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County
City
Town of Schaghticoke
Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED

APR 10 2009

Local Law No. 2 of the year 20 09

MISCELLANEOUS
& STATE RECORDS

A local law A Law Amending the Subdivision Law of the Town of Schaghticoke

Be it enacted by the Town Board
of the

~~County~~
~~City~~
Town of Schaghticoke as follows:
~~Village~~

Section 1. Authority

This Local Law is enacted pursuant to the authority of section 10 of the Municipal Home Rule Law.

Section 2. Purpose and Findings

This Local Law is enacted to update and modernize the Chapter 108 of the Town Code of the Town of Schaghticoke entitled "Subdivision of Land".

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Chapter 108

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Schaghticoke 8-18-1975. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental quality review — See Ch. 61.

Flood damage prevention — See Ch. 69.

Mobile homes — See Ch. 89.

Zoning — See Separately Bound Volume

Stormwater — See Ch. 107

**ARTICLE I
Declaration of Policy**

§ 108-1. Authority and Policy of Planning Board.

A. By authority of the resolution adopted by the Town Board pursuant to the provisions of Article 16 of the Town Law, the Planning Board has the power and authority to approve plats for subdivisions within the unincorporated area of the town.

B. It is declared to be the policy of the Town to consider land subdivision as part of a plan for the orderly, efficient and economical development of the town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace and shall be subdivided in a manner which maintains the rural and small town character of Schaghticoke. Further purposes are to ensure that agricultural lands are protected and public water supplies are protected. Proper provision shall be made for drainage, water, sewerage and other needed improvements. The proposed streets shall compose a convenient system conforming to the Official Map, as it may be adopted, and shall be consistent with the Town of Schaghticoke Comprehensive Plan, as it is adopted by the Town Board. Streets shall be of such width, grade and location as to accommodate the prospective vehicular and pedestrian traffic, to afford adequate light and air and to facilitate fire protection. Streets shall also be consistent with the residential and rural nature of the town.

C. Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

**ARTICLE II
Procedure for Filing Subdivision Applications**

§ 108-2. Basic Steps.

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

A. Prefiling conference.

B. Preliminary plat.

C. Subdivision plat.

§ 108-3. Prefiling Conference; Application for Waiver; Lot Line Adjustment.

A. Discussion of requirements. Before preparing the preliminary plat, the applicant shall discuss with the Planning Board, in general terms, his plans for the proposed subdivision, as well as the requirements for reservations of land, street improvements, drainage, sewerage, water, fire protection and similar aspects, as well as the availability of existing services. A request for such a prefiling conference shall be made to the Chairman of the Planning Board, who shall fix the date thereof. This conference shall be informal in nature and may be held at a regular or special meeting of the Planning Board. The applicant may also discuss the sketch layout with the Rensselaer County Health Department, whose approval is required by these regulations and which must eventually approve any subdivision plat coming within its jurisdiction.

B. Sketch layout requirements. The Sketch Plan shall consist of a drawing (based on tax map information or some other similarly accurate base map) and should show:

1. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records;
2. The tax map sheet, block, and lot numbers, scale, north arrow, and total acreage involved;
3. The location and boundaries of the proposed subdivision in relation to municipal boundaries, if any, within 500 feet of the property;
4. A general illustration of the proposed layout of lots and streets;
5. Location, in general of existing streets and significant natural features;
6. Existing permanent buildings, structures, and utilities, if any;
7. Designation of zoning districts and any overlay districts that pertain to the parcel; and
8. Such other features as the Applicant may deem pertinent.

C. Study of Sketch Plan and Classification. At the time of the Pre-Application Conference, the Planning Board shall review the proposed subdivision, as outlined on the submitted Sketch Plan and shall:

1. Determine whether the proposed subdivision of land will be classified as a Minor or Major Subdivision, or lot line adjustment as defined in these regulations;
2. Determine whether the proposed subdivision may involve a Federal agency or one or more other agencies as defined under SEQRA;
3. Make a preliminary classification of the proposed subdivision as a Type I, Type II, or Unlisted action, as such terms are defined under SEQRA;
4. Determine whether a full or short Environmental Assessment Form ("EAF") will be required;
5. Discuss with the Applicant whether a site visit to be performed by members of the Planning Board, its consultants and/or designated representatives;
6. Discuss whether the Sketch Plan meets the purposes of these Regulations and any

recommendations that the Planning Board may specify for incorporation by the Applicant in the next submission, subject to any changes based upon the site visit and consultants reports, if any; and

D. Within forty-five (45) days of the date of the pre-application conference, the Planning Board shall determine if the Sketch Plan meets the purposes of these regulations, any specific recommendations that are to be incorporated by the Applicant in the next submission to the Planning Board, and any requirements that the Planning Board deems appropriate to be waived with respect to the next subdivision review stage.

E. In the event that the applicant desires the Planning Board to consider a request to waive the requirements of this chapter upon the grounds of special circumstances and that no public benefit would result from the Planning Board's taking further action, the applicant may file with the Planning Board an application for waiver of requirements of the subdivision regulations. The application shall be on a form prescribed by the town and which shall be made available by the Clerk of the Planning Board. The application shall be accompanied by a fee set by the Town Board.¹

F. Lot Line Adjustment. A lot line adjustment between adjacent property owners shall not be considered a subdivision, and shall be exempt from the requirements of these regulations provided such division of land does not (a) create a new lot, or (b) reduce the size of any existing lot area, dimensions or building setbacks below the minimum requirements for the zoning district in which such land is located, as provided by the Zoning Law.

1. Procedure: The adjacent property owners shall submit a stamped Sketch Plan of the proposed division and transfer of land to the Planning Board prepared by a licensed professional. Further, they shall schedule and attend a Pre-Application Conference prior to effectuating such property transfer. The Planning Board at the Pre-Application Conference will study the Sketch Plan and issue a determination as to whether such exemption applies to the land in question.

