

SUBDIVISION OF LAND

Chapter 152

From the  
CODE  
of the  
TOWN OF SHAWANGUNK

COUNTY OF ULSTER  
STATE OF NEW YORK

[Printed as last amended 4-17-84 by L.L. No. 1-1984 and as slated for amendment at time of adoption of Code. Consult municipal records for possible amendments adopted thereafter.]

GENERAL CODE PUBLISHERS CORP.  
72 Hinchey Road  
Rochester, New York 14624  
1986

SUBDIVISION OF LAND

Chapter 152

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ARTICLE I  
Policy and Applicability

- § 152-1. Declaration of policy.
- § 152-2. Applicability.
- § 152-3. Modification of zoning provisions.

ARTICLE II  
Definitions

- § 152-4. Terms defined.

ARTICLE III  
General Procedures for Subdivision Approval

- § 152-5. Preliminary layout.
- § 152-6. Subdivision plat.

ARTICLE IV  
Specific Procedures for Approval and Filing of Applications

- § 152-7. Approval required.
- § 152-8. Preliminary layout.
- § 152-9. Subdivision plat.
- § 152-10. Required improvements and agreements.
- § 152-11. Filing of approved subdivision plat.

SHAWANGUNK CODE

§ 152-12. Resubdivision.

§ 152-13. Public streets, parks and playground areas.

§ 152-14. Fees for inspection of required improvements.

§ 152-15. Amount of bond required.

ARTICLE V  
Design Standards

§ 152-16. Character of land.

§ 152-17. Conformity to Official Map and Town Plan required.

§ 152-18. Streets.

§ 152-19. Improvements.

§ 152-20. Lots.

§ 152-21. Public sites and open space; easements.

§ 152-22. Preservation of existing features.

§ 152-23. Self-imposed restrictions.

§ 152-24. Additional requirements.

§ 152-25. Modification of standards.

ARTICLE VI  
Specifications For Preliminary Layouts and Subdivision Plat

§ 152-26. Preliminary layout.

§ 152-27. Subdivision plat.

ARTICLE VII  
Enforcement

§ 152-28. Penalties for offenses.

§ 152-29. Building Inspector's check.

§ 152-30. Offense by utility company.

ARTICLE VIII  
Modification of Regulations

§ 152-31. Amendments.

[HISTORY: Adopted by the Town Board of the Town of Shawangunk 1-18-71 as L.L. No. 2-1971. Sections 152-3C, 152-8B(6), F(2) and H, 152-9B(6) and D, 152-11, 152-14, 152-19A(1), 152-21B, 152-25 and 152-28 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 34.  
Building construction administration — See Ch. 66.  
Environmental quality review — See Ch. 84.  
Flood damage prevention — See Ch. 91.  
Junkyards — See Ch. 108.  
Mobile homes — See Ch. 115.  
Sewers — See Ch. 138.  
Subdivision of land — See Ch. 152.  
Zoning — See Ch. 177.

ARTICLE I  
Policy and Applicability

§ 152-1. Declaration of policy.

It is declared to be the policy of the Town Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace. Proper provision shall be made for drainage, water, sewerage and other needed improvements. Proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties. The proposed streets shall compose a convenient system conforming to the Official Map, as it may be adopted, and

shall be properly related to the proposals shown on the Town Plan as it is adopted by the Planning Board. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection. In proper cases, park areas of suitable location, size and character for playground or other recreational purposes shall be shown on the subdivision plat.

**§ 152-2. Applicability.**

- A. A subdivision is the division of any parcel of land into two (2) or more parcels. Any landowner contemplating the sale of a single piece of land which is not the sale of the entire parcel he may own or control at one (1) location, whether or not the land at that location is his by having been acquired by more than one (1) deed or otherwise, should consult with the Planning Board before completing the sale.
- B. If a proposed subdivision contains not more than two (2) lots fronting on an existing street not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan or Official Map or Zoning Law or Ordinance, as they may be adopted, and the lots are of appropriate size, the Planning Board may grant immediate approval thereof.

**§ 152-3. Modification of zoning provisions. [Added 3-11-76 by L.L. No. 1-1976]**

- A. The Planning Board of the Town of Shawangunk is hereby authorized, simultaneously with the approval of a plat or plats pursuant to this chapter and Article 16 of the New York State Town Law, to modify applicable provisions of the Zoning Ordinance within the Town of Shawangunk, Ulster County, New York, subject to the following conditions:

- (1) If the owner makes written application for the use of this procedure, it may be followed at the discretion of the Planning Board if, in the Board's judgment, its application would benefit the town.
- (2) The application of this procedure shall result in a permitted number of building plots or dwelling units which shall in no case exceed the number which could be permitted in the Planning Board's judgment if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Ordinance applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.
- (3) In the case of a residential plat or plats, the dwelling units permitted may be, at the discretion of the Planning Board, in detached, semidetached, attached or multistory structures.
- (4) In the event that the application of this procedure results in a plat showing lands available for park, recreation, open space or other municipal purposes, directly related to the plat, then the Planning Board, as a condition of plat approval, may establish such conditions of the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes.
- (5) The proposed site plan, including areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, off-street open and enclosed parking spaces and streets, driveways and all other physical features as shown on said plan or otherwise described, accompanied by a statement setting forth the nature of such modifications, changes or supplementations of existing zoning provisions as are not shown on said site plan, shall be subject to review and public hearing by the Planning Board in the same manner as set forth in §§ 276 and 277 of the Town Law of the State of New York.

