized officer to sign the Plat, upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval.

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

statement of such requirements which, when completed, will authorize the signing of the conditionally approved Plat.

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

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

### **305. Preliminary Plat for Major Subdivision**

#### A) Application And Fee

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

Four (4) copies of the Preliminary Plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regular meeting of the Planning Board.

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

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

#### B) Referrals

When applicable, the Planning Board shall, upon initial review, refer the Preliminary Plat to the Delaware County Planning Board for their review and recommendation as required by Section 239-n of Article 12-B of the General Municipal Law and Article 25-AA of the Agriculture and Markets Law. In addition, the Planning Board shall refer the Preliminary Plat to other County or State agencies which have or may have jurisdiction of review or approval of the subdivision. If the subdivision meets any Type I threshold listed in Part 617.12 of the SEQRA regulations, lead agency for the SEQRA process shall be determined according to procedures outlined in Section 617.6 of the SEQRA regulations.

#### C) Study of Preliminary Plat

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

The Planning Board shall study the practicality of the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, width and design of roads and their relation to the topography, water supply, sewage disposal, surface drainage, lot sizes and arrangement, potential flood hazards, the future development of adjoining lands as yet unsubdivided, and the recommendations and requirements of the Master Plan, the Official Map, and zoning regulations, if such exist.

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

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

#### D) Public Hearing

Within sixty-two (62) days after the time of submission of a Preliminary Plat, the Planning Board shall hold a Public Hearing on said Plat. The Hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing. This

Public Hearing shall also be used to solicit comments on the Draft EIS under SEQRA, if required. The applicant shall notify by Certified Mail all property owners within five hundred feet (500') of the outside perimeter of the proposed subdivision, at least ten (10) days prior to the public hearing and shall furnish the Planning Board with Post Office receipts as proof of notification. The Planning Board may notify other persons or agencies as it deems necessary.

E) Action on Preliminary Plat

Within sixty-two (62) days from the date of such Public Hearing, the Planning Board shall take action to approve, conditionally approve with or without modifications, or disapprove such Preliminary Plat and the grounds for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such Preliminary Plat may be extended by mutual consent of the subdivider and the Planning Board.

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

F) Approval of Preliminary Plat

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

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

Within five (5) days of Conditional Preliminary Plat Approval, the action of the Planning Board, plus any conditions attached thereto, shall be noted on, or attached to, three (3) copies of the Preliminary Plat. One copy shall be returned to the subdivider, one retained by the Planning Board, and one forwarded to the Town Clerk.

Approval of a Preliminary Plat shall not constitute approval of the subdivision plat. Rather, it shall be deemed an expression of approval

of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Subdivision Plat, which will be submitted for approval of the Planning Board and for recording with the County Clerk. Prior to approval of the Final Subdivision Plat, the Planning Board may require additional changes as a result of further study or new information obtained.

G) Model Homes

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

**306. Final Plat for Major Subdivision**

A) Application and Fee

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

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

The time of submission of the Final Plat shall be considered to be the date of the regular meeting of the Planning Board at least ten (10) days prior to which the Application for Approval of the Subdivision Plat, complete and accompanied by the required fee and all data

required by Article 600, Section 604, of these Regulations, has been filed with the Secretary of the Planning Board.

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

#### B) Public Hearing

A Public Hearing on the Final Plat may be held by the Planning Board if the Board deems that there are substantial changes from the approved Preliminary Plat. Such hearing shall be held within sixty-two (62) days after the time of submission of the Final Plat for Approval and shall be advertised in the same manner as the previous public hearing for Preliminary Plat Approval. Adjacent property owners shall also be notified by the applicant as specified in Preliminary Plat Approval. This hearing may be waived by the Planning Board.

#### C) Action On Final Plat

The Planning Board shall, within sixty-two (62) days from the date of submission of the Final Subdivision Plat, if no hearing is required (or within sixty-two (62) days of second public hearing if required), approve, conditionally approve with or without modifications, or disapprove said Plat and so indicate on the Plat. This time period may be extended by mutual consent of the subdivider and Planning Board. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat.

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

If a Draft Environmental Impact Statement was required, the Planning Board's action on the Final Plat shall include either a negative declaration or the Final EIS and a statement of findings on the

subdivision as required under Section 8-0109-8 of the SEQRA Act of 1975, as amended.

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

### **307. Final Approval and Filing**

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

The approved Plat shall be filed with the Delaware County Clerk within sixty-two (62) days of the date of the Planning Board endorsement. Any Subdivision Plat not so filed, or recorded within sixty-two (62) days of the date which such Plat is approved, or considered approved by reasons of the failure of the Planning Board to act, shall become null and void.

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

The applicant shall submit one (1) print copy of the Final Plat showing the endorsement and file number of the County Clerk to the Planning Board Secretary within sixty-two (62) days of the date of filing.

### **308. Status of Roads, Parks, and Easements**

#### A) Acceptance By Town

Acceptance of any offer of cession of roads or parks shall rest with the Town Board. The approval by the Planning Board of a Subdivision Plat shall not be deemed to constitute nor imply the acceptance by the Town of any road, utility, recreation area, easement, park or other open space shown on such Subdivision Plat. The Planning Board shall require the addition of appropriate notes to this effect on the Plat.

#### B) Maintenance

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

### **309. Approval of a Major Realty Subdivision**

#### A) Application and Fee

All procedures for a Major Realty Subdivision shall be consistent with procedures for a Major Subdivision as outlined in sections 305, 306 and 308.

#### B) Additional Requirements

In addition, a Major Realty Subdivision shall comply with section 510. of these regulations.