2. Submission of Deed: If the Planning Board determines that the exemption applies, the property owners in question must submit to the Planning Board a copy of the executed deed which evidences such transfer's compliance with the Sketch Plan relied upon by the Planning Board in making its determination.

§ 108-4. Preliminary Plat.

A. Application procedure. Prior to filing an application for the approval of a subdivision plat, the applicant shall file an application for the approval of a preliminary plat. The application shall be based on Planning Board input from the pre-application meeting and shall:

- (1) Be made on forms available at the office of the Town Clerk.
- (2) Include all land which the applicant proposes to subdivide.
- (3) Be accompanied by nine copies of the preliminary plat, as described in § 108-16 hereof.
- (4) Comply in all respects with Article III of this chapter, except where a modification may be specifically authorized by the Planning Board.
- (5) Comply with the requirements set forth in §§ 276 and 277 of the Town Law.
- (6) Be accompanied by a fee as set from time to time by the Town Board. [Amended 4-13-1988]
- (7) If the subdivision proposes new streets having frontage on, access to or

¹ Editor's Note: See Art. VI, Waivers, §§ 108-19 and 108-20.

otherwise directly related to any state highway or county road, the application shall be accompanied by letters from the New York State Department of Transportation or the Rensselaer County Engineer, respectively, stating the conditions for such frontage or access.

(8) Stormwater pollution prevention plan. A stormwater pollution prevention plan (SWPPP) consistent with the requirements set forth in the Code of the Town of Schaghticoke Chapter 107, Article II, shall be required for preliminary plat approval. The SWPPP shall meet the performance and design criteria and standards set forth in the Code of the Town of Schaghticoke Chapter 107, Article II. The approved preliminary subdivision plat shall be consistent with the provisions of the Code of the Town of Schaghticoke Chapter 107, Article II. [Added 2-14-2007 by L.L. No. 2-2007]

B. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.

C. Study of preliminary plat.

(1) The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community, the Comprehensive Plan, and the best use of the land being subdivided.

(2) Particular attention shall be given to the arrangement and location of lots in relation to rural character, agricultural fields, open space, and environmental features, and the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Town Comprehensive Plan, the Official Map, Zoning Law, and Land Use Code, if such exists.

D. Coordination with SEORA. 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.

E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by § 108-16, has been filed with the Clerk of the Planning Board. A complete application shall be when all application materials and fees have been submitted and either a negative declaration or a notice of completion of a draft environmental impact statement has been filed. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

F. Escrow and Consulting Services. Where the Planning Board deems services such as engineering, architectural, planning, or other professional services are advisable to assist in the examination of the proposed subdivision, the applicant shall be required to pay the cost of all such services. The Town Board shall establish an escrow account for this purpose.

G. Referral to Neighboring Municipalities. Pursuant to General Municipal Law §239-nn, for a subdivision review under this section involving property located within five hundred (500) feet of an adjacent municipality, notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than ten (10) days prior to the date of said hearing.

H. Approval of the preliminary plat.

(1) Within 62 days after the receipt of such preliminary plat by the Clerk of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the

Planning Board may schedule pursuant to SEQRA as per Town Law Section 276 (5). Within 62 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat. The basis of a modification, if any, or the basis for disapproval shall be stated upon the record 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 subdivider and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing such modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of such preliminary plat, it shall be certified by the Clerk of the Planning Board as granted preliminary approval and a copy filed in his office, a certified copy mailed to the owner and a copy forwarded to the Town Clerk. Failure of the Planning Board to act within such sixty-two-day period shall constitute approval of the preliminary plat.

(2) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to the modifications to the preliminary plat; the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare; and the amount of improvement or the amount of all bonds therefor which it will require as a prerequisite to the approval of the subdivision plat. Approval of the preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 108-5. Subdivision Plat.

A. Application procedure. The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application form available from the Clerk of the Planning Board. The application shall be accompanied by a minimum of nine copies of the subdivision plat and the construction detail sheets, as described in § 108-17. If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require a resubmission of the preliminary plat.

B. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date on which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by § 108-17, has been filed with the Clerk of the Planning Board.

C. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the Rensselaer County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, county and state agencies. Subdivisions creating four or more lots, or those less than five acres in size, shall require Rensselaer County Department of health septic system approval for all lots prior to final plat approval. For all other subdivisions, the Planning Board may require such prior approval.

D. Public hearing. Within 62 days of the submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under § 108-4 of this article and modified in accordance with requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

E. Action on proposed subdivision plat.

(1) The Planning Board shall by resolution conditionally approve, conditionally approve with or without modification, disapprove or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board if no hearing is held, or in the event a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefor shall be deemed approval of the plat.

(2) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office and a certified copy mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements as, when completed, will authorize the signing of the conditionally approved final plat.

(3) Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted, for two additional periods not to exceed 90 days each.

(4) The Planning Board is authorized to grant final plat approval at the same time as preliminary plat approval for minor subdivisions.

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

G. Signing of the plat.

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

“Approved by resolution of the Planning Board of the Town of Schaghticoke, New York, on the ____ day of ____ 20__, subject to all requirements and conditions of said resolution. Any change, erasure, modification or revision of this plat, as approved, shall void this approval. Signed this ____ day of ____ 20__ by

Chairman

(2) In the absence of the Chairman or Clerk of the Planning Board, the Acting Chairman or Acting Clerk, respectively, may sign in his place.

§ 108-6. Filing of Approved Subdivision Plat.

Upon completion of the requirements in §§ 108-5 and 108-12 and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and may be filed by the applicant in the office of the County Clerk. Any subdivision plat not so filed or recorded within 62 days of the date upon which such plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void.

§ 108-7. Resubdivision.

For a resubdivision, the same procedure, rules and regulations apply as for a subdivision. When a resubdivision occurs so that four or more lots have been created from the original parcel, that subdivision shall be deemed a major subdivision.

§ 108-8. Public streets and park areas.

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, park or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect.

ARTICLE III
General Requirements for Subdivision of Land

§ 108-9. Guiding Considerations.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards.

