



TOWN OF BETHLEHEM

Chapter 103. Subdivision Regulations

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ARTICLE 1. GENERAL PROVISIONS

§103-1.1 SHORT TITLE

These regulations shall be known as and may be cited by the title "Subdivision Regulations, Town of Bethlehem."

§103-1.2 AUTHORITY

- A. By the authority of the Town Board of the Town of Bethlehem, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Bethlehem is authorized and empowered to approve plats showing lots, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the office of the Albany County Clerk and to conditionally approve preliminary plats, within that part of the Town of Bethlehem outside the limits of any incorporated village. In order that land subdivision may be made in accordance with this policy, these regulations, known as the "Town of Bethlehem Subdivision Regulations," have been adopted by the Planning Board on [DATE], and approved by the Town Board on [DATE].
- B. The Planning Board of the Town of Bethlehem is also hereby authorized and empowered, pursuant to Town Law §276, Subdivision 2, to approve the development of plats, entirely or partially undeveloped, which were filed in the office of the Albany County Clerk prior to the appointment of the Planning Board. The term "undeveloped" shall mean those plats where 20% or more of the lots within the plat are unimproved, unless existing conditions, such as poor drainage, have prevented their development.
- C. This Chapter is also intended to supersede and amend inconsistent provisions of Town Law §276, Subdivision 8, by eliminating the provisions for default approval resulting from the Planning Board's failure to take any action or hold any hearing on a preliminary or final plat within the statutory time periods.

§103-1.3 AUTHORIZATION TO APPROVE PLATS

The Town of Bethlehem has authorized its Planning Board and, under specified circumstances, its Department of Economic Development and Planning to approve plats showing lots, blocks or sites, with or without streets or highways, as a complete or as a partial development of land, and to approve such plats for filing with the office of the Albany County Clerk as provided in these regulations. The Clerk of the Town of Bethlehem shall immediately file a certificate of that fact with the office of the Albany County Clerk.

§103-1.4 AMENDMENTS

This Chapter may be amended by the Town Board after due notice and public hearing.

§103-1.5 PURPOSE

It is declared to be the policy of the Town Board to consider land subdivisions as part of the orderly and desirable development of land. These procedures, regulations, and standards serve as a guide to the review and approval of subdivision plats. The intent of these regulations is to encourage the most appropriate and best development of land in order to protect and promote the general health, safety and welfare, which is intended to include the following:

- A. Implement the vision and goals of the Town of Bethlehem Comprehensive Plan and other relevant adopted plans and studies.
- B. Assure that land to be subdivided will produce building sites of such character and area that will permit their development for homes or buildings without danger to health or peril from fire, flood or other menace.
- C. Facilitate the adequate and efficient provision of community facilities, services and utilities and require the most desirable and appropriate systems for drainage, water supply, sewage disposal and other needed improvements, including any appropriate parks and playgrounds.
- D. Promote the safe and convenient circulation of vehicles and pedestrians and to promote the efficient design, location and construction of roads, streets, sidewalks, pathways, and driveways so as to accommodate current and future needs, including providing healthy options for physical activity and clearly defined multi-modal connections for economic and employment viability.
- E. Minimize the destruction of the natural character, biodiversity, and ecological integrity and function of the land and promote the conservation of all elements of topography and vegetation which contribute to the natural beauty of the land.
- F. Ensure fairness and equity in all development providing for the housing, services, health, safety and livelihood needs of all citizens and groups, while maintaining resident privacy and enhancing the general appearance of the community.
- G. Establish an interconnected logical framework comprised of the streets, utilities, parks and lots that are created in a manner that allows for any development or redevelopment with a defined system of streets, blocks, and lots that front either public or private streets.
- H. Promote good civic design and arrangement that improves, the layout, form, and relationship between sites, buildings, lots, natural features, parks and open space, public spaces, and rights-of-way.
- I. Promote human health, economic vitality, safety, and welfare of the community both within larger developments and on individual lots through the careful organization of land, infrastructure, parks and open space that respect and are integrated into their context.

§103-1.6 SEVERABILITY

If any clause, sentence, paragraph, section or part of this Chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or as determined by such judgment.

§103-1.7 WHEN EFFECTIVE

This Chapter shall take effect upon the effective date of the local law, filed with the Secretary of State, that governs this Chapter.

ARTICLE 2. TERMINOLOGY

§103-2.1 MEANING & INTENT

The language of this Chapter must be read literally. Regulations are no more or less strict than stated. Words defined in this Chapter shall have the specific meaning assigned, unless the context expressly indicates another meaning. Words that are not defined in this Chapter shall have the relevant meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

§103-2.2 WORD USAGE

For the purposes of this Chapter, certain terms and tenses used herein shall be interpreted or defined as follows:

- A. Plurality.** Words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- B. Tense.** Words used in the present tense include the future tense. The reverse is also true.
- C. Nouns.**
 - 1. "Person" includes an association, firm, partnership, entity, or corporation or the plural of those words.
 - 2. "He" also includes the words "she" and "they."
 - 3. "Lot" shall include the word "plot," "parcel," "tract", or "site."
 - 4. "Building" includes the word "structure."
 - 5. "Premises" includes a lot and all buildings or structures thereon.
- D. Modal Verbs.**
 - 1. "Shall," "must," "will," and "may not" are mandatory or required.
 - 2. "May" is permissive and "should" is advisory or recommended, not mandatory or required.
- E. Conjunctions.** Unless the context otherwise clearly indicates, conjunctions have the following meanings:
 - 1. "And" indicates that all connected items or provisions apply.
 - 2. "Or" indicates that the connected items or provisions may apply singularly or in combination.
- F. Activity.**
 - 1. "Occupied" shall include "designed, arranged, or intended to be occupied."
 - 2. "Used" shall be deemed also to include "designated, intended, or so arranged to be used or

occupied."

3. "To erect," "to construct" and "to build" a building or structure each have the same meaning and include "to excavate" for a building and "to relocate" a building by moving it from one location to another.

§103-2.3 MEASUREMENT

- A. When used with numbers, "up to X," "not more than X," and "a minimum or maximum of X" all include X.
- B. Unless otherwise specified, all distances shall be measured horizontally along the ground from nearest edge to nearest edge.

§103-2.4 LISTS & EXAMPLES

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

§103-2.5 FRACTIONS

The following rules apply to fractional number unless otherwise expressly stated.

- A. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to two required trees.
- B. **Maximum Limits.** When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500 square foot lot, the resulting fraction of 2.5 is rounded down to 2 (allowed dwelling units).

§103-2.6 CURRENT VERSIONS & CITATIONS

All references to other town, county, state, or federal regulations in this Chapter refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, the requirements for compliance are no longer in effect.

§103-2.7 DEFINITIONS

When used in this Chapter, unless otherwise expressly stated or unless the context or subject matter otherwise requires, the following definitions shall apply:

Aa

AGRICULTURAL DISTRICT

An area designated pursuant to Article 25-AA of the New York State Agriculture and Markets Law.

ALLEY

A narrow street or passage between properties or buildings serving as a secondary means of access to abutting property.

APPLICANT

Any person, firm, corporation, partnership, association or other entity who or which shall lay out any land division, lot line revision, subdivision, or resubdivision, or part thereof, either on behalf of himself or itself or for another or others.

Bb

BLOCK

A tract of land, a lot or group of lots within a subdivision bounded by streets, streams, watercourses, railroad right of way, parks, the exterior boundaries of the subdivision, or any combination thereof.

BUFFER AREA or BUFFER ZONE

Open space, landscape areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another use or property so as to visually shield or reduce noise, light, or other nuisances.

BUILDABLE AREA

The space remaining on a lot after the minimum yard, area, and bulk requirements of Chapter 128, Zoning, have been met, or that area of the lot for which a variance from said minimum yard, area, and bulk requirements has been granted by the Zoning Board of Appeals.

BUILDABLE LOT

A lot having a buildable area capable of accommodating proposed principal and accessory improvements and including, where required, an on-site water supply facility and sewage treatment system that meet the standards of the Albany County Department of Health. A buildable lot shall also adjoin and have access to an improved street or shall adjoin and have access to a paper street that will be improved as part of the development plan for the lot.

BUILDABLE YIELD

The maximum unit density for a proposed subdivision after deduction of constrained land areas.

BUILDING

Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel.

BUILDING, FRONT LINE OF

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

BUILDING AREA

The total of the areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

Cc

CALIPER, NEWLY PLANTED TREE

Diameter of a newly planted tree as measured 6-inches above the ground.

CALIPER, EXISTING TREE

The diameter of an existing tree as measured at DBH (Diameter at Breast Height) which is 4.5 feet above the ground.

CLUSTER / CONSERVATION SUBDIVISION

A residential subdivision pursuant to Town Law §278 where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be concentrated on a smaller and more compact portion of land and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

COMPREHENSIVE PLAN

The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material, that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Town located outside the limits of any incorporated village.

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 authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk or Registrar as herein provided.

CONSTRAINED LAND

Land containing one or more of the following: state and/or federal protected freshwater wetlands and buffers; one-hundred-year floodplains or flood hazard areas; steep slopes of 20% and greater; and open bodies of water, including streams, ponds and lakes.

CUL-DE-SAC

A dead-end street or a portion of a street having only one vehicular outlet.

Dd

DEPARTMENT OF ECONOMIC DEVELOPMENT AND PLANNING

The Department of Economic Development and Planning of the Town of Bethlehem, New York, also sometimes referred to as "Department."

DEVELOPMENT PLANNING COMMITTEE

A committee appointed by the Director composed of staff members of various Town Departments involved in review of land use applications.

DIAMETER AT BREAST HEIGHT (DBH)

Diameter at Breast Height, which is measured 4.5 feet above the ground.

DIRECTOR

The Director of the Department of Economic Development and Planning of the Town of Bethlehem.

DWELLING

A building designed or used as the living quarters for one or more families. The term "dwelling," "single-family dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include a motel, boardinghouse, tourist home, or guest house.

DWELLING, MULTI-FAMILY

A building or portion thereof containing three or more dwelling units on one plot but which may have joint services or joint facilities, or both, also known as a "multiple dwelling," and includes apartment, townhouse, cooperative, and condominium developments, assisted living projects, and continuous care retirement community (CCRC) developments. Multi-family dwellings may also include dwellings limited to a specific number of dwelling units, including:

- 1. FOUR-FAMILY DWELLINGS**

A building designed for or occupied exclusively by four families living independently of each other.

- 2. THREE-FAMILY DWELLINGS**

A building designed for or occupied exclusively by three families living independently of each other.

DWELLING, SINGLE-FAMILY

A detached building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY

A building designed for or occupied exclusively by two families living independently of each other.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A trailer, motor home, travel or camping trailer, boarding- or rooming house, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging, nursing or other similar home, or other similar structure, shall not be deemed to constitute a "dwelling unit."

Ee

EASEMENT

Authorization by a property owner for the use by another, for a specified purpose, of any designated part of real property.

ELEVATION

The elevation, in feet, above mean sea level, as determined from the nearest United States Coastal and Geodetic benchmark of the principal building to be sited on a lot.

