

SUBDIVISION CONTROL REGULATIONS FOR THE TOWN OF NEWFIELD, NEW YORK

ARTICLE I. INTRODUCTION

Subdivision Review provides for organized future growth and development by ensuring safe and adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of the subdivision population. Subdivision Review does not regulate or control property usage, minimum lot size or building design.

The authority to approve, approve with conditions, or deny subdivision applications within Newfield is bestowed upon the Newfield Planning Board as provided by these regulations.

Section 1.1 Short Title. This local law shall be known as the “Subdivision Review Law.”

Section 1.2 Authority. This Local Law is adopted pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law, Section 10 of the Statute of Local Governments and Town Law Article 16.

Section 1.3 Purpose. The purpose and intent of this Local Law is to ensure that development within the Town of Newfield is consistent with available facilities, infrastructure and resources; to encourage orderly and beneficial development of land; to identify and mitigate potential negative impacts of development on the residents and environment of Newfield; to facilitate the preservation of open spaces; to protect the value of property throughout Newfield; and to generally protect the health, safety and public welfare of the residents of Newfield.

ARTICLE II. APPLICABILITY

Section 2.1 Applicability of Subdivision Review. The Local Law for Subdivision Review and approval by the Planning Board is required for any parcel of land located within the Town of Newfield which is being divided into five or more lots.

ARTICLE III. SUBDIVISIONS DESCRIBED

Section 3.1 Subdivision Definition. A subdivision, as defined for purposes of this Local Law, is any parcel of land within the Town of Newfield which is divided into five or more lots of any size for the purpose of sale, transfer or ownership, or development.as residential or mixed residential/commercial lots. Both lots for permanent as well as temporary (for example, seasonal) use are included.

Section 3.2 Subdivision Classifications. Subdivision classifications as defined for purposes of these regulations are listed below.

- (a) Conventional Subdivision – a division of land into residential lots and streets in accordance with the minimum subdivision and other regulations; this often results in no or limited protection of land features.
- (b) Cluster Subdivision – a subdivision of land into residential lots and streets where lots or structures are “clustered” at a higher density on the most usable portion of the land, leaving some areas open in the interest of preserving the natural and scenic qualities of open and common areas. In general, overall density is not increased when compared to a Conventional Subdivision.
- (c) Conservation Subdivision – a subdivision of land similar to a Cluster Subdivision; however, in a Conservation Subdivision a portion of the land is designated to permanently protect a large portion of the site which may have important cultural or environmental areas. Structures are clustered at a higher density on the remainder of the land.

ARTICLE IV. DEFINITIONS

Section 4.1 Terminology. Terms for purposes of these regulations are defined below.

- (a) Applicant – the Subdivider or Subdivider’s authorized agent who is submitting the Subdivision Review application.
- (b) DEIS - Draft Environmental Impact Statement. This document describes and analyzes a proposed action which may have a significant impact on the environment.
- (c) Environmental Assessment Form – a form used by the Planning Board and other government and groups; this form is part of the State Environmental Quality Review (SEQR) process.
- (d) Final Plat – a drawing which shows all information related to the proposed subdivision form; the drawing should be marked as “Final Plat” for purposes of review by the Planning Board. When approved, the Final Plat can be filed or recorded by the Applicant in the Tompkins County Clerk’s Office.
- (e) Infrastructure – for purposes of this Local Law, structures, facilities and systems built at the community level that are critical for the sustenance of lives and livelihoods of the community. Includes but not limited to structures, facilities and systems to constrict and maintain public roads, walkways, footbridges, drainage structures (including retaining ponds), slope protection and retaining walls, dams, ponds, facilities for community water supply and delivery, sanitation, energy supply and delivery, communications and internet.
- (f) Lot – for purposes of this Local Law, a continuous, unbroken area of land having a distinct and defined boundary which is described in a separate deed and/or subdivision plat and is recorded in the Tompkins County Tax Assessor’s maps. A lot may be occupied or be capable of being occupied by a building or buildings.
- (g) Parcel - any area or parcel of land as described by a deed or other written indenture capable of being recorded pursuant to the law of the State of New York.

