

ARTICLE 1

GENERAL PROVISIONS

Section 1.1 Title

These regulations shall be known and may be cited as the "Subdivision Regulations of the Village of Allegany."

Section 1.2 Authority

Pursuant to Sections 7-728, 7-730, 7-732 and 7-738 of Village Law of the State of New York, the Village Board of Trustees of the Village of Allegany hereby authorizes and empowers the Planning Board of the Village of Allegany to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways, within the Village of Allegany.

Section 1.3 Purpose

These Subdivision Regulations are enacted for the purpose of providing for the future growth and development of the Village of Allegany and for the purpose of affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.

Section 1.4 General Requirements

Whenever any subdivision of land is proposed, before any contract is made for the sale or any offer to sell any lots in such subdivision, before any permit for the erection of a structure in such proposed subdivision shall be granted and before any subdivision plan may be filed in the Office of the Cattaraugus County Clerk, the subdivider or a duly authorized agent shall apply for and secure approval of such subdivision in accordance with the procedures contained in these regulations.

Section 1.5 Policies

- (A) The subdivision of land in the Village of Allegany shall conform to these regulations, as well as with appropriate laws, rules and regulations established by all governing bodies having jurisdiction over aspects of the proposed development.

- (B) It is the policy of the Village Board of Trustees of the Village of Allegany that land subdivision is considered to be part of a process that provides for the orderly, efficient and economical development of the Village, in a manner that is reasonable and is in the best interest of the community.

- (C) In its consideration of an application for the subdivision of land, the Village Board of Trustees directs the Planning Board to be guided by the following general requirements:
1. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage, erosion or other menace. In addition, the proposed development shall not present a hazard to neighboring properties or to the public health, safety and welfare.
 2. Proper provision shall be made for vehicular and pedestrian access, storm water drainage, water supply, and sewage disposal, as well as for other necessary improvements.
 3. Important community resources and natural features shall be incorporated into the design of the subdivision as much as possible. To the maximum extent feasible, existing features of the landscape such as large trees, rock outcrops, steep slopes, streamcourses and floodways, historic elements and other significant community assets shall be preserved.
 4. All streets, roads, and highways shall be of sufficient width and suitable grade and shall be suitably located to accommodate prospective traffic, to afford adequate light and air, to facilitate fire protection, and to provide access of firefighting equipment to buildings.
 5. Suitable monuments shall be placed at block corners and other locations as required by Article 6 of these regulations. The location of the monuments shall be shown on the final plat.
 6. All lots created under these regulations shall comply with all applicable regulations of the Village of Allegany Zoning Law, unless these regulations are varied by approval of a cluster subdivision, pursuant to Section 6.13 of these regulations and to Section 7-738 of NYS Village Law.

Section 1.6 SEQR Review

- (A) Prior to taking final action on an application for subdivision approval, the Planning Board shall fully comply with all relevant provisions of the New York State Environmental Quality Review Act (SEQR).
- (B) Pursuant to Section 617.13 (a) of NYS 6NYCRR Part 617 State Environmental Quality Review the Village of Allegany may charge a fee to the applicant for subdivision approval in order to recover the actual costs of either preparing or reviewing the draft and/or final Environmental Impact Statement.

Section 1.7 Variance Procedure

When a proposed subdivision contains one or more lots which do not comply with the Zoning Law of the Village of Allegany, application may be made to the Zoning Board of Appeals for an area variance pursuant to the regulations governing area variances contained in the Village's Zoning Law. This application may be made without the necessity of a decision or determination of the Code Enforcement Officer. In reviewing such application for an area variance, the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance.

Section 1.8 Waiver of Requirements

Pursuant to Section 7-730 (7) of NYS Village Law, the Planning Board may waive any requirements for the approval of subdivisions submitted for its review. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision.

Section 1.9 Court Review

Any person or persons aggrieved by any decision of the Planning Board or any other officer, department, board or bureau of the Village, may apply to the supreme court for review by a proceeding under Article Seventy-eight of the civil practice law and rules, pursuant to Section 7-712-c of New York State Village Law. Such appeal or application for relief shall be made within thirty days from the date of the filing of the decision in the office of the Village Clerk.

Section 1.10 Separability

If any part or provision of these regulations 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, 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 these regulations or the application thereof to other persons or circumstances, and the Village Board of Trustees of the Village of Allegany hereby declares that it would have enacted these regulations or the remainder thereof had the invalidity of such provision or application thereof been apparent.

Section 1.11 Fees

A schedule of fees for all applications required by these regulations shall be established by the Village of Allegany Board of Trustees. The Village Board may change the fee schedule from time to time.

Section 1.12 Consultant Review

In reviewing any application for a special use permit, the Planning Board may consult with the C.E.O., Fire Chief, Department of Public Works, Cattaraugus County Planning Department, Soil Conservation

Service, NYS Department of Transportation (DOT), NYS Department of Environmental Conservation (DEC), and other local, county or state agencies.

For unique or large-scale projects, the Planning Board, upon the approval of the Village Board of Trustees, may retain qualified expert consultants to assist the Planning Board in its review of the application; the cost of such consultant(s) shall be paid by the applicant.

ARTICLE 2 DEFINITIONS

Section 2.1 Word Usage and Interpretation

The following rules shall apply to interpreting the text of these regulations:

- (1) Words used in the present tense shall include the future.
- (2) Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- (3) Words used in the masculine form shall include the feminine.
- (4) The word "shall" is mandatory. The word "may" is permissive.
- (5) The word "lot" shall include the words "plot," "piece," and "parcel."
- (6) The word "person" shall include an individual, firm or corporation.
- (7) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (8) The phrases "to erect," "to construct," and "to build" a building have the same meaning and include the excavation for a building foundation and the relocation of a building from one location to another.
- (9) The word "premises" includes a lot and all buildings or structures thereon.
- (10) Unless otherwise specified, all distances shall be measured horizontally along the ground.

Section 2.2 Definitions

ALLEY A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

APPLICANT The owner of land proposed to be subdivided or his/her representative, who shall present express written authority to act on behalf of the owner.

BLOCK A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

BOARD OF TRUSTEES The Village Board of Trustees of the Village of Allegany, County of Cattaraugus, New York.

BUILDING ENVELOPE The area in which a house, garage, permitted accessory structures, and parking areas shall be located. A driveway may extend from a roadway across an area that is not in the building envelope in order to access the building envelope.

CALIPER A measurement of the diameter of a tree, measured six inches above the ground.

CLUSTER DEVELOPMENT A subdivision design, pursuant to Section 7-738 of NYS Village Law, that allows lots to be reduced in size, provided the total development density does not exceed that which could be constructed on the site using a conventional subdivision layout, and further provided that the remaining land is dedicated as permanent open space.

CONDITIONAL APPROVAL OF A FINAL PLAT Approval by the Village of Allegany Planning Board of a final plat subject to conditions set forth by the Planning Board in the resolution conditionally approving the plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by the Planning Board's designee and recording the plat in the office of the Clerk of Cattaraugus County.

CONTOUR A line drawn on a map or a plan which connects all points of equal elevation.

CONTOUR GRADING A grading concept designed to result in earth forms that resemble natural terrain characteristics. Contour grading does not necessarily minimize the amount of cut and fill that occurs.

CURB A vertical edge along a street.

EASEMENT Authorization by a property owner which allows another person to use the owner's property for a specified purpose.

ENVIRONMENTAL ASSESSMENT FORM (EAF) A form used to determine the environmental significance of an action, in accordance with the State Environmental Quality Review Act.

ENVIRONMENTAL IMPACT STATEMENT (EIS) A written document, prepared in accordance with the State Environmental Quality Review Act.