Ff

FINAL PLAT

A drawing prepared by a New York State licensed professional engineer or land surveyor (with appropriate certification), in a manner prescribed by these regulations, showing a proposed subdivision and containing, in such additional detail as shall be provided by these regulations, all information required to appear on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of a preliminary plat of such proposed subdivision if such preliminary plat has been

so approved and which, if approved, may be filed or recorded by the owner in the office of the Albany County Clerk.

FINAL SUBDIVISION PLAT APPROVAL

The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

Gg

GRADE, ESTABLISHED

The elevation of the center line of the streets as officially established by the Town authorities.

GRADE, FINISHED

The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GRADING

The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling to a depth greater than six inches.

Hh

HIGHWAY FRONTAGE

That portion of any lot which bounds a street, as measured along the property line, which is coincidental with such street right-of-way or center line, or on a corner lot in which case frontage is along both streets.

li

INCENTIVE ZONING

Adjustments to the requirements of the Town of Bethlehem Zoning Law in exchange for the provision of amenities, facilities, resources, or other such development asset deemed to be of benefit to the Town. Such incentives or bonuses shall be considered in accordance with Article 46 of Chapter 128 of the Town Code.

LI

LAND DISTURBANCE

Any activity involving the clearing, cutting, excavation, filling, grading or any other activity that alters land topography or vegetative cover.

LAND DIVISION

Any division of a parent parcel so as to create one new lot fronting on an existing street and not involving the construction of any new streets or roads, not involving a resubdivision, and not adversely affecting the development of the remainder of the parcel or any adjoining property and meeting the criteria of this Chapter and not in conflict with any provision or portion of Chapter 128, Zoning, or this

Chapter.

LOT

Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Chapter, having not less than the minimum area and width required by this Chapter for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT, DEPTH OF

The mean horizontal distance between the front and the rear lot lines, measured in the general directions of its side lot lines.

LOT, FLAG

A lot which has sufficient frontage on a public street to comply with the minimum lot frontage requirements of this Chapter but which is shaped in such a manner that the portion of the lot closest to the street can only be used for access purposes and not as a yard or buildable area, and whose width some distance back from the right-of-way is sufficient to provide proper space to meet the yard and setback requirements.

LOT, HOUSE

In cluster subdivisions, that portion of the subdivision reserved as a development area for the location of dwelling units and constituting lands outside of the protected open space areas.

LOT, INTERIOR

A lot other than a corner lot.

LOT, THROUGH

An interior lot having frontage on two parallel or approximately parallel streets but which is not a corner lot.

LOT COVERAGE

That percentage of the lot covered by impervious surface. This definition includes all buildings and structures as well as impermeable surfaces such as driveways, decks, patios, pools, parking areas, and other similar lot improvements.

LOT LINE

Any line dividing one lot from another.

LOT LINE, REAR

The lot line generally opposite to the street line; if the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the rear lot line shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT LINE REVISION or LOT LINE AMENDMENT

A change in the location of a boundary between two or more lots that may have been within a subdivision plat previously approved by the Planning Board or may pre-date the Town Planning Board

and filed in the Albany County Clerk's office.

LOT WIDTH

The mean distance measured at the required minimum front yard depth along a line at right angles to the depth of lot line and parallel to the street right-of-way (ROW) line.

[SIMPLIFIED ILLUSTRATION]

Oo

OFFICIAL MAP

The map and any amendments thereto adopted by the Town Board under §270 of the Town Law or by the County under §239-h of the General Municipal Law.

OPEN SPACE

Land left in a natural state for conservation and agricultural purposes or land landscaped for 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. 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 within 50 feet of a principal structure.

OWNER

The owner of record of a tract or parcel, the subdivision of which requires approval of the Planning Board, or a person or persons holding an option to purchase a tract or parcel, contingent only upon receipt of Planning Board approval of a proposed subdivision of such tract or parcel. The owner may be represented by a duly authorized agent or representative in the conduct of business before the Board, except in those instances specified hereafter that require the appearance of the owner in person.

Pp

PARENT PARCEL

A parcel of land legally in existence on the effective date of this Chapter. For purposes of this Chapter, the parent parcel shall be deemed to be that lot, parcel or tract of land owned by the person or persons as shown on the records of the Town of Bethlehem Assessor's office as of the effective date of this Chapter.

PLANNING BOARD

The Planning Board of the Town of Bethlehem, New York.

PRELIMINARY PLAT

A drawing, prepared in the manner prescribed in this Chapter, showing the layout of a proposed subdivision, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, and all proposed facilities, including preliminary plans and profiles, at suitable scale and in such detail as this Chapter requires.

PRELIMINARY PLAT APPROVAL

The approval of a proposed subdivision as set forth in a preliminary plat, but subject to the approval of the final plat in accordance with the provisions of this Chapter.

PROPERTY

Any lot or parcel of land.

Rr

RESUBDIVISION

A change in a subdivision plat previously approved by the Planning Board and filed in the County Clerk's office, which change affects any street layout shown on such plat, affects any area reserved thereon for public use, or changes the number of lots.

Ss

SECRETARY OF THE PLANNING BOARD

The individual appointed by the Planning Board to perform, among other things, the duties set forth in Town Law §274-a, §274-b, §276, §277, and this Chapter.

SEQRA / SEQR

The State Environmental Quality Review Act provided for by Article 8 of the NYS Environmental Conservation Law.

SKETCH PLAN

A conceptual sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions and with reference to the minimum lot and area requirements of the zoning district in which the property is located.

SKETCH PLAN REVIEW / DEVELOPMENT PLANNING COMMITTEE (DPC)

The review of a conceptual layout of a proposed subdivision by the Department of Economic Development and Planning. The review is limited to ensuring that the proposed subdivision meets the minimum lot and area requirements as set forth in the Town Zoning Law, Chapter 128, subject to approval of the plat in preliminary and/or final form in accordance with the provisions of this Chapter.

SLOPE OF SITE, MEANS OF MEASURING

The vertical distance, in feet, between the highest elevation of a lot or development and the lowest elevation of a lot or development, divided by the horizontal difference between these two elevations, in feet, said horizontal distance ordinarily to be the natural course of stormwater runoff. Should the site be sufficiently large, in the judgment of the Planning Board, and heterogeneous in character (difference of one or more slope factors), the site should be divided into different measurement units, with a gradient defined for each.

STEEP SLOPES

All ground areas having a topographical gradient equal to or greater than 20%, measured by utilizing two-foot contours.

STREET

A right-of-way, typically publicly owned, serving primarily as a means of vehicular and pedestrian travel, providing access to abutting properties, and which may also be used to provide space for bicycle facilities, stormwater management facilities, shade trees, and utilities. Streets shall be designated and constructed in accordance with Chapter 100, Streets and Sidewalks, of the Town of Bethlehem Code, the Town of Bethlehem Department of Public Works Guidelines for Final Subdivision Plans, and the State Highway Law, as amended.

STREET, ARTERIAL

A street designed to be used by large volumes of through traffic, receive traffic flow from collector and local streets, allow for major movement between areas of the Town, and usually have heavy traffic moving at relatively high speeds.

STREET, COLLECTOR

A street that carries traffic from local streets to the arterial network, consists of principal entrance streets for residential, nonresidential and mixed-use developments, and provides for major circulation within the developments. These streets can be broken down into major and minor with major collectors typically being longer in length, having lower connecting driveway densities, having higher speed limits, spaced at greater intervals, having higher annual average traffic volumes, and may have more travel lanes than minor collectors.

STREET, LOCAL

A street designed primarily for access directly to individual lots or developments. These streets are not intended for use in long distance travel as they are often designed to discourage through traffic.

STREET, PRIVATE

An interior circulation road designed and constructed to carry traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC

A right-of-way that has been set aside for public travel, built to public street standards, and eligible for maintenance by either the Town or the State of New York.

STREET GRADE

The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

STREET LINE

The dividing line between the street and the lot.

STREET PAVEMENT

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

STREET WIDTH

The distance between property lines.

SUBDIVISION

The division of any parcel of land resulting in the creation of three or more lots, plots, or sites, with or without streets or highways, for the purpose, with respect to any portion of the original parcel, of immediate or future development, or for the immediate or future sale, lease or any other transfer of any interest in any portion of such original parcel. The term "subdivision" shall include a resubdivision.

SUBDIVISION, CONVENTIONAL

The subdivision of land into lots that meet or exceed the minimum area, yard, and bulk regulations of the district in which it is located.

SUBDIVISION, MAJOR

Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or road or the extension of municipal facilities.

SUBDIVISION, MINOR

Any subdivision or resubdivision containing not more than four lots fronting on an existing improved public street and not involving construction of any new street(s) or road(s) and that meets the criteria of Article 5 of this Chapter.

SUPERINTENDENT

The duly elected Town Superintendent of Highways of the Town of Bethlehem, NY, or other such authorized official.

Tt

TOWN COMPREHENSIVE PLAN

A comprehensive plan for the development of the Town as adopted by the Town Board pursuant to §272-a of the Town Law, which may include general recommendations for various public works and reservations, and for the general physical development of the Town, including any updates or parts of such plan separately adopted and any amendment to such plan or parts thereof.

TRACT

Any body of land, including contiguous parcels of land, under the control of one or more owners acting in concert as part of a common scheme or plan.

Cc

WAY

A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

ARTICLE 3. APPLICATION & REVIEW PROCEDURES

§103-3.1 APPLICATION REQUIRED

- A. Applications for land division, subdivision, resubdivision and lot line revision approval under this Chapter shall comply fully with the applicable provisions of Article 16 of the Town Law, the Public Health Law, and this Chapter. Due care in the preparation of the maps and other information called for will expedite the process of obtaining approval of a land division, a subdivision, a resubdivision or a lot line revision.
- B. When any land division, subdivision, resubdivision or lot line revision of land is proposed, and before any contract for the sale of land or any offer to sell such land division, subdivision, resubdivision or land with a lot line revision, or any part thereof, is made, or any grading, clearing, construction or other improvement is undertaken therein, the applicant or their duly authorized agent shall apply in writing for approval of such proposed land division, subdivision, resubdivision or lot line revision in accordance with the procedures set forth in this Chapter.

§103-3.2 REVIEW BODY

For the purposes of this Chapter the terms “reviewing body” or “review body,” shall refer to the Town board, commission, committee, official, or other designated decision-making body that is charged with review and/or approval authority as authorized under this Chapter and by NYS Law. This may include, but is not limited to the Planning Board, Town Board, and Director of Planning.

§103-3.3 GENERAL APPLICATION REVIEW PROCEDURES

Unless otherwise outlined by this Chapter, all subdivision applications shall follow the general application review procedures provided for by Article 40 of the Town of Bethlehem Zoning Code (Chapter 128). This shall include, but is not limited to:

- A. **Pre-Application Meetings.** See §128-40.2.
- B. **Optional Sketch Plan Review - Development Planning Committee (DPC).** See §128-40.3.
- C. **Application Submittal and Processing.** See §128-40.4.
- D. **Applicant to Attend Planning Board Meetings.**
 - 1. The applicant or their duly authorized representative shall attend meetings of the Planning Board at which the application is considered to discuss the plat. See §128-40.4 (B).
 - 2. Although not required, applicants are encouraged to commence discussions with the owners of land abutting or in proximity to the project site to ascertain local concerns and local development issues early in the project design process.
- E. **Review Body Action.** See §128-40.5.
- F. **Coordinated Reviews.** See §128-40.6.

