

**SUBDIVISION OF LAND**

**Chapter 44**

**SUBDIVISION OF LAND**

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**[HISTORY: Adopted by the Board of Trustees of the Village of Walton 9-18-1995 by L.L. No. 7-1995. Amendments noted where applicable.]**

GENERAL REFERENCES

Environmental quality review — See Ch. 19.  
Excavations — See Ch. 20.  
Flood damage prevention — See Ch. 25.  
Zoning — See Ch. 53.

ARTICLE I  
General Provisions

§ 44-1. Title and approval date.

In order that land subdivision may be made in accordance with the authority, jurisdiction and policy as set forth herein, these regulations, which shall be known as the "Village of Walton Land Subdivision Regulations," have been approved by the Village Board on September 18, 1995.

§ 44-2. Legislative authority.

Pursuant to the provisions of Article 7 of the Village Law of the State of New York, and acts amendatory thereto, the Walton Planning Board is authorized to approve plats showing lots,

blocks or sites, with or without roads or highways, and to approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk.

**§ 44-3. Purpose.**

These regulations are adopted for the following purpose:

- A. That land to be subdivided shall be of such character that it is compatible with the future growth and development plans of the village as defined in the Comprehensive Plan and is 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 the design and layout of the subdivision shall not cause any adverse effects, such as erosion, traffic congestion and inadequate or unavailable utilities.
- C. That the subdivision insure provisions for open spaces or parks and playgrounds where applicable.

**§ 44-4. Jurisdiction. [Amended 12-18-2000 by L.L. No. 5-2000]**

Land within the incorporated portion of the Village of Walton may be subdivided into lots or blocks, 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.

**§ 44-5. Severability.**

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

**§ 44-6. Building permits. [Amended 12-18-2000 by L.L. No. 5-2000]**

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.

**§ 44-7. Resubdivision.**

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

**§ 44-8. Compliance with reasonable conditions. [Amended 12-18-2000 by L.L. No. 5-2000]**

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 village. 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 economical development of the village and to the safety and general welfare of the future plat owners in the subdivision and the community at large.

**§ 44-9. 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 related to layout and platting of land for subdivision or boundary line adjustment; 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. **[Amended 12-18-2000 by L.L. No. 5-2000]**
- 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.
- C. Application 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.
- D. No survey waivers shall be granted where a person is subdividing more than 25% of his/her deeded lot. **[Added 12-18-2000 by L.L. No. 5-2000]**

**§ 44-10. Amendments.**

These regulations may be amended by the Village Board after public hearing on such amendments. Any proposed preliminary subdivision plat which has not received conditional approval prior to the effective date of an amendment to these regulations, shall fully comply with any amendment to these regulations.

**§ 44-11. Enforcement.**

- A. Penalties for offenses. Any person, firm or corporation who fails to comply with or violates any of these regulations shall, upon conviction, be deemed guilty of a violation punishable by a fine of not more than \$250. Each week a violation continues shall constitute a separate additional violation.
- B. Civil enforcement. Appropriate actions and proceedings may be taken at law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises; and these remedies shall be in addition to the penalty described above and as may exist in a separate local law.

**§ 44-12. Grievance procedures.**

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, provided that the proceeding is commenced within 30 days after the filing of the decision in the office of the Village Clerk, all as set forth in § 7-740 of the Village Law, or acts amendatory thereto.

**ARTICLE II**  
**Definitions and Word Usage**

**§ 44-13. General terms.**

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

B. 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 copartnership and any other agency of voluntary action.

**§ 44-14. Key terms.**

For the purpose of these regulations, certain words and terms shall have the following meanings:

**APPLICANT** — The owner of the land proposed to be subdivided or his/her duly appointed representative.

**BOND** — Any form of security, including a cash deposit, surety bond, collateral, property or instrument of credit, in an amount and form satisfactory to the Village Board.

**BOUNDARY LINE ADJUSTMENT** — A subclassification of a minor subdivision for the expressed purpose of transferring a portion of one lot to another adjoining lot, and where no new lots are created. The portion of the land to be transferred to an adjoining lot shall be incorporated into the deed of that lot. The adjusted lots must meet zoning requirements. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**BUILDING** — Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and includes any structure or part thereof.

**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 Village of Walton requirements.

**CENTRAL SEWAGE SYSTEM** — The community sewer system, including collection and treatment facilities operated by the Village of Walton.

**CENTRAL WATER SYSTEM** — The community water system, including treatment and distribution facilities operated by the Village of Walton.

**CLUSTER DEVELOPMENT** — A form of development that permits a reduction in lot area and bulk requirements, provided that there is no increase in the number of lots permitted under a conventional subdivision or increase in the overall density of development, and the remaining area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture.

**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. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**DEVELOPER** — The owner of land proposed to be subdivided or his duly appointed representative.

**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 of an action or project. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**ENVIRONMENTAL IMPACT STATEMENT (EIS)** — A written document required for each proposed action which the Planning Board determines may have a significant effect on the environment. **[Amended 12-18-2000 by L.L. No. 5-2000]**

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

**FINAL PLAT** — A drawing in final form, showing a proposed subdivision containing all information and detail required by law and these regulations to be presented to the Planning Board for approval and which, if approved, shall be duly filed and recorded by the applicant in the office of the County Clerk. [Amended 12-18-2000 by L.L. No. 5-2000]

**IMPROVEMENTS, LOT** — Any building, structure, place, work of art or other object or improvements to the land as may be required by the Planning Board, including clearing, final grading and drainage improvements that constitute a physical betterment of real property or any part of such betterment. [Amended 12-18-2000 by L.L. No. 5-2000]

**IMPROVEMENTS, PUBLIC** — Any drainage ditch, road, sidewalk, pedestrian way, tree, off-street parking area, lot improvement, recreation area or other facility for which the village may ultimately assume the responsibilities for maintenance and operation, or which may affect an improvement for which village responsibility is established.

**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. Whereas a parcel includes all contiguous properties or parcels described in a single deed.

**MASTER PLAN** — The comprehensive plan prepared for and by the Board pursuant to § 7-722 of the Village Law, which plan indicates the general locations recommended for the various public works, places and structures and for the general physical development of the village, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**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.