### **310. Classification of a Simple Division**

#### A) Application and Fee

Within six (6) months of the submission of the Sketch Plan, the subdivider shall submit an application in triplicate for classification of a Simple Division. Failure to do so may require submission of the Sketch to the Planning Board for reclassification.

The Plat shall conform to the layout shown on the Sketch Plan plus any recommendations or conditions established by the Planning Board

and to the requirements listed in Article 500, Section 511 and Article 600, Section 602. All applications shall be accompanied by a fee established by the Planning Board and on file in the Town Clerk's Office.

Four (4) copies of the Simple Division Plat shall be presented to the Secretary of the Planning Board at least ten (10) days prior to a regularly scheduled meeting of the Planning Board. The subdivider, or his duly authorized representative shall attend the meeting of the Planning Board to discuss the Simple Division Plat.

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

B) Action on Simple Division Plat

The Planning Board shall, within sixty-two (62) days from the date of submission of the Simple Division Plat, act to classify, conditionally classify with or without modifications, or disapprove such Simple Division Plat and so indicate on the Plat. Failure to act within the stated time period, or a mutually agreed upon extension thereof, shall constitute approval of the Plat.

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

**311. Boundary Line Adjustment Policy**

Town of Davenport  
Boundary Line Adjustment Policy

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

Procedure:

1. Applicant submits application for boundary line adjustment by submitting a sketch plat, as defined in the Town's subdivision regulations.
2. The applicant also submits a copy of the deed for each property involved in the boundary line adjustment, and if both landowners are not present at the meeting a statement of authorization from the landowner or landowners who are absent.
3. The applicant also submits an unexecuted copy of the deed that will carry out the proposed property transfer. This deed must indicate that the proposed property cannot be conveyed separately from the tract to which it is added unless resubmitted as a subdivision for review to the Town Planning Board.
4. The portion of the property to be transferred must be surveyed and that survey submitted to the Planning Board. The survey requirement may be waived at the discretion of the Planning Board if the boundary line being adjusted is between parcels that are both owned solely by the applicant.
5. When these items have been submitted to the Planning Board, the Board shall review the materials and within 45 days either approve the boundary line adjustment or classify the application as a simple, major or minor subdivision. The Planning board may consult with the Town Attorney during this period, if necessary. No public hearing will be required.
6. If the boundary line adjustment is approved, the Planning Board shall sign the "Boundary Line Acceptance Form" to allow the applicant to file the new deed and map with the County Clerk and the Delaware County Real Property Tax Service.
7. The fee for the application and review of a Boundary Line Adjustment is \$20.

**ARTICLE 400. REQUIRED IMPROVEMENTS**

**401. General**

After adoption of a resolution approving a Final Subdivision Plat and before the Plat is endorsed by the Planning Board, the applicant shall be

required to complete, at his expense and without reimbursement by the Town or any special district, all road, sanitary, storm drainage, and other improvements, including lot improvements as shown on the approved Construction Plans or as otherwise specified in the resolution. The Planning Board may, in a special or peculiar circumstance of a particular case, modify or waive a requirement only by specific resolution.

#### **402. Performance Bond and Completion of Improvements**

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

A) In an amount set by the Planning Board from an estimate proposed by the Town Highway Superintendent or other duly designated officer, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond issued by a bonding or surety company approved by the Town Board to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law and further shall be satisfactory to the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year (or other such period as the Planning Board may determine appropriate, not to exceed three (3) years, shall be set forth in the bond within which required improvements must be completed.

...OR...

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

C) Modification of Bond

1) Extension of Bond

The time period specified for the completion of all required improvements, as set forth in the bond, may be extended only by resolution of the Planning Board upon request in writing by the

applicant, setting forth in detail the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work and the time period extension which is requested.

## 2) Reduction of Bond

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

### **403. Modification of Required Improvements**

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

### **404. Temporary Improvements**

The applicant shall build or pay for all costs of temporary improvements required by the Planning Board. Prior to the construction of any temporary facility or improvement, the developer shall file with the Town Clerk a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.

## **405. Inspection of Improvements**

### A) Routine Inspection

All improvements will be inspected by the Road Review Committee to insure satisfactory completion who shall, upon such completion, furnish the Planning Board with a statement to that effect. To facilitate inspection of required improvements during construction, the subdivider shall notify the Road Review Committee at least three (3) working days before reaching each of the following stages of construction:

- clearing and grubbing
- initial placement of fill or initial excavation or earth cutting
- rough grading completed
- drainage pipe and other drainage structures installed prior to backfilling
- all underground utilities installed, as required, prior to backfilling
- after road sub-base is completed and ready for base course and when each course is applied

The applicant shall not proceed to work on any stage subsequent to the first stage until the work has been inspected and approved by the Road Review Committee. The Road Review Committee shall inspect other improvements at such progressive stages as shall be specified. The Committee shall certify to the Planning Board that the work was inspected and in accordance with the approved plans and specifications.

If the Road Review Committee or other duly designated official does not carry out inspection of required improvements during construction, the subdivider or the bonding company shall not in any way be relieved of its responsibilities.

### B) Final Inspection

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

C) Inspection Fee

An inspection fee related to the estimated cost of improvements as determined by the Planning Board and on file in the Town Clerk's office or of the amount of the performance bond, if filed, shall be paid to the Town prior to the time that Planning Board signs the Final Plat. No Building Permits or Certificates of Occupancy shall be issued until all inspection fees (if required) are paid.