- (6) On the filing of the plat in the office of the County Clerk or Registrar, a copy shall be filed with the Town Clerk, who shall make appropriate notations and references thereto in the Town Zoning Ordinance or Map.
  - (7) The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in the Zoning Ordinance applicable to such lands.
- B. The purposes of this section shall be to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of the land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.
  - C. This section shall be effective within the corporate limits of the Town of Shawangunk.<sup>1</sup>

## ARTICLE II Definitions

### § 152-4. Terms defined.

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

**BUSINESS STREET** — A street which serves or is designed to serve as an access to abutting business properties.

**COLLECTOR STREET** — A street which serves or is designed to connect minor streets to the major street system.

**DEAD-END STREET** — A street or a portion of a street with only one (1) vehicular outlet.

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

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

**MAJOR STREET** — A street which serves or is designed to be used primarily for fast-moving traffic or large traffic volumes.

**MINOR STREET** — A street intended to primarily provide access to abutting property.

**OFFICIAL DATE OF SUBMISSION** — The date when a subdivision plat shall be considered submitted to the Planning Board, as provided in § 276 of the Town Law, and is hereby defined to be the date of a meeting of the Planning Board at which all required surveys, plans and data described in § 152-9 are submitted.

**OFFICIAL MAP** — The map established by the Town Board pursuant to § 270 of the Town Law, showing streets, highways, parks and drainage, both existing and proposed.

**PLANNING BOARD** — The Planning Board of the Town of Shawangunk.

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "Preliminary Plat" showing in detail the features of a subdivision submitted to the Planning Board for consideration and conditional approval in accordance with § 152-8.

**RESUBDIVISION** — Any change in the plat of a subdivision which has previously been filed in the office of the County Clerk.

**STREET** — A right-of-way for vehicular traffic, including road, avenue, lane, highway or other way which is an existing public way or a way shown upon a subdivision plat approved by the Town Planning Board as provided by law or on a plat duly filed and recorded in the office of the County Clerk.

**STREET PAVEMENT** — The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH** — The distance between property lines.

**SUBDIVIDER** — Any person, firm, corporation, partnership or association who shall lay out, for the purpose of sale or development, 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, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision.

**SUBDIVISION PLAT** — The final drawing or drawings of the subdivision submitted to the Planning Board in accordance with the provisions of § 152-9 and which, if approved, may be filed with the County Clerk.

**TOWN BOARD** — The Town Board of the Town of Shawangunk.

**TOWN ENGINEER** — The person duly designated Engineer of the town on a permanent or consulting basis.

**TOWN PLAN** — A comprehensive plan for the development of the town prepared by the Planning Board pursuant to § 272-a of the Town Law, which indicates the general locations recommended for various public works and reservations and for the general physical development of the town, and including any part of such plan separately adopted and any amendment to such plan or parts thereof.

**ZONING LAW OR ORDINANCE** — The officially adopted Zoning Law or Ordinance of the town, together with any and all amendments thereto, in accordance with Article 16 of the Town Law.<sup>2</sup>

### ARTICLE III

#### General Procedures for Subdivision Approval

##### § 152-5. Preliminary layout.

The process for approval of preliminary layouts shall be as follows:

- A. Subdivider. Before beginning the preparation of the preliminary layout, the subdivider will discuss the proposed subdivision with the Planning Board, who will examine said subdivision to determine whether the provisions of these regulations

<sup>2</sup> Editor's Note: See Ch. 177, Zoning.

apply, wholly or in part, or are fully exempt. If regulations apply, the subdivider will then discuss requirements and procedures with the Planning Board and the Ulster County Health Department.

- B. Subdivider. The subdivider shall file an application with the Planning Board for approval of the preliminary layout.
- C. Planning Board. The Planning Board shall study the preliminary layout and advertise the public hearing on the preliminary layout.
- D. Subdivider. The subdivider shall attend the public hearing and discuss the preliminary layout with those attending.
- E. Planning Board. The Planning Board shall advise the subdivider in writing of changes which will be required before approval of the preliminary layout and, also, the character and extent of required improvements and reservations.

§ 152-6. Subdivision plat.

The process for approval and handling of subdivision plats shall be as follows:

- A. Subdivider. The subdivider must file the subdivision plat with the Planning Board within six (6) months or again submit the application and preliminary layout for approval.
- B. Subdivider. The subdivider must obtain the Ulster County Health Department's endorsement on the subdivision plat.
- C. Planning Board. If a County Official Map has been established by the County Board of Supervisors, the Planning Board shall notify the County Planning Board and the County Superintendent of Highways or Commissioner of Public Works upon receipt of application for approval of a subdivision plat if any proposed structures or proposed new streets have frontage on, access to or are otherwise related to any county road or drainage system, existing or proposed, as shown on the County Official Map. Taking into consideration the relationship of the proposed subdivision to the county roads and county drainage system, the County Planning Board shall

have thirty (30) days in which to report its approval or disapproval, or its approval subject to stated conditions. The Planning Board shall receive the report of the County Planning Board that the plat does or does not conflict with the County Official Map and shall be guided thereby, but it may, notwithstanding the report, approve the plat, subject to conditions stated by it, if the application of such report will act to deprive the owner of the reasonable use of his land.

- D. Planning Board. The Planning Board shall hold a duly advertised public hearing on the proposed subdivision plat and may thereupon approve, modify and approve or disapprove the plat. Approval shall be endorsed in writing on the subdivision plat and shall stipulate that the plat does not conflict with the County Official Map, where one (1) exists, or, if the plat fronts on or has access to or is otherwise related to roads or drainage systems shown on the County Official Map, that such plat has been approved by County Planning Board, or otherwise, in the manner specified by § 239-k of the General Municipal Law.
- E. Planning Board. The Planning Board must approve, modify and approve or disapprove the subdivision plat within forty-five (45) days of the public hearing held following its submission in final form.
- F. Planning Board. The Planning Board shall enter in its records the reasons or grounds for refusal to approve the subdivision plat.
- G. Subdivider. With certification from the Town Clerk, the subdivider may file the subdivision plat with the County Clerk if the Planning Board does not act within forty-five (45) days to approve or disapprove.
- H. Planning Board. The Planning Board may change the zoning regulations relating to a proposed subdivision as provided in § 281 of the Town Law with the approval of the Town Board after holding a public hearing. This hearing may be the same public hearing as required for the subdivision plat.