- G. Referrals.** See §128-40.7.
- H. Public Hearings and Notices.** See §128-40.9. In addition to the requirements of said section, notice of subdivision application public hearings shall also be mailed to property owners as identified below:
 - 1. Minor Subdivisions. All property owners within 200 feet of the project site.
 - 2. Major Subdivisions. All property owners within 500 feet of the project site.
- I. Fees.** See §128-40.10.
- J. Surety.** See §128-40.11.

§103-3.4 TYPES OF SUBDIVISION APPLICATIONS

- A. Lot Line Revision or Lot Line Amendment.** A change in the location of a boundary between two or more lots within a subdivision plat previously approved by the Planning Board and filed in the Albany County Clerk's office. Lot line revisions and amendments shall be subject to the requirements of §103-3.10.
- B. Lot Line Revision or Lot Line Amendment – Administrative Review.** A change in the location of a boundary between two or more lots within a subdivision that was not previously approved by the Planning Board.
 - 1. For such applications a lot line revision plan prepared by a licensed land surveyor shall be submitted to the Building Inspector.
 - 2. The Building Inspector's review will be limited to the revised lot line related to compliance with the zoning district's area, bulk, and dimensional requirements.
- C. Land Division.** Any division of a parent parcel so as to create one new lot fronting on an existing street and not involving the construction of any new streets or roads, not involving a resubdivision, and not adversely affecting the development of the remainder of the parcel or any adjoining property. Land divisions shall be subject to the requirements of §103-3.9. A land division is not permitted when a variance is required.
- D. Minor Subdivisions.**
 - 1. Minor subdivisions include any subdivision or resubdivision that:
 - a) Does not contain more than four lots fronting on an existing street.
 - b) Does not require the construction of any new streets or roads.
 - c) Does not adversely affect the development of the remaining lands of the subdivision.
 - d) Does not adversely affect the development or quiet enjoyment of adjoining property.
 - e) Is not in conflict with any provisions of the Town Comprehensive Plan, the Official Map of the Town, the Town Zoning Law or this Chapter.
 - f) Provides, if applicable, the minimum separation distances and meet the design standards for on-site water supply and sewage disposal systems as established by the Albany County Department of Health.
 - 2. A proposed minor subdivision that does not meet each of the above criteria shall be subject to the major subdivision review procedures. Nothing herein shall be interpreted to prohibit the use of the procedures for review of a major subdivision for any subdivision application, where the reviewing

body determines that processing of the application as a major subdivision is necessary to protect the public health, safety and welfare.

3. In the case of a minor subdivision, no more than four lots shall be created either simultaneously or sequentially from a parent parcel within a ten-year period. Should more than that total number of lots be applied for within 10 years of the date the minor subdivision is approved, the reviewing body shall require the applicant to provide all of the information required of a major subdivision for the previously subdivided lots as well as for the lots under consideration in the new application.
 4. Minor subdivisions shall be subject to the requirements of §103-3.6.
- E. Major Subdivisions.** Major subdivisions include any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five or more lots or any size subdivision requiring any new street or road or the extension of municipal facilities. Major subdivisions shall be subject to the requirements of §103-3.7 (preliminary plat) and §103-3.8 (final plat).

§103-3.5 REQUIRED SKETCH PLAN - DEVELOPMENT PLANNING COMMITTEE (DPC)

- A. Sketch Plan Required.** The submission of a sketch plan is required for all minor and major subdivision applications. Land Divisions and Lot Line Revisions are not required to submit a Sketch Plan/DPC application.
- B. Submittal.** The sketch plan initially submitted to the Department of Economic Development and Planning shall be based on tax map information or some other accurate base map at a scale (preferably not less than 100 feet to the inch) which permits the entire tract to be shown on one sheet. See §128-40.3 for additional application information.

§103-3.6 MINOR SUBDIVISION

- A. Review Body.** Minor subdivision applications shall be reviewed and decided upon by the Planning Board.
- B. Public Hearing.** Prior to issuing a decision on a minor subdivision application, the Planning Board shall hold at least one public hearing.
- C. Application Processing and Required Materials.** All applications for minor subdivision approval shall be in accordance with §128-40.4 (Application Submittal & Processing), §128-40.5 (Review Body Action), §128-40.6 (Coordinated Reviews), §128-40.7 (Referrals) and must include the materials outlined in §103-4.2 (Minor Subdivision Application & Plat Data).
- D. Compliance with SEQRA.**
 1. An application for a minor subdivision shall not be considered complete until a negative declaration has been filed or until a notice of completion of a draft environmental impact statement has been filed in accordance with the provisions of SEQRA. See §128-40.5 (C).
 2. The time periods for review of a minor subdivision plat shall begin upon filing of such negative declaration or such notice of completion. An application for minor subdivision approval that has been determined by the Planning Board to require the preparation of a draft environmental impact statement shall result in the processing of the application as a major subdivision.
- E. Filing of Notice of Action.** Written notice of the action of the Planning Board, plus any conditions

attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five days of the date of approval.

- F. Duration of Conditional Approval of Minor Subdivision Plat.** Conditional approval of the minor subdivision shall expire within 180 days after the date of adoption of the resolution granting such approval, unless all applicable requirements stated in such resolution have been completed. The Planning Board may extend by not more than four additional periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the Board's opinion, such extension is warranted by the particular circumstances.
- G. Filing of Minor Subdivision Plat; Expiration of Approval.** The applicant shall file the approved minor subdivision plat in the office of the County Clerk within 62 days from the date of final approval or such approval shall expire. The signature of the Chair, Vice Chair or other duly authorized officer of the Planning Board signifying final approval and completion of conditions of final approval by the Planning Board shall constitute approval.
- H. Prior to Endorsement of the Chair.** Upon approval of the minor subdivision plat, the applicant shall carry out the following steps prior to obtaining the Chair's signature of approval:
1. Provide proof of compliance with Department of Health standards and approval of the plan for water supply and sewage disposal.
 2. Provide proof of compliance with all other required local, state and federal agency permits and approvals, including but not limited to stream disturbance; wetland and wetland buffer disturbance; highway work; curb cuts; stormwater connections; SPDES permit discharges; dams and impoundments, etc.
 3. Make all required corrections or changes to the minor subdivision plat map as outlined in the resolution of the Planning Board and provide two copies of the corrected final plat to the Secretary of the Planning Board for final review and approval by the Department of Economic Development and Planning, the Town Engineer and other designated Town officials for compliance with the resolution of the Planning Board. The applicant shall also complete all applicable conditions of the Planning Board resolution approving the final plat.
 4. Pay all outstanding engineering, legal, and consultant fees and application approval fees. Parkland fees, if applicable, are due and payable at the time an application for a building permit is made.
- I. After Endorsement of the plat by the Chair.** The Secretary shall immediately notify the applicant to provide paper copies of the minor subdivision plat in such quantity as specified by the Secretary of the Planning Board for Town department distribution. The applicant is solely responsible for filing of the minor subdivision plat with the County Clerk.
- J. Filed Plat Map.** Within 30 days of the date the minor subdivision plat is filed with the County Clerk, the applicant shall submit one copy of the Albany County Clerk filing receipt to the Secretary of the Planning Board.
- K. Plat void if revised after approval.** No changes, erasures, modifications or revisions shall be made to any subdivision plat after endorsement of said plat by the Chair of the Planning Board, unless said plat is first resubmitted to the Planning Board and the Board approves any modifications. Such modified plat shall be resubmitted to the Planning Board for restamping and signature. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§103-3.7 MAJOR SUBDIVISION – PRELIMINARY PLAT**A. Purpose.**

1. The preliminary layout, the application, and all supporting documents for a proposed subdivision constitute the material to be officially submitted to the Planning Board. On the basis of the general design of the subdivision and any proposed or required public improvements, the Planning Board will indicate its approval or disapproval of the preliminary plat prior to the time that the final plat, including the design and detailing of the improvements and utilities, is completed.
2. Approval of the preliminary layout does not constitute an approval of the final plat, nor shall it be considered a valid basis for filing of the preliminary plat with the County Clerk, or the construction of site improvements, or for other commitments which depend upon detailed design characteristics.

B. Exception. No preliminary plat shall be required for major subdivisions also undergoing site plan review in accordance with Article 42 of Chapter 128, Zoning. Such applications may move forward with the final plat procedure in accordance with §103-4.4.

C. Review Body. Major subdivision preliminary plat applications shall be reviewed and decided upon by the Planning Board.

D. Public Hearing. Prior to issuing a decision on a preliminary plat, the Planning Board shall hold at least one public hearing.

E. Application Processing and Required Materials. All major subdivision preliminary plat applications shall be in accordance with §128-40.4 and §103-4.3.

F. Study of Preliminary Plat. The Planning Board shall study the proposed preliminary plat, taking into consideration the goals and polices of the Town Comprehensive Plan for the district in which the parcel is located, the needs of the community, the requirements of the Town Zoning Law and this Chapter, and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, vehicular and pedestrian access, preservation of natural resources, relationship to improvements on adjacent and neighboring land, drainage, lot sizes and arrangement, and the future development of adjoining lands as yet unsubdivided, including those lands depicted on the Official Map.

G. Filing of Notice of Action. Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five days of the approval of the preliminary plat. Approval of the preliminary plat shall not constitute approval of the final plat but shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of the Town Zoning Law and this Chapter and the conditions of the approval of the preliminary plat, if any. Prior to approval of the final subdivision plat the Planning Board may require additional changes as a result of further study of the final subdivision plat or as a result of new information obtained at the public hearing.

H. Revocation and Approval Time Limit. Within six months of the approval of the preliminary plat, the owner must submit the plat in final form. In the event the owner is unable to submit the final plat within the six-month period, the owner may submit to the Planning Board a request for an extension of time. Said request shall be delivered to the Board prior to the expiration of the six-month period and shall state the reasons why the final plat has not been submitted. The Planning Board may extend, by not more than two additional periods of 90 days each, the time for submission of the final plat if, in the

Board's opinion, such extension is warranted by the particular circumstances. The Planning Board may revoke approval of the preliminary plat if the final plat is not submitted within six months of the preliminary plat approval, or in the case of a time extension granted by the Board, upon expiration of said time extension. Preliminary plat approval shall expire if the final plat is not submitted to the Planning Board within two years of the date the preliminary plat decision is filed with the Town Clerk.

