

TOWN OF CLAYTON  
SUBDIVISION REGULATIONS

ARTICLE I: INTRODUCTION

Section 100.- Enactment and Authority

These regulations are adopted in accordance with the provisions of Section 271 of Town Law. The procedures and requirements prescribed herein are promulgated in accordance with Sections 276, 277, 278 and 279 of Town Law.

Section 110.- Purpose

The purpose of these regulations is to provide for orderly efficient growth, within the Town of Clayton, and to afford adequate facilities for transportation, housing, comfort, convenience, safety, health and general welfare of its population.

Section 120.- Applicability

No portion of a tract of land that has been filed with the Clerk of Jefferson County shall be sold, offered for sale, lease or otherwise disposed of by its owner, whether it be a person, company or corporation, until a plan or map of the proposed land division shall be submitted to the Planning Board for review and either approved or deemed approved by failure of the Planning Board to render a decision within the required time period as set forth in Article III or found not to be subject to these regulations, as specified herein.

Section 130.- Administration

These regulations shall be administered by the Planning Board as defined herein.

Section 140.- Waiver

The Planning Board, in keeping with Section 277 of Town Law, may waive, when reasonable, any improvements and requirements for the approval, approval with modifications or disapproval of subdivisions when in the opinion of the Planning Board they are not essential to the public's health, safety and general welfare.

Section 150.- Fees

Application and other fees shall be set by resolution of the Town Board.

Section 160.- Definitions

Agricultural Data Statement (A.D.S.) - A statement identifying farm operations within an Agricultural District located within 500 feet of the boundary of the property upon which an action requiring municipal review and approval by the Planning Board, Zoning Board of Appeals, or Town Board is located.

Agricultural District - A district created by the County Board of Supervisors, according to Article 25-AA of the Agriculture and Markets Law.

Applicant - Individual making application for the subdivision of any existing tract of land, i.e. landowner(s) or agent, designated by landowner(s).

Cluster Development - An alternative permitted method of the development of such plat or plats to allow all of the development which could occur on a particular parcel of land to be developed on a portion of said parcel.  
[ refer to Article VI ]

Common Land - A demarcated area of pooled land created in the platting of a cluster development and designated on the plat thereof, for park, recreation, open space or other municipal purposes directly related to the plat.

Complete Submission,

Final Plat: A subdivision plat, with the associated documentation and information that includes all of the material required for final subdivision review as outlined in Section 420, hereinafter, including that information that may be additionally required by the Planning Board as essential to the final subdivision review.

Conservation Easement - A perpetual restriction on the use of land created in accordance with the provisions of Section 49, Title 3 of the Environmental Conservation Law or Section 247, of the General Municipal Law, for the purposes of conservation of open space, agricultural land and natural, cultural, historic and scenic resources.

Preliminary Plat: A subdivision plat, with the associated documentation and information that constitute all the material required for preliminary subdivision review as outlined in Section 410 of these regulations and such additional information as may be required by the Planning Board as essential to the preliminary subdivision review.

Conditional Approval of Final Plat - Approval of Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for recording nor authorize any permits prior to the signing of the plat by duly authorized officer of the Planning Board and recording of the plat in the Office of the Clerk of Jefferson County.

Developer - The individual responsible for physical improvements upon and to one or more lots of a subdivision, not necessarily the subdivider.

Farm Operation - The land used in agricultural production, farm buildings, equipment and residential farm buildings.

Final Plat - A drawing prepared as prescribed in Section 420 including the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat, if such preliminary plat has been so approved.

Final Plat Approval - The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed; such final approval qualifies the plat for recording in the Office of the Clerk of Jefferson County.

Open Space - An area of land not developed with structures and having distinct conservation value(s) that may include scenic, ecological, agricultural or other natural resources i.e. scenic view corridors, agricultural and forested areas, etc..

Open Space, Preserved - A land area meeting the definition of open space on which a conservation easement has been placed to permanently protect the conservation value(s) associated therewith.

Planning Board - The Planning Board of the Town of Clayton.

Preliminary Plat - A drawing prepared as prescribed in Section 410.

Preliminary Plat Approval - The approval of the layout of a proposed subdivision set forth in a preliminary plat but subject to the approval of the plat in final form.

SEQR - State Environmental Quality Review.

Subdivider - Owner(s) of a tract of land for which an complete application for subdivision is duly submitted to the Planning Board for processing and which is subsequently approved by the Planning Board and the approved plat thereof is filed, in timely fashion, with the Office of the Clerk of Jefferson County.

Subdivision - The division of any existing tract of land into more than one lot, block or site, with or without streets and highways, for the purpose of sale, transfer of ownership or development; the term shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the Clerk of Jefferson County.

Subdivision, Major - The division of any existing tract of land resulting in the creation of five (5) or more lots fronting on an existing private, town, county or state road or any subdivision requiring a new road. A tract of land shall constitute a major subdivision upon the sale, rental, offer for sale or lease or building development of the fifth lot thereof within any consecutive three (3) year period.

Subdivision, Minor - The division of any tract of land that results in the creation of four (4) or less lots fronting on an existing private, town, county or state road.

Subdivision, Simple Minor - The minor subdivision of a tract of land that upon review by the Planning Board is determined not to be subject to the subdivision review processes contained in these regulations and procedures and in the opinion of the Planning Board, is unlikely to have any adverse impacts upon the environment or the public health, safety and welfare. [ refer to Section 140 ]

NOTE: When classifying Subdivisions, each part of the entire tract of land will be counted as a lot.