- I. Planning Board. Before final approval of the subdivision plat, the Planning Board shall require notation on the plat of any streets, highways or parks which the subdivider wishes to retain as private and does not desire to offer for dedication to the public. The Planning Board shall also require formal, written offers of cession to the public by the subdivider of all streets, highways and parks not so marked with such notation on the subdivision plat to be filed with it, prior to the approval of the subdivision plat by the Planning Board.
- J. Planning Board. Before final approval of the subdivision plat, the Planning Board shall require a certificate from the Town Engineer that the required improvements have been completed or a certificate from the Town Attorney or other designated legal adviser as to the adequacy of the performance bond which may be offered by the subdivider in lieu of the completion of the required improvements.
- K. Planning Board. The Planning Board may extend, increase or decrease the performance bond of the subdivider subject to the approval of the Town Board and after due notice and public hearing. It may also waive, subject to appropriate conditions, the provisions of any or all improvements and requirements it deems not requisite in the interest of public health, safety and general welfare in accordance with the procedure outlined in § 152-25 of this chapter.
- L. Planning Board. Before final approval of the subdivision plat, the Planning Board shall require a certificate of approval from the Town Attorney as to the legal sufficiency of the offers of cession by the subdivider of the areas for public use, such as parks, streets, playgrounds and school grounds.
- M. Subdivider. The subdivider shall submit the subdivision plat to the County Clerk. If not submitted within ninety (90) days, the plat must again be submitted to the Planning Board before filing.
- N. Planning Board. The Planning Board shall be notified by the County Clerk in writing of the filing or recording of the subdivision plat, identifying the plat by title, date of filing or recording and official file number; whereupon the Planning

Board shall notify the legislative body that the plat has been approved and recorded and shall offer advice to the legislative body as to appropriate official action regarding the formal acceptance of the streets, highways or parks for which formal offers of cession were received from the subdivider of the plat.

- O. Town Board. The Town Board shall create a public street by acceptance of the offer of cession to the public or by purchase or condemnation.
- P. Planning Board. The Planning Board shall send copies of the subdivision plat to appropriate officials so that additions and changes can be entered in official records, such as the assessment rolls and the Official Map, as it may be adopted.

#### ARTICLE IV

#### Specific Procedures for Approval and Filing of Applications

##### § 152-7. Approval required.

Whenever any subdivision of land into two (2) or more lots is proposed, before any contract for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedures which, basically, include two (2) steps:

- A. Application for approval of preliminary layout.
- B. Application for approval of subdivision plat in final form.

##### § 152-8. Preliminary layout.

- A. Discussion of requirements. Prior to filing an application for the approval of a subdivision plat, the applicant shall file an application for the approval of a preliminary layout. Before preparing the preliminary layout, the applicant should discuss with the Planning Board, or its representative, the requirements for reservations of land, street improvements,

drainage, sewerage, water, fire protection and similar aspects, as well as the availability of existing services. The applicant should also discuss the preliminary layout with the Ulster County Health Department, whose approval is required by these regulations and which eventually must approve any subdivision plat coming within its jurisdiction.

- B. Application procedure. The application for approval of the preliminary layout shall:
- (1) Be made on forms available at the office of the Town Clerk.
  - (2) Include all land which the applicant proposes to subdivide.
  - (3) Be accompanied by six (6) copies of the preliminary layout, as described in § 152-26.
  - (4) Comply in all respects with Article V of this chapter and with the provisions of §§ 276 and 277 of the Town Law, except where a modification may be specifically authorized by the Planning Board.
  - (5) Be presented to the Chairman or to the Secretary of the Planning Board.
  - (6) Be accompanied by a fee, as set from time to time by resolution of the Town Board, per lot for each new lot being subdivided from the original parcel. [Amended 4-17-84 by L.L. No. 1-1984<sup>3</sup>]
- C. County Health Department notification on preliminary layout. The Planning Board shall send one (1) copy of the preliminary layout to the Ulster County Health Department with a request for its comments and advice.
- D. State Department of Transportation notification on preliminary layout. If the preliminary layout proposes structures or new streets having frontage on, access to or otherwise directly related to any state highway, existing or proposed, the Planning Board shall send one (1) copy of the preliminary layout

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

to the district office of the State Department of Transportation having jurisdiction thereof for its comments and advice.

E. County Planning Board notification on preliminary layout. If the preliminary layout proposes structures or new streets having frontage on, access to or otherwise directly related to any county highway, existing or proposed, the Planning Board shall send one (1) copy of the preliminary layout to the County Planning Board for its comments and advice. The County Planning Board has thirty (30) days in which to report its approval or disapproval, or its approval subject to stated conditions, of the proposed subdivision.

F. Study of and public hearing on preliminary layout.

(1) The Planning Board will carefully study the practicability of the preliminary layout, taking into consideration the requirements of the community, the best use of the land being subdivided and the conformity with local ordinances. Particular attention will be given to the arrangement, location and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangements, the future development of adjoining lands as yet unsubdivided and the requirements of the Town Plan and the Official Map, as they may be adopted.

(2) The Planning Board will then schedule a public hearing on the preliminary layout within forty-five (45) days from the date of its submission, advertising such public hearing in accordance with the bylaws of the Planning Board, and, in addition, shall mail a copy of the notice of said hearing to each owner of property adjoining the proposed subdivision, to the Board of Fire Commissioners of the fire district and to the Board of Education of the school district in which the proposed subdivision will be located.<sup>4</sup>

G. Subdivider to attend public hearing. The applicant or his representative should then be prepared to attend the public

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<sup>4</sup> Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

hearing and to discuss the preliminary layout with those attending and with the Planning Board.