§103-3.8 MAJOR SUBDIVISION – FINAL PLAT

- A. Purpose.** The proposed final plat, together with drawings and documents, shall constitute the complete development of the subdivision proposal, shall include the conditions of the Planning Board's preliminary subdivision approval, and shall include the detailed layout drawings for the public improvements and utilities. The final plat shall be in conformity with the approved preliminary plat. After approval by the Planning Board of this submission, the approved performance surety and the general liability insurance policy as approved by the Town Board shall become the basis for the construction of the subdivision and the inspection services by the Town Engineer or other delegated Town officer. The plat itself must be recorded with the County Clerk to have legal status, and an unrecorded plat shall not be a valid basis for site improvements or other commitments. The plat shall be an accurate survey record of the properties resulting from the subdivision and shall bear the seal and signature of the licensed land surveyor responsible for its preparation.
- B. Application Processing.** The applicant shall, within six months after the date of filing of the preliminary plat approval with the Town Clerk, file an application for approval of all or part of the subdivision plat in final form.
- C. Filing of Notice of Action.** Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five days of the date of approval.
- D. Approval of Plat in Sections.** In granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided and developed in two or more sections and may, in its resolution granting conditional or final approval, state such requirements as it deems necessary to ensure that the orderly development of the plat shall be completed before said sections may be signed by the Chair.
- E. Duration/Expiration of Conditional Approval of Final Plat.** Conditional approval of the final plat shall expire within 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 by not more than four additional periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the Board's opinion, such extension is warranted by the particular circumstances.
- F. Filing of Final Plat; Expiration of Approval.** The applicant shall file the approved final plat, or a section of such plat, in the office of the County Clerk within 62 days from the date of final approval or such approval shall expire. In the event that the applicant shall file only a section of such approved plat with the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk. Such section shall encompass at least 10% of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed with the County Clerk within three years of the date of filing of the first section. The signature of the Chair or Vice Chair or other duly authorized officer of the Planning Board signifying final approval and completion of conditions of final approval by the Planning Board shall constitute final approval.
- G. Performance Surety and Estimate of Improvement Costs.** The Planning Board may require as a

condition of final plat approval that the owner/applicant establish or provide a cash account, performance bond or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the required public improvements associated with development of the plat. The surety shall name the Town as beneficiary, shall be in a form satisfactory to the Town Attorney or their designee and shall be in an amount as determined by the Town Engineer based on an estimate of the cost of the required public improvements. The surety to guarantee completion of the improvements shall be in accordance with the requirements of §128-40.11.

- H. Endorsement of the Chair.** Upon approval of the final plat, the applicant shall carry out the following steps prior to obtaining the Chair's signature of approval:
1. Provide proof of compliance with Department of Health standards and approval by that Department of the plan for water supply and sewage disposal.
 2. Provide proof of compliance with all other required local, state and federal agency permits and approvals, including but not limited to stream disturbance; wetland and wetland buffer disturbance; highway work; curb cuts; stormwater connections; SPDES permit discharges; dams and impoundments, etc.
 3. Make all required corrections or changes to the final plat map as outlined in the resolution of the Planning Board and provide two copies of the corrected final plat to the Secretary of the Planning Board for final review and approval by the Department, the Town Engineer and other designated Town officials for compliance with the resolution of the Planning Board.
 4. Complete all applicable conditions of final approval as set forth in the resolution of the Planning Board.
 5. After endorsement of the plat by the Chair, the Secretary shall immediately notify the applicant to provide paper copies of the major subdivision plat in such quantity as specified by the Secretary of the Planning Board for town distribution. The applicant is solely responsible for filing of the major subdivision plat with the County Clerk.
 6. Obtain a performance surety in the amount of the estimate for the improvements and a general liability insurance policy and submit them to the Planning Board Attorney for approval as to form.
 7. Pay all outstanding escrow fees and application fees to the Planning Board Secretary or to the Town Clerk. Parkland fees, if applicable, are due and payable at the time an application for a building permit is made.
- I. Filed Plat Map.** Within 30 days of the date the final plat is filed with the County Clerk, the applicant shall submit one copy of the Albany County Clerk filing receipt to the Secretary of the Planning Board.
- J. Plat Void if Revised After Approval.** No changes, erasures, modifications or revisions shall be made to any subdivision plat after endorsement of said plat by the Chair of the Planning Board, unless said plat is first resubmitted to the Planning Board and the Board approves any modifications. Such modified plat shall be resubmitted to the Planning Board for restamping and signature. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.
- K. Final Plats Not in Substantial Agreement with Approved Preliminary Plats or when No Preliminary Plat is Required to be Submitted.** When a final plat is submitted that the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this Chapter, or when no

preliminary plat is required to be submitted, and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this Chapter, the following shall apply:

1. Planning Board as Lead Agency: Public hearing; notice; decision.
 - a) Public Hearing on Final Plat. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:
 - [1] If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within 62 days after the receipt of a complete final plat by the Secretary of the Planning Board.
 - [2] If the Planning Board determines that an environmental impact statement is required and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.
 - b) Public Hearing Notice. The hearing on the final plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five days before such hearing if no hearing is held on the draft environmental impact statement or 14 days before a hearing held jointly therewith. 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 final plat, including the prominent placement of one or more signs on the premises that is the subject of the application notifying interested persons that an application for a subdivision approval is under consideration by the Board. All notices shall include the name of the subdivision, the location of the land to be subdivided, and the date, place, time and subject of the public hearing. Such notice shall not be required for adjourned dates. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - c) Decision. The Planning Board shall make its decision on the final plat as follows:
 - [1] If such Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing.
 - [2] If the Planning Board determines that an environmental impact statement is required and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 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 such plat.
 - d) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

2. Planning Board not as lead agency: Public hearing; notice; decision.
 - a) Public Hearing on Final Plat. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the Secretary of the Planning Board.
 - b) Public Hearing Close. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - c) Decision. The Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the close of the public hearing on such final plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
 - [1] If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.
 - [2] If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

§103-3.9 LAND DIVISIONS

- A. **Standards.** A land division may, upon the determination of the Town of Bethlehem Department of Economic Development and Planning, be exempt from the requirements of a subdivision application. To qualify for an exemption from the requirements of a minor or a major subdivision application the following conditions shall be met:
 1. Land divisions are permitted in the RMU, RLL, LDR, CR, MDR, RR, RH and RLI Districts only. Land divisions involving property located in any other district shall be subject to the procedures for processing of a minor subdivision or a major subdivision.
 2. In areas not served by central water and/or central sewer facilities up to four lots may be created from a parent parcel within any ten-year period, provided that not more than one new lot may be created from a parent parcel in any twelve-month period. In areas served by central water and/or central sewer facilities, no more than one lot may be created from a parent parcel within any ten-year period, unless the parent parcel is in agricultural use in an agricultural district, in which case up to four lots may be created from the parent parcel within any ten-year period. In all cases, a separate application shall be required for each lot to be divided, and the Department of Economic Development and Planning shall consider only a single land division from a parent parcel at any one time. For purposes of this subsection, "served by central water and/or central sewage treatment facilities" shall mean:
 - a) A property that has a central water distribution line or a central sewage disposal collection line within 100 feet of the property line; and
 - b) The water system and/or the sewage treatment system has capacity to provide service to the lot to be created.
 3. In all cases the size and configuration of the new lot and the remaining parent parcel shall be a buildable lot as defined in this Chapter and Chapter 128, Zoning.

4. Each lot of a land division shall meet the area, yard, and bulk requirements of Chapter 128, Zoning, for the district in which the lots are located.
 5. No new streets or extensions to any existing street shall be required.
 6. Each new lot shall also meet the requirements of §128-33.4, development near waterbodies, and §128-26.6, grading, erosion and sediment control, Chapter 98 (Stormwater Management), and all local, state and federal standards regarding protection of freshwater wetlands.
- B. Application Information.** Application for a land division shall be made on forms provided by the Department of Economic Development and Planning and shall contain the information outlined in §103-4.1 of this Chapter. In addition:
1. **Disclosure.** The applicant for a land division shall provide a written disclosure of any future plans to further divide the parent parcel, including plans for creation of central water supply and/or sewage treatment facilities, and the Department of Economic Development and Planning shall give due consideration to 6 NYCRR 617.3(g)(1) of SEQRA as it relates to segmentation.
 2. **Notice.** Upon receipt of an application for a land division, the Department of Economic Development and Planning shall provide written notice of such application to the owners of all properties abutting the parent parcel. Where the parent parcel abuts a public road or highway, notice shall also be provided to the owners of property on the opposite side of said road or highway located directly across from the parent parcel. For the purposes herein, "owner" shall mean the owner as recorded on the latest tax roll kept by the Town Assessor. The notice shall provide a brief description of the proposed land division, including the acreages and owners involved, the land division process, and contact information for the Department.
 3. **Agricultural Data Statement.** If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, 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, which land contains farm operations and is located within 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
- C. Referral to Planning Board.** Any application that does not meet each of the requirements of Subsection A (1) through (6) above shall be referred to the Planning Board and processed as an application for subdivision approval pursuant to this Chapter.
- D. Compliance with SEQRA.** An application for a land division shall not be considered complete until a negative declaration has been issued by the Department of Economic Development and Planning. If the Department determines that the land division may have one or more potentially significant environmental impacts, the application shall be referred to the Planning Board and processed as an application for subdivision approval.
- E. Decision.** In rendering its decision concerning an application for land division approval, the Department of Economic Development and Planning shall consider the purposes of this Chapter and shall give due consideration to the potential for the further division of the parent parcel. The Department may attach reasonable conditions to its approval of a land division to avoid or minimize any adverse effects on adjoining lands.
- F. Action on Land Division Plat.** The Department of Economic Development and Planning shall, within 62

days of receipt of a complete application, approve, conditionally approve with or without modification, or disapprove the land division plat. When conditionally approving a plat, the Department shall state in writing the modifications, if any, it deems necessary before the plat will be endorsed by the Director. The Department shall also set forth in writing its reasons for any disapproval.

- G. Filing of Notice of Action.** Written notice of the action of the Department of Economic Development and Planning, plus any conditions attached thereto, shall be provided to the applicant, and a copy of such notice shall be filed with the Town Clerk within five days of the date of approval.
- H. Time Limit.** A land division approval shall expire 180 days after the granting of said approval unless all conditions and requirements established as a prerequisite to endorsement have been satisfied and said land division has been endorsed by the Town with a stamp and the signature of the Director of Planning. Prior to its expiration, the land division approval may be extended by the Director of Planning for up to two additional ninety-day periods.
- I. Filing of Final Plat; Expiration of Approval.** The applicant shall file the approved final plat in the office of the County Clerk within 62 days from the date of final approval or such approval shall expire. The signature of the Director or other duly authorized officer of the Department of Economic Development and Planning on the plat shall constitute final approval.
- J. Filed Plat Map.** Within 30 days of the date the final plat is filed with the County Clerk, the applicant shall submit one copy of the filed map showing the endorsement of the County Clerk to the Department. No building permit shall be issued for any lot created as part of a land division until such time that proof of filing is provided as required by this Subsection.
- K. Plat Void if Revised After Approval.** No changes, erasures, modifications or revisions shall be made to any land division plat after endorsement of said plat by the Director unless said plat is first resubmitted to the Department and the Department approves any modifications. Such modified plat shall be resubmitted to the Department for restamping and signature. In the event that any such land division plat is recorded without complying with this requirement, the same shall be considered null and void, and the Department shall institute proceedings to have the plat stricken from the records of the County Clerk.