FINAL PLAT A drawing, in final form, that shows a proposed subdivision containing all information or detail required by law and specified in Article 4 of these regulations, and containing all the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat, if such preliminary plat has been so approved.

FINAL PLAT APPROVAL The signing of the final plat by a duly authorized officer of the Village of Allegany Planning Board, pursuant to a Planning Board resolution granting final approval to the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the Office of the Cattaraugus County Clerk.

FRONTAGE That part of a lot abutting on a street; except that the ends of incomplete streets, or streets without a turning circle shall not be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

GRADE The slope of a road, street, or other public way, specified in percentage terms.

GRADE, FINISHED The final elevation of the ground surface after man-made alterations, such as grading, grubbing, filling or excavating, have been completed.

GRADE, NATURAL The existing grade or elevation of the ground surface that exists or existed prior to man-made alterations, such as grading, grubbing, filling or excavating.

IMPROVEMENT Any drainage ditch; stormwater management facility; street, roadway or highway; public water or sewerage facility; sidewalk; utility lines and conduits; or similar facilities that are used by the public or which the Village or other public or semi-public agency may have ownership of or regulatory approval over.

LETTER OF INTENT An initial presentation in writing submitted to the Planning Board by an applicant for the Board's consideration in classifying the subdivision as a major or minor subdivision.

LOT A portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for development.

LOT, REVERSE FRONTAGE A lot designed such that the rear facade of a building will face the front lot line or a lot where the frontage on the street giving access is not the same as other lots on that street.

LOT, THROUGH A lot that fronts upon two parallel streets or a lot that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT LINE ADJUSTMENT A type of resubdivision in which there is solely a simple alteration of lot lines, and in which no additional lots are created and no lots are deleted.

PLANNING BOARD The Planning Board of the Village of Allegany.

PRELIMINARY PLAT A drawing or drawings, clearly marked "Preliminary Plat," showing the salient features of a proposed subdivision, as specified in Article 4 of these regulations, and containing sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

PRELIMINARY PLAT APPROVAL The approval of the layout of a proposed subdivision as set forth in a preliminary plat, but subject to the approval of the plat in final form, in accordance with the provisions of these regulations.

OPEN SPACE An area that is intended to provide light and air, and is designed for environmental, scenic, and/or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, buffers, active and passive recreation areas, playgrounds, fountains, wooded areas, and water courses. Open space shall not include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OPEN SPACE, PRIVATE Open space land which is owned in common by all of the residents of a subdivision; open space land owned by a Homeowners Association; or open space land owned by a not-for-profit corporation or other similar legal organization.

OPEN SPACE, PUBLIC Open space land owned by the Village of Allegany or some other governmental agency.

RESUBDIVISION Any change in a map of an approved or recorded subdivision plat, if such change affects any lot line, any street layout, or area reserved for public use.

RIGHT-OF-WAY A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, street, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for any other special use.

SERVICE DRIVES Vehicular driveways which are used primarily for access to the back or side of a premises.

SIDEWALK A designated path provided for pedestrian use, usually located along the side of a street.

SKETCH PLAN A drawing which illustrates the proposed layout of streets, lots and other features of a proposed subdivision in relation to existing conditions for the purpose of obtaining the advice of the Planning Board prior to the preparation of a preliminary plat.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR) The New York State Law (Article 8 of the Environmental Conservation Law) and regulations (6 NYCRR Part 617) which require public agencies to consider the potential environmental impacts of an action before such action is approved or undertaken.

STREET A public or private right-of-way, designed to accommodate the flow of vehicular traffic, and which affords the principal means of access to abutting properties. A street may be designated as a road, drive, avenue, lane, or other similar term.

STREET CLASSIFICATION SYSTEM A four-category hierarchy of streets that are ranked according to traffic volume and intended use. Categories, in descending order of volume are arterial, collector street, subcollector street, and access street. Residential streets may be collector, subcollector or access streets.

ARTERIAL An arterial is a high-volume street that should have no residences on it. Its function is to conduct traffic between communities and/or between heavy traffic generating areas within a community and to connect communities to major state and interstate highways.

COLLECTOR The principal traffic artery within residential or commercial areas. The collector carries relatively high traffic volumes and carries traffic from arterial streets to subcollector and access streets. Its functions are to promote free flow of traffic and to serve abutting land uses.

SUBCOLLECTOR The subcollector street provides access to residential lots. It also carries traffic from the collector streets to the access streets. A subcollector has a relatively low traffic volume.

ACCESS STREET The access street is designed to conduct traffic between residences and other streets. The access street usually carries no through traffic and includes short streets, cul-de-sacs, and courts.

STREET, CUL-DE-SAC or DEAD END A street with only one vehicular outlet.

STREET, PRIVATE A street that is not publicly dedicated.

STREET PAVEMENT The surface of the roadway used by vehicular traffic.

SUBDIVIDER Any person, firm or other legal entity who commences proceedings under these regulations to effect the subdivision of land, either for himself or for others.

SUBDIVISION The division of any parcel of land into two or more lots. A lot line adjustment that does not involve the creation of a new lot and that does not result in a lot that is non-conforming under the terms of the Village of Allegany Zoning Law shall not be considered a subdivision.

SURVEYOR A person licensed as a land surveyor by the State of New York.

ARTICLE 3

APPLICATION PROCEDURE AND APPROVAL PROCESS

Section 3.1 General Procedure

1. When an application for a subdivision is received, the Planning Board shall determine whether it is a major or a minor subdivision, using the definitions and criteria of these regulations and following the procedure outlined in Section 3.2 of this Article. Applications that meet the criteria for a minor subdivision do not require preliminary plat submittal, and may submit a final plat for the Board's review. Applications that are classified as major subdivisions must submit both a preliminary plat and a final plat for Planning Board review and approval.
2. The applicant or his/her representative shall attend all Planning Board meetings at which the application is discussed.

Section 3.2 Letter of Intent and Sketch Plan Conference

A. Purpose and Intent

In order to expedite review of an application by the Planning Board, all applicants are required to submit a sketch plan for informal review by the Planning Board. The purpose of the sketch plan phase is to provide the subdivider with an opportunity to consult early and informally with the Planning Board in order to save time and money and to improve the opportunity for a development that fits into the existing community. In addition, the Planning Board will use the sketch plan conference procedure to determine if the proposed subdivision is a major or minor subdivision.

B. Submittal Requirements

1. The applicant shall submit the following information as part of the sketch plan conference:
 - (a) Letter of Intent, on forms provided by the Village.
 - (b) Sketch plan of the proposed subdivision, which shows the general location of lots to be created, new streets, and the existing street that the site abuts.
2. The Letter of Intent and the sketch plan shall be submitted to the Village Code Enforcement Officer (CEO) at least ten (10) days prior to the Planning Board meeting at which it is to be considered.
3. The Planning Board shall consider the Letter of Intent and sketch plan within forty-five (45) days from the date the sketch plan application was received by the CEO. The

Planning Board shall provide the applicant with its comments concerning the general design of the proposed project, in writing, by five business days after the meeting at which the proposal was discussed. If the Planning Board fails to send its report within the specified time, the applicant may assume that the Planning Board agrees with the general design of the proposed subdivision for purposes of preparing a preliminary plat.