Town - Town of Clayton

Town Board - The Town Board of the Town of Clayton

## ARTICLE II - INITIAL SUBDIVISION REVIEW

### Section 200.- General

Upon receipt of an application for subdivision review consisting of all the materials listed in Section 405, the Planning Board shall make a determination regarding the type of subdivision. The Planning Board in making such a determination shall assess the application against the following considerations:

- A. The proposed number of lots, blocks or sites in the subdivision.
- B. The proposed method of access, existing road or proposed road.
- C. The environmental condition of the subdivision site including the presence or absence of deep slopes, wetlands, shoreline, rare or significant vegetation, fish and wildlife considerations, soil types, streams, scenic values and other features.
- D. The proposed method of provision of water services to the subdivision.
- E. The likelihood of adverse impacts upon the environment and/or public health, safety and welfare.
- F. The proposed method for sewage disposal.
- G. Proposed uses of the subdivision.
- H. The historical and/or archaeological significance of the site.
- I. Other considerations of interest to the Planning Board.

### Section 210.- Procedure for Simple Minor Subdivision

- A. When a proposed subdivision has been tentatively designated a simple

minor subdivision after assessment, by the Planning Board, of the proposal against the standards and considerations contained in Section 200, the Planning Board shall provide the applicant with written certification of that fact within five (5) working days from the date of the designation.

- B. Written notification of the tentative designation as a simple minor subdivision shall also be provided to all adjacent landowners who shall have fifteen (15) days from the date of the notification to make comments or seek additional information.
- C. At the next meeting after notification of adjacent landowners, as in B. above, the Planning Board shall, by resolution, grant final approval to the applicant for a simple minor subdivision or, based upon new information received, issue a determination that the proposed subdivision must undergo the process for either a minor or major subdivision. If certified as a simple minor subdivision the applicant will be given two (2) duly signed copies of the approved plat and similar copies, of same, will be filed in the office of the Clerk of the Town of Clayton and the records of the Planning Board.

#### Section 220.- Procedure for Subdivision Review

- A. When a proposed subdivision has been designated to be either minor or major by the Planning Board, after assessment of the proposal against those standards and considerations contained in Section 200, the Planning Board shall instruct the applicant as to the review procedures for subdivisions as required by Article III. The Planning Board shall also designate the subdivision as minor or major, as required by these regulations.
- B. The Planning Board shall advise the applicant relative to the possible scheduling of pre-application and/or sketch plan conferences prior to preliminary plat submission, if such are requested or required. The Planning Board must be satisfied that there is sufficient information provided by the applicant to support the preliminary plat submission at the required public hearing. The Planning Board when satisfied with the completeness of the application shall, by resolution set the time and date of the required public hearing.

#### Section 230.- Cluster Subdivisions

As required by these regulations and Section 278 of Town Law any review of a cluster development must include a public hearing. Cluster developments must be designated as either a minor or major subdivision and as such shall be reviewed using the general requirements for clustering set forth in Section 610 of Article VI as well as those that pertain to minor or major subdivisions.

### ARTICLE III: PROCEDURE - REVIEW

#### Section 300.- General

- A. Minor Subdivisions shall be processed according to the following procedural steps:
1. Pre-application Conference. (optional)
  2. Sketch Plan Conference. (optional)
  3. Preliminary Plat Submission.
  4. Review of Preliminary Plat. (Preliminary plat review is the only review, in the absence of modification or conditions, for minor subdivisions; modification or conditions shall require submission of a final plat)
  5. Designation by the Planning Board of Complete Submission.
  6. Public Hearing. (mandatory)
  7. Completion of environmental assessment form (EAF), re: SEQOR
  8. Preliminary Plat approval; a Preliminary Plat receiving approval without any modifications or conditions attached will be given Final Plat status and approved as such.
  9. Minor Subdivision Approval, Conditional Approval or Disapproval.
- B. Major Subdivisions, after steps 1 through 8 of A. hereinbefore, shall be processed further according to the following additional procedural steps:
9. Final Plat Submission.
  10. Review of Final Plat Submission.
  11. Designation by Planning Board of Complete Submission.
  12. Public Hearing (optional, in absence of major changes).
  13. Major Subdivision Approval, Conditional Approval or Disapproval.

NOTE: The following sections of this article describes each of foregoing procedural steps in detail.

#### Section 310.- Pre-Application

Prior to the preparation and submission of a plat for approval, the subdivider should proceed to gather data concerning the existing conditions of the site and information regarding financing, planning and marketing feasibility. Early contact with NYS Departments of Health and Environmental Conservation is advised. A preliminary layout, in sketch form may be submitted to the Planning for advice and assistance.

#### Section 320.- Sketch Plan Conference

The subdivider may request an appointment with the Planning Board for the purpose of reviewing the sketch plan. This meeting is intended to assist the subdivider in the planning and preparation of the plat to save the subdivider both time and money in preparing maps and plans.

NOTE: The two foregoing steps do not require formal application, fee or filing with the Planning Board.

#### Section 330.- Preliminary Plat Submission

The subdivider shall file an application for approval of the Preliminary Plat, on forms available from the Town, accompanied by all the documents specified, hereafter, in section 410.

Section 340.- Review of Subdivision and Designation of Complete Submission

Upon receipt of the preliminary subdivision application and the materials described in Section 410, the Planning Board shall begin review of these materials to determine whether or not the submission is complete. The Planning Board must be satisfied that the stated requirements for submission have been met and that any additional information that may be required, has been received before designating the subject application as complete.