- (h) Planning Board – a local government entity that deals with town planning. For the purposes of these regulations, unless otherwise specified, the term “Planning Board” shall refer to the Planning Board of the Town of Newfield.
- (i) Plat – a plan for developing a piece of undeveloped property.
- (j) Preliminary Plat – a drawing which shows the prominent features of the proposed subdivision; the drawing should be marked as “Preliminary Plat” for purposes of review by the Planning Board. This drawing may be in the form of a sketch plan of the proposed subdivision which shows the layout, public facilities and other prominent features of the proposed subdivision.
- (k) State Environmental Quality Review Act (SEQRA) - a process which requires environmental factors be considered along with social and economic considerations in government decision. This purpose of this review is to assist government and the public to both protect and improve the environment by determining the environmental significance or non-significance of a project or other action. SEQRA is codified in the Environmental Conservation Law at Article 8, and including Title 6 of the New York Codes, Rules and Regulations, Part 617.
- (l) Subdivider – the owner of, or developer or contractor who will subdivide a parcel or any authorized agent of the above.

ARTICLE V. TYPES OF SUBDIVISION REVIEWS

Section 5.1 Minor and Major Subdivision Reviews. Two types of Subdivision Reviews are hereby defined for purposes of this Local Law. The Planning Board will make the final determination as to whether a Minor or Major Subdivision Review is required for any proposed subdivision.

- (a) Minor Subdivision Review – a review of a proposed subdivision which will not require the construction of a new public street or the extension of any existing public street (that is, each lot has frontage on a public road or is accessible by a “right-of-way” within the subdivision such as a flag lot), municipal facilities or other significant infrastructure. A Minor Subdivision

Review is a “one step” review as only a review of the preliminary plat (or final plat, if available) is required.

- (b) Major Subdivision Review – a review of a proposed subdivision which will require any new public street, extension of municipal facilities or other significant infrastructure or major modifications to any public street, municipal facilities or other infrastructure. A public hearing and Planning Board receipt of the Final Plat are required as part of a Major Subdivision Review. A Major Subdivision Review is a “two step” review as a review of both the preliminary and final plats are required.

ARTICLE VI. SUBDIVISION REVIEW PROCEDURE

Section 6.1 Application Requirements. In accordance with this Local Law, the Subdivider or Subdivider’s authorized agent (“Applicant”) shall apply in writing to the Planning Board for approval for a proposed subdivision in accordance with the following documents:

- (a) Application for Subdivision Review Form (available on the Newfield Town website or from the Newfield Town Clerk’s Office)
- (b) Environmental Assessment Form (EAF)
- (c) Owner Authorization for Creating the Subdivision
- (d) Preliminary Subdivision Plat in Map Format
- (e) Non-Refundable Application Filing Fee as Specified on the Application for Subdivision Review Form (as set by the Newfield Town Board)
- (f) Additional fees equal to the actual costs of Subdivision Review, SEQRA review or costs to engage any party that might act in a consulting or advisory capacity shall also be changed to the Applicant whenever required or allowed by law. The Planning Board may require a deposit be made to the Town of Newfield in an amount reasonably estimated to cover such costs.

Section 6.2 Planning Board Considerations. The Planning Boards' review of the materials submitted shall include, as appropriate, the following considerations:

- (a) Access for Fire and Emergency Vehicles, Equipment and Personnel; Service Access
- (b) Drainage; Stormwater Runoff; Retention Ponds; Topography
- (c) Human and Social Aspects
- (d) Landscaping, Screening and Buffering
- (e) Lot Configuration
- (f) Potential Impact to Existing Public Infrastructure or the Need to Improve Existing or Add New or Additional Public Infrastructure
- (g) Potential Impact to Neighboring Properties and on the Community; Keeping the Character of the Newfield Comprehensive Plan; Consistency with Community Plans and Goals.
- (h) Potential Impact to or upon Environmentally Sensitive Areas
- (i) Proposed Green Space and Common Areas
- (j) Provisions for Environmental Sustainability
- (k) Streets and Roads; Street Pattern; Lighting; Public versus Private Streets
- (l) Traffic Patterns and Pedestrian Access; Sidewalks and Curbs
- (m) Utility Installation; Electricity; Water Source; Waste Water Disposal and Other

Section 6.3 Attendance at Planning Board Meeting. The Subdivider or duly authorized agent ("Applicant") or representative should attend the next scheduled meeting of the Planning Board following submission of the Subdivision Application to discuss the subdivision plan and submitted documentation.

Section 6.4 Initial Planning Board Review. The Planning Board, in reviewing the submitted documentation, shall determine if a Major or Minor Subdivision Review is applicable.