- H. Required changes for approval. After discussion of the preliminary layout and taking into consideration the expression of opinions of those attending the public hearing or submitting written statements, the Planning Board will, within forty-five (45) days of the date of the public hearing on the preliminary layout, advise the applicant, in writing, of the specific changes it will require in the preliminary layout and the character and extent of required improvements and reservations which it will require as a prerequisite to the approval of the subdivision plat.<sup>5</sup>

§ 152-9. Subdivision plat.

- A. Time requirement. Within six (6) months of the date of the notification of the specific changes which will be required for approval of the subdivision plat as outlined in § 152-8, the applicant shall file with the Planning Board an application for approval of the subdivision plat.
- B. Application procedure. The application for approval of the subdivision plat shall:
- (1) Be made on forms available at the office of the Town Clerk.
  - (2) Include the entire subdivision or a section thereof which derives access from a street on the Official Map, as it may be adopted, which street is improved to town standards or for which street a bond covering such improvement is held by the town.
  - (3) Be accompanied by one (1) reproducible copy of the subdivision plat and the construction detail sheets, prepared on Mylar as described in § 152-27 of this chapter and six (6) other copies prepared from the reproducible copy, two (2) of which shall be backed with linen.
  - (4) Comply in all respects with the preliminary layout modified to meet the specific changes required.

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

- (5) Be presented to the Chairman of the Planning Board at least two (2) weeks prior to a regular meeting of the Board in order that a public hearing may be scheduled and the required notice given.
  - (6) Be accompanied by a fee as set from time to time by resolution of the Town Board, which shall be paid by the owner or its agent prior to the advertisement of the hearing.<sup>6</sup>
- C. Official submittal date. The subdivision plat shall be considered officially submitted only at the next regular meeting of the Planning Board following completion of the application procedure outlined in Subsection B(1) through (6).
- D. Public hearing. Before the Planning Board acts on any subdivision plat, it shall hold a public hearing thereon in accordance with § 276 of the Town Law. The public hearing shall be held within forty-five (45) days of the official submittal date.<sup>7</sup>
- E. Endorsement of County Health Department. The proposed subdivision plat shall be properly endorsed by the Ulster County Health Department as meeting the standards of applicable health codes before any public hearing is scheduled. The plat should be in final form before the County Health Department approval.
- F. State Department of Transportation notification on subdivision plat. If the subdivision plat proposes structures or new streets having frontage on, access to or otherwise directly related to any state highway, existing or proposed, the Planning Board shall send one (1) copy of the subdivision plat to the district office of the State Department of Transportation having jurisdiction thereof for its comments and advice.
- G. County Planning Board notification on subdivision plat. If the subdivision plat proposes structures or new streets having frontage on, access to or otherwise directly related to any county highway, existing or proposed, the Planning Board

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

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

shall send one (1) copy of the subdivision plat to the County Planning Board for its comments and advice. The County Planning Board has thirty (30) days in which to report its approval or disapproval, or its approval subject to stated conditions, of the proposed subdivision.

H. Action on proposed subdivision plat. After careful study, the Planning Board shall, within forty-five (45) days from the date of the public hearing, approve, modify or disapprove such plat. The grounds for disapproval of any plat shall be stated on the records of the Planning Board. A subdivision plat shall not be signed by the authorized officers of the Planning Board until the applicant has met all the conditions of the action granting approval of such plat.

I. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been given by the Board and endorsed, in writing, on the plat. In the event that any subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.

J. Signing of plat.

(1) Every subdivision plat submitted to the Board for its approval shall carry the following endorsement:

Approved by resolution of the Planning Board of the Town of Shawangunk, Ulster County, New York, on the ..... day of ..... 19...., subject to all requirements and conditions of said resolution. Any changes, erasure, modification or revision of this plat, as approved, shall void this approval. Signed this..... day of ..... 19.... by:

.....  
Chairman

.....  
Secretary

- (2) In the absence of the Chairman or Secretary, the Acting Chairman or Acting Secretary, respectively, may sign in his place.

**§ 152-10. Required improvements and agreements.**

- A. Prior to an action by the Planning Board approving a subdivision plat, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate town departments, all the street, sanitary and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Board a bond in the amount estimated by the Planning Board to secure to the town the satisfactory construction and installation of the uncompleted portion of the required improvements. A period of one (1) year, or such other period as the Planning Board may determine appropriate, within which required improvements must be completed, shall be specified by the Planning Board and expressed in the bond. Such performance bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board as to form, sufficiency and manner of execution. The bond shall provide that an amount determined adequate by the Planning Board shall be retained for a period of one (1) year after the date of completion of the required improvement to assure their satisfactory condition. All required improvements shall be made by the applicant at his expense without reimbursement by the town or any district therein.
- B. Plats with access through other municipalities. Whenever access to a subdivision is by crossing land in another municipality, the Planning Board may require certificates from authorities having jurisdiction that such access is adequately improved or that a legally adequate performance bond has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.
- C. Inspection of improvements. The town shall employ an inspector to act as agent of the Planning Board for the purposes of assuring the satisfactory completion of improvements if

required by the Planning Board, and the Planning Board shall determine an amount sufficient to defray costs of inspection. The applicant shall pay the town costs of inspection before the subdivision plat is signed for filing. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved construction detail sheets, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.

- D. Utilities. Where poles and overhead wires will damage or destroy the scenic beauty of an area, the Planning Board shall require that electrical, telephone or other service wires be buried. Easements for the necessary utilities must be granted and assurances in writing will be required from the utility companies that such easements have been granted and the installations necessary for the furnishing of their services will be made within a specified time in accordance with the approved construction detail sheets. No poles, overhead wires or underground facilities of a utility company shall be located or relocated within the town on public property or on any subdivision until such utility shall be in receipt of construction detail sheets, approved by the Planning Board, showing the proposed location or relocation of the facility.
- E. Monuments. Permanent monuments shall be of approved design and set at block corners and at intervals of approximately five hundred (500) feet or such other distance as the Planning Board may determine appropriate, and their location shall be shown on the subdivision plat. Iron pipes shall not be considered permanent monuments for the purpose of these regulations.
- F. Offers of cession and releases. The plat shall be endorsed with the necessary agreements in connection with required easements or releases. Offers of cession to the town shall be presented prior to plat approval. Formal offers of cession to the town of all streets and parks, not marked on the plat with notation to the effect that such cession will not be offered,

shall be filed with the Planning Board prior to plat approval. Offers of cession, even if in form satisfactory to the town, are not to be deemed to constitute or imply an acceptance by the town of any street or park shown on said plat.

