

Local Law # 3 of 2021
Subdivision Law

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SUBDIVISION LAW OF THE TOWN OF MOHAWK

ARTICLE 1: ENACTMENT, AUTHORIZATION, PURPOSE, APPLICATION

Section 105. Enactment and Authorization

Pursuant to the authority granted to the Town in Article 16, Sections 276 and 278, of the Town Law, the Town Board of the Town of Mohawk, by resolution dated March 11, 2021, affirms, authorizes and empowers the Planning Board of the Town of Mohawk to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways; to approve the development of entirely or partially undeveloped plats already filed in the Office of the Clerk of the County; and to approve cluster developments within that part of the Town of Mohawk outside the Village of Fonda.

Section 110. Title

This local law shall be known and may be cited as "The Subdivision Law of the Town of Mohawk, New York."

Section 115. Purpose

The purpose of this law is to provide for orderly efficient growth within the community, and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health and welfare of its population. The provisions in this law shall be administered to supplement and facilitate the provisions of the Town of Mohawk Comprehensive Plan.

Section 120. Administration

This law shall be administered by the Town of Mohawk Planning Board.

Section 125. Fees

Application filing, consulting, environmental quality review and inspection fees shall be set by Town Board resolution.

Section 130. Applicability

Any subdivision of any parcel of land as defined in Article 2 of this law is subject to these regulations.

ARTICLE 2:

DEFINITIONS

Section 205. Purpose

Unless otherwise expressly stated, the following terms shall, for the purpose of this law, have the meaning herein indicated.

Section 210. Definitions

Agricultural Data Statement: An identification of farm operations within an agricultural district located five hundred feet of the boundary of property upon which a Subdivision is proposed, as provided in Section 305-a of the Agricultural and Markets Law.

Comprehensive Plan: A long range plan for the development of the Town of Mohawk.

Cluster Development: A planned development in which lots are platted with less than the minimum lot size and dimension requirements of land-use regulations, if such exist, but which have access to common open space that is a part of the overall development plan approved by the Planning Board.

Conditional Approval of Final Plat: Approval of a final plat subject to conditions set forth by the planning board in a resolution conditionally approving such plat. Conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to final plat approval.

Easement: Authorization by a property owner for the use of any designated part of his property by another for a specified purpose.

Environmental Assessment Form: A form used by the Planning Board in the State Environmental Quality Review process to assist in determining the environmental significance or non significance of an action or project.

Farm Operation: Land used in agricultural production, farm buildings, equipment, and farm residential buildings.

Final Plat: A scale drawing, in final form and clearly marked "final plat", showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which after final plat approval. May be duly filed or recorded by the applicant in the Office of the County Clerk.

Final Plat Approval: The signing of a final plat by a duly authorized officer of a planning board after a 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 County Clerk.

Lot: A designated parcel, tract, or area of land established by a plat and, or that having its own tax map number, or described in a deed, or otherwise as permitted by law.

Official Submission Date: The date on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed and acknowledged by the Planning Board.

Parcel: A designated tract, or area of land established by a plat and, or that having its own tax map number, or described in a deed, or otherwise permitted by law.

Planning Board: The Town of Mohawk Planning Board.

Plat: A scale drawing or drawings showing the layout of proposed subdivision including, but not restricted to, road and lot layout and dimensions, key plan, topography and drainage, wetlands and all proposed facilities.

Preliminary Plat: A scale drawing or drawings clearly marked "preliminary plat" showing the layout 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.

Resub division: The further division of parcels, lots, plots, sites, or other division of land or the relocation of lot lines of any lot within a subdivision previously made and approved or recorded according to law; or changes in the lines of existing streets, highways or public areas within any such subdivision; but not including conveyances made so as to combine existing lots by deed or other instrument.

Reverse Frontage Lot: Lots with the rear lot line abutting an existing or proposed street.

Road, Major: A road intended to serve heavy flows of traffic from minor roads or as a business road providing access to business properties.