- (a) If the Planning Board determines that a Subdivision Review is not required, the Planning Board shall waive any additional requirement as specified in these regulations.
- (b) If the Planning Board determines that a Subdivision Review is required, the Planning Board shall advise the Subdivider, duly authorized agent or representative in writing as to any deficiencies in the submitted documentation, any additional documentation required, the Subdivision Review Procedure moving forward and any additional recommendations.

Section 6.5 Document Deficiencies. Within six (6) months after classification by the Planning Board, the Applicant will submit any additional documentation required or remediate any document deficiencies in the documentation already submitted to the Planning Board.

- (a) Failure to complete this in the required time will require a new application and supporting documentation to be submitted to the Planning Board.

Section 6.6 Cluster or Conservation Subdivisions. The Planning Board may recommend Applicant to submit a cluster or conservation subdivision plan whenever the Planning Board believes that such a subdivision would benefit Newfield.

Section 6.7 Significant and Adverse Environmental Impact (*Major Subdivision Review Only*). If the Planning Board determines that the project carries the presumption of at least one significant and/or adverse environmental impact and/or if the project requires consideration by SEQR (for example, a positive SEQRA declaration), it shall advise the Applicant to prepare a Draft Environmental Impact Statement (DEIS). Upon receipt of such, the Planning Board shall determine, pursuant to SEQRA requirements, if the DEIS is complete.

- (a) If the DEIS is complete, the Planning Board shall advise the Applicant accordingly. Thereafter, all public hearings and notice requirements which are required under SEQRA shall be included with the Subdivision Review process.

Section 6.8 Public Hearing (Major Subdivision Review Only). As part of a Major Subdivision Review, The Planning Board will have sixty-two (62) days from the date of submission of all required documentation and remediation of any document deficiencies to hold a Public Hearing to consider action on the Preliminary Plat and the DEIS if applicable.

- (a) The Public Hearing must be advertised at least once in a newspaper of general circulation in the town at least seven (7) days before it is held.

Section 6.9 Planning Board Approval or Disapproval of Preliminary Plat. Within sixty-two (62) days from the date of submission of all required documentation and remediation of any document deficiencies or from the date of a Public Hearing (if required), the Planning Board will approve, with or without modifications, or disapprove the Preliminary Plat.

- (a) The reason for disapproval shall be documented in the minutes of the Planning Board and the Applicant shall be advised, in writing, of the specific reasons for disapproval.
- (b) If the Preliminary Plat is approved, the Planning Board shall state the conditions of such approval, if any, with respect to required changes in the final subdivision plat and
- (c) requested improvements which may or may not be waived by the Planning Board. This action will constitute Planning Board approval of the Subdivision Review in accordance with this Local Law.

Section 6.10 Tompkins County Planning Department Review. In accordance with Section 239-n of the General Municipal Law, if he proposed subdivision is subject to review by the Tompkins County Planning Department, then following the public hearing, the Planning Board shall forward the Preliminary Plat to the Tompkins County Planning Department for review.

Section 6.11 Additional Reviews. The Planning Board will facilitate the submission and processing of any additional reviews as they deem required, including, but not limited to the Newfield Town Board, the Newfield Town Attorney, the Newfield Town Engineer, the Newfield Fire, Building &

Environmental Code Officer, the Tompkins County Department of Planning and Sustainability, the Tompkins County Department of Health, the New York Department of Conservation under SEQRA, and other agencies as appropriate.

Section 6.12 Default Approval. Failure of the Planning Board to act on the proposal within sixty-two (62) days from the date of submission of all required documentation (including the draft EIS, if applicable) and remediation of any document deficiencies or from the date of a Public Hearing (if required) (or within the period mutually agreed upon by the Applicant and the Planning Board) will be equivalent to the Planning Board having given its approval to the Preliminary Plat.

Section 6.13 Submission of the Final Plat (Major Subdivision Review Only). The Applicant shall, within six (6) months after the approval of the Preliminary Subdivision Plat, file with the Planning Board, three (3) copies of the Final Plat.

- (a) If the Final Plat is not submitted within six (6) months after the approval of the Preliminary Plat, the Planning Board may refuse to approve the final plat and require resubmission of the Preliminary Plat and other required documentation.