In the course of this review and designation process, the Planning Board shall assess the proposed subdivision in consideration of the intent of these regulations and criteria contained in Article V. The Planning Board shall, as they deem appropriate, advise the subdivider of any required or advised changes to the layout of the subdivision and/or improvements thereto.

Section 350.- Public Hearing

Within sixty-two (62) days of after receipt of a complete preliminary plat, by the Clerk of the Planning Board, the Planning Board shall schedule and hold a public hearing.

The hearing shall be advertised in the Town's officially designated newspaper(s), at least seven (7) days before the hearing.

The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate to gain full public consideration of the subdivision proposal, including notification of all property owners within 500 feet of the proposed subdivision.

Section 360.- Planning Board Decision

Within sixty-two (62) days from the public hearing, the Planning Board shall approve, with or without modifications or disapprove the preliminary plat and state the reasons for the disapproval. The time in which the Planning Board must take action on a preliminary plat may be extended by mutual consent of the subdivider and the Planning Board.

Within five (5) days of the Planning Board's decision, the action shall be noted on at least three copies of the preliminary plat, by the Clerk of the Planning Board; one copy will be filed in the Office of the Clerk of the Town of Clayton, one copy will be mailed to the subdivider and one copy retained in the records of the Planning Board.

Section 365.- Final decision - Minor Subdivisions

Where the subject subdivision has been classified as a minor subdivision by the Planning Board, the action taken on the preliminary plat, in the absence of any conditions and/or modifications, shall be the final decision, i.e. the preliminary plat will be given final plat status and approved as such.

A legal survey of the subdivision, prepared by a licensed land surveyor or equivalent is necessary for final approval of minor subdivisions; the Planning Board may require submission of the survey before issuing its final approval, or condition approval on the future receipt of the survey.

Upon approval, the subdivider of a minor subdivision shall record the plat, or section thereof, in the Office of the Clerk of Jefferson County within sixty-two (62) days of the approval date otherwise the approval will expire; such expiration will require resubmission to the Planning Board before recording in the Office of the Clerk of Jefferson County.

#### Section 370.- Final Plat Submission

For subdivisions classified as major subdivisions by the Planning Board, the subdivider shall file an application for the final plat approval only after preliminary plat approval or approval with modifications. Such application for final plat approval shall be made upon forms provided by the Town for that purpose and must be accompanied by the information described in Section 410 of these regulations.

#### Section. 380.- Review of Final Plat and Designation of Complete Submission

Upon receipt of the final plat application and materials described in Section 420, the Planning Board shall begin review of these materials to determine whether or not the submission is complete. The Planning Board must be satisfied that the stated requirements for submission (as per Section 420 herein) have been met and that any additional information that is required has also been received. Upon the successful completion of the submission requirements, the Planning Board will then conduct a review, advising the subdivider of required and recommended changes to the proposed subdivision layout and improvements they deem necessary to address the intent of these regulations and the requirements and criteria contained in Article V. In the event that any aspects of the final plat design or engineering are of a complex or significantly technical character, the Planning Board may elect to obtain expert review of and advice concerning the final plat. This ability is intended to be exercised only at the discretion of the Planning Board and is in no way intended to be mandatory or a condition of the review process.

When a final plat is submitted, which the Planning Board deems to be in substantial agreement with the preliminary plat already approved, the Planning Board shall by resolution conditionally approve with or without modification, disapprove or grant final approval within sixty-two days from

the date the complete final plat was received by the Clerk of the Planning Board.

Section 390.- Optional Public Hearing

In the event that the final plat contains significant alterations to, or departures from, the preliminary plat, as determined by the Planning Board, the Planning Board may hold a public hearing to seek public comment on the alterations or departures. In determining the need for a public hearing on the final plat, the Planning Board shall consider the magnitude of the proposed changes and the potential effect, of same, on the proposed development.

The Planning Board shall schedule and hold a public hearing on a complete final plat, which is considered to differ materially from the preliminary plat already approved, within sixty-two days from the date the complete final plat was received by the Clerk of the Planning Board. The public hearing shall be advertised in the same manner as stated in Section 350, hereinbefore.

Section 395.- Planning Board Decision

Within sixty-two (62) days from the date of the designation of a complete submission or from the date of an optional public hearing, if held, the Planning Board shall by resolution conditionally approve with or without modification, disapprove or grant final approval; reasons for disapproval must be contained in the records of the Planning Board.

The time in which the Planning Board must take action on such plat may be extended by mutual consent of the Planning Board and the subdivider.

Within five (5) days of the Planning Board's decision, the action shall be noted on at least three copies of the final plat, by the Clerk of the Planning Board; one copy will be filed in the Office of the Clerk of the Town of Clayton, one copy will be mailed to the subdivider and one copy retained by the Planning Board.

Upon approval, the subdivider, shall record the final plat, or section thereof, in the office of the Clerk of Jefferson County within sixty-two (62) days from the date on which the final plat was approved by the Planning Board, otherwise the approval will expire; such expiration shall require resubmission to the Planning Board before recording in the Office of the Clerk of Jefferson County.

\*\*\*\*\*

ARTICLE IV: SUBMISSION REQUIREMENTS

Section 400.- Introduction

All subdivisions subject to review as herein required must be submitted to the Planning Board for their review, accompanied by the materials

described in the following sections.