Road, Minor: A road intended to serve primarily as an access to abutting residential properties.

SEQR: New York State Environmental Quality Review Act (6 NYCRR Parts 617).

Sketch Plan: A scale sketch of a proposed Subdivision 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.

Subdivider: A person who is the record owner or the authorized agent of the record owner of the land proposed for subdivision.

Subdivision: The division of any parcel of land into two or more lots, blocks, or sites for the purpose of conveyance, transfer of ownership, improvement, building development or sale. The term "subdivision" shall include "resubdivision."

Subdivision, Major: Any subdivision not classified as a Minor Subdivision, including, but not limited to, subdivisions of five or more lots, or any size subdivision requiring any new public street or extension of municipal facilities.

Subdivision, Minor: Any subdivision containing not more than four (4) lots fronting on an existing street or private lane, not involving any new public street or road, or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Town Zoning Law or this law.

Undeveloped Plat: A plat where 20 percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

Zoning Law: The Town of Mohawk Zoning Law.

ARTICLE 3: REVIEW AND APPROVAL PROCEDURE

Section 305. Purpose

The purpose of this article is to establish the procedure for planning board review and action on applications for subdivisions. The procedure is intended to provide orderly and expeditious processing of such application.

Section 310. Review Procedure for Minor Subdivisions

Minor subdivisions shall be processed in the following steps: Sketch plan conference, application for final plat approval, Environmental Assessment Form must be completed and submitted with application, Planning Board review of final plan, Environmental Assessment Form and public hearing on final plan.

Section 315. Review Procedure for Major Subdivisions

Subdivisions shall be processed in the following steps:

- a. 1 Sketch plan conference. (optional)
- . .
2. 2 Application for preliminary plat approval. Environmental Assessment Form must be completed and submitted with application along with the required filing fee.
- . .
3. Planning Board review of Environmental Assessment Form and preliminary plat.
- . .
4. 8 Planning Board determination of environmental significance pursuant to SEQR.
- c. .
5. Public hearing.
- d. I
6. O Planning Board action on preliminary plat.
- . .
7. Final Plat submittal to Planning Board
- . .
8. Planning Board review.
- . .
9. Public hearing. (optional)
- . .
10. Planning Board action on final plat.

Section 320. Sketch Plan Conference

The subdivider shall request an appointment with the Planning Board for the purpose of reviewing a sketch plan. The Planning Board Clerk shall notify the subdivider of the time, date, and the place that the Planning Board will meet to consider and review such sketch plan as it relates to the comprehensive plan, design standards and required improvements as defined in Article 5 of these regulations. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary plat to save both time and money in preparing maps and plans. The sketch plan meeting does not require formal application, fee or filing with the Planning Board.

Section 325. New York State Department of Health

New York State Department of Health approval may be required for any subdivision containing five or more lots. Early contact by the subdivider with such department is advised.

Section 330. Application for Preliminary Plat Approval- Subdivision

All subdivisions shall be subject to the preliminary plat requirements of this law. The subdivider shall file an application for approval of the preliminary plat on forms available from the Town Clerk accompanied by all documents specified in Article 4 of these regulations. The application for approval of the preliminary plat shall not be considered complete until the entire SEQR process has been completed pursuant to 6NYCRR Part 617, and all fees and reimbursable costs have been deposited by the subdivider with the Town of Mohawk. Such application shall be filed at least ten days prior to the meeting at which it is to be considered by the Planning Board.

Section 335. Public Hearing for Preliminary Plat

Following the review of the preliminary plat and supplementary material submitted for conformity to these regulations, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him/her, the Planning Board shall hold a public hearing. This hearing shall be held within 62 days after receipt of a complete preliminary plat by the clerk of the Planning Board. The subdivider, or a duly authorized representative, shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing. Notification of surrounding property owners via certified mail that live within 500 feet of the subdivision area.