**OFFICIAL MAP** — The map established by the Village of Walton, if any, pursuant to § 7-724 of the Village Law showing the streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the village or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats. Streets not accepted by the village as public streets may be shown thereon but shall be marked as private streets. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**PARCEL** — See "lot."

**PERFORMANCE BOND** — A bond to assure the full and satisfactory completion of all required subdivision improvements as specified in the Planning Board resolution of approval. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**PLANNING BOARD** — The duly appointed Planning Board of the Village of Walton, Delaware County, New York.

**PLAT** — A plan, map or chart of a piece of land with actual or proposed features (as lots).

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "preliminary plat" showing the salient features of a proposed subdivision, 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. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**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.

**RIGHT-OF-WAY** — A strip of land, acquired by reservation, dedication, forced dedication, prescription or condemnation, occupied or intended to be occupied by a road, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or other special use. Public use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

**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 village 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. **[Amended 12-18-2000 by L.L. No. 5-2000]**

**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 REVIEW COMMITTEE** — A committee appointed by the Village Board to review plans and make periodic inspections during the construction phase of required improvements. The committee shall consist of one member of the Village Board, one member of the Planning Board and the Village 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.

**SKETCH PLAT** — A sketch of a proposed subdivision showing the information specified by 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. [Amended 12-18-2000 by L.L. No. 5-2000]

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

**STREET, COLLECTOR** — A street which collects traffic from local streets and connects with minor and major arterials.

**STREET, LOCAL** — A street designed to provide vehicular access to abutting property and to discourage through traffic.

**STREET, MINOR ARTERIAL** — A street with signals at important intersections and stop signs on the side streets and which collects and distributes traffic to collector streets.

**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 or more lots, blocks or sites for any purpose and requiring the extension of village infrastructure, including but not limited to water and sewer lines (not including lateral connections), electricity, gas lines or the construction of new roads. Any portion of the land to

remain unsubdivided shall have access onto an existing state, county, town or village highway.<sup>1</sup>

**SUBDIVISION, MAJOR** — Any subdivision of land into more than five lots, inclusive of the original parcel.

**SUBDIVISION, MINOR** — Any subdivision of land into five lots or less, inclusive of the original parcel.

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

**UNLISTED ACTION** — An action that may have a significant effect on the environment as listed in Part 617.2 of the SEQR Law.

**VILLAGE ATTORNEY** — The licensed attorney designated by the Village Board to furnish legal assistance.

**VILLAGE BOARD** — The legislative body of the Village of Walton, Delaware County, New York.

**VILLAGE CONSTRUCTION STANDARDS** — The standards and specifications adopted by the Village Board for the construction of new roads and related improvements and in compliance with the New York State Uniform Building Code.

### ARTICLE III Application Procedure

#### § 44-15. Sketch plat review.

- A. Submission of sketch plat. It is recommended that any owner of land, prior to subdividing or resubdividing land, submit to the Village Clerk three copies of a sketch plat of the proposed subdivision and a sketch plat application.

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<sup>1</sup> Editor's Note: The definition of "subdivision, exempt," which immediately followed this definition, was repealed 12-18-2000 by L.L. No. 5-2000.

Applications shall be submitted at least seven days prior to a scheduled meeting of the Planning Board. The sketch plat should comply with the requirements of Article IX, § 44-46, for the purpose of classification and preliminary review. The subdivider or his duly authorized agent should attend the meeting of the Planning Board to discuss the requirements of these regulations.

- B. Classification of sketch plat. At this time, the Planning Board shall classify the sketch plat as to whether it is a minor or major subdivision, or a boundary line adjustment. If the sketch plat is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article III, § 44-17, of these regulations. If it is classified as a major subdivision, the subdivider shall then comply with the procedures outlined in Article III, §§ 44-16 and 44-17. If it is classified as a boundary line adjustment, the subdivider will comply with § 44-49 of these regulations. [**Amended 12-18-2000 by L.L. No. 5-2000**]
- C. State Environmental Quality Review Act (SEQR) requirements. The Planning Board shall also determine the applicability of SEQR. An environmental quality review application required under Chapter 19 of the Village of Walton Code shall be filed with the Village Clerk. An environmental assessment form (EAF) shall be completed by the applicant if the proposed subdivision is classified as a Type I or unlisted action according to the Village SEQR Law.
- D. Sketch plat review and recommendations.
  - (1) The Planning Board 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 Village Comprehensive Plan as it may exist.

- (2) The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site. If the site falls into areas having development limitations, the Planning Board may require the subdivider to consult with appropriate technical review or assistance agencies. The Planning Board may not approve a preliminary or final plat which has failed to adequately address these critical resource concerns. After reviewing the sketch plat and any reports, the Planning Board shall determine whether the sketch plat meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations, in writing, to be addressed by the applicant in the next submission.

E. Referrals. When applicable, the Planning Board shall present a copy of said minor subdivision sketch plat to the Delaware County Planning Board for its review and report in accordance with the provisions of § 239-n of Article 12-B of the General Municipal Law and Article 25-AA of the Agriculture and Markets Law.

#### **§ 44-16. Preliminary plat for major subdivision.**

##### **A. Application and fee.**

- (1) Within six months after Planning Board classification of the sketch plat as a major subdivision, the applicant shall file an application for approval of a preliminary plat, in duplicate, of the proposed subdivision. Such preliminary plat shall be clearly marked "preliminary plat" and shall be in accordance with § 44-47 of these regulations,

except where a waiver may be specifically authorized by the Planning Board.

- (2) Three copies of the preliminary plat shall be presented to the Village Clerk at least seven days prior to a regular meeting of the Planning Board. The application for approval of the preliminary plat shall be accompanied by an application fee set by the Village Board and on file in the Village Clerk's office.
- (3) An EAF, completed by the applicant, for the proposed subdivision shall be available for review at the meeting of the Planning Board.

B. Referrals. When applicable, the Planning Board shall present a copy of said preliminary plat to the Delaware County Planning Board for its review and report in accordance with the provisions of § 239-n of Article 12-B of the General Municipal Law and Article 25-AA of the Agriculture and Markets Law. In addition, the preliminary plat may be referred to other county or state agencies which may have jurisdiction or review approval of the subdivision.