§ 108-10. General Statement.

A. Character of land. Land to be subdivided shall be of such character that in the opinion of the Planning Board it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the resulting subdivision shall be carefully designed to preserve the rural character, open space, environmental features, and farmlands of the town. The optimal use and conservation of natural and physical resources shall be the guide for determining the inherent constraints and potentials for development on the proposed site.

B. Conformity to Official Map and Town Comprehensive Plan. Subdivisions shall conform to the streets and parks shown on the Official Map of the town, as and when adopted, and shall be properly related to the Town Plan as adopted by the Town Board.

§ 108-11. Streets.

A. Location, width and improvement of streets. Streets shall be suitably located, of sufficient width and adequately improved to accommodate the prospective traffic and to afford satisfactory access to police, fire-fighting, snow removal or other road maintenance equipment and shall be coordinated so as to compose a convenient system. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties. Further, all new residential streets shall be consistent with the rural character and traffic patterns of rural and low volume roads.

B. Widths of right-of-way and street grades. The right-of-way of streets shall have a width of at least 50 feet. A greater width, not exceeding 70 feet, may be required by the Town Planning Board. The grade of any street shall not exceed 10% nor be less than 0.6%. The pavement width shall not exceed 18 feet for low volume roads less than 50 – 100 cars per day. For roads having a higher volume, pavement widths shall be 20 feet.

C. Relation to topography. Streets shall be logically related to the topography, and all streets shall be arranged so as to obtain as many as possible of the building sites above the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided.

D. Intersections. Cross (four-cornered) street intersections shall be avoided insofar as possible, except at important traffic intersections. A distance of at least 150 feet shall be maintained between the center lines of offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles and grades shall be limited to 3%. No access shall be constructed within 10 feet of a neighboring property unless the driveway will act as a shared access.

E. Continuation of streets into adjacent property. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly where such continuation is in accordance with the Town Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround of a minimum of 50 feet in radius shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued. The Planning Board may limit temporary dead-end streets to a length of not more than double the permitted length of permanent dead-end streets.

F. Permanent dead-end streets. Dead end highways are discouraged. "Ts" or "hammerheads" are required at the terminus of all dead ends. Cul-de-sac designs are discouraged but may be permitted provided it has a minimum turn-around radius of 45 feet. Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property. However, the Planning Board may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to six 600 feet.

G. Street names. All streets shall be named, and such names shall be subject to the approval of the Planning Board and County 911 Coordinator. Names shall be sufficiently different in sound and in spelling from other street names in the town and vicinity so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.

§ 108-12. Improvements.

A. Street improvements; standards for street design. Streets and street improvements shall conform to all town ordinances and specifications and will be subject to the inspection and approval of the Town Superintendent of Highways before consideration for acceptance by the Town Board.

B. Monuments. Permanent concrete posts with monuments shall be set at block corners and at intervals of approximately 500 feet or such other distance as the Planning Board may determine appropriate, and their location shall be shown on the subdivision plat. Iron pipes shall not be considered permanent monuments for the purposes of this chapter.

C. Improvements and performance bond.

(1) Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either Subsection C(1)(a) or (b) below:

(a) In an amount set by the Planning Board, the subdivider shall file with the Planning Board either a certified check to cover the full cost of the required improvements or a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board, Town Engineer and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year [or such other period as the Planning Board may determine appropriate, not to exceed three years] shall be set forth in the bond within which required improvements must be completed.

(b) The subdivider shall complete all required improvements to the satisfaction of the Town Highway Superintendent, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Planning Board a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvement not approved by the Town Engineer. Any such bond shall be satisfactory to the Town Engineer and Town Attorney as to form sufficiency, manner of execution and surety.

(2) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Highway Superintendent and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection C(1)(b), then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in Subsection C(1)(a), such bond shall not be released until such a map is submitted.

D. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Planning Board that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Planning Board may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Planning Board shall issue any authorization under this subsection in writing.

E. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk the inspection fee required by the Town Board and shall notify the Town Board in writing of the time when he proposes to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

F. Proper installation of improvements. If the Town Highway Superintendent shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector and Planning Board. The Town Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

§ 108-13. Lots.

Lots shown on any approved preliminary or final plat shall comply with the zoning regulations of the Town of Schaghticoke.

A. Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in building on all lots and in providing access to buildings on such lots from an approved street. Lots may be required to meet the criteria of Article VII (Conservation Subdivisions).

B. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the street by which it has access, provision shall be made for installation of a culvert or other structure, of a design approved by the Town Planning Board.

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

D. Access from major streets. Lots shall not, in general, derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street.

E. The Planning Board shall ensure that each lot created in a minor subdivision can support water and waste treatment, and may require an on-site waste treatment system (septic) permit from the

Rensselaer County Department of Health prior to final plat approval. Subdivisions creating four or more lots, or those less than five acres in size, shall require Rensselaer County Department of health septic system approval for all lots prior to final plat approval. For all other subdivisions, the Planning Board may require such prior approval.

F. In making a determination regarding streets, highways, parks, and other required improvements, the Planning Board shall take into consideration the prospective character of the development.

§ 108-14. Reservations and Easements.

A. Parks and recreational areas. The Planning Board may require adequate, convenient and suitable areas for parks or other recreational purposes to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat as "Reserved for Park Purposes." 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 that a park or parks be suitable located for playgrounds or other recreational purposes within the town. Such 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 proposed subdivision will contribute. In the event the Planning Board determines that the proposed subdivision presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park of adequate size to meet the requirement cannot be properly located on such subdivision plat, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board pursuant to Town Law §277 (4) (c).

B. Widening or realignment of existing streets. Where the subdivision borders an existing street and the Official Map or Town Plan (as these may be adopted) indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plat as "Reserved for Street Realignment (or Widening) Purposes."

C. Utilities and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 30 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street. Such easements shall be indicated on the plat.

D. Easements for pedestrian access. The Planning Board, where it deems it necessary, may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 20 feet in width. Such easements shall be indicated on the plat.