Section 340. Action on Preliminary Plat

Within 62 days after the public hearing, the Planning Board shall approve, with or without modifications, or disapprove the preliminary plat and state its reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. Within five days of approval of such preliminary plat it shall be certified by the clerk of the Planning Board as having been granted preliminary approval, a copy filed in the clerk's office, and a certified copy mailed to the subdivider.

Section 345. Effect of Preliminary Plat Approval

Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with these regulations and all requirements set forth by the Planning Board in their review of the preliminary plat, and any other State Health Department requirements.

Section 350. Application Final Plat Approval

All major and minor subdivisions shall require final plat approval by the Planning Board. The subdivider shall file for final plat approval on forms available from the Town Clerk, and accompanied by documentation as specified in Article 4 Of these regulations, to the Planning Board. The final plat shall be submitted at least ten days prior to the meeting at which it is to be considered by the Planning Board, and no later than six months after the date of the preliminary plat approval.

Section 355. Public Hearing for Final Plat

A public hearing shall be held by the Planning Board after the final plat is filed and prior to rendering a decision. This hearing shall be held within 62 days of the official submission date of the plat. The subdivider shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before the hearing.

Section 360. Waiver of Public Hearing for Final Plat

The public hearing for subdivisions may be waived by the Planning Board if the final plat is in substantial agreement with the preliminary plat.

Section 365. Guarantees for Required Improvements

Prior to final plat approval, the subdivider shall construct all required infrastructure and improvements. As an alternative, a performance bond or other security sufficient to cover the full cost of same shall be furnished to the town by the subdivider as provided in Article 6 of these regulations.

Section 370. Action on Final Plat

The Planning Board shall by resolution conditionally approve, with or without modifications; disapprove; or grant final approval to the final plat within 62 days after the public hearing. If the public hearing has been waived pursuant to Section 360 above, the Planning Board shall act within 62 days after the official submission date. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. The subdivider shall be notified of the final action of the Planning Board by mail within five days. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provision violated by the plat.

Section 375. Conditional Approval of Final Plat

Upon conditional approval of such final plat the Planning Board shall empower a duly authorized officer to sign the plat and grant final approval upon completion of such requirements as may be stated in the conditional approval resolution. The plat shall be certified by the planning board clerk. A certified statement of the requirements shall accompany the plat which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of the requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time not to exceed two additional periods of 90 days each.

Section 380. Filing of Plats in Sections

Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided into two or more sections and may in its resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, may be granted concurrently with conditional or final approval of the plat.

Section 385. Recording of Final Plat

The subdivider shall record the final plat, or section thereof, in the Office of the Clerk of Montgomery County, N.Y. within 60 days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the Office of the Clerk of Montgomery County, N.Y.

Section 390. Compliance with State Environmental Quality Review Act

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.

ARTICLE 4: DOCUMENTS TO BE SUBMITTED

Section 405. Purpose

The documents to be submitted are intended to provide the approving authority (planning board) with sufficient information and data to assure compliance with all municipal codes and specifications and ensure that the proposed development meets the design and improvement standards contained in this law.

Section 410. Requirements

The documents to be submitted are shown on the following pages. In specific cases and for documented reasons, the approving authority may waive the submission of a particular document. The reason for the waiver shall be indicated in the minutes of the approving authority.

Section 415. Information required for all Plat Submissions

1. A completed "Town of Mohawk Subdivision Application Form" and the required fee.
2. Name and address of subdivider and professional advisors who may appear in public with subdivider or on subdivider's behalf.
3. Map of property, prepared and stamped by a licensed land surveyor in the State of New York, at a scale of one inch to 50 feet or one inch to 100 feet, and on appropriate material. All such maps must be printed upon linen or canvas-backed paper or drawn with a pen and India Ink upon tracing cloth or printed on mylar and must be a minimum of eight and one half inches by eleven inches, and a maximum of thirty-four inches by forty-four inches in size, showing:
 - a. Subdivision name; the tax map section, block and lot number(s); scale; north arrow; location map showing on a tax map, USGS map, or street map the general location of the plat, and date.
 - b. Subdivision boundaries.
 - c. Contiguous properties and names of owners.
 - d. Existing and proposed roads, sidewalks, utilities, structures, parking lots, and drainage systems.