§103-3.10 LOT LINE REVISIONS

- A. Planning Board Approval Required.** Planning Board approval shall be required for any changes in the location of a lot line shown on a filed final plat that was previously approved by the Planning Board.
- B. Application and Fee.** All applications for approval shall be in writing and on forms and in such quantity as may be prescribed by the Planning Board, together with a fee as set by the Town Board.
- C. Information Waiver.** The Department of Economic Development and Planning may grant a waiver from the information requirements of this Chapter in accordance with §128-40.4 C.
- D. Compliance with SEQRA.** An application for a lot line revision shall not be considered complete until a negative declaration has been issued.
- E. Lot Line Revision Criteria.** A lot line revision shall not be approved unless the Planning Board has determined that:
 - 1.** The lot line revision does not adversely affect the development of the remaining lands within the subdivision.

2. The lot line revision does not adversely affect the development and/or quiet enjoyment of adjoining property.
 3. The lot line revision is consistent with the subdivision approval(s) originally issued by the Planning Board by which the subject parcel(s) was (were) established or amended.
 4. The conditions of the subdivision approval(s) originally issued by the Planning Board have been completed or have been waived by the Planning Board.
 5. The lot line revision is consistent with the Town Comprehensive Plan, Official Map of the Town, the Town Zoning Law and this Chapter.
- F. Filing of Notice of Action.** Written notice of the action of the Planning Board, plus any conditions attached thereto, shall be provided to the applicant, and copy of such notice shall be filed with the Town Clerk within five days of the date of approval.
- G. Duration of Conditional Approval of a Lot Line Revision.** Conditional approval of the lot line revision plat shall expire within 180 days after the date of adoption of the resolution granting such approval unless all applicable requirements stated in such resolution have been completed. The Planning Board may extend by not more than two additional periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the Board's opinion, such extension is warranted by the particular circumstances.
- H. Filing of Lot Line Revision Plat; Expiration of Approval.** The applicant shall file the approved lot line revision plat in the office of the County Clerk within 62 days from the date of final approval or such approval shall expire. The signature of the Chair or Vice Chair or other duly authorized officer of the Planning Board signifying final approval and completion of conditions of final approval by the Planning Board shall constitute approval.
- I. Endorsement of the Chair.** Upon approval of the lot line revision, the applicant shall carry out the following steps prior to obtaining the Chair's signature of approval:
1. Make all required corrections or changes to the lot line revision plat as outlined in the resolution of the Planning Board and provide one copy of the corrected final plat to the Secretary of the Planning Board for final review by staff for compliance with the resolution of the Planning Board. The applicant shall also complete all applicable conditions of the Planning Board resolution approving the final plat.
 2. After endorsement of the plat by the Chair, the Secretary shall immediately notify the applicant to provide paper copies of the lot line revision in such quantity as specified by the Secretary of the Planning Board for town department distribution. The applicant is solely responsible for filing of the lot line revision with the County Clerk.
- J. Filed Plat.** Within 30 days of the date the lot line revision is filed with the County Clerk, the applicant shall submit one copy of the Albany County Clerk filing receipt to the Secretary of the Planning Board.
- K. Plat Void if Revised After Approval.** No changes, erasures, modifications or revisions shall be made to any lot line revision plat after the endorsement of the Chair of the Planning Board unless said plat is first resubmitted to the Planning Board and the Board approves any modifications.

§103-3.11 PUBLIC STREETS, PARKS, & PARKLAND AREAS

A. Public Acceptance of Streets, Parks and Parkland Areas.

1. The approval of the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town. As a condition of final plat approval, the applicant shall submit an irrevocable offer of cession for review by the Town Board and the Town Attorney. The irrevocable offer of cession shall be in a form suitable for recording and shall not be filed until approved by the Town Board upon the recommendation of the Town Attorney.
2. Every street shown on a plat that is filed or recorded in the office of the County Clerk as provided in these regulations shall be deemed to be a private street until such time as it has been formally offered for cession to be public and formally accepted as a public street by resolution of the Town or, alternatively, until it has been condemned by the Town for use as a public street.
3. After such plat is approved and filed, subject, however, to review by the court as hereinafter provided, the streets, highways and parks shown on such plat shall be and become a part of the Official Map or plan of the Town. The filing of the plat with the County Clerk shall constitute a continuing offer of dedication of the streets, highways or parkland areas, water supply and sewage disposal facilities, and said offer of dedication may be accepted by the Town Board at any time. In the event that the applicant or their agent shall elect not to file their plat prior to the expiration of plat approval as provided in Article 3 of this Chapter, then such formal offers of cession shall be deemed to be invalid, void and of no effect on and after such expiration date.
4. No public street utility or improvement shall be constructed by the Town in any street or highway unless it has been offered as a public street or highway, except that the Town Board may authorize the construction of a public street utility or improvement in or under a street which has not been dedicated but which has been used by the public as a street for five years or more prior.

B. Street Access and Improvement Prior to Issuance of Building Permits.

1. No permit for the erection of any building shall be issued unless the lot on which the building is proposed has frontage on a street or highway that has been duly placed on the Official Map or plan or, if there shall be no Official Map or plan, unless such street or highway is:
 - a) An existing state, county or town highway.
 - b) A street shown upon a plat approved by the Planning Board.
 - c) A street on a plat duly filed and recorded in the office of the County Clerk prior to the appointment of the Planning Board and the grant to such Board of the power to approve plats.
2. Before such permit shall be issued, such street or highway shall have been suitably improved to the satisfaction of the Town Board in accordance with standards and specifications approved by the appropriate municipal officers as adequate in respect to the public health, safety and general welfare for the special circumstances of the particular street or highway, or, alternatively and in the discretion of the Town Board, a performance surety sufficient to cover the full cost of such improvement as estimated by such Board or other appropriate municipal departments designated by such Board shall be furnished to the Town by the applicant. Such performance surety shall be issued by a surety company approved by the Town Board or by the applicant with security acceptable to the Town Board and shall also be approved by the Town Attorney as to form, sufficiency and manner of execution. The term, manner of notification and method of enforcement of such surety shall be determined by the Town Board. The surety to guarantee completion of the improvements shall be a bond, cash or an irrevocable letter of credit as determined by the Town.

- C. Ownership and Maintenance of Parkland Areas.** When a park, playground, natural or historic feature or other parkland or open space area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a

written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such parkland area.

ARTICLE 4. APPLICATION MATERIALS

§103-4.1 LAND DIVISION APPLICATION & PLAT DATA

A. Required Application Materials. An application for a land division shall be submitted to the Department of Economic Development and Planning. Application forms are available from the Department, and the Department shall specify the number of copies required for review. In addition, the application shall include the following:

1. Payment of an application fee as prescribed by the Town Board.
2. A short form environmental assessment form pursuant to Article 8 of the Environmental Conservation Law.
3. An actual field survey of the boundary lines of the lots to be divided from the entire tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The survey shall include:
 - a) A title block containing:
 - [1] Parcel owner's name.
 - [2] Street address of parcel to be divided, including town and county.
 - [3] Tax parcel number of lot to be divided.
 - [4] Name and address of map preparer.
 - b) An approval box:
 - [1] Measuring 3" x 3", preferably located in the lower right corner of the plat
 - [2] Containing a label with "Town of Bethlehem Approval"
 - [3] Containing a label with Application ID number
 - c) A North arrow point.
 - d) A map scale.
 - e) The zoning district in which the parcel is located.
 - f) The date of the survey and the latest revision date (if any).
 - g) The location of existing and proposed structures, including offset distances to property lines and highway right-of-way boundaries, and indicating conformance to zoning district requirements.
 - h) The location of intersection of driveway(s) with public road.
 - i) When required by the Department of Economic Development and Planning, the following shall be provided:
 - [1] Existing and proposed topography at a contour interval of two feet or less in any area proposed for development, and in such other areas as may be required by the Department. Topography shall be referenced to the North American Vertical Datum of 1988 (NAVD88), with ground truth established by actual field survey and certified to by a licensed land surveyor.
 - [2] A grading plan that shows the proposed construction of a residential dwelling, septic system, and stormwater management practice. This may also include the location of public water and sewer connections.
 - [3] A survey of existing trees over 12 inches dbh and all trees providing screening or

buffering to adjacent parcels. The survey shall include but is not limited to the following information: size (caliper/height), species, and condition of each tree.

- j) Wetlands, marshes, rivers, lakes and watercourses. In the case of a regulated freshwater wetland, the field-delineated boundary of said wetland shall be shown together with any applicable wetland buffer area and the information provided shall be from a wetland delineation no more than two years old at the time of submission of the subdivision application to the Planning Board.
 - [1] If the site contains wetlands that meet the criteria for classification as federal jurisdictional wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands. Any impacts to federally jurisdictional wetlands shall follow federal regulatory permit requirements.
 - [2] If the site contains wetlands that are classified as state-protected freshwater wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands and buffer area. A jurisdictional determination from the NYS Department of Environmental Conservation shall also be provided. Any impacts to state jurisdictional wetlands shall follow state regulatory permit requirements.
- B. Agricultural Data Statement.** If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, 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, which land contains farm operations and is located within 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.
- C. Accompanying Information.** The following information shall accompany a land division application:
1. A copy of the current recorded deed of the parent parcel, together with copies of any recorded covenants, restrictions or easements affecting the parent parcel.
 2. Letter of approval (if applicable) from the Town Department of Public Works, or the Albany County Department of Public Works, or the New York State Department of Transportation approving the driveway access for the new lot.

§103-4.2 MINOR SUBDIVISION APPLICATIONS & PLAT DATA

- A. Required Application Materials.** In the case of a minor subdivision, the application shall include the following data:
1. An actual field survey of the boundary lines of the lots to be subdivided from the entire tract, giving complete descriptive data by bearings and distances, made and certified to by a New York State licensed land surveyor, and showing the location of said boundary and site features referenced to the NAD 1983 State Plane New York East FIPS 3101 US feet coordinate system. The plat shall include:
 - a) A title block containing:
 - [1] The name of the subdivision.
 - [2] The owner's name.
 - [3] The tax parcel number of the parcel to be subdivided.

- [4] The street address of the parcel to be subdivided, including town and county.
- [5] The name and address of the map preparer.

b) An approval box:

- [1] Measuring 3” x 3”, preferably located in the lower right corner of the plat
- [2] Containing a label with “Town of Bethlehem Approval”
- [3] Containing a label with Application ID number

- c) A North arrow point.
- d) A map scale.
- e) The zoning district(s) in which the parcel is located and the zoning district boundaries, if applicable.
- f) The date of the survey and the latest revision date (if any).
- g) The location of existing and proposed structures, including offset distances to property lines and highway right-of-way boundaries, and indicating conformance to zoning district requirements.
- h) The location of intersection of driveway(s) with public road.
- i) Identification of the size and configuration of the buildable portion on each lot, including limits of clearing and grading.
- j) A location map.
- k) The total acreage of the parcel and acreage of each proposed lot
- l) Topography, at intervals of two feet or less, referenced to the North American Vertical Datum of 1988 (NAVD88), with ground truth established by actual field survey and certified to by a New York State licensed land surveyor.
- m) Location of rock outcrops, isolated trees over 12 inches in caliper and clusters of large trees, tree lines, wooded areas, existing structures, stone walls, roads or lanes, power lines, easements and other existing improvements within the portion to be subdivided and within 100 feet thereof. A survey of existing trees over 12 inches dbh and all trees providing screening or buffering to adjacent parcels. The survey shall include but is not limited to the following information: size (caliper/height), species, and condition of each tree.
- n) Proposed grading plan showing 1-foot contours.
- o) Existing and proposed utilities, including location of the nearest hydrant if served by municipal water.
- p) Easements, existing and proposed.
- q) Existing and proposed drainage facilities.
- r) Names of adjacent property owners.
- s) Preliminary stormwater drainage system plan. Drainage structures shall be shown on the preliminary layout, indicating the direction of flow, the approximate location and size of proposed lines and culverts and their profiles, as well as connections to existing lines or alternative means of disposal. This shall include, as required, the proposed size and location of detention basins and other stormwater management facilities as required to comply with the State Pollutant Discharge Elimination System (SPDES) MS4 requirements and Chapter 98 of the Code of the Town of Bethlehem.
- t) Wetlands, marshes, rivers, lakes and watercourses. In the case of a regulated freshwater wetland, the field-delineated boundary of said wetland shall be shown together with any applicable wetland buffer area and the information provided shall be from a wetland delineation no more than two years old at the time of submission of the subdivision application to the Planning Board.