E. Responsibility for ownership of reservations. Ownership shall be clearly indicated on all reservations for parks.

F. Responsibility resulting from drainage downstream. The subdivider shall also study and report on the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; and this report shall be reviewed by the Planning Board. When it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a twenty-five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the plat until provision has been made for the improvement of said condition.

§ 108-15. Existing Features - Floodplains and Other Natural Features.

A. Preservation of existing features. Existing features which would add value to residential development, such as the view, large trees, watercourses and waterfalls, beaches, historic spots and

similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision.

B. Floodplains.

(1) Mapping. If any portion of the land within the subdivision is subject to periodic inundation or flood hazard by stormwater, this portion shall be clearly indicated on any submissions required by this chapter. In cases of doubt, the Planning Board may require the submission of a flood hazard study delineating the limits of the one-hundred-year floodplain, such study to be conducted by a licensed professional engineer.

(2) Conditions for approval. Any subdivision, including all proposed improvements and construction, must comply with all provisions of the National Flood Insurance Act of 1968 and subsequent amendments.

C. Preservation of Existing Natural Features and Cover.

(1) Land to be subdivided and/or developed shall be laid out and improved in reasonable conformity to existing topography in order to minimize grading, cut, and fill, and to retain, to the maximum extent practicable, the natural contours and features of or on the subject land, limit storm water runoff, and conserve the natural cover and soil. Existing natural features that enhance the attractiveness of the site, and that add value to residential or other development, or to the Town as a whole, such as trees, vegetation, stone walls, hedgerows, watercourses, ponds and similar resources, shall be preserved insofar as possible by design of the subdivision and building areas. The Planning Board may make reasonable modifications in standards for the layout and construction of streets to accomplish the preservation of existing natural features and land cover. Where practicable, the Planning Board may request that natural boundaries, i.e., water courses, stone walls, forested edges, hedgerows, etc., be incorporated into the boundary configuration of new lots.

(2) All minor and major subdivisions shall meet the following standards to minimize adverse impacts on natural features.

- a. The proposed subdivision shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through careful planning of vegetation and land disturbance activities.
- b. Disturbance to streams, drainage swales, wetlands, and areas with seasonally high water tables shall be minimized.
- c. Because of their resource values, all woodlands on any parcel proposed for subdivision shall be evaluated by the applicant to determine the extent to which such woodlands should be conserved or developed. Evaluation criteria for this shall include size, present conditions, site potential, ecological functions, and relationship of woodlands on adjoining properties. Woodlands along roadways, property lines, streams, and hedgerows, shall be preserved. Lot layout should preserve the largest, unfragmented expanse of woodlands possible.
- d. Preferred locations for development include the non-prime agricultural soils and in a manner which permits access to active agricultural land. Prime farmland soils and soils of statewide importance shall be avoided. Where a parcel contains both open fields and woodlands, preferred locations for development are along the far edges of open fields adjacent to any woodland, so as to reduce impact on agricultural operations and enable new construction to be visually absorbed by natural landscape features;
- e. Preferred locations include lower topographic settings where development will be visually less intrusive. Building envelopes and structures may be placed below ridgelines so

that the roof of the structure is not higher than the highest peak of the ridgeline.

f. Areas of steep slope shall be preserved in accordance with the Schaghticoke Zoning Law.

g. Use existing vegetation and topography to buffer and screen new buildings if possible. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.

h. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings.

i. Minimize creation of new curb cuts to the maximum extent practical.

j. Minimize crossing of steep slopes with roads and driveways.

k. Where possible, place utility lines and driveways on less productive land and site driveways on the edge of farm fields, rather than through the middle.

(3) Variation of Lot Width and Area. The Planning Board may require lot areas and lot widths to vary in order to eliminate the appearance of a standard subdivision. To the extent possible, no more than two (2) lots in a row shall have the same width. Lots shall vary by a minimum of five (5) foot increments;

(4) To avoid monotony and similarity in major subdivisions, the Planning Board may require use of changes in façade planes, use of porches, changes in location of entry ways, varying the width of the units, and varying roof orientation, roof styles, and building orientation.

ARTICLE IV Specifications for Plats

§ 108-16. Preliminary Plat.

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

A. The location of the property with respect to surrounding property and streets. There shall also be included an area map at a scale of one inch equals 660 feet showing all streets and property within 1,000 feet of the applicant's property. All property held by the applicant in the area shall be identified.

B. The location and approximate dimensions of all existing property lines (include entire area proposed to be subdivided and remainder of the tract owned by the subdividing owner).

C. All pertinent features, such as existing structures, streets, railroads, water bodies, streams, swamps, flood plain boundaries, large trees, other important land features and habitats that may influence the design of the subdivision, and topography at a contour interval of not more than five feet, unless waived by the Planning Board. All elevations shall be referred to United States Geological Survey bench mark.

D. The location, width and approximate grade of all proposed streets. Approximate elevations shall be shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.

E. The approximate location and dimensions of all proposed or adjacent existing lots.

F. The approximate location and dimensions of all property proposed to be set aside for playground or park use.

G. The names of all adjoining property owners of record or the names of adjoining developments.

H. The name and address of the owner or owners of the land to be subdivided; the name and address of the subdivider, if other than the owner; and the name of the qualified professional engineer or land surveyor.

I. The date, true North point and scale.

J. Proposed provision of water supply, fire protection, sewage disposal, stormwater drainage, street trees, street lighting, sidewalks (if required) and all other pertinent data which must be available for consideration at this stage.

K. A stormwater pollution prevention plan (SWPPP) consistent with the requirements set forth in the Code of the Town of Schaghticoke Chapter 107, Article II, shall be required for subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards set forth in the Code of the Town of Schaghticoke Chapter 107, Article II. [Added 2-14-2007 by L.L. No. 2-2007]

L. Location of any actively farmed field, farm access road, and boundary of New York State certified agricultural district within 500 feet of the parcel.