- e. Water Courses, marshes, wetlands, wooded areas, public facilities and other significant physical features on or near the site.
 - f. Proposed layout of lots, including lot widths and depths, road layout, open space, drainage, water supply, and sewage disposal facilities...
 - g. Land contours at ten foot intervals, or other suitable indicators of slope.
 - h. Proposed alterations of existing topography.
4. Copy of tax map(s).
 5. Existing restrictions on the use of land including easements, covenants and land-use regulations.
 6. Total acreage of subdivision and number of lots proposed.
 7. Environmental Assessment Form.

Section 420. Agricultural Data Statement

An application for subdivision approval that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district shall include an agricultural data statement.

In addition to the information required in Section 415, an agricultural data statement shall include the following:

1. The name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the subdivision is proposed; and
2. A tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

Section 425. Minor Subdivisions

The following shall be submitted with all applications for approval of a final plat for a minor subdivision:

1. One copy of the plat to be submitted to the County Clerk, drawn with ink mylar or such other material as is acceptable for filing, plus three (3) paper copies.
2. All information specified under Sections 415 and 420, updated and accurate.
3. Data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line and boundary line, sufficient to allow for the reproduction of such lines on the ground.
4. A statement that all on-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a note attesting to this shall be stated on the plat and signed by a licensed engineer. All sanitary facilities shall be shown on the plat.

5. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
6. Any additional information which is deemed necessary by the Town of Mohawk Planning Board.
7. Any required fees.

Section 430. Preliminary Plat, Major Subdivision

The following shall be submitted with all applications for approval of a preliminary plat subdivision:

1. Three (3) copies of the plat map, drawn to scale. The map scale shall be one inch to 100 feet unless otherwise specified by the Planning Board. An actual field survey of the boundary lines of the tract, giving a complete description by bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as used in the surveying industry and shown on the plat.
2. All information specified Under Sections 415 and 420, updated and accurate.
3. All parcels of land proposed to be dedicated to public use and the conditions of such use.
4. Grading, erosion control and landscaping plans.
5. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
6. The approximate location and size of all proposed water lines, hydrants and sewer lines, showing connection to existing lines.
7. Storm water management plans that include; drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
8. Plans and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains; the character, width and depth of pavements and subbase; and the location of any underground cables.
9. Preliminary designs for any bridges or culverts.
10. The proposed lot lines with approximate dimensions and area of each lot.
11. A copy of all covenants or deed restrictions intended to cover all or part of the tract.
12. Where the preliminary plat submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided portion.
13. Any additional information as deemed necessary by the Planning Board.
14. Any required fees.

Section 435. Final Plat, Major Subdivision

The following shall be submitted with all final plats submitted for approval for a major subdivision:

1. One copy of the plat to be submitted to the County Clerk, drawn with ink on mylar or such other material as is acceptable for filing and clearly marked "Final Plat", plus three (3) copies. The map scale shall be one inch to 100 feet unless otherwise specified by the Planning Board.
2. Proposed subdivision name and the name of the Town and County; the name and address of record owner and subdivider: name, address, license number and seal of the surveyor and/or engineer.
3. Road lines, pedestrian ways, lots, easements and areas to be dedicated to public use.
4. Data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line, and boundary line, sufficient to allow for the reproduction of such lines on the ground.
5. The length and bearing of all straight lines, radii, length of curves and central angles of all curves. Tangent bearings shall be given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale, and true north point.
6. All offers of cession and any covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
7. Permanent reference monuments shall be shown at block corners and other points selected by the Planning Board.
8. Approval of the State Health Department of water supply systems and sewage disposal systems proposed or installed.
9. Construction drawings including plans, profiles, and typical cross sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, subbase and other facilities.
10. Evidence of legal ownership of property.
11. Existing and proposed deed restrictions, in form for recording.
12. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board.