**406. Proper Installation of Improvements**

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

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

**407. Escrow Deposits for Lot Improvements**

A) Acceptance

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

B) Procedures

All required improvements for which escrow monies have been accepted by the Town of Davenport at the time of issuance of a Certificate of Occupancy, shall be installed by the developer within a period of nine (9) months from the date of deposit and issuance of

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

#### **408. Certificate of Occupancy**

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

A) Status of Road Improvements

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

B) Maintenance Agreements

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

**ARTICLE 500. GENERAL IMPROVEMENTS AND DESIGN STANDARDS**

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

**501. General Considerations**

A) Conformance With Applicable Rules and Regulations

In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations.

- 1) All applicable statutory provisions
- 2) All local government laws, ordinances, rules, regulations and orders as applicable in the town.
- 3) Town Comprehensive Plan, Official Map, Public Utilities Plan, and Capital Improvement Plan, as they may exist.
- 4) The rules and regulations of the New York State Department of Health, Department of Environmental Conservation and other appropriate agencies as may be applicable.
- 5) The rules of the New York State Department of Transportation, if the subdivision abuts a State Highway or connecting road.
- 6) All required improvements shall be constructed or installed to the Town's specifications.
- 7) Plat approval may be withheld if a subdivision is not in conformity with the above guidelines or with the policies established in Article 100 of these Regulations.

B) Self-Imposed Restrictions

The subdivider may place restrictions on any of the land contained within the subdivision which are greater than those required by the Planning Board and these Regulations. Such restrictions shall be indicated on the final subdivision plat.

C) Plats Straddling Municipal Boundaries

In general, a lot as permitted by these Regulations shall not be divided by a municipal boundary. Where this is necessary, the Planning Board may require suitable legal agreements to assure that the portions of the lot will not be separated in the future and the portion(s) of the lot in the adjoining municipality will not be used for any purpose that would make it nonconforming if the entire lot were located within the town. Whenever a subdivision includes land in two or more municipalities, the location of the municipal boundary line shall be shown on the plat.

Whenever access to a proposed subdivision can be obtained only across land in another municipality, the subdivider shall furnish proof, satisfactory to the Planning Board, that such access has been legally established and that such access has been adequately improved or that a performance bond has been duly executed and is sufficient in amount to assure the adequate construction of the access road. However, the Planning Board may condition its approval of those parts of a subdivision which have access only across land in another municipality, by providing that no Building Permit shall be issued on lots within the town until such access to them has been properly established.

Approval by the Planning Board shall be granted only for that portion of the subdivision lying within the town, and such approval shall be contingent upon notification and/or approval by the Planning Board having jurisdiction over that portion within the adjacent municipality.

#### D) Monuments

Permanent monuments, to the minimum standard of one-half inch (1/2") steel rod, shall be required wherever deemed necessary by the Planning Board to enable all lines to be reproduced on the ground.

In general, monuments shall be located no more than 500 feet (500') apart on road lines and are required at all lot corners or at points of curvature or tangency on curved roads, and spaced to be within sight of one another along lines entirely within the road right-of-way.

Monuments shall be set vertically in solid ground at a height approved by the Planning Board with accurate reference to a permanently identifiable fixed point and shall meet or exceed the construction requirements specified in town construction codes and specifications.

#### E) Character of Land

Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other natural hazard. Land subject to such hazards shall

not be subdivided nor developed for residential purposes, nor for such other uses as may increase danger to health, life or property, or aggravate a flood hazard. Such land may be set aside for uses as shall not involve such danger nor produce unsatisfactory living conditions.

F) Frontage on Improved Roads

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

G) Reservations and Easements

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

H) Subdivision Name

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

**502. Lot Improvements**

A) Lots To Be Buildable

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

B) Side Lines

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

C) Corner Lots

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

D) Double Frontage Lots

Lots fronting on two roads, other than corner lots, shall be avoided except where deemed essential by the Planning Board in order to provide separation of residential development from major or collector roads, or to overcome problems of topography or orientation. The Planning Board may require greater lot depth, access limitations and/or buffer landscaping for such double frontage lots where the Board determines that such measures would be appropriate. The Planning Board shall determine the front lot line.

E) Lot Dimensions

Lots shall be of sufficient size to accommodate buildings and individual sanitary sewage disposal systems designed in accordance with minimum specifications of any applicable State, County, or Town agencies having jurisdiction. Lots should not be less than one (1) acre and should have a minimum road frontage of at least one hundred feet (100') [one hundred feet (100') on a turn-around]. All lots should be of sufficient width and depth to accommodate a residence with setbacks of at least twenty-five feet (25') from side and rear lot lines and one hundred feet (100') from the road centerline.

F) Driveways

For driveways with steep grades [any portion of a driveway with grade of twelve percent (12%) or more], the Planning Board may require one or more off-road parking spaces at the base of the driveway to facilitate parking in inclement weather.

Driveway access shall conform to the standards of the Town, County and State Highway Departments.

G) Access From Private Roads

Access from private roads shall be deemed acceptable only if such roads are designed and improved in accordance with these Regulations.

H) Debris and Waste

No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried under any proposed road or left or deposited on any lot or road at the time of Final Plat Approval.

I) Soil Preservation

1) Soil Preservation and Final Grading

Land to be subdivided shall be designed in reasonable conformity to existing topography in order to minimize grading, cut and fill, to retain the natural contours, to limit storm water runoff, and to conserve the natural vegetative cover and soil. Topsoil shall be restored to its original depth and properly seeded and fertilized in those disturbed areas not occupied by buildings or structures.

2) Lot Drainage

Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from each lot to adjacent lots.