C. Study of preliminary plat.

- (1) The Planning Board shall study the practicality of the preliminary plat, taking into consideration the requirements of the community. 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 not subdivided and the recommendations and requirements of the comprehensive plan, the official map and zoning regulations. The applicant or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

- (2) 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 center line of all proposed roads at fifty-foot intervals and front lot corners may be required. **[Amended 12-18-2000 by L.L. No. 5-2000]**

D. Public hearing. The Planning Board shall hold a public hearing within 62 days of submission of a complete application. Said hearing shall be advertised at least once in the official newspaper and a notice of hearing posted in at least three prominent places at least five days before such hearing. The Planning Board may thereupon approve, modify and approve, or disapprove such preliminary subdivision plat. The approval required by this section, or the refusal to approve shall take place within 62 days from the date of the public hearing. Failure to act within the stated time period or a mutually agreed-upon extension thereof shall constitute approval of such preliminary plat.

E. SEQRA review. The lead agency in the SEQR review process will evaluate the Environmental Assessment Form and make a determination of significance. A statement of findings will accompany approval of the plat.

F. Approval of preliminary plat.

- (1) When granting approval to a preliminary plat, the Planning Board shall state the conditions of such approval. Within five days of conditional preliminary plat approval, the action of the Planning Board, plus any conditions attached thereto, shall be noted on, or attached to, two copies of the preliminary plat. One copy shall be returned to the applicant, and one copy retained by the Planning Board. Approval of a preliminary plat shall not constitute approval of the final 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.

- (2) In the event of disapproval of a preliminary plat, the Village 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. **[Amended 12-18-2000 by L.L. No. 5-2000]**

G. Model homes. For the purpose of allowing the construction of model homes in a subdivision, the Planning Board may permit a portion of a major subdivision involving no more than three lots to be created in accordance with the procedures for minor subdivisions, provided that said portion derives access from existing state, county or village highways, and provided that 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(s) may be constructed, subject to such additional requirements that the Planning Board may require.

**§ 44-17. Final plat for major and minor subdivisions.**

A. Filing of application; fee.

- (1) Within six months after the classification of a sketch plan as a minor subdivision, or within six months of approval of the preliminary plat for a major subdivision, the applicant shall file an application for final plat approval. If the final plat is not submitted within the said six months, the Planning Board may revoke approval of the preliminary plat. The application and accompanying data shall

conform to the requirements of § 44-48 of these regulations.

- (2) The applicant should provide the Village Clerk with two copies of the application, three copies of the final plat, the original and one copy of all offers of cession, covenants and agreements, and five prints of all construction drawings at least seven days in advance of the regular Planning Board meeting. The application for final plat approval shall be accompanied by an application fee in the amount on file in the Village Clerk's office.
  - (3) Evidence shall be supplied that any proposed water supply and sewage disposal facility or connection thereof to the village municipal system associated with the subdivision plat, requiring approval by the Department of Environmental Conservation, New York State Board of Health, New York City Department of Environmental Protection and Village of Walton Engineer, shall have received at least preliminary approval(s) of such facilities.
- B. Public hearing. For minor subdivisions, a public hearing on the final plat shall be held within 62 days after the submission of the final plat for approval. The Planning Board shall render a decision on such minor subdivision final plat within 62 days of the public hearing. A public hearing on the final plat for major subdivisions may be held by the Planning Board if there are substantial changes from the approved preliminary plat. Such hearing shall be held within 62 days after the time of submission of the final plat for approval. Both hearings shall be advertised in the same manner as the previous public hearing for preliminary plat approval.
- C. Action on final plat.
- (1) The Planning Board shall, within 62 days of submittal of the final plat (or within 62 days of second public hearing, if necessary), 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 applicant and Planning Board. Failure to act within the stated time period, or a mutually agreed-upon extension thereof, shall constitute approval of the plat.

- (2) A resolution of conditional approval shall also duly authorize and empower the Chairperson of the Planning Board to sign the plat for recording with the County Clerk, subject to completion of any requirements as may be stated in the resolution. Conditional approval of a final plat shall expire 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 90 days each.
- (3) Within five days of the Planning Board resolution of conditional approval, the final subdivision plat shall be certified by the Planning Board as conditionally approved. Within five days, a copy of such certification shall be filed in the office of the Village Clerk and a copy mailed to the applicant. [Amended 12-18-2000 by L.L. No. 5-2000]

**§ 44-18. Final approval and filing.**

- A. The Chairman or other duly authorized officer of the Planning Board shall endorse the Board's final approval on the plat only after being 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 approvals, conditions of approval and fees 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 three prints of the plat, one of which shall be retained by the Planning Board in its files.

- B. The approved plat shall be filed with the Delaware County Clerk within 62 days of the date of the Planning Board endorsement. Any subdivision plat not so filed or recorded within 62 days shall become null and void.
- C. 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.
- D. The applicant shall submit one copy of the final plat showing the endorsement and file number of the County Clerk to the Village Clerk within 30 days of the date of filing.

**§ 44-19. Status of roads, parks and/or easements.  
[Amended 12-18-2000 by L.L. No. 5-2000]**

- A. Acceptance by village. Acceptance of any offer of surrender of roads or parks shall rest with the Village Board. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute nor imply the acceptance by the village 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. Any dedication of land or improvements to the village shall be free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

- B. Road maintenance agreement. In the event that no offer of cession to the public is made for the roads, parks and required easements 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 Village Board approval, based upon recommendations of the Village Attorney. A model road maintenance agreement may be obtained from the Delaware County Planning Department.

#### ARTICLE IV

#### **Required Improvements and Assurance of Completion**

#### **§ 44-20. Completion of improvements; performance bond.**

Before the Planning Board grants final approval of the subdivision plat, the Planning Board may elect to require that all improvements be completed or accept a performance bond or similar instrument in lieu of completion of the improvements. The applicant shall follow the procedure set forth by the Planning Board in either Subsection A or B below.

- A. The applicant shall complete all required improvements to the satisfaction of the Road Review Committee or other representative designated by the Village Board to fulfill such duties, who shall file with the Planning Board a letter signifying the satisfactory completion of improvements required by the Board; or
- B. The applicant shall either file with the Village Clerk a certified check in an amount set by the Planning Board from an estimate proposed by the Village Highway Superintendent or other duly designated officer to cover the full cost of the required improvements, or file with the Village Clerk a performance bond issued by a bonding or surety company approved by the Village Board to cover

the full cost of the required improvements. Any such bond shall comply with the requirements of § 7-730 of the Village Law and further shall be satisfactory to the Village Board and Village Attorney as to form, sufficiency, manner of execution and surety. A period of one year shall be set forth in the bond within which required improvements must be completed.