Section 440. Waiver of Submission Requirements

The Planning Board may waive, when reasonable, any requirements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, and general welfare.

ARTICLE 5: DESIGN, STANDARDS AND REQUIRED IMPROVEMENTS

Section 505. Purpose

The purpose of a good subdivision is to create a functional and attractive development, to minimize adverse impacts, and to ensure a project will be an asset to the community. To promote this purpose, the subdivision shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs.

Section 510. General

1. Conformity to Zoning Law and Comprehensive Plan

Subdivisions shall conform to the Zoning Law and shall be in harmony with the Comprehensive Plan. In case of conflict between this local law and the Zoning Law, the Zoning Law shall control.

2. Character of Land

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

3. Preservation of Natural Features

The Planning Board shall, wherever possible, require preservation of all natural features which add value to residential developments and to the community, such as large trees and groves, watercourses and waterfalls, historic spots, scenic vistas, and similar irreplaceable assets.

Section 515. General Road Standards

1. The arrangement, width, location, and extent of all proposed roads shall conform to and be in harmony with the comprehensive plan and official map of the Town as they may exist, or shall conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of the land.
2. Marginal access roads may be required parallel to major highway rights-of-ways. Marginal access roads shall be separated from major highways by a distance which allows for an appropriate use of the intervening land. Such distance shall also be determined with regard for the requirements of approach grades and future grade separation.
3. Reverse frontage lots may be required along major highway right-of-ways. Screen planting contained in a non-access reservation along the rear property line may be required or such other treatment as may be necessary for adequate protection of residential properties.
4. Roads shall intersect at right angles where possible. Roads shall not intersect at angles of less than 60 degrees. Right-of-way lines at right angled intersections shall be rounded by curves of at least 20 feet radius. All other intersections shall be rounded by curves suitable to the Planning Board.
5. Road offsets with center line offsets of less than 125 feet shall be avoided.
6. Dead end roads shall not exceed 800 feet in length, and shall be provided with a "Y" turnaround suitable for snow plowing and the turning of school buses and emergency vehicles.

7. New road names shall not duplicate the names of existing or platted roads. Extensions of existing roads shall bear the name of the existing road. Signs bearing road names shall be erected by the subdivider at all intersections consistent with specifications for existing signage.
8. Assigned 911 addresses currently in effect.
9. Roadside vegetation shall not be planted in such a way as to impair snow removal and safe driver visibility.
10. The Town Highway Superintendent and the appropriate Fire Chief shall be consulted by the Planning Board for an advisory opinion prior to the approval of any plat containing a new road or any plat containing lots whose only existing or proposed access to a public road is by easement or right-of-way.

Section 520. Road Construction Standards

1. Road design standards shall meet the New York State Highway Standards for Low Volume Roads
2. Road improvements shall be installed by the subdivider.
3. All slopes shall be graded and seeded.
4. A "Y" turnaround will be required on dead end roadways with a sufficient turning radius for school buses and emergency vehicles.
5. The Planning Board may increase or reduce standards for roadway based on the size of the subdivision and anticipated traffic levels and the approval of the Highway Superintendent.

Section 525. Pedestrian Ways

1. In order to facilitate safe and convenient pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements of at least 20 feet in width may be required.
2. In areas of heavy vehicular or pedestrian traffic, sidewalks may be required.
3. All required sidewalks shall be installed at the expense of the subdivider, and shall conform to the specifications of the Planning Board.
4. All required sidewalks shall be of reinforced concrete or of a material approved by the Planning Board, and shall have a minimum width of five (5) feet in residential areas, and five (5) feet in commercial and industrial areas. Sidewalks shall also have a minimum depth of four (4) inches, with sidewalks in driveway crossings having a minimum depth of six (6) inches.