J) Water Bodies

If a subdivision contains a water body, or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among the fees of adjacent lots. The Planning Board may determine such water body to be appropriate as part of a recreational land reservation area or approve an alternate plan whereby the ownership of and responsibility for the safe maintenance of the water body will not become a Town responsibility. No more than twenty-five percent (25%) of the minimum area of a lot may be satisfied by land under water.

K) Performance Bond To Include Lot Improvement

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

Whether or not a Certificate of Occupancy has been issued, at the expiration of the performance bond, the Davenport Town Board may enforce the provisions of the bond where the provisions of this section or any other applicable law, ordinance, or regulation have not been complied with.

## **503. Roads**

### A) Road Layout

#### 1) Location, Width, and Construction

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

#### 2) Continuation of Roads into Adjacent Properties Arrangement

The arrangement of roads shall provide for their continuation between adjacent properties where such continuation is determined necessary for proper traffic movement, effective fire protection, efficient provision of utilities, and/or where such continuation is in accordance with Town Policy. Alternatively, if a road continuation is not determined to be warranted by the circumstances, or would result in unsafe traffic conditions or otherwise jeopardize the public safety and welfare, the Planning Board may require such road to be terminated short of the boundary lines of the subdivision.

#### 3) Provision for Future Resubdivision

Where a tract is subdivided into lots substantially larger than the minimum size and frontage recommendations in these Regulations, the Planning Board may require that roads and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these Regulations.

#### 4) Special Treatment Along Major Roads

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

#### 5) Dead End Roads

The creation of a dead-end road or cul-de-sac will be encouraged by the Planning Board whenever it finds that such type of arrangement will not interfere with normal traffic circulation in the area. The Planning Board may require, where needed or desirable, the reservation of a twenty foot (20') wide easement to the subdivision boundary to provide for the continuation of pedestrian traffic, utilities, and/or drainage facilities to the next road. The entrance at a dead-end road shall bear a "No Outlet" sign.

6) Block Size

Blocks generally shall not be less than four hundred feet (400') nor more than twelve hundred feet (1200') in length. The Planning Board may require the reservation of a twenty foot (20') wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four foot (4') wide paved foot path be included.

7) Intersections With Collector or Major Road

Roads shall, in general, be at least five hundred feet (500) apart.

8) Road Specifications

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

9) Angle of Intersection

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

10) Relation to Topography

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

11) Road Names

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

## B) Road Design Standards

### 1) General

In order to provide for roads of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, emergency vehicles, fire fighting, snow removal, sanitation and road maintenance equipment and school buses, the following design standards are hereby required. All roadway and related construction, whether to be offered for dedication or not, shall be the responsibility of the subdivider unless otherwise indicated, and shall be in accord with the standards of the American Association of State Highway and Transportation Officials "Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT  $\leq$ 400) on file in the Town Clerk's Office, Summary Chart A found in the Appendix of these Regulations and other relevant road standards developed by the Town of Davenport.

### 2) Changes in Grade

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

### 3) Watercourses

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

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Road Review Committee, and in no case less than twenty feet (20') in width.

### 4) Visibility of Intersections

In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new road with an existing road) which is shown

shaded on Sketch A, shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the road. If directed, ground shall be excavated to achieve visibility. An easement for the enforcement of this provision shall be granted to the owner of the road and notation to this effect made on the Final Plat.

#### 5) Road Signs

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

#### 6) Slope Easements

Where steep slopes beyond the road right-of-way may require maintenance, an easement may be required for such purpose. Where the embankment slope is located on private land outside the subdivision, such easement shall be permitted only where the appropriate rights have been secured in a form satisfactory to the Town Attorney and suitable for recording in the office of the County Clerk.

### C) Commercial Roads

#### 1) Service Roads or Loading Space in Commercial Development

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

#### 2) Free Flow of Vehicular Traffic Abutting Commercial Developments

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

### D) Road Dedications and Reservations

1) New Perimeter Roads

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

2) Widening and Realignment of Existing Roads

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

3) School Bus Pickup Areas

Where a subdivision contains or abuts a major or collector road, the Planning Board may require that the subdivider reserve, clear, grade, pave or otherwise improve an area of such size and location as will provide a safe and suitable place for use by children awaiting school buses. In general, the size of such area shall not be less than one hundred (100) square feet, and no dimensions shall be less than ten feet (10'). Such area shall be included within the road right-of-way and shall be maintained by the holder of fee title to the road. The layout and design shall be subject to Planning Board approval.

**504. Drainage Improvements**

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

A) Removal of Spring and Surface Water

The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to, or as a result of, the subdivision. Such drainage facilities

shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the town construction standards and specifications.

B) Accommodation of Upstream Drainage Areas

Drainage facilities shall in each case be large enough to accommodate potential runoff from their entire upstream drainage area, whether inside or outside the subdivision, based on an one hundred (100) year storm and assuming conditions of maximum potential development within the watershed. The applicant shall be responsible for submitting such computations to the Planning Board in sufficient detail to make possible the ready determination of the adequacy of the proposed drainage installations. Concentrated drainage from lots onto the road right-of-way shall not be permitted.

C) Effect on Downstream Drainage Area

The Planning Board may also require a study of the effects of the subdivision on existing downstream drainage facilities. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board shall notify the owner of such downstream facility and the Town Board of such potential condition and may withhold approval of the subdivision until provision has been made for the correction of said potential condition.

D) Wetlands

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

E) Flood Plain Areas

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

F) Dedication of Drainage Easements

1) General Requirements

Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose.