C. Determination of Major or Minor Subdivision

1. The Planning Board shall review the information provided, including the Letter of Intent and the Sketch Plan, and shall determine whether the proposal shall be considered as a major or minor subdivision.
2. In making its determination of whether the proposal is a major or minor subdivision, the Planning Board shall consider the following:
 - (a) A minor subdivision shall not involve the creation of any new streets or the extension of any street.
 - (b) A minor subdivision shall not involve the installation or extension of any new water or sewer main; a water tap and/or a sewer tap to an individual home shall not be construed to be an extension of the line.
 - (c) A minor subdivision shall not involve the installation of drainage improvements through one or more lots to serve one or more other lots.
 - (d) A minor subdivision shall not be in conflict with any provision of the Village's Zoning Law or the Village's Vision Statement.
 - (e) A minor subdivision shall not have a potentially major impact on the orderly growth or development of the Village.
 - (f) A minor subdivision shall not potentially pose a danger to health and safety from fire, flood, erosion, stormwater runoff or other menace.
 - (g) In general, a minor subdivision shall contain four or fewer lots, including any remainder portion of the original lot. However, after weighing the criteria contained above, the Planning Board may determine that a subdivision containing four or fewer lots is a major subdivision. The Planning Board may also determine that a subdivision containing slightly more than four lots is a minor subdivision.
3. If the Planning Board determines that the application is a major subdivision, the applicant shall submit a preliminary plat application. Following the approval by the Planning Board of the preliminary plat, the applicant shall submit a final plat application.
4. If the Planning Board determines that the application is a minor subdivision, a preliminary plat will not be required, and the applicant shall submit a final plat application.

Section 3.3 Major Subdivision

(A) Submission of Preliminary Plat

1. An applicant for major subdivision approval shall submit a preliminary plat to the Planning Board. Such preliminary plat shall be clearly marked "preliminary plat" and shall conform to the definition in Article 2. The preliminary plat shall contain all the information required in Article 4 of these regulations. A completed Environmental Assessment Form shall also be submitted with the preliminary plat.
2. The applicant shall submit the preliminary plat, and any supplementary materials specified in these regulations, to the CEO a minimum of fourteen (14) days prior to the Planning Board meeting at which it is to be considered. Sufficient numbers of copies of all materials shall be provided, such that the Planning Board members, Village Clerk, other pertinent Village staff, and any other required reviewing agency have copies of the material. The Code Enforcement Officer shall determine the precise number of copies that are required.
3. A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement (DEIS) has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion, in accordance with the provisions of the State Environmental Quality Review Act.

(B) Review by the Planning Board

1. In its review of the preliminary plat the Planning Board shall carefully study the practicality of the proposed design, taking into consideration the requirements of the community, the policies in Article 1 of these regulations, the standards in Article 6 of these regulations, and the best design of the land proposed to be subdivided. The Planning Board shall require that the land shown on the plat be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, stormwater, erosion or other menace and without significantly adversely affecting neighboring properties or the public health, safety and welfare. In particular the Planning Board shall consider the following:
 - (a) The topography of the area
 - (b) The arrangement, location and width of streets
 - (c) The relationship of the proposed street and lot layout to the topography of the land
 - (d) The effect of additional traffic flow on existing streets
 - (e) Domestic water supply
 - (f) Sanitary sewage disposal
 - (g) Storm drainage
 - (h) Adequate provision for the control of erosion

- (i) Lot sizes and arrangement
 - (j) Floodplains and wetlands
 - (k) Steep slopes
 - (l) Fire protection
 - (m) The requirements of the Village's Zoning Law
2. During its review the Planning Board may consult with other Village boards, officials or agencies, or with other agencies that may have an interest in the application.

(C) Public Hearing

1. The Planning Board shall hold a public hearing on the preliminary plat prior to making a decision on it. The time within which the Planning Board shall hold a public hearing shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQR, as follows:
 - (a) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the preliminary plat shall be held within sixty-two (62) days after receipt of a complete preliminary plat.
 - (b) If the Planning Board determines that an environmental impact statement (EIS) is required, and a public hearing on the draft environmental impact statement (DEIS) is held, the public hearing on the preliminary plat and the DEIS shall be held jointly within sixty-two (62) days after the filing of the notice of completion of such DEIS. If no public hearing is held on the DEIS, the public hearing on the preliminary plat shall be held within sixty-two (62) days of filing of the notice of completion.
2. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

(D) Notice of Public Hearing

1. The Village of Allegany shall advertise the public hearing on the preliminary plat once in a newspaper of general circulation in the Village of Allegany, according to the following schedule:
 - (a) If no hearing is held on the DEIS, the notice shall be published at least five (5) days before the date of the hearing.
 - (b) If the hearing is held jointly on the DEIS and the preliminary plat, the notice shall be published at least fourteen (14) days before the date of the hearing.
2. The applicant shall provide notice of the public hearing to the owner(s) of every parcel located wholly or partially within two hundred fifty (250) feet of the perimeter of the property that is the subject of the application. The applicant shall also provide a notice to such other interested persons as the Chairperson of the Planning Board may direct. Such notices shall be provided

at least ten (10) days prior to the public hearing. All such notification shall be given by and at the expense of the applicant, in such manner as shall be determined by the Chairperson of the Planning Board. The applicant shall submit to the Planning Board a list of persons who are required to receive a notice of the public hearing and an affidavit that the notice was provided to everyone on the list; such list and affidavit shall be submitted at or prior to the public hearing.

3. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate for full public consideration of the preliminary plat.

(E) Decision on the Preliminary Plat

1. The Planning Board shall approve, with or without modification, or disapprove the preliminary plat, as follows:
 - (a) If no DEIS has been prepared, the Planning Board shall make its decision within sixty-two (62) days after the close of the public hearing.
 - (b) If the Planning Board has determined that an environmental impact statement is required, and a public hearing has been held on the DEIS, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing. If no public hearing has been held on the DEIS, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the preliminary plat. Within thirty (30) days of the filing of the final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
2. The time period for the Planning Board's decision on the preliminary plat may be extended only by mutual consent between the owner and the Planning Board.
3. The reasons for modifications, if any, or the grounds for disapproval of a preliminary plat shall be stated in the minutes of the meeting of the Planning Board. When approving a preliminary plat with modifications, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.

(F) Certification and Filing of Preliminary Plat

1. Within five (5) business days of the approval, with or without modifications, of the preliminary plat, the plat shall be certified by a designated member of the Planning Board as having been granted preliminary approval. A copy of the preliminary plat and the resolution shall be maintained as a permanent record by the Planning Board. A copy of the resolution shall be mailed to the applicant, and to the property owner, if different from the applicant.
2. Within five (5) business days of the adoption by the Planning Board of a resolution that

disapproves a preliminary plat, a copy of such resolution, which states the grounds for the disapproval, shall be mailed to the applicant.

3. Within five (5) business days from the date of the adoption of the resolution stating the decision of the Planning Board on the preliminary plat, a designated member of the Planning Board shall file a copy of such resolution in the office of the Village Clerk.

(G) Submission of Final Plat

1. Within six (6) months of the date of the approval of the preliminary plat, the applicant must submit the final plat, which shall be clearly marked "final plat." The final plat shall conform to all the requirements of Article 4 of these regulations.
2. If more than six (6) months have elapsed between the date of the approval of the preliminary plat and the submission of the final plat, the Planning Board may revoke the approval of the preliminary plat. If the preliminary plat approval is revoked, the applicant shall resubmit the application for preliminary plat approval, and all the review requirements for preliminary plat shall be complied with, including SEQR review and the public hearing requirements.
3. When submitting a final plat, the subdivider shall also file formal offers of dedication to the Village or other appropriate public agencies of all streets, parks and playgrounds, and other permanent open space for community use, as well as all utilities and storm drainage facilities as shown in the final plat. Evidence of all necessary easements or easement documents, if appropriate, as well as any other legal documents requested by the Planning Board shall be submitted with the final plat.

The approval of the plat does not constitute acceptance by the Village of the dedication of such facilities. Any street, highway, park or other facility shown on a filed or recorded plat shall be deemed to be private until such time as it has been formally accepted by a resolution of the Village Board of Trustees.

4. An applicant may choose to develop the subdivision in two or more sections. If sections are proposed, the applicant shall submit the final plat for a portion of the area encompassed by the preliminary plat. A section shall contain at least ten (10) percent of the total number of lots contained in the approved preliminary plat.