Section 530. Utilities

Public utility improvements may be required and shall be installed as follows:

1. Electricity: Power lines shall be placed underground and shall conform to Public Service Commission standards.
2. Other Utility Services: All telephone and other service lines and cable shall be placed underground.

3. Street Lighting: poles, brackets and lights to be of size, type and location approved by the Planning Board and local power company.
4. Fire Protection: The Planning Board may require the provision of a supply of water for fire fighting purposes consisting of dry hydrants and a water source. This supply may be provided through fire hydrants connected to a community water supply system or by means of fire ponds. The design, location, and capacity of fire ponds and hydrants shall conform to standards and specifications of the National Fire Protection Association and be acceptable to the chief of the fire department in whose district the subdivision is located. Hydrants to be of size, type and location specified by the Insurance Services Organization.

Section 535. Water Supply

If, in the opinion of the Planning Board, it is feasible and desirable to require a public water supply system, such system shall be installed at the expense of the subdivider to the approval of the Planning Board. The subdivider shall connect each lot at the property line with the public water supply. If no water supply is required, individual on-site wells shall be designed to meet the specifications of the New York State Department of Health.

Section 540. Sewage Disposal

If in the opinion of the Planning Board, a subdivision can be reasonably served by the extension of a public sanitary sewer or by a neighborhood system, the subdivider shall provide sanitary sewers and laterals for each lot for such service. Where public or neighborhood sanitary sewers are not feasible, the subdivider shall provide and install an individual system for each lot or a sewage treatment facility adequate for all proposed development within the subdivision, in accordance with State and local requirements.

In case the subdivider sells lots, rather than lots improved with houses, it shall be the responsibility of the subdivider to obtain approval of the proposed sewage disposal systems. The installation of the approved individual sewage disposal facilities shall be the responsibility of the purchasers.

In order to determine that the proposed lots are large enough to accommodate future improvements, subdivision plats shall indicate the location of septic tank, leach field, water well, and residence for each proposed lot. The size of the leach field will be based on percolation test results pursuant to State Health Department standards.

Section 545. Lot Requirements

1. Each lot shall directly abut a public or approved private road. This abutment shall include at least 15 feet of road frontage suitable for access by emergency vehicles. Easements may be considered for access. A private road constructed to the standards of Section 520 of this law may be required.
2. Corner lots shall have sufficient width to allow appropriate building setbacks from, and orientation to, all abutting roads.
3. All lot dimensions and areas shall conform to the Town of Mohawk's land-use regulations, if such exist.
4. Each lot shall have a buildable area, free from development restrictions such as wetlands, floodplains, steep slopes, rock outcrops and unbuildable soils.

5. Where a community sewage disposal system is not required, each lot shall have sufficient area so as to make adequate provision for septic absorption fields or seepage pit systems as required by the New York State Uniform Building and Fire Code. A percolation test shall be required for each lot. Each lot shall be of sufficient size to accommodate on-site sewage disposal system and well pursuant to New York State Health Department standards.
6. One or more off-street parking spaces may be required at the base of a steep driveway to facilitate parking, in inclement weather.

Section 550. Unique and Natural Features

1. Unique physical features such as historic landmarks and sites, rock outcrops, desirable natural contours and similar features shall be preserved where possible.
2. All surfaces shall be, graded and restored, leaving no unnatural mounds or depressions.
3. Topsoil moved during construction shall be returned and stabilized by seeding and plantings. An erosion control plan may be required to prevent soil erosion and sedimentation of surface waters during construction. Erosion control measures shall conform to guidelines available from the Montgomery County Soil and Water Conservation District.
4. The removal or damage of existing trees and shrubs shall be minimized. Planning Board may suggest review by certified Arborist.