## 2) Drainage Easements

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

Drainage easements shall extend from the road to the water course or other drainage facilities, and shall convey to the holder of fee title of the road the perpetual right to discharge storm water runoff from the road and the surrounding area onto and over the affected premises by means of pipes, culverts, or ditches or a combination thereof, together with the right to enter said premises for the purpose of making such installations and doing such maintenance work as the holder of such fee title may deem necessary to adequately drain the road and the surrounding area. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured in a form satisfactory to the Town Attorney and suitable for recording in the office of the County Clerk.

A note to this effect shall be shown on the Final Plat.

## **505. Water Facilities**

### A) General Requirements

Where a public water system is not available, the Planning Board may require the use of individual wells or a central water system provided that an adequate supply of potable water will be available to every lot in the subdivision.

### B) Wells and Central Water Systems

Wells and central water systems must conform to Part 75 of New York State Department of Health Regulations and other applicable regulations governing community water systems.

## **506. Sewage Facilities**

### A) Community Systems

The applicant shall install sanitary sewer facilities in a manner prescribed by the Town of Davenport, any instituted sewer district and in accordance with the regulations of the New York State Health Department and the New York State DEC if applicable

### B) Individual Systems

All lots shall be of sufficient size, width and depth to insure that an individual on-site sewage disposal system may be installed in compliance with New York State Department Health Standards and section 511, SOIL PROFILE ANALYSIS, of this regulation.

## **507. Utility Improvements**

### A) General

At the time of subdivision, the subdivider must provide the planning board with proof that power is accessible to the proposed subdivision, and if power is not accessible a note must be placed on the plat saying such.

In order to insure greater safety and improved appearance, all utility lines and related equipment for providing electric power and communication services shall, whenever required by law, be installed underground in the manner prescribed by the regulations of the utility company having jurisdiction. Underground utilities shall be located outside of the traveled way of roads but, except in unusual circumstances, within the road right-of-way. The subdivider shall install underground service connections to the property line of each lot for such required utilities before the road is paved. All utilities shall be shown on the construction drawings.

### B) Easements

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

## **508. Non- Residential Subdivisions**

### A) General

The applicant, for approval of the subdivision, shall prepare and shall file with the application a plan showing that a development meeting all the above described standards, as well as other Town applicable development standards and requirements, is feasible on each of the lots in the proposed subdivision. The Planning Board shall approve such a plan, and the approved plan shall be filed in the records of the Planning Board with the approved Subdivision Plat.

### B) Standards

#### 1) Vehicular Access

Each lot shall have adequate width of space between the road frontage giving it vehicular access and the portion or portions of the lot where parking and loading areas can be located, allowing for the location of a building or buildings on the lot. Such width of access to such parking and loading areas shall be adequate for two directions of vehicular travel, unless a one-way traffic flow is to be planned, in which case a notation to that effect shall be placed on the Subdivision Plat in a form satisfactory to the Planning Board and Town Attorney.

#### 2) Traffic Flow

Areas planned for off-road parking and loading on adjoining lots in the subdivision shall be so located that movement of traffic between adjoining lots will be possible, thereby minimizing the number of necessary vehicular entrances and exits crossing the road sidewalk in the subdivision, increasing safety to pedestrians on the sidewalk, increasing convenience to those using the lots in the business or industrial buildings in the subdivision. An easement or easements, in form satisfactory to the Town Attorney, permitting such flow of traffic between parking areas on adjoining lots, shall be indicated on the Plat.

#### 3) Sidewalks

Sidewalks, if deemed necessary and required, shall be at least four feet (4') in width, with a tree planting area of at least six feet (6') in width along the road curb.

#### 4) Buffer Planting Areas

An area at least ten feet (10') in width, or more if required by the Planning Board as part of a development plan, shall be reserved along all boundaries of a lot adjoining residential areas. Where this part of the lot is on a slope, the buffer area shall be located at the top of each slope and shall be reasonably level to accommodate the buffer planting.

5) Parking Requirements

The Planning Board may require that paved off-road parking areas be provided for each dwelling and/or commercial unit in the subdivision to meet the needs of the occupants and their guests without interference with normal traffic.

**509. Environmental Considerations**

A) Preservation of Natural Features

Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the Town as a whole, such as wetlands, water courses, water bodies, rock formations, stands of trees, historic spots, views and vistas, man made features indigenous to the area, such as stone walls and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision and where appropriate, the Planning Board may require the inclusion of such features in permanent reservations.

1) Trees

The Planning Board may require the planting of road trees in subdivisions which are lacking in trees or in which a substantial loss of trees will occur in the process of road construction.

2) Soil

Natural fertility of the soil shall be preserved by disturbing it as little as possible.,

B) Flood Areas

Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for such other uses as may increase danger to life or property or aggravate the flood hazard, but such land may

be used for such uses or in such a way that the flood danger to this property and other upstream or downstream properties will not be increased and periodic or occasional inundation will not be a substantial threat to life or property. The provisions of this section shall apply to all land falling within the 100 year flood limit as shown on maps prepared by the Town or on the Federal Emergency Management Agency Flood Insurance Rate Map as periodically amended.

#### C) Steep Slopes

Development of steep slope [over fifteen percent (15%)] sites will be conditionally acceptable only if there is no prudent or feasible alternative site, and erosion and sedimentation control measures are incorporated in the design, construction, and operation of the development according to standards set by the U.S. Soil Conservation Service.

#### D) Sediment Control

The subdivider shall provide effective sediment control measures for planning and construction of subdivisions. Use of the following technical principles shall be applied as deemed appropriate by the County Soil and Water Conservation District.