Section 405.- Materials To Be Submitted / Simple Minor Subdivisions

1. Name and Address of Applicant and any professional advisors (legal, agents, developers, surveyors, etc.)
2. A sketch of the proposed subdivision, showing the proposed features of the project, including lots, blocks and sites, ingress and egress and other pertinent features.
3. A description of the current condition of the site, including on site environmental features (streams, drainage, vegetation, rock formations, etc.)
4. Part I of a short environmental assessment form (EAF).
5. An Agricultural Data Statement (A.D.S.)\*...[See Section 160 for definition.]
6. A description of the proposed use of the site.
7. Simple Minor Subdivision application fee.

NOTE: a survey map will be required for final approval.

\*\*\*\*\*

\*A.D.S. shall include the following information: Name and address of the applicant; description of proposed project and its location; the name and address of any owners of land within the Agricultural District, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of the farm operation identified in the A.D.S.

\*\*\*\*\*

NOTE: Upon receipt of an application requiring an A.D.S. the Clerk of the Planning Board shall mail written notice of such application to the owners land identified, by the applicant, in the A.D.S.. Such notice shall include a description of the proposed project and its proposed location; and may be mailed in conjunction with Public Hearing notice. The Clerk of the Planning Board shall refer all applications requiring an A.D.S. to the Jefferson County Planning Board as required by Sections 239-m and-n of General Municipal Law.

Section 410.- Additional Materials To Be Submitted / Preliminary Plat

1. All items listed in Section 405, hereinbefore.

2. Three (3) copies of a map of the property, drawn to scale [one (1) inch = fifty (50) feet, one hundred (100) feet or two hundred (200) feet] and showing the following:
  - a. Subdivision name (if any), scale of drawing, north arrow and date.
  - b. All boundaries of proposed subdivision.
  - c. Names of the owners of all contiguous properties.
  - d. Existing and proposed improvements (buildings, sidewalks, roads, etc.)
  - e. Water courses; marshes, wetlands, wooded areas, public facilities and other significant physical features on or near the site.
  - f. Land contours at ten (10) foot intervals or other indication of slope(s) of the land.
  - g. Proposed pattern of lots, including widths and depths, road frontage and/or layout and open space.
  - h. Proposed alterations of existing topography.
  - i. Preliminary location and layout of any proposed drainage and/or community water supply and sewage disposal facilities, if such are considered.
3. Copy of tax map(s) showing all parcel affected.
4. Total acreage of subdivision and number of lots proposed.
5. If known .... building types, approximate size, cost and tentative location.
6. Part I environmental assessment form (EAF) .... short or long form as required by the Planning Board for satisfying the requirements of NY - State Environmental Quality Review Act (SEQR).
7. Other pertinent information as may be requested by the Planning Board for a more complete understanding of the subdivision proposal.
8. Completed Subdivision Review Application.
9. Preliminary plat application fee - (Credit will be given for any amount paid for consideration of Simple Minor Subdivision).

Section 420.- Additional Materials To Be Submitted / Final Plat

1. Items 1, 2, 3, 5 and 7 of Section 410, hereinbefore.
2. Three (3) copies of a map showing the final layout and design of any proposed drainage and community water supply and sewage disposal facilities that are to be considered.
3. Information regarding certifications and pending and/or approved permits of any other agency required for the subdivision or any of its physical elements including, but not limited to the NYS Departments of Health, Environmental Conservation and Transportation, Jefferson County Departments of Planning and Highway and the US Army Corps of Engineers.

4. A legal survey of the subdivision prepared by a licensed land surveyor or equivalent.
5. Such other information as may be requested by the Planning Board for a complete understanding and assessment of the subdivision proposal.
6. Final plat application fee - (Credit will be given for any amount initially paid for preliminary plat approval, etc).

\*\*\*\*\*

ARTICLE V: STANDARDS AND CRITERIA TO BE CONSIDERED WHERE APPLICABLE

Section 500.- Public Health, Safety and Welfare

The Planning Board, before approving a plat with or without streets or highways or a plat already filed with the Clerk of Jefferson County if the plat is entirely or partially undeveloped, shall require that the land shown in such plats be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or public health, safety and welfare.

Section 505.- Zoning and NYS-Environmental Quality Review Act

All lots created by subdivision shall meet the standards related to size and dimensions contained in the Town of Clayton's Zoning Ordinance. All uses planned or proposed for any subdivision shall be in conformity with the said Ordinance.

The Planning Board, under the terms of Section 277 of Town Law, may request the applicant to apply directly to the Zoning Board of Appeals, for an area variance for one or more lots, shown on a plat, which do not comply with the Ordinance requirements; the Planning Board upon request of the Zoning Board of Appeals, will provide a written recommendation concerning the proposed variance.

Section 278 of Town Law allows the Planning Board, when considering cluster developments, to modify the dimensional (area) conditions and, where necessary, setback requirements between units as set forth in the Zoning Ordinance. Use and overall land density requirements may not be modified. [ refer to Section 600 ]

The Planning Board, before approving any subdivision plat, shall comply with the provisions of the State Environmental Review act under article eight of the Environmental Conservation Law and its implementing regulations as codified in 6NYCRR 617.

Section 510.- Drainage

The subdivision shall provide for the adequate dispersal of storm or

other water flows so as to mitigate any threats posed by flooding, storm flows, soil erosion or soil sedimentation upon the subdivision and/or adjacent lands.