**§ 44-21. Modification 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 Village Board, and after due notice, 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.

**§ 44-22. Extension of time.**

The construction or installation of any improvements or facilities other than roads, for which guarantee has been made by the subdivider in the form of a bond or certified check deposit, shall be completed within one year from the date of approval of the final plat. Road improvements shall be completed within two years from the date of approval of the final plat. The subdivider may request an extension of time, provided that he can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six months, at the end of which time the village may use as much of the bond or check deposit as necessary to construct the improvements. The same shall apply whenever construction of improvements is not performed in accordance with the plans and specifications filed by the

applicant. There shall be no extension of time given unless and until the bond or other approved financial security shall be extended as well and proof of such extension is provided to the Planning Board prior to granting an extension.

**§ 44-23. Maintenance guaranty.**

A. In order that the village has the assurance that the improvements mentioned above function properly for a reasonable period, the applicant shall enter into an agreement with the village upon completion of the work required under the installation guaranty so that:

- (1) Such work is guaranteed for a minimum of two years after it is completed and inspected; and
- (2) Such work is guaranteed for the total improvement costs.

B. The method of providing the maintenance guaranty shall meet the approval of the Village Board and Village Attorney.

**§ 44-24. Modification of required improvements.  
[Amended 12-18-2000 by L.L. No. 5-2000]**

Upon approval by the Village Board, the Road Review Committee may waive, subject to appropriate conditions, the provision of any such improvements or requirement if, in its judgment, of the special circumstances of a particular plat, it is not in the interest of the public health, safety and welfare. If such modification affects the scope of work covered by a bond, the Village Board may require or allow appropriate modification of such bond.

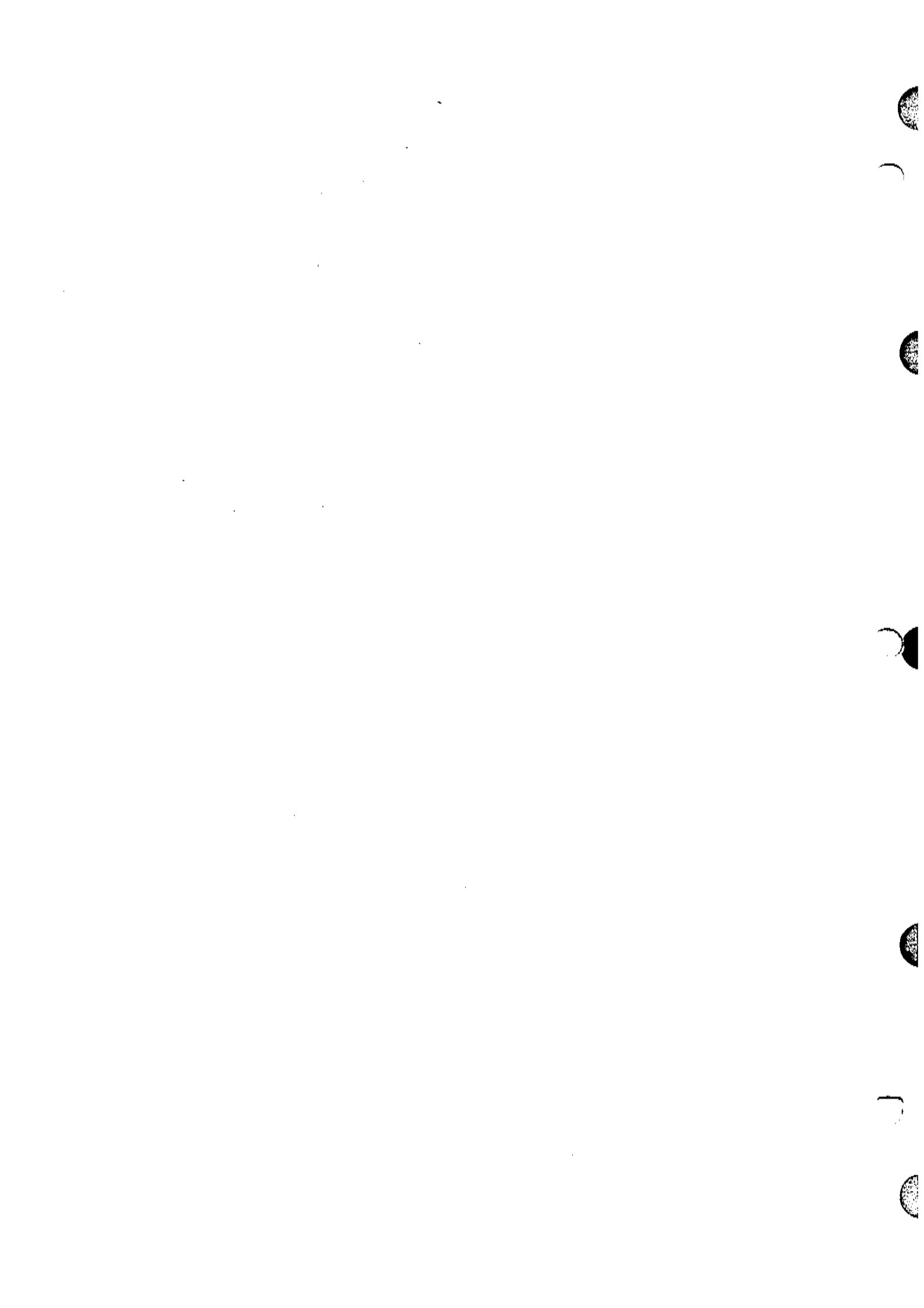
**§ 44-25. Inspection of improvements.**

A. Routine inspection. At least five days prior to commencing construction of required improvements, the

applicant shall pay to the Village Clerk the inspection fee required by the Planning Board and shall notify the Road Review Committee, in writing, of the time when he proposes to commence construction of such improvements. The Committee will then make periodic inspections to assure that all required improvements as required by the Planning Board meet the specifications as outlined in these subdivision regulations.