- 1) The smallest practical area of land shall be exposed at any one time during the development
- 2) When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
- 3) Temporary vegetation and/or emulsion shall be used to protect critical areas exposed during development.
- 4) Sediment basins, debris basins, (silting basins or silt trips) shall be installed and maintained to remove sediment from runoff waters on land undergoing development.
- 5) Provision shall be made to effectively accommodate the increased runoff caused by changing soils and surface conditions during and after development.
- 6) Permanent final vegetation and structures should be installed as soon as practical in the development.
- 7) The development plan should be fitted to the type of topography and soils so as to create the least erosion potential.

- 8) Wherever feasible, natural vegetation should be retained and protected.

E) Performance Standards

The interpretation and regulations of this Subdivision Regulation will be guided by the following performance criteria:

- 1) Will not result in undue water or air pollution
- 2) Has sufficient water available for the reasonable foreseeable needs of the subdivision or development.
- 3) Will not cause unreasonable burden on an existing water supply, if one is to be utilized.
- 4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 5) Will not cause unreasonable highway congestion or unsafe condition with respect to use of the highway, existing or proposed.

**510. Requirements for Major Realty Subdivisions**

In addition to requirements for a Major Subdivision, a Major Realty Subdivision, the Planning Board may request any of the following when applicable:

1. The Planning Board may require the following improvements to a Major Realty subdivision: curbs, gutters, road lighting, road signs, road trees, schoolbus pickup areas, water mains, sanitary sewers, storm drains, fire alarm signal devices, fire hydrants or fire ponds and other utilities. The Planning Board may require such improvements as it considers necessary in the interest of the public health, safety and welfare.

All construction drawings shall first be approved by the Town Highway Superintendent, and the Planning Board.

2. Road Lighting:

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

### 3. Water Mains, Fire Hydrants and Fire Ponds

Where required by the Planning Board, the subdivider shall install water mains and fire hydrants of the type and in a manner prescribed by the regulations of the appropriate water or fire district or other municipal agency having jurisdiction. Where the installation of water mains and fire hydrants is not immediately required, the Planning Board may require the installation of dry hydrants where it is determined that such hydrants are desirable and a satisfactory source of water supply can be made available in a reasonable future period of time.

In situations determined appropriate by the Planning Board, it may require the construction or enlargement of a pond or other water body for the purpose of providing such a water supply.

### 4. Sidewalks

The Planning Board may require such sidewalks as it deems necessary to provide for the safety of pedestrians. Concrete sidewalks at least four feet (4') wide and four inches (4") thick shall be installed where required, as specified by the Planning Board.

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

### 5. Fire Alarm Signal Devices

Where required by the Planning Board, the subdivider shall install fire alarm signal devices, including necessary ducts, cables and other connecting facilities, of a type and in a manner and location prescribed by the appropriate fire district or other municipal agency having jurisdiction.

## **511. Soil Profile Analysis**

### A) Intent

It is the intent of this section to ensure that all proposed lots of a subdivision have at least one buildable site for an onsite septic system. This section is to be used in conjunction with other sections of this Local Law in approving subdivision lots.

### B) When Required

The planning board shall require the submission of soil profile analysis information for each proposed lot.

### C) Standards

- 1) The soil profile analysis shall include the following information derived from deep test pits and percolation tests:
  - (a) depth to seasonal high water table;
  - (b) depth to fragipan (hardpan);
  - (c) depth to bedrock where present;
  - (d) depth to loose sand and gravel;
  - (e) slope of the land through the location of the deep test pit;
  - (f) estimate of the area having similar soil characteristics; and
  - (g) percolation rate.
- 2) The soil profile analysis information shall be documented in accordance with standards set forth by the Delaware County Soil and Water Conservation District (as described in "Criteria for Identifying Soil Characteristics Which Restrict Onsite Wastewater Treatment Systems in Delaware County, New York.")
- 3) The deep test pits shall be performed according to New York State Department of Health Standards, as described in their "Waste Treatment Handbook -- Individual Household Systems."
- 4) The soil profile analysis shall be conducted by one of the following qualified professionals:
  - (a) a licensed engineer, accompanied by the engineer's stamp and a certified statement attesting that the criteria were identified according to Soil and Water Conservation District standards; or
  - (b) a soil scientist as defined by the Soil and Water Conservation District, accompanied by a certified statement attesting that the criteria were identified according to Soil and Water Conservation District standards.

- 5) The information obtained from the soil profile analysis shall be submitted to the planning board with:
  - (a) the preliminary plat application for a major subdivision; or
  - (b) the final plat application for a simple or minor subdivision.
- 6) The planning board shall review the soil profile analysis information for compliance with the Minimum Site Requirements for Onsite Septic Systems in All Subdivisions, Table 1 of this Local Law.
  - (a) If the soil profile analysis information for a lot satisfies the minimum criteria for a conventional or alternative onsite septic system, the lot shall be considered by the planning board to be suitable for subdivision approval.
  - (b) If the soil profile information for a lot does not satisfy the minimum criteria for a conventional or alternative onsite septic system, the lot shall be considered by the planning board to be unsuitable for subdivision approval.

The following options are available to the applicant:

- (1) locate and test another site on the proposed lot; or
  - (2) redesign the lot configuration, incorporating unsuitable lots with those that are considered suitable; or
  - (3) obtain written approval or recommendation for the septic system design by the Department of Health .
- (c) All lots on a subdivision plat shall show the location of the deep pit tests and the percolation tests.

If the soil profile analysis information for any lot within a subdivision indicates the need for an alternative onsite septic system, a note beside the identified test site(s) shall be made on the final plat stating, "This lot may require an alternative onsite septic system."