- G. Scenic easements. Where there is the possibility of the preservation of the natural beauty or historical value of an area being endangered, the Board will require that scenic and historic easements be granted to the town.

#### § 152-11. Filing of approved subdivision plat.<sup>8</sup>

Upon completion of all requirements set forth in the action approving the subdivision plat, the copy prepared on Mylar and the two (2) linen-backed copies of the plat shall be properly signed by the appropriate officers of the Planning Board and one (1) linen-backed copy, thus signed, shall be returned to the applicant and shall be filed by the applicant in the office of the Ulster County Clerk. Any subdivision plat not so filed within sixty (60) days of the date of Planning Board signature becomes null and void.

#### § 152-12. Resubdivision.

For a resubdivision, the same procedure, rules and regulations apply as for a subdivision.

#### § 152-13. Public streets, parks and playground areas.

- A. Public acceptance of streets and reservations. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future ti-

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

tle, dedication and provision for the cost of grading, development, equipment and maintenance of any park or playground area.

- B. Control of open space. The Board desires to encourage the cluster type of development with smaller lots each adjoining open space owned and controlled in common with other property owners in the development through a homeowners' association. Where this type of subdivision is planned and the number of units is twenty-five (25) or more, the Planning Board shall require the applicant to properly establish such a homeowners' association and to deed to it the open spaces provided, reserving easements for sewerage, water and public utility lines. The Planning Board shall require that where such a homeowners' association is established a restriction be placed in each deed requiring that the plans for any building in the subdivision be approved by such homeowners' association before a building permit may be issued.

#### § 152-14. Fees for inspection of required improvements.<sup>9</sup>

The engineering, inspection and other fees to be paid by the subdivider to meet the requirements of § 152-10C of this chapter shall be as set from time to time by resolution of the Town Board for the following:

- A. Inspection of final plat and advice thereon.
- B. Inspection of detail sheets for roads, sidewalks and curbs specifications and determination of costs to enable setting of bond requirements.
- C. Inspection of detail sheets for community water supply system and determination of costs to enable setting of bond requirements.
- D. Inspection of detail sheets for community sewer system and determination of costs to enable setting of bond requirements.

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

- E. Inspection of detail sheets for underground wiring and utilities and determination of costs to enable setting of bond requirements.
- F. Periodic inspections of installation of required improvements.
- G. In the event that other professional services are required, the Planning Board may require prepayment for such services.

**§ 152-15. Amount of bond required.**

The amount of the bond to be filed with the Town Board to meet the requirements of § 152-10A shall be one hundred twenty-five percent (125%) of the engineer's estimates of the cost of completion of the improvements required.

ARTICLE V  
Design Standards

**§ 152-16. Character of land.**

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

**§ 152-17. Conformity to Official Map and Town Plan required.**

Subdivisions shall conform to the streets and parks shown on the Official Map, as it may be adopted, and shall be properly related to the Town Master Plan, as it is developed and adopted by the Town Planning Board.

**§ 152-18. Streets.**

- A. Location, width and improvement of streets. Streets shall be suitably located, of sufficient width and adequately improved to accommodate the prospective traffic and to afford satisfactory access to police, fire-fighting, snow removal or other road

maintenance equipment and shall be coordinated so as to compose a convenient system. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties.

B. Widths of right-of-way. Streets shall have the following widths, unless otherwise indicated on the Town Plan;

- (1) Minor streets: fifty (50) feet.
- (2) Secondary streets: sixty (60) feet.
- (3) Business streets: sixty (60) feet.

C. Specifications for new minor town roads.

- (1) The Town Superintendent of Highways and/or the Planning Board will not recommend and the Town Board will not accept or establish any new town road which does not meet the following minimum requirements and standards. These requirements and standards must be met and paid for by the person or firm proposing that the town take over such roads.
  - (a) State Highway Law requirements. Sections 170 and 171 of the State Highway Law must be fully complied with.
  - (b) Monuments or markers. All boundaries of the right-of-way of the proposed road shall be marked with permanent markers at intervals of not over five hundred (500) feet.
  - (c) Clearing of right-of-way. The right-of-way shall not be less than fifty (50) feet wide and shall be completely cleared of all brush, rocks, trees and scrub trees for its full width.
  - (d) Drainage structures and culvert pipe. All drainage structures necessary shall be installed and shall be of accepted design and adequate length as required by the Superintendent of Highways and/or the Town Engineer.

- (e) Drainage ditches. All necessary drainage ditches shall be constructed to provide adequate drainage for the proposed road, and easements (when necessary for same) shall be provided by the petitioner.
- (f) Grading. The proposed road shall be graded. Such grading shall be at least thirty (30) feet in width, centered on the right-of-way, and shall be of such character and alignment that additional work of this nature by the town will not be necessary.
- (g) Grades. Grades of all roads shall conform in general to the terrain and shall be the reasonable minimum but shall not be less than five-tenths percent (0.5%) or more than twelve percent (12%) unless a variance is requested and approved by the Superintendent of Highways or the Town Engineer. A combination of steep grades and sharp curves shall be avoided.
- (h) Curves. The minimum radius of horizontal curves shall be not less than one hundred fifty (150) feet except for street intersection corners.
- (i) Intersections. Easements to main roads shall be at ninety-degree angles and offer an unobstructed view of traffic.
- (j) Roadside banks. Banks shall be of not greater than forty-five-degree angles, unless a variance is requested and approved by the Superintendent of Highways or the Town Engineer, and shall be seeded to grass, except where there is rock or masonry walls are provided.
- (k) Utility poles. Utility poles shall be set in such location that they will normally be in back of the curbline and between the curbline and the theoretical sidewalk line.
- (l) Guardrails. Adequate guardrails shall be installed by the petitioner where deemed necessary by the Town Superintendent of Highways or a qualified engineer selected by the Planning Board.