Section 6.14 Presentation of Final Plat (Major Subdivision Review Only). The Subdivider or duly authorized agent ("Applicant") or representative should attend the next scheduled meeting of the Planning Board following submission of the Final Plat to discuss the Final Plat and address any other submitted documentation. At this time, the Planning Board shall also determine if a second Public Hearing will be required.

- (a) The extension or improvement of an existing, or the creation of a new public road, public utility or other public infrastructure requires approval by the Newfield Town Board.

Section 6.15 Planning Board Approval or Disapproval of Final Plat (Major Subdivision Review Only). Within sixty-two (62) days from the date of submission

of the Final Plat from the date of a Public Hearing the Planning Board will approve, with or without modifications, or disapprove the Final Plat.

- (a) The reason for disapproval shall be documented in the minutes of the Planning Board and the Applicant shall be advised, in writing, of the specific reasons for disapproval.
- (b) If the Final Plat is approved, the Planning Board shall provide the following, in writing, to the Applicant:
 - (i) That all of the requirements for Final Subdivision Plat submission have been met.
 - (ii) That all required corrections and modifications have been made.
 - (iii) (If required) That any security requested by the Planning Board or legal sufficiency of offers of cessions or covenants governing the maintenance of open public space have been reviewed and approved by the Town Attorney.

This action will constitute Planning Board approval of the Subdivision Review Application in accordance with this Local Law.

Section 6.16 Default Approval (Major Subdivision Review Only). Failure of the Planning Board to act on the submission of the Final Plat or from the date of a Public Hearing (if required) (or within the period mutually agreed upon by the Applicant and the Planning Board) will be equivalent to the Planning Board having given its approval to the Final Plat.

Section 6.17 Modifications to the Final Plat (Major Subdivision Review Only). If there are modifications of the final Plat requested by the Subdivider subsequent to its filing in the office of the County Clerk, such requests will be made in writing to the Planning Board for approval. The Subdivider will not proceed without the approval of the Planning Board.

Section 6.18 Waiver of Subdivision Review Requirements. The Planning Board may exempt the Applicant from any one or more of the requirements of this Local Law by waiver, except for the public notice and SEQRA requirements. All requests for a waiver from any requirements set forth in this Local Law will be

made in writing and will contain a statement as to the grounds upon which the waiver is being requested.

ARTICLE VII. Miscellaneous Provisions

Section 7.1 Enforcement. A Subdivision Review and approval by the Planning Board is required prior to offering to sell any lots without a condition for subdivision approval, executing a sales contract, before a building permit is granted and before the construction of any structure on a subdivided lot.

- (a) The Tompkins County Clerk's Office will not file the Final Subdivision Plat until the Planning Board has approved the Subdivision Review Application.
- (b) Upon any violation of this Local Law by any person or entity, the Newfield Town Board and the Town of Newfield's officers and agents will decline and refuse to issue any approvals, endorsements, certifications, building permits, Certificates of Occupancy, Certificates of Compliance, and any similar or other document or approval in relation to the lands affected under the terms, conditions, and requirements of this Local Law have been met or such person or entity is otherwise in compliance with this Local Law.
- (c) Any person or entity that is in violation of this Local Law may be required to restore any land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Newfield may commence one or more civil proceedings in the Town Court, or any other court of competent jurisdiction, to compel, permit or recover the costs of such restoration.
- (d) Additional criminal or civil penalties may also apply in accordance with applicable law.

Section 7.2 Limitation of Town Liability and Indemnification. The Town of Newfield, and its officers and agents, shall not be liable or responsible for any injuries to persons or damages to property or rights due to the Town's actions, or failures to act, under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was caused by a

willful or intentional act of the Town of Newfield or its officers or agents. This provision shall be construed and applied to the maximum extent permitted by law, and does not create any theory or claim of liability where none exists at law or in equity.

Section 7.3 Article 78. Any person aggrieved by any decision or determination (except for an informal or advisory opinion) of the Planning Board, the Newfield Town Board or any public official, officer, department, board or bureau of the Town of Newfield, may apply to the Supreme Court of the State of New York for review by proceeding under Article 78 of the Civil Practice Law and Rules. Such petition or request for review will be made within 30 days of the decision or determination so appealed from, and this Local Law does not create any right or remedy under said Article 78 where none otherwise exists or is recognized in law, equity or admiralty.

Section 7.4 Effective Date. This Local Law will take effect immediately upon filing with the New York Secretary of State.