#### D) Procedure

##### 1. Subdivisions

- a) Onsite inspection shall be conducted by the planning board
- b) Analysis of Soils Maps
- c) One (1) deep test pit analysis per lot shall be conducted
- d) One (1) percolation rate test per lot shall be conducted

- e) Further testing shall be determined by the characteristics of proposed for subdivision.
- f) A reserve leach field at least 50% of the size of the original is to be located on each lot

## 2. General Considerations to Determine Further Testing

- a) Evidence of wetlands (standing water, evergreen growth, fallen trees with roots exposed, wetland plant growth)
- b) Evidence of bedrock
- c) Swale - wet weather runoff
- d) Steep slope
- e) Lots under ten (10) acres in size

## E) Notes

1. If any subdivision lot requires an alternative system and is proposed for commercial or industrial use, it may be necessary to obtain permits from the NYS Department of Health or the NYS Department of Environmental Conservation,
2. Alternative systems are not permitted in a realty subdivision as defined by Public Health Law, Section 1115.
3. The soil profile analysis may be waived in any subdivision lot where an applicant can show proof of an adequate existing on-site waste water treatment system or proof that an adequate waste water treatment facility that is in compliance with all other local and state requirements, will be provided.

## **ARTICLE 600. DOCUMENTS TO BE SUBMITTED**

### **601. Sketch Plan**

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

- A) A location map to indicate the relationship of the proposed subdivision to existing community facilities which will serve or influence the layout, such as existing road patterns, schools, parks and other public lands, local villages and hamlets, and special districts, including school, fire, agricultural, etc.
- B) All existing structures, burial grounds, railroad rights-of-way, existing property lines, wooded areas, streams or watercourses, flood hazard areas, wetlands, quarries or excavations, bedrock outcrops and other significant physical features within the area to be subdivided and within two hundred feet (200') thereof. Topographic conditions shall be indicated at contour intervals of not more than ten feet (10').
- C) The name of the owner, the name of the professional person(s) responsible for the subdivision design, and the names of all adjoining property owners as disclosed by the most recent municipal tax records within five hundred feet (500') of any perimeter boundary of the subdivision.
- D) The proposed subdivision name, the tax map sheet, block and lot numbers, scale, north arrow and acreage involved.
- E) All the utilities currently available, including any existing easements, and all roads which are either proposed, mapped, or built.
- F) The proposed pattern and approximate dimensions and area of lots, road layout, recreation area, proposed surface water drainage, sewerage and water supply within the subdivision area.
- G) All existing restrictions on the use of land, including easements, covenants, or zoning divisions.

## **602. Simple Division and Minor Subdivision Plat**

In addition to the information required by Section 601, the following shall be submitted:

- A) A copy of such covenants or deed restrictions as are proposed to cover all or part of the tract.
- B) An actual field survey of the boundary lines of the tract, giving complete description data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Planning Board or its agent and shall be referenced and shown on the Plat.
- C) All individual on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of any applicable State, County, or Town agencies having jurisdiction and a note to this effect shall be stated on the plat.
- D) The proposed subdivision name, the date, north point, map scale and name and address of property owner and subdivider and the names of adjoining property owners as listed on Sketch Plan.
- E) The Plat shall conform with the filing requirements of the Delaware County Clerk's office.
- F) Where private roads are proposed, the plat shall show the minimum right-of-way and other design requirements for roads in minor subdivisions. Also a note to the effect that this is not a town road shall be placed on the map.
- G) A soil profile analysis., which results shall also be included on the plat.

## **603. Major Subdivision Preliminary Plat**

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

- A) Proposed subdivision name, name of town and county, name and address of property owner, subdivider, engineer or surveyor preparing the plan, including license number and seal, date, north point and scale.

- B) The name of all subdivisions immediately adjacent, if any, and the names and addresses of the owners of record of all property adjacent to the subdivisions and within five hundred feet (500') of any perimeter boundary.
- C) The approximate location and dimensions of all property lines, the total acreage of the proposed subdivision, special districts or municipal boundary lines affecting the subdivision.
- D) All parcels of land proposed to be dedicated to public use for roads, highways, easements, parks or other public facility and the conditions of such dedication.
- E) The location of all existing structures and pertinent features, including railroads, water bodies, watercourses, wetlands, flood hazard areas, stone walls, rock outcrops, wooded areas, and any other significant existing features that may influence the design of the proposed subdivision area and within two hundred feet (200') of any outside perimeter, plus accurate topography at a vertical contour interval of not less than ten feet (10'). The topographic data shall be determined by field survey unless the Planning Board specifically waives this requirement and/or permits the substitution of topographic information obtained from other sources determined satisfactory for the particular case.
- F) Location of existing sewers, water mains, culverts and drains serving the property, with pipe sites, grades, direction of flow and existing easements.
- G) The width, location and names of any roads or public ways or places shown on the Official Map or in the Comprehensive Plan, if such exists, within the area to be subdivided and the right-of-way width, location, grades, proposed and existing easements and road profiles of all roads or public ways proposed by the developer. Contours with intervals of five feet (5') or less as required by the Planning Board, including elevations on existing roads.
- H) Approximate location and size of all proposed water lines, valves, fire hydrants, and sewer lines or alternative means of water supply or sewage disposal and treatment, including sites for on-site systems as provided in the Public Health Law. Profiles of all proposed water and sewer mains. If septic systems are proposed, the results of soil bearing and soil percolation tests shall accompany the Preliminary Plat. Where on-site water supply systems are proposed, the quality and quantity of water available shall be indicated.
- I) Storm drainage plan indicating the approximate location and size of proposed lines, their profiles and connection to existing lines or

alternative means of disposal, including existing and proposed drainage easements. Temporary measures to control erosion shall also be shown.