- [1] If the site contains wetlands that meet the criteria for classification as federal jurisdictional wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands. Any impacts to federally jurisdictional wetlands shall

follow federal regulatory permit requirements.

[2] If the site contains wetlands that are classified as state-protected freshwater wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands and buffer areas. A jurisdictional determination from the NYS Department of Environmental Conservation shall also be provided. Any impacts to state jurisdictional wetlands shall follow state regulatory permit requirements.

2. All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health. The location and results of the percolation test(s) on which the septic system design(s) is (are) based shall be indicated on the plat.
 3. A copy of current recorded deed and such covenants or deed restrictions as are intended to cover all or part of the tract.
 4. Approval (if applicable) from the Town Highway Department, the Albany County Department of Public Works, or the New York State Department of Transportation relative to access to a public road under its jurisdiction.
 5. Applicable fee as set by Town Board.
 6. Appropriate SEQR forms.
- B. Agricultural Data Statement.** If any portion of the project is located on property within an agricultural district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, 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, which land contains farm operations and is located within 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.

§103-4.3 MAJOR SUBDIVISION APPLICATION & PRELIMINARY PLAT DATA

- A. Plat Preparation.** The preliminary plat shall be prepared by a licensed land surveyor and shall bear the seal and signature of the surveyor responsible for its preparation.
- B. Required Application Materials.** In the case of a major subdivision, the subdivision plat shall include the following data:
1. A title block containing:
 - a) The name of the subdivision.
 - b) The parcel owner's name.
 - c) The tax parcel number of the parcel to be subdivided.
 - d) The street address of the parcel to be subdivided, including town and county.
 - e) The name and address of the map preparer.
 2. An approval box:
 - a) Measuring 3" x 3", preferably located in the lower right corner of the plat
 - b) Containing a label with "Town of Bethlehem Approval"
 - c) Containing a label with Application ID number

3. Date, North arrow and scale.
4. Names of the owners of adjoining parcels.
5. Total acreage for the parcel and the tax map number.
6. Bold outlines depicting boundaries of the parcel to be subdivided, plotted to scale.
7. Total number of proposed lots and the size of each lot.
8. The date of original preparation and of each subsequent revision.
9. Graphic scale of no less than 100 feet equals one inch, but preferably not less than 50 feet to the inch.
10. Offers of dedication or statements establishing easements should be indicated on the drawing.
11. Zoning district, including exact boundary lines of the district, if more than one district, and any standards from the Zoning Law schedules applicable to the area to be subdivided.
12. Wetlands, marshes, rivers, lakes and watercourses. In the case of a regulated freshwater wetland, the field-delineated boundary of said wetland shall be shown together with any applicable wetland buffer area and the information provided shall be from a wetland delineation no more than two years old at the time of submission of the subdivision application to the Planning Board.
 - a) If the site contains wetlands that meet the criteria for classification as federal jurisdictional wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands. Any impacts to federally jurisdictional wetlands shall follow federal regulatory permit requirements.
 - b) If the site contains wetlands that are classified as state-protected freshwater wetlands, the plat shall include a tabulation of the amount of disturbance, if any, to the on-site wetlands and buffer areas. A jurisdictional determination from the NYS Department of Environmental Conservation shall also be provided. Any impacts to state jurisdictional wetlands shall follow state regulatory permit requirements.
13. Cut or match lines for two or more drawing sheets shall be indicated within the site boundaries, with each section numbered according to the corresponding sheet.
14. Adjacent properties. Adjacent properties within 100 feet of the site which are part of a recorded subdivision plat shall be identified by the names of the owners of record, together with section, block and lot numbers.
15. Boundaries of special districts. Boundaries of special districts (such as water, sewer, fire, school, lighting, etc.).
16. Topographic contours. Topographic contours at two-foot intervals or less referenced to the North American Vertical Datum of 1988 (NAVD88), with ground truth established by actual field survey and certified to by a New York State licensed land surveyor. Topographic information shall extend at least 100 feet beyond the boundaries of the parcel.
17. Proposed grading plan showing 1-foot contours.
18. An actual field survey of the boundary lines of the tract, giving complete descriptive data by

bearings and distances, made and certified to by a New York State licensed land surveyor, and showing the location of said boundary and site features referenced to the NAD 1983 State Plane New York East FIPS 3101 US feet coordinate system. The corners of the tract shall also be located on the ground and marked by substantial markers or stakes of such size and type as are approved by the Town Engineer and shall be referenced and shown on the plat.

19. Street rights-of-way and widening of rights-of-way on the subdivision and within 200 feet of its boundaries, including the street name, location and width, center-line elevations at intersections and other critical points, and other rights-of-way, easements, including restrictions on use, and highways, streets, sidewalks, bicycle facilities, and municipal boundaries within 100 feet of the boundaries of the parcel.
 20. Drainage structures on the subdivision and within 100 feet of its boundaries, including:
 - a) Type of structure.
 - b) Location, invert elevations, gradients, types and sizes of all pipe and of all other structures, where applicable, and direction of flow.
 21. Location and size or capacity of all other utility structures, such as water and gas mains and power lines, on the subdivision and within 100 feet of its boundaries.
 22. Date, location and graphic representation of findings for all test results of percolation and other tests to ascertain subsurface soil, rock and groundwater conditions and depth of groundwater unless pits are dry at a depth of five feet. Town staff are required to be present for testing.
 23. Municipal or other public lands and lands designated as parks, open spaces or for some other public use.
 24. Buildings and other structures located on and within 100 feet of the site.
 25. Location of rock outcrops, isolated trees over 12 inches dbh and clusters of large trees, tree lines, wooded areas, existing structures, stone walls, roads or lanes, power lines, easements and other existing improvements within the portion to be subdivided and within 100 feet thereof.
 26. A survey of existing trees over 12 inches dbh and all trees providing screening or buffering to adjacent parcels. The survey shall include but is not limited to the following information: size (caliper/height), species, and condition of each tree.
- C. Accompanying Information.** The following information shall accompany a major subdivision application:
1. A copy of current recorded deed of the parcel and such covenants or deed restrictions as are intended to cover all or part of the tract.
 2. Approval (if applicable) from the Town Highway Department, the Albany County Department of Public Works, or the New York State Department of Transportation relative to access to a public road under its jurisdiction.
 3. Applicable fee as set by the Town Board.
 4. Environmental assessment form (EAF).
- D. Agricultural Data Statement.** If any portion of the project is located on property within an agricultural

district containing a farm operation, or on property with boundaries within 500 feet of a farm operation located in an agricultural district, 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, which land contains farm operations and is located within 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.

E. Proposed Site Development.

1. Proposed streets and street names and right-of-way width.
2. The width and location of any streets or public ways or places shown on the Official Map or the Comprehensive Plan within the area to be subdivided, together with preliminary street profiles of public ways proposed by the developer.
3. Preliminary center-line elevations at intersections and at principal changes in gradient.
4. Preliminary center-line gradient shown in percent of slope.
5. Plans and cross sections showing the proposed location and type of sidewalks and shared use paths, lighting, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and subbase; and the location of manholes, basins and underground conduits.
6. Lot layout, including lot lines and dimensions scaled to the nearest foot; suggested location of buildings.
7. Building setback line (dashed) and dimensions.
8. Identification of the size and configuration of the buildable portion on each lot, including limits of clearing and grading.
9. Proposed easements, parks, and restricted areas, including purpose and restrictions.
10. Designation of areas or rights-of-way which are to be offered for public dedication or deeded to a homeowners' association or other private corporation. The Board may require specific recreation improvements and planting of trees, shrubs, grass and other landscaping in all areas to be so dedicated.
11. Preliminary stormwater drainage system plan. Drainage structures shall be shown on the preliminary layout, indicating the direction of flow, the approximate location and size of proposed lines and culverts and their profiles, as well as connections to existing lines or alternative means of disposal. This shall include, as required, the proposed size and location of detention basins and other stormwater management facilities as required to comply with the State Pollutant Discharge Elimination System (SPDES) MS4 requirements and Chapter **98** of the Code of the Town of Bethlehem.
12. Preliminary water supply and sewage treatment systems. The approximate location, size and profiles of all proposed waterlines, valves, hydrants and sewer lines, connection to existing lines or alternative means of water supply or sewage disposal and treatment as provided in the Public Health Law.

13. Easements. The boundaries of proposed utility easements located over or under private property, which easements shall not be less than 20 feet in width unless otherwise recommended by the Town of Bethlehem Engineering Division and approved by the Planning Board, and which shall provide satisfactory access to an existing public highway or other public highway or public open space for the purpose of maintenance and repair of the utility.
 14. Entire holdings. If the application covers only a part of the applicant's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, shall be provided. The map shall show an outline of the platted area with its proposed streets and indication of the probable future street system, including its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract in relation to the part of the applicant's holdings not included in the application.
- F. Temporary Field Markers.** The Planning Board may require the location of temporary markers adequate to enable members of the Board to locate readily and appraise the basic layout in the field. These may include markers at corners of the site or along road center lines.

§103-4.4 MAJOR SUBDIVISION APPLICATION & FINAL PLAT DATA

- A.** The following documents shall be submitted for plat approval:
1. If any information from the preliminary plat application has changed, an application supplying the updated information shall be submitted to the Planning Board, including an updated deed, if applicable.
 2. Applicable fee as set by Town Board.
 3. Major subdivision plat. The plat to be filed with the County Clerk shall be printed on a Mylar at a dimension as specified by the County Clerk.
- B.** The final plat shall be prepared by licensed design professionals in accordance with local and state laws and shall provide the information as outlined in the Town of Bethlehem Department of Public Works Guidelines for Final Subdivision Plans dated August 25, 1997, as amended, and any information required by the Planning Board.