(H) Final plat in Substantial Agreement with Approved Preliminary Plat

When the Planning Board determines that a final plat is in substantial agreement with an approved preliminary plat, the Planning Board shall take action on the final plat within sixty-two (62) days of the receipt of a complete final plat application by the CEO. The Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

(I) Final Plat Not in Substantial Agreement with Approved Preliminary Plat

When the Planning Board deems that the final plat, as submitted, is not in substantial agreement with the approved preliminary plat, the Board shall follow the review procedures for Minor Subdivisions.

Section 3.4 Minor Subdivisions**(A) Preliminary Plat Not Required**

In order to expedite the review process for applications that meet the requirements for a minor subdivision, as determined by the Planning Board, a preliminary plat application is not required. The applicant shall submit an application for final plat review.

(B) Review of the Final Plat

1. The applicant shall submit a final plat that is clearly marked "Final Plat." The final plat shall conform to all the requirements of Article 4 of these regulations.
2. The applicant shall submit the preliminary plat, and any supplementary materials specified in these regulations, to the CEO a minimum of fourteen (14) days prior to the Planning Board meeting at which it is to be considered. Sufficient numbers of copies of all materials shall be provided, such that the Planning Board members, Village Clerk, other pertinent Village staff, and any other required reviewing agency have copies of the material. The Code Enforcement Officer shall determine the precise number of copies that are required.
3. The final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement (DEIS) has been filed in accordance with the provisions of the state environmental quality review act (SEQR). The time periods for review of such plat shall begin upon filing of a negative declaration or a notice of completion.
4. In its review of the final plat, the Planning Board shall carefully study the practicality of the proposed design, taking into consideration the requirements of the community, the policies in Article 1 of these regulations, the standards in Article 6 of these regulations, and the best design of the land proposed to be subdivided. The Planning Board shall require that the land shown on the plat be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, stormwater, erosion or other menace and without significantly adversely affecting neighboring properties or the public health, safety and welfare. In particular the Planning Board shall consider the following:
 - (a) The topography of the area

- (b) The arrangement, location and width of streets
- (c) The relationship of the proposed street and lot layout to the topography of the land
- (d) The effect of additional traffic flow on existing streets
- (e) Domestic water supply
- (f) Sanitary sewage disposal
- (g) Storm drainage
- (h) Adequate provision for the control of erosion
- (i) Lot sizes and arrangement
- (j) Floodplains and wetlands
- (k) Steep slopes
- (l) Fire Protection
- (m) The requirements of the Village's Zoning Law

During its review the Planning Board may consult with other Village boards, officials or agencies, or with other agencies that may have an interest in the application.

(C) Public Hearing

1. The Planning Board shall hold a public hearing on the final plat. The time within which the Board shall hold the public hearing on the final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQR, as follows:
 - (a) If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on the final plat shall be held within sixty-two (62) days after the receipt of a complete final plat by the Planning Board. For purposes of this section, a complete application shall be received upon completion of a determination of significance pursuant to SEQR and the filing of a Negative Declaration pursuant to the State Environmental Quality Review Act.
 - (b) If the Planning Board determines that an environmental impact statement is required, and a public hearing on the DEIS is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within sixty-two (62) days after the filing of the notice of completion of the DEIS. If no public hearing is held on the DEIS, the public hearing on the final plat shall be held within sixty-two (62) days following filing of the notice of completion.
2. Notice of Public Hearing
 - (a) The public hearing on the final plat shall be advertised once in a newspaper of general circulation in the Village of Allegany.
 - (1) If a DEIS was not prepared, or if no hearing is held on the DEIS, the notice shall be published at least five (5) days before the hearing.

- (2) If a joint hearing on the DEIS and the final plat is held, the notice shall be published at least fourteen (14) days before the hearing.
 - (b) The applicant shall provide notice of the public hearing to the owner(s) of every parcel located wholly or partially within two hundred fifty (250) feet of the perimeter of the property that is the subject of the application. The applicant shall also provide a notice to such other interested persons as the Chairperson of the Planning Board may direct. Such notices shall be provided at least ten (10) days prior to the public hearing. All such notification shall be given by and at the expense of the applicant, in such manner as shall be determined by the Chairperson of the Planning Board. The applicant shall submit to the Planning Board a list of persons who are required to receive a notice of the public hearing and an affidavit that the notice was provided to everyone on the list; such list and affidavit shall be submitted at or prior to the public hearing.
 - (c) The Planning Board may provide that the public hearing be further advertised in such manner as it deems most appropriate for full public consideration of the final plat.
3. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty (120) days after it has been opened.

(D) Decision on final plat

1. The Planning Board shall make its decision on the final plat as follows:
 - (a) If the Planning Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board, by resolution, shall conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two (62) days after the date of the public hearing.
 - (b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the DEIS, the final environmental impact statement shall be filed within forty-five (45) days following the close of such public hearing. If no public hearing is held on the DEIS, the final environmental impact statement shall be filed within forty-five (45) days following the close of the public hearing on the final plat. Within thirty (30) days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the final plat.
2. The reasons for modification, if any, or the grounds for disapproval of the final plat shall be stated in the minutes of the Planning Board.

Section 3.5 Certification of Final Plat

1. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, the plat shall be certified by a designated member of the Planning Board as having been granted conditional or final approval, and a copy of such resolution and plat shall be filed in the office of the Planning Board.
2. A copy of the resolution shall be mailed to the applicant and to the owner, if different from the applicant. If the plat has been conditionally approved, the resolution shall include a statement of the requirements which must be met before the plat can be signed.
3. Upon completion of the requirements specified in the resolution, the plat shall be signed by the duly authorized officer of the Planning Board. A copy of the signed plat shall be filed in the office of the Village Clerk.
4. Every final plat submitted to the Planning Board for its approval shall carry the following endorsement, which shall be signed by the duly authorized member of the Planning Board:

"Approved by Resolution of the Planning Board of the Village of Allegany, New York, on the _____ day of _____, _____, subject to all requirements and conditions of said Resolution.

Signed this ____ day of _____, _____, by _____,
Designee."

5. Within five (5) business days from the date of the adoption of the resolution stating the decision of the Planning Board on the final plat, the chairman or other duly authorized member of the Planning Board shall file a copy of the resolution in the office of the Village Clerk.

Section 3.6 Expiration of Conditional Approval of Final Plat

Conditional approval of the final plat shall expire within one hundred eighty (180) days after the resolution granting such approval, unless all requirements stated in such resolution have been certified as completed. The Planning Board may extend the time in which a conditionally approved plat must be submitted for signature, by not more than two additional periods of ninety days each, if, in the Planning Board's opinion, such extension is warranted by the particular circumstances.

Section 3.7 Filing of Final Plat

1. The owner shall file the approved final plat, or section of that plat, in the office of the Cattaraugus County Clerk within sixty-two (62) days from the date of final approval, or such approval shall expire.
2. If the owner shall file only a section of such approved plat in the Office of the Cattaraugus County Clerk, the entire approved preliminary plat shall be filed with the Village Clerk within thirty (30) days of the filing of such section. Any section of an approved final plat which is filed in the Office of the County Clerk shall encompass at least ten (10) percent of the total number of lots contained in the approved preliminary plat. The approval of the remaining sections of the approved preliminary plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Section 265-a of NYS Town Law.

Section 3.8 Default Approval of Preliminary or Final Plats

Pursuant to Section 7-728 (8) of New York State Village Law, if the Planning Board fails to take action on a preliminary or final plat within the time periods proscribed, the preliminary or final plat shall be deemed to be approved. Nevertheless, the proscribed time periods may be extended by mutual consent between the owner and the Planning Board.