M. **Agricultural Data Statement.** If any portion of the project is located on property within a certified New York State agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, the application must include an agricultural data statement containing the name and address of the applicant, a description of the proposed project and its location, the name and address of any owner of land within the agricultural district, whose land contains farm operations and is located within five hundred (500) 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 farm operations identified in the agricultural data statement. In the case of any proposed residential development that abuts agricultural uses, the Planning Board shall require the applicant to issue a disclosure, as per New York State Agriculture and Markets 25-aa, to potential purchasers of lots or dwelling units as follows: "This property adjoins land used for agricultural purposes. Farmers have the right to apply approved chemical and organic fertilizers, pesticides, and herbicides, and to engage in farm practices which may generate dust, odor, smoke, noise and vibration." This disclosure shall be required as a note on a subdivision plat.

N. A note, prominently placed, on the plat indicating the number of total lots eligible to be created from the parent parcel as per the Zoning Law.

O. Any other information required by the Planning Board as determined at the Pre-Application Conference. The Planning Board reserves the right to waive any of the above-mentioned requirements where appropriate;

P. A property owner submitting a subdivision plan shall be required to specify on his plan, and on any approved Minor Subdivision Plat, which lot or lots shall carry with them the right to erect or place any unused allocation of dwelling units to which the tract may be entitled.

§ 108-17. Subdivision Plat.

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

A. Drawing, scale and size of plat and construction detail sheets. The subdivision plat and construction detail sheets shall be clearly and legibly drawn and shall consist of prints on cloth. Maps

and profiles shall be at a scale of one inch equals 50 or 100 feet. Profiles shall have the same horizontal scale as maps and shall have a vertical scale of one inch equals five feet or 10 feet respectively. Maps shall be on uniform-size sheets, either 20 inches by 20 inches or 20 inches by 40 inches, suitable to be filed in the Rensselaer County Clerk's office.

B. Information to be shown on plat Plats shall show the following information:

- (1) Proposed subdivision name or identifying title, which shall not duplicate or too closely approximate that of any other development in the Town.
- (2) Date, true North point and scale.
- (3) Name, address and signature of owner, subdivider and qualified professional engineer or land surveyor.
- (4) Names of owners of record of abutting properties or developments.
- (5) Locations, names and widths of existing streets, highways and easements, building lines, parks and other public properties.
- (6) Locations and widths of all streets and sidewalks (if required), together with names of streets, and locations, dimensions and status of all easements proposed by the subdivider.
- (7) Lot areas in square feet.
- (8) Lot lines with accurate dimensions and bearings.
- (9) Sufficient data to determine readily the location, bearing and length of all lines and to reproduce such lines upon the ground.
- (10) Radii of all curves and length or arcs.
- (11) Location and detailed description of all monuments and bench marks. All elevations shall be based on United States Geological Survey bench marks.
- (12) The accurate outline of all property which is offered or to be offered for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the subdivision. Town lines shall be shown where pertinent.

C. Construction detail sheets. Construction detail sheets show the following information, except that where requirements have been waived, applicable specifications may be omitted:

- (1) Profiles showing existing and proposed elevations along the center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets, within 100 feet of the intersection, shall be shown. All elevations must be referred to established United States Geological Survey bench marks.
- (2) Plans and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, street lighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains and fire hydrants; and the exact location and size of all water, gas or other underground utilities and structures. All plans shall conform to the Town road specifications² and shall be subject to the approval of the Town Superintendent of Highways.

² Editor's Note: Regulations for the acceptance of streets and highways by the Town of Schaghticoke are on file in the office of the Town Clerk.

D. A stormwater pollution prevention plan (SWPPP) consistent with the requirements set forth in the Code of the Town of Schaghticoke Chapter 107, Article II, shall be required for subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards set forth in the Code of the Town of Schaghticoke Chapter 107, Article II. [Added 2-14-2007 by L.L. No. 2-2007]

ARTICLE V

Cluster or Conservation Subdivisions

§ 108-21. Purposes.

In conformance with the Town's Comprehensive Plan, the purposes of cluster or conservation subdivisions are as follows:

- A. To conserve open land, including house areas containing unique and sensitive natural features such as steep slopes, streams, floodplains, and wetlands, by setting them aside from development.
- B. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce the length of roads and the amount of paving required.
- C. To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
- D. To conserve a variety of resources and lands as established in the Town of Schaghticoke Comprehensive Plan.
- E. To protect agricultural areas by conserving blocks of land large enough for continued agricultural operations.
- F. To create neighborhoods with direct visual or physical access to open land and that have strong neighborhood identity that is consistent with the rural character of Schaghticoke.
- G. To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.
- H. To conserve elements of the Town's rural character, and to minimize views of new development from existing roads.

§ 108-22. Applicability; Uses; Density.

A. Applicability.

(1) The Planning Board shall require application of a clustering or conservation subdivision design on all contiguous parcels of land that are 20 acres in size or larger and three or more parcels are proposed to be subdivided, either now or in the future. When two or more parcels are combined, a flexible subdivision shall occur if their combined area is 20 acres or more.

(2) When an applicant includes only a portion of the landowner's entire tract, a sketch plan according to this article shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with current codes and with appropriate access. Submission and review of the sketch plan at this stage shall not constitute approval of the future subdivision shown thereon.

B. **Permitted, accessory and special permit uses.** Permitted, accessory and special permit uses within a cluster or conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located.

C. **Density.** The permitted number of dwelling units shall not exceed the number of units

that would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Town of Schaghticoke Zoning Law applicable to the district or districts in which such land is situated and conforming to all other requirements of the Town of Schaghticoke Zoning.

§ 108-23. Design Process.

A. Once the maximum permissible number of lots in a cluster or conservation subdivision has been established, the next step is to create a design layout. This layout shall include an identification of primary and secondary conservation lands within a parcel(s), which includes those elements most highly valued by the community.