- 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 or release the amount in escrow (if

(Cont'd on page 4427)



such instruments were used) covering such improvements and utilities. The Road Review Committee shall also notify the Planning Board that all work has been completed to its satisfaction.

## ARTICLE V

### Minimum Design Standards; General Improvements

#### § 44-26. Lot improvements.

##### A. Lots to have buildable site.

(1) The lot size, width, depth, shape and arrangement shall be such that there will not be foreseeable difficulty, for reasons of topography or other natural conditions, in securing building permits to build on all lots in compliance with these and all applicable regulations.

(2) All parcels must be designed to assure proper drainage, water supply, sewage disposal and the preservation of important ecological features. Lot area and dimensions shall conform to the requirements of the Village of Walton Zoning Law.

B. Side lines. Side lines of lots shall generally be at right angles to 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. Corner lots shall be larger than interior lots to allow for proper building setbacks for each road and to provide a desirable building site.

D. Double-frontage lots. Lots fronting on two (2) roads, other than corner lots, shall be voided except where deemed essential by the Planning Board. The Planning Board may require greater lot depth, access limitations and/or buffers and landscaping for such double frontage lots.

- E. Driveways. Driveway access shall conform to applicable village, county and state standards. The Planning Board may require the installation of driveways at specific locations as a condition of final plat approvals where topographic and clear site distances create difficulties.
- F. Drainage. Lot drainage 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.
- G. Debris and waste. No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried in any road right-of-way. Such material shall be disposed of in a manner acceptable to the Planning Board.
- H. Frontage on approved 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 Village Law and the construction standards as prescribed in these regulations.
- I. Water bodies. No more than twenty-five percent (25%) of the minimum area of a lot may be satisfied by land under water. Where a watercourse separates the buildable area of a lot from the road by which it has access, provisions shall be made for the installation of a bridge, culvert or other drainage facility, of design approved by the Village Engineer, to provide satisfactory access across such watercourse for fire, police and other emergency equipment.

#### § 44-27. Streets.

The arrangement, character, extent, width, grade and location of all streets shall conform to the Master Plan and to the Official Map, if any, and shall be considered in their relation to existing and planned streets, to topographical conditions, to

public convenience and safety and to the proposed uses of the land to be served by such street, as to cause no undue hardship to adjoining properties.

- A. The arrangement of streets in a subdivision shall provide for the continuation, if appropriate, of adjacent streets in the surrounding area, or conform to a plan for the neighborhood approved by the Planning Board, to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
- B. Local and access streets shall be laid out so that their use by through traffic will be discouraged.
- C. Streets shall be graded and improved with pavement, sidewalks, curbs, gutters, street lighting, street signs, road plantings, water mains, sanitary sewers, storm drains, fire alarm signal devices, fire hydrants and other utilities, except where waivers may be requested, and the Planning Board may waive such improvements as it considers are not required in the interest of the public health, safety and welfare. The subdivider shall install any required service connections to the property line of each lot before the street is paved. Except where waivers are granted, all such grading and road improvements shall conform to these regulations and any village standards and specifications for streets.
- D. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.
- E. Street names shall be sufficiently different in sound and in spelling from other road names in the village so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. Street names are subject to the approval of the Village Board.

- F. Street signs shall be provided by the developer for each new street within a subdivision. The type of street sign is subject to the approval of the Village Board and will be placed at a designated position agreeable to the Village Highway Department.
- G. Street lighting shall be provided by the developer at the time of subdivision. Design and location shall be approved by the appropriate utility company. All wiring shall be underground, and street lamp designs shall meet with the Village Board's approval.
- H. The creation of dead-end streets or culs-de-sac shall be avoided wherever possible. A circular turnaround shall be provided as outlined in the street design details. The Village Board may require an easement to the boundary line of the property to accommodate future roads, utilities, drainage facilities and/or pedestrian traffic. Easements for future streets shall be fifty (50) feet wide and twenty (20) feet wide for other purposes.
- I. Intersections.
- (1) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than seventy-five degrees (75°).
  - (2) In general, all streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins.
- J. Street trees and miscellaneous.
- (1) Street trees shall be planted by the developer. The number, location and type of trees shall be approved by the Planning Board prior to final approval.
  - (2) Planting strips will be provided between the gutter and the property line to be seeded by developer and shall be maintained by the owner.

- (3) Planting screens may be requested at the discretion of the Village Board. The planting screen shall be requested where the property line of a subdivision adjoins an industrial, commercial, major street, railroad or other similar use. The planting screen shall be at least 10 feet wide, across which there shall be no right of access. [Amended 12-18-2000 by L.L. No. 5-2000]

**ARTICLE VI**  
**Design Standards for Streets**

**§ 44-28. General.**

- A. All street layouts and related construction shall be the responsibility of the subdivider unless indicated, and shall be in accordance with the standards of this section.
- B. Prior to or no later than 90 days after the granting of final approval, the subdivider shall have installed or shall have furnished adequate security (bond or certified check, whichever is acceptable to the Village Board) for the installation of the improvements listed and described in this section. All the required improvements shall be made in full compliance with the specifications of each of the various units of work, as required by the municipality or the state and county health authorities, according to the nature of the improvement.

**§ 44-29. Monuments.**

The tract boundary lines and the lines of all streets or roads shall be monumented with concrete, stone or iron monuments with monument caps. Individual properties shall be monumented with iron pins or pipes.

**§ 44-30. Road surfacings and improvements.**

After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Adequate provision shall be made for culverts, drains and bridges. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the Village Board, and shall be submitted by the developer for approval.

**§ 44-31. Tangent and street jogs.**

A tangent of at least 100 feet in length shall be introduced between reverse curves on all proposed roads to ensure that clear visibility is provided for a safe distance. Road jogs with centerline offsets of less than 150 feet shall not be allowed.

**§ 44-32. Street rights-of-way.**

Street right-of-way widths shall not be less than 60 feet on all minor arterials and collector streets and a minimum of 50 feet on all local streets.

**§ 44-33. Turnarounds.**

Turnarounds shall have a minimum of 90 feet of pavement, and a minimum of 120 feet of right-of-way. Dead-end streets shall not be permitted.