Section 3.9 Resubdivision and Lot Line Adjustment

(A) Resubdivision

The resubdivision of property shall follow the same procedure specified elsewhere in these regulations for a subdivision. In such instance, the number of lots affected by such resubdivision shall determine whether it is processed as a major or minor subdivision.

(B) Lot Line Adjustment

A lot line adjustment is a type of resubdivision that consists solely of the simple alteration of lot lines where no additional lots are created or deleted. Application for approval of a lot line adjustment shall be made to the Planning Board. The proposed lot line adjustment shall be shown on a plat map prepared by a licensed surveyor. Said map, which shall be labeled "Resubdivision Map," shall be reviewed by the Planning Board for the purpose of determining compliance with local zoning requirements. Once compliance has been determined, the Planning Board's designee shall sign the resubdivision map, which may thereafter be filed in the Office of the Cattaraugus County Clerk. A copy of the signed map shall be filed with the Village Clerk.

ARTICLE 4: SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

Section 4.1 Sketch Plan

Sketch plans shall be drawn to scale, and shall show the following information:

1. Title or name of subdivision
2. North arrow, graphic scale, and date
3. Name of the owner of record, the subdivider (if different from owner) and their addresses.
4. Name, address, and telephone number of the professional(s) responsible for the subdivision design, design of public improvements, and for surveys.
5. The approximate location, dimensions, and areas of all proposed or existing lots.
6. The approximate location and widths of proposed streets.
7. The approximate location, dimensions, and area of all parcels of land proposed to be set aside for park or playground use, or other public use, or for other open space use.
8. General topography and drainage patterns of the property to be subdivided.
9. The one hundred year floodplain and wetlands, if any.
10. If the developer intends to develop the property in sections, the entire property shall be shown on the sketch plan, with the anticipated sections and the timing of development indicated on the plan.
11. A general location map, showing streets, adjacent lots and other general development of the surrounding area.

Section 4.2 Preliminary Plat

- (A) The preliminary plat shall clearly be marked "preliminary plat." If more than one (1) sheet is required to show an entire tract, an index map drawn to scale showing all sheets shall be provided.
- (B) If the subdivider is someone other than the owner, an affidavit from the owner of the land consenting to the application shall be filed.

- (C) The preliminary plat map shall be drawn at a scale of not more than one hundred (100) feet to one (1) inch and shall include the following information:
1. Title or name of subdivision.
 2. North arrow, graphic scale, and date.
 3. Name of the owner of record, the subdivider (if different from owner) and their addresses.
 4. Name, address, and telephone number of the professional(s) responsible for the subdivision design, design of public improvements, and surveys.
 5. A location map, to scale, showing the general location of the property. This map shall show the names of the owners of adjacent properties. This map shall also show land contiguous to the land that is the subject of the application, which is controlled by the owner or subdivider, showing the approximate acreage of such land.
 6. A topographic map of the entire site, showing contours at not more than twenty (20) foot intervals. If additional information is needed to review the proposed subdivision, the Planning Board may require topographic data for land areas within two hundred (200) feet of the property boundary.
 7. A preliminary grading plan of the site at a contour interval of twenty (20) feet. The grading plan shall identify the locations and approximate sizes of cuts and fills and cross sections for any final grading steeper than three foot horizontal to one foot vertical (3 to 1) distance, or where the cut or fill will be more than five (5) feet.
 8. The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.
 9. The zoning district(s) of the site and the location of any municipal boundary lines within the tract.
 10. The location of existing pertinent topographic and manmade features on the site shall be shown, including streets; easements; existing buildings; watercourses; water bodies; wetlands; the one hundred year floodplain; wooded areas; and individual trees eight inches or more in diameter, measured four feet above ground level. Features proposed to be retained as well as those proposed to be removed shall be indicated on the map.
 11. General layout of proposed streets and alleys; sidewalks; easements for utilities, drainage or other purposes; and blocks and lots within the proposed subdivision. The width, grade and approximate gradients of proposed streets and sidewalks, and tentative street names, shall be shown.

12. Preliminary profiles along the centerline of proposed streets showing existing ground surface, and proposed finished street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
13. Preliminary cross-sections of the proposed street right-of-way showing grading, street, driveway access, sidewalks and utility locations. These cross-sections shall be taken every 100 feet and shall extend from building setback line to building setback line.
14. The location, dimensions and areas of all proposed or existing lots. Lots shall be identified by individual lot numbers.
15. Minimum building setback lines, as required by the Village's zoning law. This constitutes the permitted building envelope.
16. If any, the location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purposes of those set-asides, and conditions, if any, of the dedication or reservation.
17. Draft deed restrictions, protective covenants or homeowner's association by-laws, if any. The Planning Board may require inclusion of certain restrictions or covenants or the formation of a mandatory homeowners association as a prerequisite to the approval of the Final Plat. However, the Village of Allegany shall not be responsible for enforcing the developers' restrictive covenants, which may be more restrictive than the zoning law.
18. The extent and sequence of the phases in a subdivision proposed to be developed in sections.
19. A general indication of how municipal water supply and sewage disposal will be provided, including the extension of any new lines, if necessary.
20. A general description of the provision for garbage disposal.
21. Locations of existing and proposed utilities.
22. Existing streets immediately adjoining and within the tract to be subdivided.
23. A map showing all soils and their classification. Areas with moderate to high susceptibility to erosion, if any, shall be highlighted.
24. A separate drainage report, including calculations for runoff and pipe and channel sizing, which clearly describes how runoff is to be handled during grading and development. The use of erosion and sedimentation prevention measures shall be described. The report shall provide

sufficient details to indicate how the subdivider will comply with the requirements for stormwater management plans administered by the NYS Department of Environmental Conservation (DEC). The report shall include the preliminary design of bridges and culverts.

Section 4.3 Final Plat

- (A) The final plat shall contain sufficient survey data to readily determine the location, bearing and length of all lines shown thereon and to permit the reproduction of such lines upon the ground.
- (B) After the final plat application has been approved by the Planning Board, two mylar (or similar permanent material) copies of all maps shall be submitted to the Planning Board for the required signatures. One approved and signed copy shall be retained by the Village; the other shall be returned to the applicant to be filed with the County Clerk.
- (C) The Planning Board shall determine the number of paper copies of each set of maps that it will require during its review process.
- (D) The final plat shall be a size acceptable to the Cattaraugus County Clerk's Office. It shall be drawn at a scale of not more than fifty (50) feet to one inch. Where more than one sheet is required to depict the entire subdivision, an index map drawn to scale showing all sheets shall be provided.
- (E) The final plat map shall be prepared by a licensed land surveyor and shall contain the following information:
 - 1. Title or name of subdivision.
 - 2. North arrow, graphic scale, and date.
 - 3. Name of the owner of record, the subdivider (if different from owner) and their addresses.
 - 4. Name, address, and telephone number of the professional(s) responsible for the subdivision design, design of public improvements, and surveys.
 - 5. The names of the owners of adjacent lands and the names of adjacent subdivisions.
 - 6. The lines of existing and proposed streets and sidewalks both within and immediately adjoining the subdivision.
 - 7. The names of existing and proposed streets.
 - 8. Final profiles along the centerline of proposed streets showing existing ground surface, and proposed finished street grades, including extensions for a reasonable distance beyond the limits

of the proposed subdivision.