B. Sketch Plan. A sketch plan shall be submitted by the applicant as a diagrammatic basis for informal discussions with the Planning Board regarding the design of a proposed subdivision or land development. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Town Zoning Law and Comprehensive Plan. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the sketch plan shall include an Existing Resources Map and Site Analysis Plan including the information listed below.

- (1) Slopes: slopes of 15% or greater.
- (2) Water resources: wetlands, aquifer and aquifer recharge areas, if known, municipal water supply areas, flood-prone areas as shown on Federal Emergency Management Agency maps, streams.
- (3) Agricultural lands: active farmland within a New York State certified agricultural district, or lands within 500 feet of a New York State certified agricultural district, or soils classified in Groups 1 to 4 of the New York State Soil Classification System.
- (4) Community water and/or sewer: sites where community sewer, community water, or community water and sewer are available or planned.
- (5) Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law, if any.
- (6) Designated open space areas: lands contiguous to publicly owned or designated open space areas, or privately owned designated natural areas.
- (7) Historic structures and sites: historic structures or areas of national, state or local importance, if any.
- (8) Scenic viewsheds and special features: sites bordering or in known scenic locations identified in the Town's Comprehensive Plan.
- (9) Significant natural areas and features: areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special-concern species as determined by the New York Department of Environmental Conservation (Natural Heritage Program): mature forests over 100 years old; locally important vegetation (such as trees over 24 inches in diameter at breast height); or unique natural or geological formations.
- (10) Trails: existing and potential trails, bikeways, and pedestrian routes of Town, state or county significance.
- (11) Recreation: lakes, ponds or other significant recreational areas, or opportunities or sites designated in the Town's Comprehensive Plan.

(12) An Existing Resources and Site Analysis Plan shall be prepared to provide the developer and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs.

(13) Topography, the contour lines of which shall be at two-foot intervals.

(14) General locations of vegetative cover conditions on the property according to general cover type, including cultivated land, grassland, old field, hedgerow, woodland and wetland, isolated trees with a caliper in excess of 12 inches, the actual canopy line of existing trees and woodlands.

(15) Any ridge lines on the property shall be identified.

(16) The location and dimensions of all existing streets, roads, buildings, utilities and other man-made improvements.

(17) Locations of all historically significant sites or structures on the tract and on any abutting tract.

(18) All easements and other encumbrances of property which are or have been filed of record with the Rensselaer County Clerk's office shall be shown on the plan.

C. Preliminary plan documents. A preliminary cluster or conservation subdivision plan shall consist of and be prepared in accordance with the following requirements, which are designed to supplement and, where appropriate, replace the requirements of Chapter 108, Articles III and IV, of the Schaghticoke Subdivision Law:

(1) Preliminary plan. The submission requirements for a preliminary plan include the requirements for sketch plans listed in § 108-23, above and the submission requirements of Chapter 108, Articles II and IV, of this chapter, and the Existing Resources and Site Analysis Plan. The Planning Board shall review the plan to assess its accuracy and thoroughness. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of one inch equals 100 feet or one inch equals 200 feet, whichever would fit best on a single standard-size sheet (24 inches by 36 inches).

D. Four-step design process for cluster subdivisions. All sketch plans shall include Step 1 of the four-step design process. All preliminary plans shall include documentation of the four-step design process in determining the layout of proposed open space lands, house sites, streets and lot lines, as described below.

(1) Step 1: Delineation of open space lands. Proposed open space lands shall be designated using the Existing Resources and Site Analysis Plan as a base map. Primary Conservation Areas shall be delineated comprising streams, floodplains, wetlands and slopes over 15%. In delineating secondary conservation areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open space, in consultation with the Planning Board to create a prioritized list of resources to be conserved. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, secondary conservation areas shall be delineated to meet at least the minimum area percentage requirements for open space lands and in a manner clearly indicating their boundaries as well as the types of resources included within them. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract. The result is potential development areas.

(2) Step 2: Location of house sites. Potential house sites shall be tentatively located, using the proposed open space lands as a base map as well as other relevant data on the Existing Resources and Site Analysis Plan. House sites should generally be located not closer than 100 feet to

primary conservation areas and 50 feet to secondary conservation areas, taking into consideration the potential negative impacts of residential development on such areas as well as the positive benefits of such locations to provide attractive views and visual settings for residences.

(3) Step 3: Alignment of streets and trails. Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding 15%. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be maintained by the Town and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate when they support greater open space conservation or provide extensive pedestrian linkages.

(4) Step 4: Drawing in the lot lines. Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.

(5) Note on the four-step site design process for hamlets and adjoining villages. The design process for developing cluster subdivisions in or adjacent to hamlets and villages shall be a variation on the four-step process for conservation subdivisions, as described herein. In hamlets and near villages, where traditional streetscapes and terminal vistas are of greater importance, Steps 2 and 3 may be reversed, so that streets and squares are located during the second step, and house sites are located immediately thereafter. The first step is to identify open space lands, including both primary and secondary conservation areas.

E. Dimensional standards. Within the framework of limitations set forth in this section of this article, the Planning Board shall establish, on a case-by case basis, the appropriate modifications of lot, bulk and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this article. Lots shall be arranged in a way that preserves open space as conservation areas, as described in this section and §§ 108-24 through 108-26.

(1) Minimum required open space. In all zoning districts, a cluster or conservation subdivision must preserve at least 50% of the tract's developed acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space.

(2) Minimum street frontage: 20 feet.

(3) Yard regulations. The builder or developer is urged to consider variations in the principal building position and orientation but shall observe, as practical, the following minimum standards:

(a) Front yard: 20 feet.

(b) Rear yard: 40 feet.

(c) Side yard: 30 feet separation for principal buildings, with no side yard less than 10 feet.

(4) Maximum impervious coverage. No more than 35% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures.

(5) Minimum lot size. The minimum lot size for developments in fee simple ownership shall be equal to that required by the Rensselaer County Department of Health to meet standards for water and septic system approvals.