Section 555. Reservation of Parkland

1. Before the planning board approves a subdivision plat containing residential units, such subdivision plat shall show, when required by the planning board, a park or parks suitably located for a playground or other recreational purposes.
2. Land for park, playground or other recreational purposes may not be required until the planning board has made a finding that a proper case exists for requiring such park land. Findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision will contribute.
3. If the planning board makes a finding that the proposed subdivision presents a proper case for requiring a park, but that a suitable park or parks of adequate size cannot be located on the subdivision plat, the planning board may require a sum of money in lieu thereof, in an amount to be established by the town board.
4. Any monies required by the planning board in lieu of land for park, parks, or recreational purposes pursuant to this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground, or other recreational purposes, including the acquisition of property.

Section 560. Unsuitable Land for Subdivisions

As a safety measure for the protection of the health and welfare of the people of the Town, that portion of a proposed lot which is found to be unsuitable for subdivision due to harmful features (steep slopes, flood prone areas, wetlands), shall not be included in the subdivision until adequate methods to mitigate adverse impacts are formulated by the subdivider and approved by the Planning Board.

Section 565. Cluster Development

The purpose of this section is to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands.

1. Modification of Land-Use Regulations

The Planning Board may modify the provisions of land-use regulations, if such exist, simultaneously with the approval of a subdivision plat, to permit the development of cluster subdivisions. Subdivision plats for cluster developments shall be approved in the same manner and subject to the same procedural requirements as any other subdivision plat.

- a) The subdivider desiring this modification shall present a sketch plan to the Planning Board consistent with all the criteria established by these regulations and land use regulations, if such exist. Before modifying these requirements, the Planning Board shall find that such modifications would be consistent with the purpose of these regulations and beneficial to the interests of the Town and the neighborhood in which the subdivision is located.
- b) The Planning Board, in reviewing any plat for which modifications are not requested, may determine that the proposed subdivision should be considered as a cluster development pursuant to the design standards and required improvements of these regulations.
- c) The application of this procedure shall result in no more than the number of lots or dwelling units which, in the Planning Board's judgement, could be permitted if the land were subdivided in conformance with design standards of these subdivision regulations and with Town of Mohawk's land-use regulations, if such exist.

2. Cluster developments

a) Cluster developments shall result in lands made available for open space. Such lands shall be clearly identified and labeled on the subdivision plat and shall be subject to the following requirements for dedications, ownership or maintenance:

i) Dedications

Any land dedicated for open space purposes shall be used only for park, recreation, conservation or selective timbering and agricultural purposes. Such land shall be encumbered by appropriate covenants or conservation easements approved by the Planning Board ensuring that the open space cannot be further subdivided; the use of the open space will continue in perpetuity for the stated purpose; and appropriate provisions will be made for maintenance.

Any land dedication for purposes of this section shall be recorded in the County Clerk's office. Such land shall be clearly identified on a final plat. Such identification shall note use, ownership, and management as well as liber and page of relevant filings with the County Clerk's Office.

ii) Ownership

The ownership of land dedicated for park, recreation or open space use shall be determined by the property owner or applicant subject to approval by the Planning Board. Ownership shall be with one of the following:

1. the Town;
2. another public jurisdiction or agency subject to their acceptance;
3. a private, non-profit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land;
4. shared, common interest by all property owners in a subdivision;
5. a homeowner, condominium, or cooperative association or organization; or
6. private ownership encumbered by a conservation easement pursuant to Section 247 of the General Municipal Law or Sections 49-0301 through 49-0311 of the Environmental Conservation Law.

iii) Maintenance

The person or entity having the right of ownership shall be responsible for its proper maintenance or continued upkeep. Where a homeowner, condominium, or cooperative association or organization fails to properly maintain any required open space, the Town shall be authorized to enter and repair or maintain such areas and assess said owners for the cost thereof. For the purpose of this subsection, "proper maintenance" may include the removal of brush and weeds, snow removal, mowing of grass, removal of waste, refuse or garbage, or maintenance of workable drainage facilities.