9. Final cross-sections of the proposed street right-of-way showing grading, street, driveway access, sidewalks and utility locations. These cross-sections shall be taken every 100 feet and shall extend from building setback line to building setback line.
10. Tract boundary lines, right-of-way lines of streets, easements, other rights-of-way, and property lines of lots, with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.
11. The precise layout of proposed lots, including lot numbers and dimensions and areas. If a proposed lot contains existing buildings, the setbacks for such buildings shall be indicated.
12. The lines and purposes of existing and proposed easements both within and immediately adjoining the subdivision.
13. The lines, dimensions and bearings and area in square feet of all property proposed to be reserved by deed restriction or covenant for the common use of property owners in the subdivision or for any other reason.
14. Plans for any proposed park or playground within the subdivision, including landscaping.
15. Sufficient data to determine readily the location, bearing and length of every street, lot and boundary line shown on the plan.
16. Plans, profiles, and typical, as well as special, cross sections of proposed stormwater drainage facilities, including any storm water detention facilities.
17. The final subdivision grading plan. The grading plan shall have a contour interval of a maximum of five (5) feet. The grading plan shall identify the locations and sizes of cuts and fills and cross sections for any final grading steeper than three foot horizontal to one foot vertical (3 to 1) distance, or where the cut or fill will be more than five (5) feet.
18. Drainage plan for stormwater runoff and a Soil Erosion and Sedimentation Control Plan during construction. If a Stormwater Pollution Prevention Plan is required by the NYS Department of Environmental Conservation, this will meet the Village's requirement.
19. All required approvals, including local, county and state approvals, for the water supply and sewage disposal systems. Where any water or sewer line, water plant or sewage treatment plant is to be installed by the subdivider outside existing districts, the establishment or enlargement of a water district and/or a sewer district may be required at the expense of the subdivider.

20. The locations and description of monuments (shown thus "x") and corner lot markers (shown thus "o").
21. The locations of any zoning district boundary lines within the subdivision.
22. Specifications for all bridges and culverts, and approvals from the appropriate jurisdiction.
23. The seal and certification by a licensed surveyor as evidence of professional responsibility for the preparation of the final plat.
24. A place for the libre and page numbers when filed.
25. A place for the endorsement by the Planning Board, as specified in Article 3 of these subdivision regulations.
26. Offers of dedication to the Village involving any open space, recreation, street or other improvements. Such offers shall be received and approved by the Village Attorney as to their legal sufficiency. Prior to the acceptance of the dedication of new streets, a certificate by a licensed surveyor shall be filed, certifying that the monuments have been placed as indicated on the final plat map. Note that the offer of dedication does not constitute acceptance of the dedication by the Village Board of Trustees.
27. Statement of those facilities to be retained by the subdivider, including the method of maintenance and improvement thereof.
28. Descriptions of easements and legal covenants.
29. A copy of the by-laws of homeowners' association and any restrictive covenants or deed restrictions, if any.

ARTICLE 5

COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Section 5.1 Improvements to be Required

- (A) Pursuant to Section 7-730 of NYS Village Law, prior to the approval of the final plat by the Planning Board, the subdivider shall install, at his/her own expense, all improvements required by the Planning Board. Such improvements include, but are not limited to, streets, sidewalks, curbing, lighting, street trees, storm drainage, sanitary sewer and water supply.
- (B) As an alternative to the installation of infrastructure and improvements, the subdivider shall provide a performance bond or other security sufficient to cover the full cost of the installation of such infrastructure and improvements, as determined by the Planning Board. The Planning Board may consult with other Village boards and officials in making this determination.
- (C) **Form of Security.** Any such performance bond or other security must be provided pursuant to a written security agreement with the Village of Allegany. The security agreement shall be approved by the Village Board of Trustees. The security agreement shall be satisfactory to the Village Board and to the Village Attorney as to form, sufficiency, manner of execution, and surety. The form of security shall be limited to:
1. A performance bond issued by a bonding or surety company;
 2. The deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in the state of New York.
 3. An irrevocable letter of credit from a bank located and authorized to do business in the State of New York.
 4. Obligations of the United States of America
 5. Any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the Village, such security shall be held in a Village account at a bank or trust company.
- (D) The performance bond or other security shall be payable to the Village of Allegany. The contract between the Village and the subdivider shall provide that the subdivider, his heirs, successors, and assigns, or their agent, will comply with all applicable terms, conditions, provisions and requirements of these regulations; and will faithfully perform and complete the work of constructing and installing such infrastructure and improvements.
- (E) Any such performance bond or other security shall run for a term to be fixed by the Planning Board, up to a maximum term of three years. However, the term of such performance bond or other security may be extended by the Planning Board with the consent of the parties thereto.

- (F) A percentage of the total amount of the performance bond or other security shall be withheld by the Village for some period of time; this percentage shall be repaid to the subdivider following the completion, inspection, and approval by the Village of all construction and installation covered under such security agreement. At the time the performance bond or other security is accepted by the Village Board, that Board shall establish the percentage of the bond amount that shall be held by the Village, the time period during which it shall be held, and the conditions that must be met for the percentage to be released to the subdivider.

Section 5.2 Schedule of Improvements

- (A) When a security agreement is entered into between the Village and the subdivider, such agreement shall include a schedule of improvements to be completed and the cost of such improvements. When each phase of improvements is completed to the satisfaction of the Village, the cost as listed in the agreement may be repaid to the subdivider, upon approval by the Village Board of Trustees.
- (B) The subdivider may request an extension of the time necessary to complete a scheduled improvement, provided he can show reasonable cause for the inability to perform said improvement(s) within the required time. The extension of time shall not exceed six (6) months.

Section 5.3 Inspections

- (A) Periodic inspections during the installation of improvements shall be made by the Code Enforcement Officer, or such other person that the Village Board may designate, to insure conformity with the approved plans and specifications as contained in the subdivider's contract and these regulations.
- (B) The subdivider shall notify the Code Enforcement Officer or other designee when each phase of improvements is ready for inspection.

Section 5.4 Default of Security Agreement

In the event that any required improvements have not been installed as required under the terms of the security agreement, the Village Board of Trustees may declare the subdivider to be in default, and may collect the funds remaining in the performance bond or other security. Upon receipt of such funds, the Village shall install the required improvements commensurate with the extent of funds remaining, but not exceeding in cost the amount of such proceeds.

Section 5.5 Acceptance of Streets and Other Facilities

When the Code Enforcement Officer or other designee, following final inspection of the subdivision, certifies to the Village Board of Trustees that installation of all infrastructure and other improvements have been completed in accordance with the security agreement, the Village Board may, by resolution, accept the streets and other facilities that have been completed.

Section 5.6 Security Where Plat is Approved in Sections

If the subdivider is authorized to file the approved plat in sections, installation of improvements or the completion of a security agreement shall only be required for that section of the plat which is being immediately filed in the Office of the County Clerk. However, a separate security agreement or installation of improvements shall be required for each section of the plat, and the developer shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the Clerk of Cattaraugus County and the required improvements have been installed or a security covering the cost of such improvements in other section(s) of the subdivision has been provided.

Section 5.7 Homeowner's Associations

In cases where a proposed subdivision contains common open space areas, common driveways or other features that will be held in common and maintained by a Homeowner's Association, the subdivider shall submit the proposed Homeowner's Association By-laws to the Planning Board for its review and approval prior to final plat approval.

The Homeowner's Association By-laws or other legal arrangements shall specify ownership of the open space areas and/or other common features; the method of maintenance; responsibility for maintenance, taxes, and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain common features will not be dissolved without the consent of the Village Board of Trustees; and any other specifications deemed necessary by the Village Attorney.

The Homeowner's Association By-laws or other legal arrangements shall require that the subdivider shall be a member of the Association; the subdivider's membership shall continue until all of the lots of record have been sold.

Section 5.8 Common Open Space

If a subdivision contains common open space, which is not dedicated to the Village, it shall be protected by legal arrangements, satisfactory to the Village Attorney, sufficient to assure its maintenance and preservation for whatever purpose is intended.