F. Open space standards.

(1) The required open space land consists of a combination of primary conservation areas and secondary conservation areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. Primary conservation areas shall be included in the required open space area to the greatest extent practical. The applicant shall also demonstrate that such features will be protected by the proposed subdivision plan. Secondary conservation areas include special features of the property that would ordinarily be overlooked or ignored during the design process, such as agricultural lands, woodlands, significant natural areas and features, stone walls, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, and trails. Secondary conservation areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.

(2) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space.

(3) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract, by a setback at least 200 feet deep, if practical. No clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Planning Board may require that vegetative screening be planted or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive alien plant and tree species.

(4) Open space land should generally remain undivided. No individual parcel of common open space shall be less than one acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection.

(5) No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a restriction.

(6) The required open space may be used, without restriction, for underground drainage fields or for individual or community septic systems.

(7) Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground utilities. However, land within the rights-of-way of high-tension power lines shall not be included as comprising part of the minimum required open space.

G. Evaluation criteria.

(1) House lots shall not encroach upon primary conservation areas, and their layout shall respect secondary conservation areas.

(2) Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Zoning Law and Subdivision Regulations.

(3) House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing 20 or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.

(4) At least 3/4 of the lots shall directly abut or face conserved open space, if practical.

(5) The Planning Board shall evaluate proposals to determine whether the proposed layout:

(a) Protects all floodplains wetlands, and steep slopes from clearing, grading, filling or construction.

(b) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

(c) Sites dwellings on the least prime agricultural soils, or in locations at the edge of a field, as seen from existing roads if development is on open fields.

(d) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.

(e) Maintains or creates a buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs and ponds.

(f) Designs around existing hedgerows and tree lines between fields or meadows and minimizes impacts on large woodlands greater than five acres.

(g) Designs around and preserves sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.

(h) Provides open space that is reasonably contiguous.

(i) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

H. Streets and driveways.

(1) Common driveway access may be provided. A pedestrian circulation and/or trail system may be designated and installed sufficient for the needs of residents, as deemed practical by the Planning Board.

(2) Cluster/conservation subdivision streets shall meet the Town Street Specifications. Where appropriate, the Planning Board shall work with the Commissioner of Public Works to ensure that the Town of Schaghticoke Street Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a cluster or conservation subdivision.

(3) From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by bends of 90° and 135° are preferred in a more formal or traditional arrangement.

(4) Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.

(5) The use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 miles per hour.

(6) Single-loaded streets are encouraged alongside conservation areas to provide

views of the conservation lands for residents and visitors.

(7) Landscape common areas and both sides of new streets with native species of shade trees.

§ 108-24. Open Space Protection and Maintenance Standards.

A. Permanent protection of open space.

(1) All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through one of the following:

(a) A conservation easement in a form acceptable to the Town and recorded at the County Clerk's office.

(b) A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's office, where a conservation easement has been shown not to be practicable.

(2) The conservation easement, declaration of covenants or deed restriction shall restrict development of the open space and allow the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board, with the advice of the Town Attorney, shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:

(a) The conservation organization is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.

(b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization or the Town of Schaghticoke becomes unwilling or unable to continue carrying out its functions.

(c) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization or the Town of Schaghticoke to insure perpetual maintenance of the open space.

(d) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

(3) Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowners' association (HOA). Open space may also be dedicated to the Town, county or state governments, transferred to a nonprofit organization, or held in private ownership. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.

(a) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

(b) The open space restrictions must be in perpetuity.

(c) If land is held in common ownership by a homeowners' association such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open

space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.

(d) The Planning Board shall find that the HOA documents satisfy the conditions stated above.

(e) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title, with voting of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on the sale of the majority of the lots or units.

(f) The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.

(g) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.

(h) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Town no less than 30 days prior to such event.

(i) The association shall have adequate resources to administer, maintain, and operate such common facilities.

B. Maintenance standards.

(1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues or special assessments.

(2) Failure to adequately maintain the undivided open space in reasonable condition is a violation of the Zoning Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property.

§ 108-25. Future Subdivisions.

The Town of Schaghticoke has determined that piecemeal subdivision of large properties where a small number of individual lots are subdivided off to circumvent major subdivision regulations will have a detrimental impact on neighborhood character, preservation of open space and agricultural lands, and the ability to provide traditional streetscapes and/or pedestrian networks. Therefore, where four or more lots are subdivided from any parcel within a two-year period, the fourth lot shall be deemed a major subdivision.

§ 108-26. Sewage Treatment Systems.

Sanitary sewage disposal systems of either an individual or community nature may be located within or extend into required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-A of New York State Town Law.

ARTICLE VI

Waivers

§ 108-27. Grounds for Waiver of Requirements.

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions, provided that such waiver will not have the effect of nullifying the intent and purpose of the Official Map, the Town Plan or the Zoning Ordinance, if such exists.

§ 108-28. Imposition of Conditions.

In granting waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE VII

Definitions

§ 108-29. Definitions.

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

AGRICULTURAL DATA STATEMENT -- A written statement required when certain land use determinations within 500 feet of a farm operation located in an agricultural district takes place. The statement must include information about the proposed project and is to be included in the application for project approval. A notice of the project application is mailed to owners of land associated with the neighboring farm operation identified in the statement. The Planning Board is required to evaluate and consider the statement in its review of possible impacts of a project on nearby farm operations.

AGRICULTURAL DISTRICT -- An area of land designated by the Rensselaer County Legislature according to Article 25-AA (Agricultural Districts) of the New York State Agriculture and Markets Law to protect and promote agricultural activities.

CLERK OF THE PLANNING BOARD — That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of this chapter.

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

CONDITIONAL APPROVAL – Approval by the Planning Board of a preliminary or a final plat subject to such conditions as may be 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 does it authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording it in the office of the County Clerk or Registrar as herein provided.

CONSERVATION SUBDIVISION -- A development pattern in which the structures are placed on a lot in a manner which protects critical environmental and cultural features that may be present and where 50% of the parcel is permanently preserved as open space.

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

DRIVEWAY -- A private access route directly serving a parking area; or serving parking spaces not directly serving more than two (2) dwelling units, and not providing a route for through traffic.