#### Section 520.- Sewage Disposal

All individual household (septic) systems shall be constructed to comply with standards and conditions set forth in the NYS - Department of Health's Appendix 75-A; code enforcement requires that a building permit be obtained from the Building Code Office of the Jefferson County Planning Department. Subdivisionwide and industrial or other complex systems will require contact and consultation with the NYS - Departments of Health and/or Environmental Conservation.

#### Section 530.- Potable Water

The involvement and approval of the Building Code Enforcement Office of the Jefferson County Planning Department as well as the NYS - Departments of Health and Environmental Conservation should be obtained where appropriate.

#### Section 540.- Roadways

Proposed streets, highways and turnarounds within a subdivision shall be of suitable grade, width and geometry to assure that vehicular circulation occurs in an orderly, safe and efficient manner; the same applies to ingress and egress to the subdivision from existing roadways, be they private, town, county or state. Approval and/or endorsement shall be obtained from the appropriate authority(ies)-Town of Clayton and/or Jefferson County Highway Departments and/or the NYS-Department of Transportation (DOT).

All such streets and highways shall be coordinated so as to compose a convenient system conforming to the official town map and properly related to proposals contained in the comprehensive plan of the Town of Clayton.

#### Section 550.- Pedestrian Access

Where applicable, there should be adequate facilities created to assure the safe and convenient movement of pedestrians both within a developed subdivision and while entering or leaving it.

#### Section 560.- Emergency Access

The subdivision shall provide for the safe and efficient access of all types of emergency vehicles and personnel to each lot and structure contained therein.

#### Section 570.- Park(s), Playground or Other Recreational Uses

The Planning Board may require that land for park(s) playground or other recreational purposes be suitably located within a proposed subdivi-

sion plat containing residential units only after findings have been made that substantiate that a proper case for such exists within the Town of Clayton. Such findings shall include evaluations of the present and anticipated future needs for parkland and recreational facilities, in the Town, based upon a projection of future population growth to which the particular subdivision plat will contribute. If appropriate findings are made by the Planning Board but land, of suitable size to meet the requirement, cannot be located on the subdivision plat, the Planning Board may then require the applicant to pay a sum of money, in lieu thereof, in an amount to be established by the Town Board.

In the making of the foregoing determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the subdivision plat which could be possible location for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the Planning Board in lieu of land for park, playground or other recreational purposes shall be deposited into a trust fund to be used by the Town, exclusively for park, playground and recreational purposes, including the acquisition of property.

#### Section 575.- Ownership and maintenance of Parkland

Ownership and maintenance of parkland, per as hereinbefore, shall be by the following means and/or requirements:

##### Ownership -

1. Homeowners Association (HOA) - the covenants and organizational documents thereof shall include the following conditions:
  - (a) HOA membership shall be mandatory for each property owner, initial and successive.
  - (b) Each HOA member must agree to pay a yearly assessment fee representing a pro rata share of the costs related to insurance, taxes, maintenance of the parkland and associated facilities; the HOA shall be responsible for seeing that all such items are paid for in a timely manner.
  - (c) The yearly assessment levied by the HOA on each member must be able to become a lien on property, if remaining unpaid.
  - (d) The terms of HOA membership and/or property ownership must allow the real property taxing authorities to satisfy property tax claims against the parkland by proceeding against individual property owners and the dwelling units they each own.
  - (e) The Parkland shall be preserved in perpetuity, or

2. The parkland may be dedicated to the Town, with prior approval by the Town Board.

Maintenance -

1. Progressive maintenance standards shall be established to assure that the parkland does not detract from the character of the neighborhood.
2. Such maintenance standards shall be enforceable by the Town against the owner(s) of the parkland; if lack of such maintenance results in the creation of public nuisance the Town may, upon thirty days written notice to the owner(s), enter the premises for necessary maintenance and the cost of such maintenance shall be assessed ratably against the owner(s), or in the case of a HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

Section 580.- Landscaping and Vegetation

Where appropriate, a subdivision should strive to preserve as much existing meaningful mature vegetation as possible. Where such vegetation is nonexistent or insufficient then landscaping should be considered to address the needs for screening and buffering as to increase the aesthetic quality of the environs.

Section 590.- Development / Infrastructure and Improvements

- A. In making determinations as to the need for streets, highways, parks and other improvements the Planning Board shall take into consideration the prospective character of the development, whether dense or open residence, business or industrial and the degree to, which they are essential to public health, safety and welfare.
- B. In the case of major subdivisions of fifty (50) lots the Planning Board shall require that all streets or other places of public access, shown on plats of fully planned subdivisions, be graded and paved; street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices (including necessary ducts and cables or connection facilities), sanitary sewers and storm sewers shall be installed in accordance with standards, specifications and procedures acceptable to the Planning Board and/or the Town Board or alternatively that a performance bond or other security, sufficient to cover the full cost of same, be furnished to the town, by the developer, prior to the Planning Board granting final approval.
- C. If a performance bond or other security is required to assure the proper installation of infrastructure and improvements, to the satisfaction of the Planning Board and Town Board, the requirements for such shall be in keeping with the provisions of Section 277.(9.a through e) of Town Law, a copy of which is attached hereto, as Exhibit A.

- D. If the Town elects to provide improvements (sidewalks and/or water mains and/or sanitary sewers and/or storm sewers) required by the Planning Board, then the adoption of resolution and the establishment or extension of an improvement district, for such, shall be in keeping with the provisions of Section 277.(10.a and b) of Town Law, a copy of which is attached hereto, as Exhibit B.