ARTICLE 6

DESIGN STANDARDS

Section 6.1 General Provisions

- (A) The entire subdivision shall be designed so as to logically relate to the topography of the site and to take advantage of and preserve the natural beauty of the area, including wooded areas, vistas, watercourses and other such features. To the maximum extent possible, existing features of the landscape, such as large trees, rock outcrops, wetlands, hillsides, water courses and other significant natural assets that would add to the value of the site shall be preserved in the design of the subdivision. Environmentally sensitive areas and areas of potential hazard, such as wetlands, floodplains, and steep slopes shall be avoided as locations for buildings and roadways, to the maximum extent feasible.
- (B) Proper provision shall be made for drainage, water supply, sewage disposal and other necessary improvements.
- (C) Roadways shall be of such width, grade and location so as to accommodate the type and volume of traffic that is anticipated, to facilitate fire protection and to provide fire-fighting equipment with access to buildings. Roadways and driveways shall be designed to fit into the landscape and to minimize the potential for erosion.
- (D) All plans for improvements shall be prepared by a professional engineer registered to practice in the State of New York. Final plat map shall be prepared by a land surveyor licensed by the State of New York.
- (E) The installation of all improvements shall be at the expense of the subdivider.

Section 6.2 Lots and Blocks

- (A) The arrangement and dimensions of lots shall be designed in such a manner that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits in compliance with existing zoning regulations.
- (B) Each lot shall have appropriate access to an existing or proposed street.
- (C) Block lengths and widths shall be appropriate to accommodate the size of lots required by the Village's zoning law and to provide for convenient access, circulation and traffic safety.
- (D) Side lot lines shall be substantially at right angles to streets or radial to curved streets and, unless otherwise dictated by topography, shall be straight lines. Rear lot lines shall be substantially at right angles to side lot lines, unless otherwise dictated by topography. The Planning Board shall have

the authority to vary these standards when the design of the subdivision will be improved through an alternative design.

- (E) Lot lines shall be laid out as much as possible so that side or rear lot lines follow the centerlines of streams or drainage ways, if any, that may lie within the subdivision.
- (F) Through lots and reversed frontage lots shall be avoided, except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

Section 6.3 Building Envelopes

(A) Designation of Building Envelopes

1. A building envelope shall be shown for all lots in a subdivision on both the preliminary and final plats. In most cases the building envelope shall be the same as the building setback lines required by the Village's zoning law. However, in certain cases the Planning Board may require a more restrictive building envelope.
2. The Planning Board may require a more restrictive building envelope if it determines that certain features of a site should be protected from development. Features that may trigger the requirement for a more restrictive building envelope include one or more of the following:
 - (a) One-hundred year floodplain
 - (b) Creeks, streams and ponds
 - (c) Wetlands designated by the State of New York; U.S. Army Corps of Engineers; and/or U.S. Fish and Wildlife Service.
 - (d) Locally significant wetlands
 - (e) Hillsides with steep slopes, defined as a slope of 25 percent or greater
 - (f) The presence of significant historical, archaeological or natural resources, such as major stands of significant, healthy trees; stone walls; or resources placed on the National or State Registers of Historic Places.
3. If the Planning Board requires a more restrictive building envelope than those required by the setbacks in the zoning law, the more restrictive building envelope shall be large enough to allow flexibility for the ultimate development of the lot.
4. In addition to the building envelopes, the Planning Board may require that the final plat contain a notation indicating that all buildings shall be located within the designated building envelope.

(B) Standards for Building Envelopes

1. Building envelopes shall not include wetlands, floodplains, or areas of steep slopes.

2. Building envelopes shall be set back 100 feet from the designated boundary of a state or federally designated wetland.

Section 6.4 Streets

(A) Streets Required

1. All new streets shall be installed at the expense of the subdivider. Streets shall have a hard-surfaced pavement width, as specified on the final plat, and shall be built to Village specifications. All new streets shall have a minimum right-of-way width of 50 feet, unless the Planning Board determines that a larger right-of-way width is required by the special circumstances of a particular location.
2. All new streets shall be offered for dedication to the Village of Allegany.

(B) Design and Layout of Streets

1. Each lot shall have access to a street built to the Village's specifications. All streets shall have curbs and gutters. All streets shall have an adjacent sidewalk, with a planting strip located between the curb and the sidewalk.
2. Streets shall be designed taking into account the topography of the site. Street design shall strive to minimize areas of large cut and fill.
3. Streets shall be designed to connect to existing Village streets where possible. The extension of the existing Village street pattern and interconnectivity of streets shall be a priority.
4. Where a new subdivision abuts undeveloped land, the street pattern shall allow for extension into the adjacent land at some future time.
5. Cul-de-sacs (dead end streets) shall be discouraged. Where cul-de-sacs are allowed, the length shall not be so long that the provision of emergency services is adversely affected. The turnaround at the end of the cul-de-sac shall have a minimum outside radius of thirty (30) feet.
6. The grade of streets shall not exceed eight (8) percent. In order to facilitate drainage, no street grade shall be less than 0.5 percent.

(C) Street Widths

1. The Planning Board shall determine the required minimum right-of-way width and required minimum pavement width for each new street. This determination shall be based on the type of street according to the street classification system (See Article 2: Definitions) and the specific characteristics of the site. In general, streets shall have a right-of-way width of a minimum of 50 feet, and a constructed, hard-surfaced pavement width of a minimum of twenty-four (24) feet. Streets classified as collectors may require a wider surface pavement and/or a wider right-of-way.
2. The Street Pavement Widths Table shall be used to establishing minimum street pavement widths:

Street Pavement Widths

<u>Street Type</u>	<u>Width in feet</u>
Access street	24
Subcollector	24-30
Collector	28-36

3. The Street Pavement Widths Table is based on the following standards. The Planning Board shall use these standards to adjust the street width as necessary for a particular situation.
 - (a) The street classification system defined in Article 2.
 - (b) Travel lanes should be a minimum of 12 feet wide each.
4. The width of the street shall be measured from curb face to curb face.

(D) Street Intersections

1. Street intersections of less than ninety (90) degrees (right angle) shall be discouraged, and intersections of less than sixty (60) degrees shall not be permitted.
2. There shall be a minimum separation of 125 feet between intersections.
3. No more than two streets shall intersect at any one point, unless specifically approved by the Planning Board.
4. The minimum curb radius at the intersection of two access streets shall be a minimum of 15-20 feet. The minimum curb radius at an intersection involving a subcollector or collector street shall be 25-30 feet.

(E) Street Names

No street shall have a name that will duplicate, or so nearly duplicate so as to be confused with, the names of existing streets. The continuation of an existing street shall have the same name.

Proposed street names shall be shown on the preliminary and final plats, and the Planning Board shall approve the street name as part of the plat approval.

Section 6.5 Sidewalks

Sidewalks shall be required along all new streets. Sidewalks shall be installed at the expense of the subdivider. Sidewalks shall meet Village specifications for construction. Sidewalks shall conform to all the requirements of the Village's Local Law 2-2000, A Local Law Relating to the Construction, Repairs, Alteration, Cleaning and Maintenance of Sidewalks, as it may be amended from time to time.

Section 6.6 Water Supply and Sewage Disposal

The lots in any new subdivision shall be required to connect to the Village's water supply and sewage disposal systems.

Section 6.7 Stormwater Management

- (A) All applications for subdivisions shall include a stormwater management plan, which adequately provides for the stormwater runoff that would be associated with the project.
- (B) Lots shall be laid out and graded to provide positive drainage away from buildings.
- (C) The stormwater management plan shall be designed to prevent increased runoff over adjacent properties.
- (D) It is preferred that stormwater be directed to an existing village stormwater drain, by using curbing and gutters. Other methods for controlling stormwater will be considered by the Planning Board.

Section 6.8 Monuments

- (A) Permanent monuments shall be placed at all block corners, and at tangent points or curves in streets.