- (m) Turnaround. There shall be a paved "T" or an equivalent paved circle with a radius of fifty (50) feet at every dead-end street or road.
- (n) Installation of substructures. Any subsurface structures such as water, gas and sewer lines must be installed previous to the application for acceptance of the road by the town authorities and shall be installed in compliance with good common practice.
- (o) Removal of unsatisfactory subbase or foundation materials. Any unsatisfactory material within the limits of the proposed pavement shall be removed.
- (p) Foundation material. The proposed road alignment shall be filled and compacted with not less than six (6) inches of hard shale, well-graded one-and-one-half-inch gravel, quarry rubbish or other satisfactory subbase or foundation material not less than twenty-four (24) feet in width. This material shall then be treated with sodium or calcium chloride at the rate of one-half ( $\frac{1}{2}$ ) pound per square foot of road surface, and the road shall be allowed to settle for a period of not less than three (3) months.
- (q) Base material and treatment. After the subbase or foundation material has been thoroughly compacted and trimmed to present an even surface, both in profile and cross section three (3) inches below the finished grade, it shall be covered with three (3) inches of graded material acceptable to the Superintendent of Highways. This material shall then be compacted by the use of a five-to-ten-ton roller to present an even surface, both longitudinally and transversely. The Planning Board and the Town Board shall require a certificate from the Town Superintendent, or a qualified engineer selected by the Planning Board, as to compliance to these specifications. To this surface then shall be applied bituminous material of such grade as specified by the Town Superintendent of Highways and in such quantity [not less than one (1) gallon per square

yard] as he shall specify and shall immediately be adequately covered with a uniform layer of three-eighths inch crushed stone and rolled with a five-to-ten-ton roller. Such bituminous material, when applied, shall be twenty (20) feet in width centered on the subbase. In all cases, the Town Superintendent of Highways shall be notified in writing at least one (1) week and not more than ten (10) days prior to the application of this bituminous material.

- (2) Exceptions. Any deviation from the above requirements may be made only by written release from the Town Board and the Planning Board; such written release to accompany the owner's petition for acceptance of the proposed town highway.
- D. Relation to topography. Streets shall be logically related to the topography, and all streets shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.
- E. Block size. Within any zoning district, block dimensions shall be at least twice the minimum lot depth and generally not more than twelve (12) times the minimum lot width. In long blocks, the Planning Board may require the reservation through the block of a twenty-foot-wide easement to accommodate utilities or pedestrian traffic. See § 152-21D.
- F. Intersections: distance apart and sight easements required. Intersections of major streets by other streets shall be at least eight hundred (800) feet apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic intersections. A distance of at least one hundred fifty (150) feet shall be maintained between offset intersections. Within forty (40) feet of an intersection, streets shall be approximately at right angles, and grades shall be limited to one-and-one-half percent (1½%). All street intersection corners shall be rounded by curves of at least twenty-five (25) feet in radius at the property line. Within triangular

areas formed by the intersecting street lines, for a distance of seventy-five (75) feet from their intersection and the diagonals connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Nothing in the way of fences, walls, hedges or other landscaping shall be permitted to obstruct such visibility. Each plat shall have endorsed upon it the following:

"The sight easements shown hereon establish the perpetual right of the holder of fee title of this highway, or his authorized representative, to clear, regrade and maintain the area within these easements at such elevation that there is a clear line of sight anywhere across the area between an observer's eye at an elevation of three and five-tenths (3.5) feet above the road surface at the nearest edge of the road and an object one (1) foot above the nearest edge of pavement on the intersecting road."

- G. Continuation of streets into adjacent property. The arrangements of streets shall provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly where such continuation is in accordance with the Town Plan, as it may be adopted. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary circular turnaround of a minimum of fifty (50) feet in radius shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued. The Planning Board may limit temporary dead-end streets to a length not more than double the permitted length of permanent dead-end streets.
- H. Permanent dead-end streets. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance not less than the minimum

lot depth prescribed by the zoning regulations for the zoning district in which the street may be located, as these zoning regulations may be adopted. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Planning Board may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. A circular turnaround of a minimum right-of-way radius of sixty-five (65) feet shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to six (6) times the minimum lot width for the zoning district.

- I. Street names. All streets shall be named, and such names shall be subject to the approval of the Planning Board. Names shall be sufficiently different in sound and in spelling from other street names in the town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.

#### § 152-19. Improvements.

Streets shall be improved with street signs, sidewalks, streetlighting standards, curbs, gutters, street trees, water mains, sanitary sewers, storm drains and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of the public health, safety and general welfare.

##### A. Water and sewerage facilities.

- (1) Facilities for water and sewerage shall be provided in each new subdivision in accordance with requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the sub-

division. Local Law No. 2-1981,<sup>10</sup> providing for the control of sewage disposal within the town, shall be followed in all respects.<sup>11</sup>

- (2) Central water supply systems shall be designed with adequate pressures, mains and fire hydrants to meet Association of Fire Underwriters' specifications for a Class C protected area.
  - (3) All water mains shall be at least six (6) inches in diameter.
  - (4) Sanitary sewers shall not be used for stormwater drainage.
  - (5) A central sewerage system shall provide a four-inch minimum size connection to each lot.
  - (6) The provisions of Article 10 of the Administrative Code of the Health Department of the State of New York as they apply to subdivisions shall apply to all subdivisions within the town of twenty-five (25) or more lots.
  - (7) Any subdivision contiguous to an existing water or sewer district or contiguous to or within a planned expansion of an existing water or sewer district shall make application to become a part of or to be serviced by the existing district. No subdivision shall be approved where it is intended to use individual wells and/or septic tanks where the facilities of an existing water or sewer district may be utilized.
- B. Storm drainage facilities. Storm drainage facilities shall provide a clear and protected channel fully adequate to handle runoff from a five-year average storm and designed so that heavy runoffs which exceed the capacity of the channels can be handled with least possible damage to improvements and structures.
- C. Utilities. Where poles and overhead wires will damage or destroy the scenic beauty of an area, the Planning Board shall require that electrical, telephone and other service wires be buried.