\*\*\*\*\*

## ARTICLE VI: CLUSTER DEVELOPMENT

### Section 600.- General Intent and Objectives

It is the intent and purpose of cluster development, as set forth in Section 278 of Town Law, to provide for innovative and creative land use through more flexible design regulations permitting the "clustering" in planned residential communities of single-, two- and multi-family dwellings in such a fashion as to foster the creation of community parks and/or "open space", in an effort to preserve trees, vegetation and outstanding natural topography and to permit more efficient layout of streets, roads and utilities while at the same time maintaining the same use and overall density requirements of the zoning district in which the proposed cluster development is located.

Wherever, in Residential (R-1), Marine Residential (MR) and/or Agricultural and Rural Residential (AR) zoning districts, the Planning Board deems cluster development to be appropriate, it may in accordance with the provisions of Section 278 of Town Law, review a proposed cluster development and authorize a specific cluster development plan as part of its authority to review and approve subdivision plats, subject to the following criteria. The Planning Board, in reviewing proposed cluster developments is empowered to modify dimensional (area) conditions and, where necessary, setback requirements between units as set forth in the Town of Clayton Zoning Ordinance; overall land density and use established for the zoning district in which the proposed cluster development is to be located, may not be modified.

### Section 610.- General Requirements and Criteria For Cluster Development

- A. Location: Cluster developments shall be permitted only in the Residential (R-1), Marine Residential (MR) and Agricultural and Rural Residential (AR) zoning districts where the applicant can demonstrate that the proposed cluster development will meet the objectives of this section and the Planning Board is of the opinion that the proposed project would benefit the Town of Clayton.
- B. Density of Use: Such density, as set forth in the Zoning Ordinance, varies between zoning districts and within zoning districts, depending upon the availability of "community water supply and sewage disposal" and in the AR district between one and two family dwellings and multi-family dwellings. These densities, in terms of "area per family units", are as follows:

MINIMUM LAND AREA (Square Feet) PER DWELLING UNIT

	<u>Z o n i n g   D i s t r i c t s</u>		
	<u>R-1 &amp; MR</u>	<u>AR</u>	
	<u>1&amp;2 Family</u>	<u>Multifamily</u>	
Individ. Wells & Septic	30,000	40,000	20,000
Community Water & Septic	15,000	15,000	8,500

\*\*\*\*\*

If a proposed cluster development project falls within two or more districts, with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts.

C. Permitted Uses: The following residential and accessory uses shall be permitted in a cluster development:

Residential (R-1) & Marine Residential (MR)

Districts.....Single family dwellings and the permitted accessory uses shall be limited to:

community parks, swimming pools, recreation areas, gazebos, decks, garages and carports and, in MR only, community and/or private docks

Agricultural & Rural Residential (AR)

District.....Single, two and multifamily dwellings and the accessory uses, as listed above for the R-1 and MR Districts

D. Land Available for Park, Recreation, Open Space or Other Municipal Purposes:

In the event that a cluster development project results in a plat showing lands available for park, recreation, open space or other municipal purposes directly related to the plat, then the Planning Board, as a condition of plat approval may establish such conditions on ownership, use, maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purpose. Hereafter, the pooled land that is created in the platting of a cluster development and available for park, recreation, open space, etc. shall be referred to as common land.

Ownership, use and maintenance of common land shown on the plat of a cluster development shall be accomplished by the following means and/or requirements:

Ownership -

1. Homeowners Association (HOA) - the covenants and organizational documents thereof shall include the following conditions:

(a) HOA membership shall be mandatory for each property owner, initial and successive.

(b) Each HOA member must agree to pay a yearly assessment fee representing a pro rata share of the costs related to insurance, taxes, maintenance of the common land, other facilities and private road(s), etc.; the HOA shall be responsible for seeing that all such items are paid for in a timely manner.

(c) The yearly assessment levied by the HOA on each member must be able to become a lien on their property, if remaining unpaid.

(d) The terms of HOA membership and/or property ownership must allow the real property taxing authorities to satisfy property tax claims against the common land by proceeding against individual property owners and the dwelling units they each own.

(e) The common land, whether designated for park, recreation, open space or other municipal purpose, shall be preserved in perpetuity, or

2. The common land may be dedicated to the Town, with prior approval by the Town Board, or
3. The common land may be transferred to a nonprofit (conservation) organization under terms acceptable to the Planning Board, or
4. The common land may be held in private ownership or in such other form of ownership, the terms of which the Planning Board finds are adequate and appropriate to fulfill the purpose(s) set forth in Section 278(2.d) of Town Law.

#### Use -

1. The use of common land shall be limited to active or passive recreation, agriculture, lawn, forestry, wildlife habitat or left in its natural state.
2. Any use that would diminish the conservation value any land designated as preserved open space shall be prohibited.

#### Maintenance -

1. Progressive maintenance standards shall be established to assure that the common land does not detract from the character of the neighborhood.
2. Such maintenance standards shall be enforceable by the Town against the owner(s) of the common land; if lack of such maintenance results in the creation of public nuisance the Town may, upon thirty days written notice to the owner(s), enter the premises for necessary maintenance and the cost of such maintenance shall be assessed ratably against the owner(s), or, in the case of a HOA, the owners of properties within the development, and shall, if unpaid, become a tax lien on said properties.