**§ 44-34. Street grades.**

Street grades shall not exceed 10% and shall not be less than 0.5% on any minor/major collector or local, and/or minor arterial road. The maximum grade on an approach to an intersection shall be two

(Cont'd on page 4433)

percent (2%). Upon recommendation of the Road Review Committee, the Planning Board may permit grades up to thirteen percent (13%) for short, straight runs, but not within one hundred (100) feet of any given intersection.

**§ 44-35. Subgrade by developer.**

- A. All topsoil shall be removed from an area on each side of the center line, sufficient to accommodate the required pavement and shoulder width, unless a fill of three (3) feet or more is required. Fills must be made with material approved by the Engineer or Superintendent of Public Works and shall be placed in layers not over six (6) inches thick and each layer shall be properly rolled. All muck, quicksand, spongy material and any other objectionable material shall be removed.
- B. The subgrade of all streets and roads shall be graded as follows: A distance sufficient to accommodate the required pavement and shoulder width on each side of the center line shall be twelve (12) inches below the finished grade, as shown on the street profile. After it has been properly shaped, it shall be thoroughly rolled and compacted. Drainage ditches, where provided, shall be on each side of the road at a suitable distance from the center line of the road, and shall be adequate to carry all storm water drainage, and shall be otherwise satisfactory to, and be approved by, the Road Review Committee. Where in the opinion of the Road Review Committee such open drainage ditches cannot be appropriately provided without creating a hazard or a nuisance, storm sewers shall be provided. The grade of the outside area or sidewalk and planting strip section shall in no case be lower than the crown of the pavement nor more than eight (8) inches above the crown. No gravel or stone is to be placed on the subgrade until the subgrade is approved by the Engineer or Superintendent of Public Works.

**§ 44-36. Base course by developer.**

- A. The thickness and method of constructing the base course may vary, depending upon the amount of traffic anticipated, the type of material used, and the condition of the subgrade. All materials and construction procedure shall be subject to the approval of the Engineer or Superintendent of Public Works and shall comply with current construction and material specifications of the New York State Department of Transportation.
- B. A base course consisting of not less than twelve (12) inches of compacted stone or gravel approved by the Engineer or Superintendent of Public Works shall be installed. Street and road culverts shall be installed by the developer where necessary. Driveway culverts shall not be less than twelve (12) inches in diameter and twenty (20) feet in length and shall be corrugated metal or reinforced concrete; installation to be approved by the Engineer or Superintendent of Public Works. Where there is no natural stream or watercourse for the drainage of surface water from the proposed street or road, the developer shall secure rights-of-way and construct ditches or install stormwater sewers to a natural waterway or as the Road Review Committee directs.

**§ 44-37. Surface course by developer.**

The surface course shall consist of two and five-tenths (2.5) inches of compacted binder and one and five-tenths (1.5) inches of compacted type 7 top. The finished driving surface shall be a minimum of thirty (30) feet wide.

**§ 44-38. Curbing by developer.**

- A. Curbing shall be required throughout the proposed subdivision.

- B. Curbing shall be in accordance with design standards as specified in these regulations.

**§ 44-39. Sidewalks by developer.**

The Planning Board, with the approval of the Road Review Committee, may require sidewalks as it deems necessary to provide for the safety of pedestrians. Concrete sidewalks at least four (4) feet wide and four (4) inches thick shall comply with the design standards as per these regulations. Sidewalks in driveways shall be six (6) inches thick. All sidewalks shall be constructed of five-thousand-pound Class A sidewalk concrete.

**ARTICLE VII**

**Minimum Design Standards for Utility Improvements**

**§ 44-40. Water supply and sewage disposal by developer.**

- A. Municipal and community water supply systems. The developer shall connect each lot at the property line with the public water supply and sewer. The developer shall provide a schematic sketch, prepared by a licensed engineer, of proposed connection showing all grades, pipe sizes and connections. The developer is responsible for all costs associated with the connection of water and sewer. The plans shall be approved by the Public Works Superintendent responsible for the central water system. Community water supply systems, where provided, must conform to standards and inspection by the New York State Department of Health.
- B. No new wells for the purpose of individual water supply, regardless of use, shall be allowed within the village limits. New wells for municipal purposes will be allowed.

**§ 44-41. Storm drainage by developer.**

- A. Storm and surface water drainage shall be designed for the subdivision in relation to the drainage area above the site and drainage outlets into adjacent areas. Drainage structures and facilities shall be installed as necessary to assure adequate drainage for the site, and drainage easements shall be provided where necessary. Storm sewers shall be required in all new subdivisions, except where topography or other conditions are such as to make their inclusion impractical as determined by the Board of Trustees. No stormwater shall be allowed to enter sanitary sewers. Water in gutters and ditches shall not be allowed to flow over intersection streets or driveways, but shall be placed in adequate culverts.
- B. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within the road right-of-way, perpetual unobstructed easements shall be provided for such across properties outside the road lines and with satisfactory access to the road. 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 Village Attorney and suitable for recording in the office of the County Clerk.

**§ 44-42. Electrical utilities by developer.**

- A. In order to ensure greater safety and improved appearance, all utility lines and related equipment for providing electric power and communication services shall be placed 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. 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 the road.

### ARTICLE VIII Environmental Considerations

#### § 44-43. Preservation of natural features.

Existing natural features which are of ecological, aesthetic or scenic value to residential development or to the village as a whole, such as wetlands, watercourses, water bodies, rock formations, stands of trees, historic spots, views and vistas, or 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.

##### A. Trees.

- (1) A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. On individual lots or parcels, care shall be taken to preserve selected trees to enhance the landscape treatment of the development. The developer shall provide a sketch showing areas to be cleared and/or landscaped, which the Planning Board shall review and make recommendations. [Amended 12-18-2000 by L.L. No. 5-2000]
- (2) 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.

**§ 44-44. Preservation of 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, subject to any zoning regulations, 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 one-hundred-year flood limit as shown on maps prepared by the village and the Department of Housing and Urban Development, as periodically amended.

**§ 44-45. Preservation of soils.**

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:

- A. The smallest practical area of land shall be exposed at any one time during the development, and the exposure shall be kept to the shortest practical period of time.
- B. Temporary vegetation and/or emulsion shall be used to protect critical areas exposed during development.
- C. Provision shall be made to effectively accommodate the increased runoff caused by changing soils and surface conditions during and after development. This can be accomplished through the installation of sediment basins or debris basins (silting basins or silt trips).
- D. Permanent final vegetation and structures should be installed as soon as practical in the development.
- E. Wherever feasible, natural vegetation should be retained and protected.