<sup>10</sup> Editor's Note: See Ch. 138, Sewers.

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

## § 152-20. Lots.

## A. Lot arrangement.

- (1) The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Law or Ordinances as they may be adopted, and in providing access to buildings on such lots from an approved street.
- (2) The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

## B. Lot dimensions. Lot dimensions shall at least comply with the minimum standards of the Zoning Law or Ordinance, as it may be adopted, and until such time as a Zoning Law or Ordinance is adopted shall be no less than the following:

- (1) Forty thousand (40,000) square feet in area where neither public sewer nor water is available.
- (2) Twenty thousand (20,000) square feet in area where either public sewer or water is available, but not both.
- (3) Ten thousand (10,000) square feet in area where both public sewer and water are available.
- (4) Fifteen thousand (15,000) square feet in area where in a cluster-type development each lot adjoins an open space and where an easement entitles the lot owner to use the open space as a drainage field.

## C. Side lot lines. Side lot lines shall be at right angles to street lines unless a variation from this rule will give a better street or lot plan.

- D. Access from major streets. Lots shall not, in general, derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street.
- E. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for the installation of a culvert or other structure, of a design approved by the Town Engineer or Superintendent of Highways.

**§ 152-21. Public sites and open space; easements. [Amended 4-17-84 by L.L. No. 1-1984].**

- A. Where a proposed park, playground, school or other public use shown in the Master Plan is located in whole or in part in a subdivision, the Planning Board may require the dedication or reservation of such area within the subdivision, in those cases in which the Planning Board deems such requirements to be reasonable. Where deemed essential by the Planning Board upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood unit developments not anticipated in the Master Plan, the Planning Board may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.
- B. Alternative recreation fees. Where the Planning Board decides that the land to be subdivided is not suitable for the reservation of land for a park, then, in lieu thereof, the subdivider shall contribute a recreation fee in the amount set by resolution of the Town Board from time to time for each new lot being subdivided from the original parcel. Said fee shall be paid to the Town of Shawangunk Building Inspector upon application for a building permit for each lot.<sup>12</sup>

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

- C. Widening or realignment of existing streets. Where the subdivision borders an existing street and the Official Map or Master Plan (as they may be adopted) indicates plans for realignment or widening of the subdivision, the Planning Board may require that such areas be shown and marked on the plat "Reserved for Street Realignment (or Widening) Purposes."
- D. Utility and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within the street rights-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street. Easements shall be indicated on the plat.
- E. Easements for pedestrian access. The Planning Board, where it deems it necessary, may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.
- F. Responsibility for ownership of reservations. Ownership shall be clearly indicated on the plat for all reservations for parks and playground purposes.

**§ 152-22. Preservation of existing features.**

Existing features which would add value to residential development, such as large trees, watercourses and falls, beaches, historic spots and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision.

**§ 152-23. Self-imposed restrictions.**

The owner may place restrictions on the development greater than those required by the Zoning Law or Ordinance, as it may be enacted. Such restrictions, if any, shall be indicated on the final plat.

**§ 152-24. Additional requirements.**

The requirements outlined in these subdivision regulations are not to be construed as including all that the Planning Board may require. Any requirement authorized by the Town Law or any other applicable state or local law and not contained in these subdivision regulations may be required by the Planning Board when, in its judgment, such requirements are necessary to carry out the objectives of these regulations.

**§ 152-25. Modification of standards.<sup>13</sup>**

The Planning Board may modify the specified requirements in any individual case where, in the Planning Board's judgment, such a modification is in the public interest or will avoid the imposition of unnecessary individual hardship, where such modification is requested by the subdivider. The request of the subdivider shall be made in writing and shall specify the exact change or changes which the subdivider seeks, and the subdivider shall have the burden of supporting his contention that the modifications requested are in the public interest or will avoid the imposition of unnecessary hardship on him. Such a request shall be made prior to the public hearing on the preliminary layout, and the notice of the hearing on the preliminary layout shall contain an abstract of the requested changes. No modifications of standards or requirements shall be made after the Planning Board has advised the subdivider of the specific changes it will require in the preliminary layout except in accordance with the following procedure: The subdivider shall make a request for further changes or modifications in writing, specifying the exact changes desired and the basis for making such changes. Such a request shall be accompanied by a fee as set from time to time by resolution of the Town Board. Upon payment of the fee, the Planning Board shall schedule a public hearing to consider the specific changes requested. The notice of public hearing shall list the modifications requested and shall contain an abstract of the basis for requesting such modifications. After public hearing, the Planning Board, in its sole discretion, may modify the requirements as requested. The resolution of the Planning Board approving the final plat shall specify the exact

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

modifications granted. After approval and filing of the final plat, the resolution of the Planning Board granting any further modification shall be filed with the County Clerk and shall be published once in the official newspaper of the town.

## ARTICLE VI

### Specifications For Preliminary Layouts and Subdivision Plat

#### § 152-26. Preliminary layout.

Preliminary layouts submitted to the Planning Board shall be drawn to a convenient scale, not less than one (1) inch equals one hundred (100) feet, and shall show the following information:

- A. The location of the property with respect to surrounding property and streets. There shall also be included an area map at a scale of one (1) inch equals four hundred (400) feet showing all streets and property within one thousand (1,000) feet of the applicant's property. All property held by the applicant in the area should be identified.
- B. The location and approximate dimensions of all existing property lines (include entire area proposed to be subdivided and remainder of the tract owned by the subdividing owner).
- C. All pertinent features, such as existing structures, streets, railroads, water bodies, streams, swamps and large trees, that may influence the design of the subdivision, and topography at a contour interval of not more than five (5) feet, unless waived by the Planning Board.
- D. The location, width and approximate grade of all proposed streets. Approximate elevations shall be shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.
- E. The approximate location, dimensions and area of all proposed or existing lots.
- F. The approximate location and dimensions of all property proposed to be set aside for playground or park use.