NOTE: The Planning Board may require that any open space area within the common land associated with a cluster development subdivision be protected, in perpetuity, by a conservation easement\* and the use(s) of the open space(s) limited to passive recreation to assure that any negative impact on the conservation value, of the natural resource being protected, are minimal. Such an easement shall be granted to the Town, with the prior approval of the Town Board, or to a qualified not-for-profit conservation organization, with adequate endowment for maintenance, acceptable to the Planning Board. Such an easement shall be reviewed by the Planning Board and be required as a condition of Final Plat approval. The Planning Board may also require that such an easement be enforceable by the Town, if the Town is not the holder of the easement. Any such conservation easement shall be required to be recorded in the Jefferson County Clerk's Office prior to or simultaneously with the filing of the final subdivision plat of the cluster housing development.

#### E. Site Plan and Public Hearing:

The proposed site plan, including areas in which structures may be located, the height and spacing of buildings, open spaces and their landscaping, if any, off street open and/or enclosed parking spaces, and streets, driveways and all physical features shown on said plan, accompanied by a statement setting forth the nature of any modifications of existing zoning provisions shall be subject to review at a public hearing that will be scheduled and held within sixty-two (62) days from the receipt of a complete cluster development application by the Clerk of the Planning Board.

The public hearing will be advertised as set forth in Section 350 of these regulations.

#### F. Final Plat:

Common land created in platting of a cluster development must be clearly labelled on the final plat thereof, as to its use(s), management and method of preservation; such information shall state that the common land is permanently preserved for only the uses stated and shall not be platted for building lots and shall indicate liber and page of any conservation easements or deed restrictions required to be filed to implement such reservations.

#### G. Filing of Plat:

On filing of the plat (approved) in the Office of the Clerk of Jefferson County, a copy shall be also be filed with the Office of the Clerk of the Town of Clayton, who shall make appropriate reference thereto in Town of Clayton Zoning Ordinance and/or map.

---

\* Pursuant to Section 247 of General Municipal Law and/or Sections 49-0301 through 49-0311 of the Environmental Conservation Law.

ARTICLE VII: MISCELLANEOUS ITEMS

Section 700.- Recording of Plats

Section 279 of Town Law, which addresses the following items: necessity of proper endorsement, of each plat, by the Planning Board; cession of streets, highways or parks; etc., is deemed to be an integral part of these regulations and is attached hereto, as Exhibit C.

Section 710.- Fees

Fees, other than for applications and/or permits, may be assessed to reimburse costs incurred by the Planning Board and/or Town Board for professional services, i.e. legal, engineering, etc., related to some phase of the subdivision process.

INDEX/LAND DIVISION REGULATIONS

	SECTION	PAGE
ARTICLE I	Introduction	1
	100 - Enactment and Authority	1
	110 - Purpose	1
	120 - Applicability	1
	130 - Administration	1
	140 - Waiver	1
	150 - Fees	1
	160 - Definitions	1
ARTICLE II	Initial Subdivision Review	4
	200 - General	4
	210 - Procedure for Simple Minor Subdivision	4
	220 - Procedure for Subdivision Review	5
	230 - Cluster Subdivisions	5
ARTICLE III	Procedure - Review	5
	300 - General	5
	310 - Pre-application	6
	320 - Sketch Plan Conference	6
	330 - Preliminary Plat Submission	6
	340 - Review of Subdivision and Designation of complete Submission	7
	350 - Public Hearing	7
	360 - Planning Board Decision	7
	365 - Final Decision - Minor Subdivisions	7
	370 - Final Plat Submission	8
	380 - Review of Final Plat and Designation of Complete Submission	8
	390 - Optional Public Hearing	9
	395 - Planning Board Decision	9
ARTICLE IV	Submission Requirements	9
	400 - Introduction	9
	405 - Materials to be Submitted / Simple Minor Subdivisions	10
	410 - Additional Materials to be Submitted / Preliminary Plat	10
	420 - Additional Materials to be Submitted / Final Plat	11
ARTICLE V	Standards and Criteria to be Considered Where Applicable	12
	500 - Public Health, Safety and Welfare	12
	505 - Zoning and NYS-SEQR	13
	510 - Drainage	12
	520 - Sewage Disposal	13
	530 - Potable Water	13
	540 - Roadways	13
	550 - Pedestrian Access	13
	560 - Emergency Access	13
	570 - Park(s) Playground or Other Recreational uses	13
	575 - Ownership and Maintenance of Parkland	14
	580 - Landscaping and Vegetation	15

Over

	590 - Development / Infrastructure and improvements	15
ARTICLE VI	Cluster Development	16
	600 - General intent and Objectives	16
	610 - General Requirements and Criteria for Cluster Development	16
ARTICLE VII	Miscellaneous Items	20
	700 - Recording of Plats	20
	710 - Fees	20
EXHIBIT A	Section 277, 9a through e of Town Law	
EXHIBIT B	Section 277, 10a and b of Town Law	
EXHIBIT C	Section 279 of Town Law	

This Local Law Enacted by the Town Board of the Town of Clayton on 8  
December 1993 becomes effective upon filing with the Department of State.

EXHIBIT A  
Section 277, 9a through e of Town Law

9. Performance bond or other security.

(a) Furnishing of performance bond or other security. As an alternative to the installation of infrastructure and improvements, as above provided, prior to planning board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the planning board or a town department designated by the planning board to make such estimate, where such departmental estimate is deemed acceptable by the planning board, shall be furnished to the town by the owner.