ARTICLE IX  
Submission of Documents

**§ 44-46. Sketch plat. [Amended 12-18-2000 by L.L. No. 5-2000]**

The sketch plat 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 400 feet to the inch) to enable the entire tract to be shown on one sheet. In the event that a plat submitted for approval covers only a part of the applicant's acreage in the area, a map shall be prepared and provided showing the entire contiguous acreage of the applicant as it relates to the parcel submitted for approval and shall include lands previously subdivided. The sketch plat 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 district, 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 200 feet thereof.
- C. Topographic conditions shall be indicated at contour intervals of not more than 20 feet.
- D. 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 200 feet of any perimeter boundary of the subdivision.

- E. The proposed subdivision name, the Tax Map sheet, block and lot numbers, scale, North arrow and acreage involved.
- F. All the utilities currently available, including any existing easements, and all roads which are either proposed, mapped or built.
- G. 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.
- H. All existing restrictions on the use of land, including easements, covenants or zoning districts.

**§ 44-47. Major subdivision preliminary plat.**

The preliminary plat shall be submitted at a scale of one inch equals 100 feet, 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. All information required in § 44-46B and D.
- B. Proposed subdivision name; name of village and county; and name and address of property owner, subdivider, engineer or surveyor preparing the plat, including license number and seal, date, true North point and scale.
- C. The approximate location and dimensions of all property lines, the total acreage of the proposed subdivision, the location of any zoning district lines, 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. Accurate topography at a vertical contour interval of not less than 10 feet. 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 master plan, if any, 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 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. Profiles of all proposed water and sewer mains.
- 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 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 Road Review Committee 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, which shall not be less than 20 feet 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 400 feet, 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 2,000 feet, showing the general situation of the applicant's property with respect to surrounding properties and roads, including all utility lines.

**§ 44-48. Major and minor subdivision final plat.**

- A. 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 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.
- B. The final plat submission shall show:
  - (1) All information required in § 44-46B and D and § 44-47B, G, L, N and P.

- (2) 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.
- (3) 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 open space shall bear the certificate of approval of the Village Attorney as to their form and legal sufficiency.
- (4) 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 village road shall be placed on the map.
- (5) 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.
- (6) 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 village practice.

- (7) 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, catch basins and other improvements as required by the Planning Board or proposed by the subdivider.
- (8) The following notes shall be placed upon the final plat:
  - (a) 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.
  - (b) Sanding, snowplowing and other similar maintenance of highways within this subdivision shall be the responsibility of the developer until such time as the village may accept the roads.
- (9) A statement from the appropriate village officials certifying that required improvements have been satisfactorily installed or that an acceptable bond for such installation has been filed with the Village Clerk.
- (10) The plat shall conform with the filing requirements of the Delaware County Clerk's office.
- (11) **[Amended 12-18-2000 by L.L. No. 5-2000]** A form, for endorsement by the Village Board Chairman, as follows:

"Approved by Resolution of the Village of Walton Planning Board \_\_\_\_\_."

**§ 44-49. Boundary line adjustment procedure. [Added 12-18-2000 by L.L. No. 5-2000]**

**A. Application.**

- (1) The applicant shall submit the following to the Walton Village Planning Board before classification is made:
  - (a) A completed boundary line adjustment application.
  - (b) Sketch plan of the lot(s) involved. Said plan should include tax map numbers, road name and approximate acreage involved.
- (2) The Planning Board will review the proposal for accessibility of the lots involved and whether or not the zoning requirements have been met.<sup>2</sup> A survey of the property will be required to ensure compliance with the zoning.
- (3) The Planning Board will then classify the proposal.

**B. Survey.**

- (1) The applicant shall survey the portion of the land to be transferred. The surveyed plat should reflect any changes recommended by the Planning Board in terms of zoning compliance.
- (2) Applicant shall produce new deed. The Planning Board shall sign the boundary line adjustment form when the applicant has produced the new deed confirming the transfer and combination of parcels. The new deed shall specify that the incorporated land can not be sold separately without subdivision review by the Walton Village Planning Board.

**C. Filing.** The applicant must file the boundary line adjustment with the Delaware County Clerk within 62 days of Planning Board endorsement.

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<sup>2</sup> Editor's Note: See Ch. 53, Zoning.

- D. Waivers. Waivers may be granted to the applicant by the Village of Walton Planning Board as outlined in § 44-9, Waivers and modifications, of this chapter.

**§ 44-50. Model road maintenance agreement. [Added 12-18-2000 by L.L. No. 5-2000]**

- A. The following information packet, "Model Road Maintenance Agreement,"<sup>3</sup> has been produced for the purpose of informing Delaware County towns and villages of the existence of such agreements. A Road Maintenance Agreement (RMA) can be required by towns and villages for subdivisions in order to ensure adequate accessibility of emergency vehicles and, if done in the future, to make the transfer of a road from the private to public a more effortless process, in that roads will already meet subdivision road standards.
- B. An RMA is an agreement which is intended to establish the rights and duties of lot owner(s) with respect to maintenance of a private road. The private road provides access from a public road to existing residential lots and to additional lots which may be created through future subdivisions. An RMA is an agreement between all landowners on a private road, in which an understanding or agreement is made, stating that a specified timely contribution will be made by the owners fronting on the private road, for the purpose of repairing and maintaining the private road. The time to make such an agreement is during subdivision review, when all the lots are owned by the same person.
- C. The primary purpose of the agreement is to assure that the road remains in good repair. Maintenance considerations should include proper drainage, width and snow removal of the private road. The importance of such upkeep and repair is of particular concern to the

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<sup>3</sup> Editor's Note: A sample road maintenance agreement is located at the end of this chapter.

town or village in which the private road resides when considering emergency access to the road. The maintenance See attached sample RMA agreement should state that the road shall be maintained to the minimum standards required by the town or village.