- G. The names of all adjoining property owners of record or the names of adjoining developments.
- H. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider, if other than the owner, and the name of the land surveyor.
- I. The date, approximate true North point and scale.
- J. Proposed provision of water supply, fire protection, disposal of sanitary waste, stormwater drainage, street trees, street-lighting fixtures, street signs and sidewalks, data on which must be available for consideration at this state.

#### § 152-27. Subdivision plat.

Subdivision plats shall be accompanied by separate construction detail sheets, and both shall be submitted to the Planning Board for approval, as follows:

- A. Drawing, scale and size of plat and construction detail sheets. The subdivision plat and construction detail sheets shall be clearly and legibly drawn on Mylar at a scale of one (1) inch equals one hundred (100) feet. Maps shall be uniform in size and not larger than thirty-six by forty-eight (36 x 48) inches. Whenever any project is of such size that more than one (1) sheet is required, then an index map on the same size sheet shall accompany these sheets.
- B. Information to be shown on plat. Plats shall show the following information:
  - (1) Proposed subdivision name or identifying title, which shall not duplicate or too closely approximate that of any other development in the town.
  - (2) Date, approximate true North point and scale.
  - (3) Name, address and signature of owner, subdivider and licensed engineer or land surveyor.
  - (4) Names of owners of record of abutting properties or developments.

- (5) Locations, names and widths of existing streets, high-ways and easements, building lines, parks and other public properties.
  - (6) Location and width of all streets and sidewalks, together with names of streets, and location, dimensions and status of all easements proposed by the subdivider.
  - (7) Lot areas in square feet.
  - (8) Lot lines with accurate dimensions and bearings of angles.
  - (9) Sufficient data to determine readily the location, bearing and length of all lines and to reproduce such lines upon the ground.
  - (10) Radius of all curves and lengths of arcs.
  - (11) Location, material and approximate size of all monuments.
  - (12) The accurate outline of all property which is offered or to be offered for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the subdivision.
- C. Construction detail sheets. Construction detail sheets shall show the following information, except that, where requirements have been waived, applicable specifications may be omitted.
- (1) Profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets, within one hundred (100) feet of the intersection, shall be shown. All elevations must be referred to established United States Government or approved local bench marks, where they exist within one-half ( $\frac{1}{2}$ ) mile of the boundary of the subdivision.
  - (2) The Planning Board may require, where steep slopes exist, that present elevations of all proposed streets shall be shown every one hundred (100) feet at five (5) points on a

line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line and points thirty (30) feet inside each property line.

- (3) Plans and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; and the exact locations and size of all water, gas or other underground utilities or structures and the present and proposed location of each pole or overhead wire of any utility.

## ARTICLE VII Enforcement

### § 152-28. Penalties for offenses.<sup>14</sup>

If any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which the Planning Board is required to act without submitting the subdivision for review, or before final approval has been obtained, such person shall be subject to a fine of not to exceed two hundred fifty dollars (\$250.) or to imprisonment for not more than fifteen (15) days, or both. Each parcel, lot or plot so disposed of shall be deemed a separate violation. Each week's continued violation of any requirement of this chapter shall constitute a separate additional violation.

### § 152-29. Building Inspector's check.

The Building Inspector of the town shall check each application for a building permit to determine if all the requirements of this chapter and of the Zoning Law or Ordinance, when enacted, have been complied with for the land on which the proposed building is to be erected. If it appears that there is any violation of this chapter or of the

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

Zoning Law or Ordinance, when enacted, the Building Inspector shall refer the application to the Planning Board for its opinion before issuing a building permit. If in the opinion of the Planning Board a violation exists, it shall so advise the Building Inspector within ten (10) days of the date the application is referred to it, and the Building Inspector shall not issue a building permit until the Planning Board advises that the violation has been discontinued.

**§ 152-30. Offense by utility company.**

If any utility company shall locate or relocate within the town on public property or on any subdivision any pole, overhead wire or underground facility without first having in its possession a construction detail sheet approved by the Planning Board showing the proposed location or relocation of the facility, it shall be considered a violation of this chapter, and the utility company shall be subject to the penalty or penalties contained in § 152-28 of this chapter. In addition thereto, if the location or relocation of the pole, overhead wire or underground facility is determined by the Planning Board to be contrary to the policy as outlined in this chapter and detrimental to the orderly development of the town, the Planning Board shall request the Town Attorney to and the Town Attorney shall institute legal action to compel the utility company to relocate the facility.

**ARTICLE VIII  
Modification of Regulations**

**§ 152-31. Amendments.**

These regulations or any portion thereof may be amended, supplemented or repealed at any time by the Town Board, on its own motion or by recommendation of the Planning Board to the Town Board. The Town Board shall refer all proposed amendments to the Planning Board for study and further recommendation. The Planning Board shall call a public hearing within thirty (30) days after submission to it of any changes by the Town Board. At least ten (10) days' notice of such hearing shall be given by the Planning Board,

and publication of the hearing shall be made in the official newspaper of the town at least ten (10) days before the hearing. After the public hearing, the Planning Board shall submit to the Town Board its recommendation concerning the proposed changes within thirty (30) days of the hearing. Thereafter, any amendments must be enacted in accordance with the requirements of Local Law No. 1 of 1968.<sup>15</sup>

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<sup>15</sup> Editor's Note: See Ch. 22, Local Laws, Adoption of.