(b) Security where plat approved in sections. In the event that the owner shall be authorized to file the approved plat in sections, as provided in subdivision ten of section two hundred seventy-six of this article, approval of the plat may be granted upon the installation of the required improvements in the section of the plat filed in the office of the county clerk or register or the furnishing of security covering the costs of such improvements. The owner shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the county clerk or register and the required improvements have been installed in such section or a security covering the cost of such improvements is provided.

(c) Form of security. Any such security must be provided pursuant to a written security agreement with the town, approved by the town board and also approved by the town attorney as to form, sufficiency and manner of execution, and shall be limited to: (i) a performance bond issued by a bonding or surety company; (ii) the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state; (iii) an irrevocable letter of credit from a bank located and authorized to do business in this state; (iv) obligations of the United States of America; or (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the town, such security shall be held in a town account at a bank or trust company.

(d) Term of security agreement. Any such performance bond or security agreement shall run for a term to be fixed by the planning board, but in no case for a longer term than three years, provided, however, that the term of such performance bond or security agreement may be extended by the planning board with consent of the parties thereto. If the planning board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided in this section and by the planning board in sufficient amount to warrant reduction in the amount of said security; and upon approval by the town board, the planning board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the planning board.

(e) Default of security agreement. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the town board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

10. Provision of improvements by town.

(a) Adoption of resolution. Notwithstanding the foregoing provisions of this section, with respect to plats approved by the planning board, the town board may adopt a resolution that sidewalks and/or water mains and/or sanitary sewers and/or storm drains required by the planning board pursuant to this section be constructed or installed at the expense of the town as authorized by articles three-A and twelve-C of this chapter or at the expense of an existing improvement district in which the plat is located. Such improvements may also be acquired without consideration by the town board on behalf of the town or an improvement district as authorized by article three-A, twelve, twelve-A or twelve-C of this chapter.

(b) Establishment of improvement district. If an improvement district has not been created for the area in which the plat is located, the town board may establish or extend an improvement district as provided in this chapter or in any applicable special law for the purpose of constructing or installing or acquiring without consideration such improvements shown on the map of any plat as the town board may determine.

(i) Execution of contracts. The town board resolution shall require that the owner or owners of real property execute such contracts with the town as the town board may deem necessary for the purpose of ensuring that the expense of such construction or installation, including the cost of issuing obligations to raise moneys to pay the expense thereof and interest on such obligations, shall not be an undue burden upon the property deemed benefitted by the agreements or of such improvement district or extension thereof as the case may be and may require a security agreement, including the filing of a surety bond, letter of credit or the deposit of cash or securities reasonably acceptable to the town board as to assure the performance of such contracts.

(ii) Any such surety agreement shall be executed in accordance with this subdivision, and may contain such other provisions as the town board may reasonably determine to be necessary to ensure the performance of such contracts.

EXHIBIT C  
Section 279 of Town Law

§279. Subdivision review; record of plats *(Eff. 7/1/93, Ch. 727, L. 1992)*

1. No plat of a subdivision of land showing lots, blocks or sites, with or without streets or highways shall be filed or recorded in the office of the county clerk or register until it has been approved by a planning board which has been empowered to approve such plats, and such approval be endorsed in writing on the plat in such manner as the planning board may designate. Such endorsement shall stipulate that the plat does not conflict with the county official map, where one exists, or, in cases where plats do front on or have access to or are otherwise related to roads or drainage systems shown on the county map, that such plat has been approved in the manner specified by section two hundred thirty-nine-k of the general municipal law. It shall be the duty of the county clerk or register to notify the planning board in writing within three days of the filing or recording of any plat approved by such planning board, identifying such plat by its title, date of filing or recording, and official file number. After such plat is approved and filed, subject, however, to review by court as hereinafter provided, the streets, highways and parks shown on such plat shall be and become a part of the official map or plan of the town. The owner of the land, or his agent who files the plat, may add as part of the plat a notation, if he so desires, to the effect that no offer of dedication of such streets, highways or parks, or any of them, is made to the public. If the owner of the land or his agent who files the plat does not add as part of the plat a notation to the effect that no offer of dedication of such street, highways or parks, or any of them, is made to the public, the filing of the plat in the office of the county clerk or register shall constitute a continuing offer of dedication of the streets, highways or parks, or any of them, to the public and said offer of dedication may be accepted by the Town Board at any time prior to revocation of said offer by the owner of the land or his agent.

2. Formal offers of cession to the public of all streets, highways or parks not marked with such notation on the plat shall be filed with the planning board prior to the approval of the plat by the planning board. In the event that the owner or his agent shall elect not to file his plat prior to the expiration date of the validity of such approval provided in section two hundred seventy-six, then such formal offers of cession shall be deemed to be invalid, void and of no effect on and after such expiration date.

3. Every street shown on a plat that is hereafter filed or recorded in the office of the county clerk or register as provided in this section, shall be deemed to be a private street until such time as it has been formally offered for cession to the public and formally accepted as a public street by resolution of the town board, or alternatively until it has been condemned by the town for use as a public street.

4. Insofar as provisions of law other than those contained in this article require the approval of a plat, map or plan of land within that part of the town outside the limits of any incorporated city or village by some authority of said town as a prerequisite to the record of said plat, map or plan, or allow it to be recorded on its failure to receive such approval within given time, such provisions shall not be in force in any town which has established an official map or plan and authorized a planning board appointed by it to approve plats of land showing new streets and highways in accordance with the provisions of this article.