- D. The lot owners' agreement should state the amount of money that will be spent on yearly maintenance and stipulate that any additional money required for maintenance will not be spent until consent of an agreement-upon percent of the landowners is obtained.
- E. The amount of money to be contributed by each owner for road repairs can be determined according to several types of ownership criteria. The criteria are as follows:
- (1) Prorated share based upon the number of lots fronting said road at the beginning of each year (standard practice);
  - (2) Prorated share based upon the assessed value of each owner's property;
  - (3) Prorated share based upon the distance the property owner lives up the road.
- F. The lot owners should elect an officer to handle the details of the agreement, including organizing and contracting out the repairs and maintenance of the private road. Voting rights shall be such that each lot owner shall be limited to one vote. However, each property owner's vote may be weighted according to ownership criteria as stated above. Voting may be necessary in circumstances where additional moneys are requested by the officer for further repairs or for additional improvements beyond those included in the agreement.
- G. It should be stated in the RMA that existing lots and/or future lots created on the road are required to enter into the RMA.

- H. Towns and villages may require that all RMA's be filed with the New York State Attorney General's office, Town or Village Clerk and Village Board. It is important that the agreement be on record. In the event that any lot owner violates the provisions of the agreement, any other lot owner may initiate any proceeding for the recovery of damages against the persons violating the agreement.
- I. Towns and villages have the authority to require the maintenance of private roads. Using this authority is beneficial to both the town or village and the public in that it guarantees that future subdivision roads will be maintained to the level that the subdivision regulations require when the road is originally constructed. Hence, the certainty of emergency vehicles being able to easily maneuver on such roads will be guaranteed. Also, if transfer of a road from private to public occurs, the road will not require much improvement, making the transfer a less difficult process.

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### Sample Road Maintenance Agreement

The following sample road maintenance agreement can be used as a tool by a town or village for the development of their own agreement. Numerous variations of this model can be developed such that it suits the specific needs of a town or village. Subdividers should have their own attorney review any proposed RMA. The local Village Board may also be well advised to have the municipal attorney review any RMA that is submitted to the Village Board.

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2001, by and between owners of residential properties ("lot owners") along a private road known as (name of road) in the Village of Walton, Delaware County, New York.

1. This Agreement is intended to establish the rights and duties of lot owners with respect to the maintenance of a private road which provides access from (name of road) to (#) existing residential lots and to additional lots which may be created through future subdivisions approved by the Village of Walton Board of Trustees.

2. This Agreement concerning road maintenance contains the entire understanding of the parties with respect to such road maintenance and may only be modified by written and agreed upon charges thereto, and will be binding upon the parties hereto, their heirs, executors, administrator, successors and assigns.

3. Lot owners hereby agree to make annual contributions to the maintenance of ( name of road). The amount to be contributed shall be owner's prorated share of the maintenance expense based upon the number of lots fronting (name of road) on the first day of (month) in each year.

4. Lot owners agree that all maintenance and upkeep, including snow removal, will be done on the basis of competitive bids and only as required and only on demand of one or more of the lot owners serviced by this private road. No work will be undertaken where the projected cost will exceed (\$\_\_\_) until the consent of \_\_\_% of the lot owners is obtained.

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5. Lot owners agree that the upkeep and maintenance of the private road will be limited to that required by erosion and ordinary wear of the road surface unless otherwise agreed by \_\_\_% of the owners of the aforementioned lots.

6. Lot owners agree to use their best efforts to keep the private road in good repair at all times. Lot owners shall not make any use of their property which will result in damage to the road.

7. It is understood and agreed that the road shall be maintained to the minimum standards required by the Village of Walton to ensure access of emergency vehicles.

8. Lot owners agree to attend a meeting of all lot owners to elect an officer to handle the details of this Agreement. This meeting will be held within thirty days of the signing of this Agreement.

9. No money shall be collected until such time as the Lot Owners' Association has held its first meeting and has elected an officer to collect such funds.

10. If the stated amount for maintenance is to be either increased or decreased, this decision shall be made by the Lot Owners' Association, by a favorable vote of \_\_\_% of the lot owners.

11. For the purpose of determining voting rights, it is understood that each lot on (name of road) shall be entitled to a single vote. Where title to any lot is vested in more than one owner, the joint owners of such lot shall be limited to one vote pursuant to this Agreement.

12. Buyers of existing lots and/or future lots created along (name of road) through subdivisions approved by the Village of Walton Board of Trustees shall be required to enter into a Road Maintenance Agreement with the sellers identical in every respect with this Agreement.

13. With respect to the transfer of ownership of said lots, this Agreement shall be incorporated into and made part of any purchase and sale agreement and shall be attached to and form

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a part of the deed of conveyance to be delivered by Seller to Buyer pursuant to said purchase and sales agreement.

14. In the event that any lot owner violates the provisions of this Agreement, any other lot owner, or the Village of Walton may prosecute any proceeding for the recovery of damages against the person or persons violating any of the provisions contained herein, or may maintain a proceeding for injunctive relief against the person or persons violating said provisions, for the purpose of remedying such violation. Any person, including the Village of Walton, who shall bring successful legal proceedings to enforce the provisions of this Agreement shall be entitled to recover the costs and reasonable expenses of such proceedings, including attorney's fees, whether for negotiations, trial, or appellate work.

15. The provisions of this Agreement may be enforced in law or equity by the Village of Walton. The provisions of this Agreement are enforceable against the owner of each and every lot along (name of road). Enforcement of the provisions of this Agreement shall not be defeated because of subsequent adverse possession, laches, estoppel, or waiver by the Village of Walton or any other party entitled to enforce these provisions. No general law of the State of New York which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of the provisions of this Agreement, unless such general law expressly states the intent to defeat the enforcement of this Agreement or provides for the exercise of the power of eminent domain.

16. Monetary damages would not be an adequate remedy to the Village of Walton for breach of any of the terms, conditions and restrictions contained herein and, therefore, in the event that the owners herein, their personal representatives, successors in interest, heirs and assigns, violate or breach any of the terms of this Agreement, the Village of Walton, its successor in interest or assigns, may institute a suit to adjoin by ex parte, temporary and/or permanent injunction such violations and to require the specific performance of the provisions of this Agreement.

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17. All Agreements covering lots along (name of road), taken together, shall constitute in fact and in law a single Road Maintenance Agreement. Each of the single Agreements hereby incorporates all of the other Agreements by reference and the resulting single Road Maintenance Agreement is hereby declared to be mutually enforceable by all of the parties to all of the individual Agreements.

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Property Owner

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 2000.

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Notary Public