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

FARM -- The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation, and marketing of crops, livestock, and livestock products as a commercial enterprise, including a commercial horse boarding operation as defined in this local law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FINAL PLAT -- See Subdivision Plat.

FLAG LOT -- A building lot not meeting the required road frontage and characterized by a narrow strip of property by which access is gained.

HOMEOWNER'S ASSOCIATION --An organization of homeowners residing within a particular development whose major purpose is to preserve, maintain, and provide community areas, facilities and services for the common enjoyment of the residents.

LOT -- A parcel of land having defined boundaries.

LOT AREA - The total horizontal area included within lot lines.

LOT, COVERAGE -- That percentage of the lot covered by the footprint of the principal and accessory building area.

LOT DEPTH -- The horizontal distance from the street line of a lot to the rear lot line of such lot, measured in the general direction of the side lot lines.

LOT FRONTAGE -- That portion of a lot which directly abuts the Right-of-Way line of a dedicated Town, County or NYS Highway.

LOT LINE ADJUSTMENT -- is an adjustment or relocation of a property line between two existing adjacent parcels that does not result in the creation of additional parcels. The town will review the proposed lot line adjustment to ensure that town standards for such items as minimum lot size, setbacks and access are maintained.

LOT WIDTH -- The distance between side lot lines at the required minimum front yard depth measured; a) along a line parallel to the line connecting the end points of the front lot line, or, b) in the case of a cul-de-sac, along a line parallel to the arc connecting the end points of the front lot line.

MAJOR SUBDIVISION - A classification applied to any proposed subdivision in which land is to be divided into four or more lots within a period of five years from the date of approval of the first subdivision and that is not classified as a minor subdivision.

MINOR SUBDIVISION - The division of a parcel of land (a) into no more than three (3) lots; (b) both of which front an existing street; (c) which does not involve a new proposed street or extension of municipal facilities; (d) which has not been previously subdivided for a period of five (5) years; and (g) is in conformance with the Comprehensive Plan, the requirements of the Zoning Law, and the purposes of these regulations.

OFFICIAL MAP — The map established by the Town Board under § 270 of the Town Law showing the streets, highways and parks heretofore laid out, adopted and established by law, and any amendments thereto adopted by the Town Board or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

OPEN SPACE - Land left in a natural state for conservation, agricultural, scenic purposes, devoted to active or passive recreation, or devoted to the preservation of distinctive architectural, historic, geologic or botanic sites. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure or improvement, except for agricultural uses. Open space may be included as a portion of one or more large lots, or may be contained in a separate open space lot, but shall not include private yards on lots less than five (5) acres in size.

PLANNING BOARD — The Town of Schaghticoke Planning Board.

PLAT - A drawing(s) or map(s) setting forth a proposed layout of lots and proposed streets, if any, and such other information as is required under these regulations.

PRE-APPLICATION CONFERENCE - The meeting of the Planning Board at which the Applicant presents a Sketch Plan of a proposed subdivision for purposes of discussing the requirements of these regulations as applied to the proposed subdivision, and the feasibility of such project.

PRELIMINARY PLAT — A drawing or drawings clearly marked “preliminary plat” showing the layout of a proposed subdivision, as specified in Article IV, § 108-16, of this chapter, 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.

PRIMARY CONSERVATION AREA -- The area delineated in a conservation subdivision to have priority resource areas to be conserved including, but not limited to streams, floodplains, wetlands, critical habitats, steep slopes, areas with rocky outcrops, and groundwater recharge areas.

RESUBDIVISION – The further division of lots within a subdivision previously approved and recorded according to law.

SEQRA - The State Environmental Quality Review Act as codified in Article VIII of the Environmental Conservation Law (ECL) and the implementing regulations codified in Title 6 of the New York Code of Rules and Regulations Part 617.

SECONDARY CONSERVATION AREA -- The area delineated in a conservation subdivision to have secondary resource areas to be conserved including, but not limited to healthy woodlands holding important ecological functions such as soil stabilization and protection of streams, hedgerows and other vegetational features representing the site’s rural past, historic structures or sites, and visually prominent features such as knolls, or hilltops.

SLOPE – Land with a topographic gradient, usually expressed as percent slope, the percent being calculated by measuring vertical elevation relative to horizontal distance. A slope of twenty-five percent (25%) means a twenty-five-foot rise in elevation from one point to another along a one-hundred-foot horizontal plane [calculated as: twenty-five-foot rise/one-hundred-foot horizontal distance = twenty-five-percent slope].

STREET — Includes streets, roads, avenues, lanes or other trafficways, between right-of-way lines.

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

STREET WIDTH — The distance between property lines, measured at right angles to the center line of the street.

SUBDIVIDER — Any person, firm, corporation, partnership or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself or others.

SUBDIVISION — The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development and shall include resubdivision.

SUBDIVISION PLAT or FINAL PLAT — A drawing in final form showing a proposed subdivision, containing all information required to be shown on a preliminary plat and 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 or detail required by law and by this chapter, to be presented to the Planning Board for approval and which, if approved, may be duly filed or recorded by the applicant in the office of the Clerk of the County of Rensselaer.

WATERBODY -- Any natural or artificial pond, lake, reservoir or other area containing a surface area of over one thousand (1,000) square feet and which usually or intermittently contains water and has a discernible shoreline.

WATERCOURSE -- Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Schaghticoke, except those which are regulated by the NYSDEC.

Section 4. Validity

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Schaghticoke hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 5. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 6. Effective Date

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Section 7. Effect on Existing Applications

Any proposed subdivision which shall have submitted an application and required fee prior to the effective date hereof shall be allowed to proceed under the existing subdivision law then in effect.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 20 _____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

James E. Valerius
Clerk of the county legislative body, City, Town or Village Clerk
or officer designated by local legislative body

Date: 4/5/09

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]
Signature

Town Attorney

County
City
Town of Schaghticoke
Village

Date: 4/9/09