- J) Construction plans, profiles, cross-sections and other drawings as required to show the proposed location and types of all improvements required by Article 500 or by the Planning Board or proposed by the subdivider.
- K) Preliminary designs of any bridges or culverts which may be required.
- L) The proposed lot lines with approximate dimensions and area of each lot. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances made and certified to by a licensed land surveyor. Corners of the tract shall also be located on the ground and marked by monuments as approved by the Planning Board and shall be referenced and shown on the Plat.
- M) Where the topography or design is such as to make difficult the inclusion of required facilities within the public areas as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty feet (20') in width and which shall provide satisfactory access to an existing or proposed public road or public open space shown on the subdivision or Official Map.
- N) A copy of any covenants or deed restrictions that are intended to cover any lot in all or part of the tract.
- O) If the Preliminary Plat submitted for approval covers only a part of the subdivider's entire holding in the area, then a map shall be prepared, at a scale of not less than one inch equals four hundred feet (1"=400'), showing the entire tract as it relates to the parcel included on the Preliminary Plat.
- P) A site location sketch, at a maximum scale of one inch equals two thousand feet (1"=2000'), showing the general situation of the applicant's property with respect to surrounding properties and roads, including all utility lines.
- Q) Soil profile analysis as outlined in section 511.

#### **604. Major Subdivision Final Plat**

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

- A) Proposed subdivision name or identifying title, the name of the Town and County in which it is located, the name and address of the owner of record and of the subdivider (if other than owner), the name, certification and seal of the registered engineer or licensed land surveyor who prepared the plat, the names of the owners of record of adjoining properties and of properties directly across the road. Scale, north point and date.
- B) Location of existing buildings, wooded areas, wetlands, ponds, creeks, drainageways, stone walls, burial grounds, large trees and other features to be retained or removed.
- C) Sufficient data to enable the Planning Board to determine readily the location, bearing and length of every road line, lot line, boundary line and to reproduce such lines upon the ground. The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each road. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. Where applicable, these data should be referenced to monuments and tied into other reference points previously established.
- D) The Final Plat shall show, by proper designation thereon, all public open spaces for which deeds are included and the title(s) to which is reserved by the developer. For any of the latter, there shall be submitted with the Plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor. All offers of cession and all covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their form and legal sufficiency.
- E) Roads, pedestrianways, lots, reservations, easements, and other areas to be dedicated to public use.
- F) Notations explaining any drainage, sight, slope, road widening, park area or other reservations or easements, as may be required by the Planning Board, including any self-imposed restrictions or covenants.

- G) The boundaries of the property, location, total acreage included in the entire subdivision and the identification number and acreage of all lots and land reservations within the proposed subdivision. Lots and blocks shall be numbered or lettered in accordance with the prevailing Town practice.
- H) Permanent reference monuments and lot corner markers shall be shown and their location referenced on the Final Plat.
- I) A site location map, at a scale no greater than one inch equals two thousand feet (1"=2,000'), showing the location of the applicant's property with respect to surrounding land and roads.
- J) Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size, grade and type of roads, sidewalks, road lighting standards, road trees, curbs, water mains, sanitary sewers, storm drains, pavement and sub-base, manholes, catchbasins, and other improvements as required by the Planning Board or proposed by the subdivider.
- K) The following notes shall be placed upon the Final Plat:
  - 1) No Building Permit shall be issued to any property owner within this subdivision other than to the owner or applicant unless all improvements are completed and approved in accordance with the Planning Board's resolution of approval of this plat.
  - 2) If private, roads within the subdivision are the responsibility of the developer or any homeowners association if such exists and are not the responsibility of the Town of Davenport.
  - 3) Sanding, snowplowing and other similar maintenance of highways within this subdivision shall be the responsibility of the developer as described in the Road Maintenance Agreement for this subdivision.
- L) Soil Profile Analysis results and any certification from the health department of jurisdiction of sewage disposal and water supply systems. No modification may be made after Department of Health certification.
- M) Statement from the appropriate town officials certifying that required improvements have been satisfactorily installed or that an acceptable bond for such installation has been filed with the Town Clerk.
- N) Any Road Maintenance Agreement if required by the Planning Board.

O) Form for endorsement by Planning Board Chairman as follows:  
"Approved by Resolution of the Davenport Town Planning Board"

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— (Chairman) (Date)

**TABLE 1: MINIMUM SITE REQUIREMENTS FOR ON-SITE SEPTIC SYSTEMS IN ALL SUBDIVISIONS**

	<b>CONVENTIONAL SYSTEMS</b>	<b>ALTERNATIVE SYSTEMS</b>
Percolation Rate	1 to 60 minutes	1 to 45 minutes
Usable Soil	24 or more inches <sup>①</sup>	12 to 24 inches <sup>②</sup>
Slope (maximum)	15%	15%
Sewerage Area (minimum)	3,000 square feet	9,000 square feet
Usable Lot Size (minimum)	20,000 square feet	2 acres
Distance From a Well, Spring, Water Body, or Wet Area (minimum)	100 feet	100 feet

① If less than 30 inches, more than two (2) test pits may be required to verify soil conditions throughout leach field and reserve area.

② If less than 18 inches, more than two (2) test pits may be required to verify soil conditions throughout leach field and reserve area.

**NOTE:** Some conventional or alternative septic system designs will have varying criteria within the range given in this table.