- (B) Permanent monuments shall be located at each corner of each lot.
- (C) All monuments are to be set flush with the finished grade as shown upon the approved plans. Monuments marking street lines shall be distinctly different from those marking building lots.
- (D) The location of all monuments shall be shown on the final plat.
- (E) Monuments shall be installed by a licensed land surveyor, who shall certify to the Village clerk that the monuments have been installed as shown on the final plat, prior to final plat approval.

Section 6.9 Telephone, Cable, Electric, and Similar Utilities

- (A) All existing and proposed utilities throughout the subdivision shall be shown on the preliminary plat.
- (B) Service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the Planning Board, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- (C) Utilities shall be installed underground for subdivisions containing four or more lots. If a subdivision contains fewer than four lots, the Planning Board may require that the utilities be underground, if the utilities in the surrounding area are also installed underground. Infill lots in an area with overhead utilities may receive service from the existing lines, but secondaries from the pole to the house shall be buried.

Section 6.10 Street Lighting

Street lighting, installed at the expense of the subdivider, shall be required for all subdivisions that create new streets. A plan for street lighting shall be provided with the preliminary and final plats for Planning Board review and approval.

Section 6.11 Grading

- (A) Grading shall be designed to conserve natural topographic features and appearances by means of contour grading to blend graded slopes and benches with the natural topography.
- (B) To the maximum extent possible, land that has an average slope of 25 percent or greater shall not be graded and shall remain in its natural state, except that natural vegetation may be supplemented by other planting and landscaping.

- (C) Slopes created by grading of the site shall not exceed 50 percent, or 2:1, unless an engineering report indicates that a steeper slope will not pose a hazard.
- (D) Tops and toes of cut and fill slopes shall be rounded to create the appearance of a natural slope.
- (E) Tops and toes of cut and fill slopes shall be set back from property boundaries a minimum distance of three feet.
- (F) All areas disturbed for the construction of required roadways and utilities and other development of the subdivision shall be stabilized and covered as soon as possible. Areas to be landscaped shall be reseeded or replanted as soon as practical, but within one growing season. Other disturbed soil surfaces shall be stabilized and covered by other means acceptable to the Planning Board, such as walls or graveled access ways.

Section 6.12 Street Trees

- (A) Whenever new streets are installed, the subdivider shall plant street trees along both sides of the new street. The trees shall be installed in the planting strip between the roadway edge and the sidewalk. All street trees shall be shown on the preliminary and final plats. The Planning Board shall approve the species and location of all trees, according to the following standards:
- (1) The trees cast moderate to dense shade in summer
 - (2) The trees are long-lived; i.e. have a life expectancy of 40 years or more
 - (3) The trees are tolerant of road salt and other expected roadside conditions
 - (4) The trees require little maintenance, because they are mechanically strong, resistant to wind damage, and insect- and disease-resistant.
 - (5) The size of the mature trees is appropriate to the location for which they are proposed.
- (B) The Planning Board may use the publication *Urban Trees: Site Assessment Selection for Stress Tolerance Planting*, by the Urban Horticulture Institute of Cornell University, or similar publication, when assessing the suitability of trees. A diversity of tree species should be planted to avoid damage due to insect infestations or diseases.
- (C) Trees shall be planted on both sides of the roadway according to the following schedule. Trees shall be arranged such that their location does not conflict with the Visual Clearance at Driveways and Intersections provisions of the Village's Zoning Law.

Spacing between Street Trees

<u>Tree height (at maturity)</u>	<u>Distance Apart</u>
Large trees (50 ft. and over)	40-50 feet

Medium trees (25-50 ft.)	30-40 feet
Small trees (less than 25 ft.)	20-30 feet

Medium and large trees shall be preferred over small trees, unless specific site circumstances warrant the smaller tree size. Trees should be generally equally distributed along the street frontage, but are not required to be at absolutely equal intervals.

- (D) The size of the trees at the time of planting shall be a minimum of two (2) inches in caliper, measured six inches from the ground.
- (E) The subdivider shall post a bond, for a period of two years, that is sufficient to replace trees that die, are dying or become diseased during this period.
- (F) All street trees shall be installed in accordance with the provisions of the Village of Allegany Local Law 2-1999, regarding trees, shrubs and grasses.

Section 6.13 Cluster Subdivisions

(A) Authority

Pursuant to Section 7-738 of NYS Village Law, the Planning Board is hereby authorized to approve a cluster development, as defined in Article 2 of these regulations, simultaneously with the approval of preliminary and final plats. In approving a cluster development, the Planning Board may modify the lot size and setback requirements of the Village's zoning law, in order to provide for areas of dedicated open space within the development. However the overall density of subdivision may not be increased.

(B) Purpose

The purpose of cluster subdivisions is to enable and encourage the flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands and to provide for common open space areas.

(C) Standards

1. A cluster development shall not result in an increase in the permitted number of building lots or dwelling units that could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size, setback requirements and density requirements of the Village's zoning law. However, where a proposed subdivision falls within two or more contiguous zoning districts, the Planning Board may approve a cluster development representing the cumulative density of all units allowed in the districts and may

authorize any actual construction to take place in all or any portion of one or more of such districts.

2. As a condition of plat approval, the Planning Board may establish any conditions on the ownership, use and maintenance of open space areas or lands shown on the plat map, in order to assure the preservation of the natural and scenic qualities of such open lands, and to assure that they remain permanently dedicated as open space areas free from development.
3. A cluster development may be located in any zoning district where a subdivision would be permitted by the zoning law.
4. In addition to a residential subdivision for single family homes, an application for cluster development may be made when a subdivider proposes to build multiple family dwellings, such as townhouses, which will be individually owned. The parcel proposed for any multiple family dwelling must be located in a zoning district that permits such use.
5. A parcel that is the subject of a cluster development application shall be large enough to reasonably accommodate the building lots or buildings proposed for such use and to provide open space land of a reasonable size and use.

(D) Procedure

1. A cluster development shall be considered a subdivision. Application shall be made to the Planning Board for subdivision approval. The Planning Board shall review and make a determination on the application following the rules and procedures specified in these subdivision regulations.
2. In addition to other application materials required by these regulations, an application for a cluster development shall show the proposed open space(s) and their uses. The application shall include a description of the ultimate proposed ownership and maintenance of the open space areas.
3. If a cluster development includes multiple family dwellings, either as a part of the proposal or the entire proposal, the applicant shall submit a site plan that shows the open space areas; building locations; building elevations; and driveways, streets and parking areas. A landscaping plan is also required.

(E) Open space

1. All cluster developments shall contain open space that is equivalent in area to the total reduction in lot size.
2. The open space may be publicly or privately owned.

- (a) If the open space is offered for dedication to the Village of Allegany, the Village Board shall decide whether or not to accept the open space dedication. In making its determination, the Board shall consider the intended use of the land, the size and location of the land, the availability of the open space to the public, and the cost of development and/or maintenance of such open space.
 - (b) If the open space is owned by a Homeowners' Association or some other entity, the provisions of Section 5.7, Homeowner's Associations, and Section 5.8, Common Open Space, of these regulations shall be complied with.
3. The open space may be used for active or passive recreation or to preserve significant scenic or natural features of the site.
- (a) The usability of open space intended for a recreational or public use shall be determined by the size, shape, topography, and location of the open space in relation to the particular use proposed for that site.
 - (b) Open space intended for a recreational or public use shall be easily accessible.
 - (c) Open space may include significant natural features, such as, but not limited to, stream beds, floodplains significant stands of trees, scenic vistas, and rock outcroppings.

ARTICLE 7
EFFECTIVE DATE

These Subdivision Regulations shall take effect immediately upon filing with the NYS Secretary of State.