- b) In the case of a residential plat, the dwelling units may be, at the discretion of the Planning Board, in detached, semi-detached, attached, or multi-story structures.
- c) The provisions of this section shall not be deemed to authorize a change in the permissible use of the land as provided in the land use regulations, if they exist.
- d) Upon filing of the subdivision plat with the Montgomery County Clerk, the subdivider shall file a copy with the Town Clerk who shall make an appropriate note or reference thereto on the Town Land Use Map, if such exists.

Section 570. Waiver of Standards

The Planning Board may waive, subject to appropriate conditions, the provision of any or all of such improvements as in its judgment of the special circumstances of a particular plat or plats are not required in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of infrastructure adjacent or in proximity to the subdivision.

ARTICLE 6: FINANCIAL GUARANTEES FOR PUBLIC IMPROVEMENTS

Section 605. Purpose

Improvement guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other improvements. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer.

Section 610. Required Public Improvements

If required by the Planning Board Pursuant to Section 365 of this law, applicants for subdivision plat approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs and signals, sidewalks, and other public improvements.

Section 615. Time Limit on Installation of Improvements

The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this Article shall be completed within one year from the date of the approval of the subdivision plat or special use. Road improvements shall be completed within two years from the date of approval of the plat. At the end of such time, if the required public improvements are not completed and accepted by the Town, the Town may use as much of the financial security required by this Article to construct and install, maintain, or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules, and regulations.

Section 620. Extension of Time Limit

The applicant may request an extension of time to perform required public improvements provided reasonable cause can be shown for the inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months.

Section 625. Phasing of Improvements

The applicant may request a phasing of required improvements provided reasonable cause can be shown that is directly a part of the documenting phasing schedule for a subdivision reviewed by the Planning Board.

Section 630. Inspections of Improvements

At least five days prior to commencing construction of the required public improvements, the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board in writing of the time when the construction of such improvements will be commenced so that the Town Board may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements, and to assure the satisfactory completion of public improvements required by the Planning Board.

Section 635. Financial Security Options

Acceptable financial security shall be provided to the Town in one of the following ways.

1. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations.
2. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations.
3. The applicant shall present to the Town Clerk, an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations.

Section 640. Review of Proposed Financial Security

All required public improvements shall be shown on the Subdivision plat, and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer, and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

Section 645. Schedule of Improvements

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

Section 650. Staged Refunding of Financial Guarantees

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public improvements. The applicant, after preparing such statement, shall submit it for review, approval, and signature by an engineer acting on behalf of the Town, by the appropriate Municipal inspectors, and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct in writing to the Surety Company or financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

Section 655. Acceptance of Required Public Improvements

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

ARTICLE 7: MISCELLANEOUS PROVISIONS

Section 705. Subdivision Compliance

No permit or certificate of occupancy shall be issued by the Code Enforcement Officer, except upon the authorization by and in conformity with an approved subdivision where required.

Section 710. Violations

1. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resist the enforcement of any of the provisions of this law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of \$350, or by imprisonment not exceeding (20) days, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this law.
2. In addition to the penalties provided by statute, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this law. In any such action by the Town Board, any person found to have violated this law shall be liable to the Town.

Section 715. Certification and Filing with County

Upon adoption, the Town Clerk is hereby directed to forthwith file a certified copy of this Law with the Clerk of Montgomery County.

Section 720. Amendments

The Town Board may, on its own, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law.

Section 725. Interpretation, Conflict, and Separability

1. In their interpretation and application, the provisions of this law shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
2. Where conditions imposed by any provisions of this law are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of these regulations or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

3. The provisions of this local law are separable. If any clause, paragraph, section, or article of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate any other clause, sentence, paragraph, section, or article of these regulations.

Section 730. Effective Date This Local Law shall be effective as of the date of filing with the Secretary of State.