§103-4.5 LOT LINE REVISION APPLICATION & PLAT DATA

- A. Required Application Materials.** An application for a lot line revision pursuant to §103-3.4 A shall be submitted to the Planning Board. Application forms are available from the Department, and the Department shall specify the number of copies required for review. In addition, the application shall include the following:
1. Payment of an application fee as prescribed by the Town Board.
 2. A short environmental assessment form, pursuant to Article 8 of the Environmental Conservation Law.
 3. An actual field survey of the boundary lines of the lots involved in the lot line revision, drawn to scale and giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The survey shall include:
 - a) A title block containing:

- [1] Subdivision name in which the lots are located.
- [2] Street addresses of lots being revised, including town and county.

b) An approval box:

- [1] Measuring 3” x 3”, preferably located in the lower right corner of the plat
- [2] Containing a label with “Town of Bethlehem Approval”
- [3] Containing a label with Application ID number

- c) Names of the owners of lots being revised.
- d) Name and address of map preparer.
- e) Tax parcel numbers of lots being revised.
- f) A North arrow point.
- g) A map scale.
- h) The zoning district of the lots.
- i) The date of the survey and the latest revision date (if any).
- j) The location of existing and proposed structures, including offset distances to property lines and highway right-of-way boundaries, and indicating conformance to zoning district requirements.
- k) The area of the lots prior to and subsequent to the lot line revision.
- l) Location of existing or proposed easements, deed-restricted areas, streets, paved areas, public or private utilities, manholes, catch basins, or other public or private improvements located within the area of the lot line revision or immediately adjacent thereto.
- m) The location of intersection of driveway(s) with public road.
- n) Name, approval date, map reference and preparer of original subdivision.

- B. Accompanying Information.** The following information shall accompany a lot line revision application: a copy of the current recorded deed for each lot being affected by the lot line revision together with copies of any recorded covenants, restrictions or easements affecting the lots.

§103-4.6 VARIANCES, WAIVERS & CONDITIONS

- A.** In addition to waivers granted by the Department, where the Planning Board finds that certain data and information are not required for a complete application, it may waive the regulations upon written request of the applicant, provided that such waiver will not have the effect of nullifying the intent and purpose of this Chapter, or Chapter 128, Zoning, of the Town of Bethlehem Code, or SEQRA.
- B.** Where the 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, limiting environmental impacts, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive or modify such requirements in accordance with §128-40.4 C.
- C. Surety.** As outlined below, the Town may require that a performance surety in the form of a bond, cash, or an irrevocable letter of credit, as determined by the Town, shall be delivered to the Town to guarantee that the applicant will faithfully cause to be constructed and completed, within a reasonable period of time, the required public improvements and will convey the required lands and improvements to the Town free and clear of encumbrances.
1. The Planning Board may require as a condition of final plat approval, based upon an estimate prepared by the Town Engineer, that the applicant shall file with the Department of Economic Development and Planning either a performance bond, cash escrow account, or an irrevocable letter of credit from a bank having a credit acceptable to the Town to cover the cost of the required

public improvements. Any such surety shall comply with the requirements of §277 of the Town Law and, further, shall be satisfactory to the Town Attorney or their designee as to form, sufficiency, duration, renewability, and manner of execution. The term of the surety shall be sufficient, as determined by the Town, to permit the completion of improvements by the applicant.

2. The required public improvements shall not be considered to be completed until the Town Engineer has approved the improvements as installed and an as-built map has been submitted to the Town. The map shall indicate the location of monuments marking all underground utilities as actually installed. The performance surety shall not be released until the improvements have been accepted by the Town Board upon the recommendation of the Town Engineer.
 3. The applicant shall complete all public improvements required for the lots, or part thereof, to the satisfaction of the Town before any certificate of occupancy may be issued.
 4. If the Town Board decides at any time during the term of the performance surety that the extent of the building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance surety, or that required improvements have been installed in sufficient amount to warrant reduction in the face amount of said surety, or that the character and extent of such development require additional improvements previously waived for a period stated at the time of fixing the original terms of such surety, the Town Board may modify its requirements for any or all such improvements, and the face value of such performance surety shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Town Board and any security deposited with the surety may be reduced or increased proportionately.
- D. General Liability Insurance Procedures.** The general contractor shall file with the Town Attorney a general liability insurance policy at the same time that the applicant files the performance surety. The Town Board, upon the recommendation of the Town Attorney, shall approve the policy as to form and amount. The policy shall insure the Town and the general contractor and shall cover all operations of the development, including maintenance of property and buildings and contracting operations of every nature, and all public improvements. The policy shall remain in force during the term of the construction of improvements and shall be extended in conformance with any extension of the performance surety.
- E. Maintenance Surety.** The applicant shall file with the Town Board a maintenance surety in an amount based on a maximum of 10% of the improvement estimate or in such amount which shall be adequate to assure the satisfactory condition of the initial public improvements for a period of one year following their completion and acceptance by the Town Board. Such surety shall be a bond, cash, or an irrevocable letter of credit, as determined by the Town, and shall be satisfactory to the Town Attorney as to form and manner of execution.
- F. Modification of Design Improvements.** If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of required improvements, the Town Engineer may authorize modifications, provided that these modifications maintain 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 Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- G. Supervision of Improvements.** The construction of all required improvements shall be supervised by the Town Engineer who, after completion of construction, shall certify to the Town Board that all required improvements have been constructed as required and approved by the Planning Board or as modified by the Planning Board.

- H. Inspections.** The Town may employ an inspector for the purpose of assuring the satisfactory completion of improvements required by the Planning Board and shall determine an amount sufficient to defray costs of inspection. The Town shall invoice the actual cost of the inspection to the applicant, who shall pay all amounts due within 30 days of the date of the invoice. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved drawings, the applicant and the surety company will be severally and jointly liable for the costs of completing said improvements according to specifications. All improvements will be inspected to ensure satisfactory completion. In no case shall any paving work, including prime and seal coats, be done without permission from the Town Engineer. At least 24 hours' notice shall be given to the Town Engineer prior to any such construction so that a representative of the Town may be present at the time work is to be done. If the Town Engineer or other duly designated official does not carry out inspection of required improvements during construction, the applicant or the surety company shall not in any way be relieved of their responsibilities. The Town Engineer shall be notified after each of the following phases of the work has been completed so that their representative may inspect the work:
1. Road subgrade.
 2. Curb and gutter forms.
 3. Road paving, after each coat in the case of priming and sealing.
 4. Sidewalk forms.
 5. Waterlines, sanitary sewer lines, stormwater drainage pipes and other drainage structures before backfilling.
 6. All underground utilities prior to backfilling.
- I. Final Inspection.** A final inspection of all improvements will be made to determine whether the work is satisfactory and in substantial agreement with the approved final plat drawings and in compliance with the Town specifications as of the time the offer of dedication of the roads and other facilities is made to the Town Board. The general condition of the site as to cleanup and installation of sod or landscaping shall also be considered. Upon a satisfactory final inspection report, the Town Engineer shall recommend to the Town Board the release of the performance surety covering the improvements.
- J. Proper Installation of Improvements.** If the Town Engineer finds, upon inspection of the improvements performed before the expiration date of the performance surety, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, they shall so report to the Town Board, Building Inspector and Planning Board. The Town Board then shall notify the applicant and, if necessary, the issuer of the bond or the irrevocable letter of credit and take all necessary steps to preserve the Town's rights under the surety. The Town Board may thereupon declare the applicant in default and collect the sum remaining payable under the surety agreement, and upon receipt of the proceeds thereof the Town shall install such improvements as are covered by the performance surety commensurate with the building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds. With regard to a subdivision approved in parts or phases, no subsequent parts of such a plat shall be approved by the Planning Board as long as the applicant is in default on a previously approved part of the plat.
- K. Monuments.** Permanent monuments shall be set at block corners and at intervals of 500 feet, or such other distance or location as the Town Engineer may designate. Each location must be indicated by a suitable symbol on the subdivision plat. The type of monument must be approved by the Town Engineer.

- L. Time for Completion of Improvements.** All improvements, or any part thereof required to service the lots as shown on a partial plat filing, shall be completed to the satisfaction of the Town Engineer before a building permit is issued with respect to any lot or dwelling fronting on a street shown on the subdivision plat.
- M. Acceptance of Improvements.** The acceptance of improvements will not be considered or processed until three sets of as-built data per Town Highway Department standards are presented showing the improvements and, in addition, the submission of legal documents necessary for the dedication to the public of these improvements.

ARTICLE 5. GENERAL REQUIREMENTS & DESIGN STANDARDS

§103-5.1 PURPOSE, REQUIREMENTS, & STANDARDS

- A. Purpose.** The purpose of this article is to ensure that the highest standards of site, building and landscape design are conscientiously met through the use of qualified technical and aesthetic judgment compatible with the Comprehensive Plan.
- B. Requirements.** In acting upon plats, the Planning Board shall require, among other conditions in the public interest, that the tract shall be adequately drained, and the streets shall be of sufficient width and suitable grade and suitably located to accommodate the prospective traffic and to provide access for fire-fighting equipment to buildings. The Planning Board shall further require that all lots shown on the plats shall be adaptable for the intended purpose without danger to health or peril from flood, fire, erosion or other menace. Required improvements shall be designed and constructed to conform to specifications established by the Town.
- C. Standards.** In considering applications for subdivision approval, the Planning Board shall be guided by the standards set forth herein. These standards shall be considered to be minimum requirements and may be waived by the Board only under the circumstances set forth in §128-40.4 C.
- D. Specifications for Required Improvements.** All required improvements shall be constructed or installed to conform to municipal specifications, which may be obtained from the Town Engineer.
- E. Preservation of Features.** Existing features which would add value to the development, such as large trees, watercourses, historic sites and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision.
- F. Additional Considerations.** In addition to the requirements and standards cited herein, the Planning Board in rendering its decision on a subdivision application shall also consider relevant plans and studies found in §128-40.5 G.

§103-5.2 MAXIMUM DENSITY UNIT CALCULATION FOR MAJOR SUBDIVISIONS

- A.** The maximum number of density units (i.e., units per acre or DU) shall not exceed the maximum allowable DU for a subdivision in the district in which the property is located. Any regulations contained in this Chapter and in Chapter 128 restricting the number of dwelling units permitted in a subdivision shall apply. The calculation of buildable yield for a major subdivision shall be based on the following formula. The buildable yield (BY) shall be used to determine the allowable density units per the district requirements of Part 2 of the Town Zoning Code.
- B.** The BY calculation shall be determined by subtracting the constrained land areas of the property (i.e., NYSDEC and USACOE regulated wetlands and any associated buffers, and lands within the one-hundred-year floodplain area, and steep slope areas of greater than 20%) for which the applicant has not secured and has not submitted to the Planning Board permits or approvals that would allow development in such constrained land areas, as follows:

T - (W+F+S) = BY**WHERE:**

T = Total acreage inside the boundary lines of the project parcel.

W = Total acreage inside the boundary lines of the project parcel and within a NYSDEC or USACOE regulated wetland (inclusive of any buffer area).

F = Total acreage inside the boundary lines of the project parcel and within the one-hundred-year floodplain area where the base elevations and flood hazard are determined exclusive of any flood area within a regulated state or federal wetland.

S = Total acreage inside the boundary lines of the project parcel and containing slopes of 20% or greater.

BY = Maximum number of acres that can be developed and that form the basis for determining the maximum number of residential dwellings that may be created per the area, yard and bulk chart.

- C. The BY calculation set forth in this Section shall be adjusted to include, in whole or in part, the constrained land area(s) for which the applicant has secured the necessary permits or approvals from applicable local, state or federal agencies authorizing development in such area(s) and has submitted copies of said permits or approvals to the Planning Board. If the parcel is not proposed for connections to central sewage disposal facilities, the plan shall also include an assessment and certification by a professional engineer as to the suitability of the soils to accommodate individual sewage disposal systems. The Department, in its sole discretion, shall determine whether the plan is realistic and reflects a development pattern that could reasonably be implemented.

§103-5.3 LAYOUT OF STREETS & ROADS

- A. **Relation to topography.** Streets shall be logically related and conform, insofar as possible, to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.
- B. **Solar access.** To permit maximum solar access to proposed lots and future buildings wherever reasonably feasible and consistent with other appropriate design considerations, new streets shall be located on an east-west axis to encourage house siting with maximum exposure of roof and wall areas to the sun.
- C. **Streets.**
1. Streets shall be graded and improved with pavement, street signs, sidewalks or shared use paths, streetlighting, curbs, gutters, trees, water mains, sanitary sewers, storm drains and fire hydrants in accordance with the Town of Bethlehem Department of Public Works Guidelines for Final Subdivision Plans, dated August 25, 1997, as amended, and the State Highway Law, as amended.
 2. The Planning Board may waive, subject to appropriate conditions and upon the recommendation of the Town Highway Department and the Town Engineer, such improvements as it considers are not requisite in the interest of public health, safety and general welfare.
 3. All streets shall be designed to permit the installation of electric, water, sewer, gas and other utilities underground, either initially or at the time major improvements or upgrades are made to the

street or the particular service.

- D. Cul-de-sacs.** Within a subdivision, the internal use of cul-de-sacs shall be avoided. If internal cul-de-sacs cannot be avoided, pedestrian connections shall be considered.
- E. Access.** Subdivisions shall comply with all vehicular access requirements of the New York State Fire Code.
- F. Blocks.**
1. Shape. No specific rule concerning the shape of blocks is made, but blocks shall fit readily into the overall plan of the subdivision, and their design indicate topographical conditions, lot planning, traffic flow, pedestrian circulation and public open space areas.
 2. Block Dimensions.
 - a) The maximum lengths of blocks containing a majority of lots measuring 70 feet in width and over should be 1,000 feet, and the maximum length of blocks containing a majority of lots less than 70 feet in width shall be 700 feet as determined by the reviewing body.
 - b) Blocks over 700 feet long may, at the discretion of the reviewing body, require pedestrian ways at their approximate centers. The provision of additional access ways to schools, parks, shared use paths, or other destinations may be required by the reviewing body.
 - c) Blocks shall have sufficient width to accommodate two tiers of lots including any additional allowance for natural features in between such as an existing watercourse. This standard shall not apply where:
 - [1] Single tier lots are required to separate residential development from arterial traffic
 - [2] To separate lots from an incompatible use
 - [3] To allow for environmental or unusual topographical conditions
 - [4] When adjacent to the outer perimeter of the subdivision
 - [5] When the town wants to limit the length of dead end cul-de-sac streets which have no opportunities for future connection.
 - [6] When the parent parcel lot dimensions are limited
- G. Utilities.** Underground utilities shall be placed between the paved roadway and street line to facilitate location and repair of the lines. The applicant shall install underground connections, where required, to the property line of each lot before the street is paved.
- H. Grading and Stormwater Improvements.** Site grading and improvements related to management of stormwater quality and quantity shall conform to Town specifications and shall be approved as to design and specifications by the Town Engineer or duly authorized representative. In addition, development of the parcel shall conform with the State Pollutant Discharge Elimination System (SPDES) Phase II stormwater requirements and §128-26.6 of the Zoning Law and Chapter 98 of the Code of the Town of Bethlehem.
- I. Intersections.** Intersections of major streets by other streets shall generally be at least 600 feet apart where practicable. Cross (four-cornered) street intersections shall be avoided, except at important intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 50 feet of an intersection, streets shall be approximately at right angles and grades shall be limited to 1.5%. All street intersection corners shall be rounded by curves of at least 25 feet in radius at the property line.
- J. Trees.**

1. A conscious effort shall be made to preserve all worthwhile trees and shrubs which exist on the site. On individual lots or parcels, care should be taken to preserve selected trees to enhance the landscape treatment of the development.
 2. Trees and shrubs to be preserved shall be protected by plastic fencing. Fencing shall be placed at the drip line (extent of canopy). If not possible, placement shall be as close to the drip line as possible and in no case less than five (5) feet away from the tree trunk.
- K. Sight Lines and Visibility at Intersections.** Within the triangular area formed at corners by the intersection of street center lines, for a distance of 75 feet from their intersection and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided. Fences, walls, hedges or other landscaping shall not be permitted or placed so as to obstruct such visibility.
- L. Continuation of Streets into Adjacent Property.**
1. Streets shall be arranged to provide for their continuation between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, and efficient provision for utilities and particularly where such continuation is in accordance with the Comprehensive Plan.
 2. If the adjacent property is undeveloped and the streets must dead end temporarily, the right-of-way and the improvements must run to the property line. A temporary "T" turnaround, meeting Town specifications, shall be provided at the terminus of all dead-end streets together with a notation on the plat that the land outside the street right-of-way shall revert to abutters whenever the street is continued.
 3. A sign shall be placed at the dead-end indicating plans for future road extensions.
 4. A note indicating plans for future road extensions shall be added to any plot plans created for the subdivision.
- M. Permanent dead-end streets.** A circular turnaround in accordance with the standards set forth in the Town specifications shall be provided at the end of the dead-end street for greater convenience to traffic and effective police and fire protection. Permanent dead-end streets shall, in general, be limited in length to 900 feet.
- N. Street names.** All streets shall be named, and such names shall be subject to the approval of the Town Board. Names shall be sufficiently different in sound and spelling from other street names in the Town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.
- O. Future street system.** Where the plat covers only a part of the applicant's tract, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered along with the potential future street system.

§103-5.4 STREET TREES

- A. Location.** Planting location of street trees. Street trees shall be planted two (2) feet from the right-of-way line on the non-private easement side of the road. Street trees shall be planted two (2) feet from the private utility easement (outside the right-of-way) when located on the private utility easement side of the road.
- B. Species.** The species of trees planted near the public right-of-way shall follow the street tree planting

list provided in the Street Tree Inventory and Management Plan. A minimum of three different species shall be planted individually or in small groups in alternating patterns to discourage the spread of pests and disease. Native species are preferred. The tree species shall be appropriate and suitable for the site conditions.

- C. **Street Tree Type.** Street trees shall be major deciduous shade trees with a minimum mature height of 50 feet. Smaller ornamental trees may be planted at subdivision entrances, cul-de-sacs, parks, or other significant locations within the subdivision. Evergreen trees are discouraged along streets unless required for screening purposes.
- D. **Quantity and Spacing of Street Trees.** The total number of street trees planted along streets in the subdivision shall be one tree for every 40 linear feet of street frontage on each side of the roadway. Major shade trees shall be evenly spaced at 35 feet to 45 feet. Street trees should be placed outside of the sight distance triangle as determined by roadway geometry: 10 feet from directional sign, 20 feet from stop/yield signs. No tree shall be planted closer than five (5) feet from a fire hydrant.

§103-5.5 LOTS, FLAG LOTS & SHARED DRIVEWAYS

- A. **vArrangement.** The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot and in providing access to buildings on such lots from an approved street.
- B. **Flag Lots.** Lots which meet the definition of "flag lot," as defined in this Chapter, shall meet the following additional standards:
 - 1. The access to the flag lot shall be by way of a driveway placed within the "flagpole" or "panhandle" portion of the lot or parcel, as recorded.
 - 2. Only that portion of the lot having adequate width to meet the minimum lot width requirements and allow for provision of meeting the minimum yard and setback requirements of the district shall be counted as part of the minimum lot area. The accessway (i.e., the "flagpole" or "panhandle") shall not be included in the calculation of minimum lot area.
 - 3. The accessway shall maintain a constant minimum width of not less than the minimum highway frontage as set forth in Part 2 of Chapter 128 (Zoning) of the Town Code for the district in which the property is located.
 - 4. The flagpole shall not cross a flowing or intermittent stream, ravine or similar topographic feature without provision of an adequate structure or fill and culvert to carry traffic.
 - 5. In no event shall a flag lot be used to access a private road.
 - 6. The flagpole shall be conveyed with the ownership of the rear lot or parcel and shall be considered a permanent part of that lot or parcel, never to be resubdivided or conveyed separately from the parcel to which it provides access.
 - 7. A flag lot parcel shall not be approved which would create a flagpole that would be generally parallel to a public street, unless the flagpole is separated from the public street by a distance of not less than 200 feet.
 - 8. Adjoining flag lots are prohibited. The minimum distance between driveways serving individual flag lots shall be not less than 100 feet as measured along the public road or highway frontage.

9. Flag lots shall be permitted in both major and minor subdivisions at the discretion of the Planning Board. Flag lots must meet all area, yard and bulk requirements for the zoning district applicable and shall be so arranged as to provide suitable all-weather access for passenger and emergency vehicles.
 10. The length of the "pole" of the flag lot from the roadway to the front yard line shall not be less than 200 feet.
 11. Where one flag lot parcel is preexisting, the adjoining lot or parcel shall not be divided into a flag lot shape.
 12. Notwithstanding any inconsistent provisions of this Chapter or the Zoning Law, flag lots shall be permitted for the erection and maintenance of single-family dwellings only.
 13. Flag lots may not be further subdivided.
- C. Modifications.** The Planning Board is authorized to modify the requirements for flag lots as set forth in this Section, provided that the Board determines that such modification will result in an improved project design, will be protective of the environment, and will ensure the protection of the public health, safety and welfare.
- D. Exemptions.** Lots located in the RMU, RR, and RLI Districts shall be exempt from regulation as flag lots under Subsection B(8).
- E.** A shared driveway may be used to access no more than three buildable lots. Shared driveways may be used to access a flag lot and not more than two lots adjoining the flag lot, provided that each such lot has frontage on a public road or public highway. The establishment of a shared driveway requires an access easement and an agreement or covenant setting forth the rights and obligations of the owners of the lots to share in the cost of maintaining and repairing the shared driveway. Such agreement or covenant is subject to the approval of the Town Attorney.

§103-5.6 RESERVATIONS & EASEMENTS

- A. Realignment or Widening of Existing Streets.** Where the subdivision borders an existing street and the Official Map or Town Plan 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 in the plat as "Reserved for Street Purposes."
- B. Utility and Drainage Easements.** Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within a street right-of-way, perpetual unobstructed easements shall be provided to the Town for such utilities or drainage facilities located outside of the street right-of-way. Said easements shall be a minimum 20 feet in width unless otherwise recommended by the Town of Bethlehem Engineering Division and approved by the Planning Board.
- C. Easements for Active Transportation Access.** The Planning Board may require, in order to facilitate active transportation access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 10 feet in width along the street right-of-way or at such other locations as the Board deems appropriate.
- D. Ownership of Reservations.** Ownership shall be clearly indicated on all reservations and easements.

§103-5.7 REQUIRED PUBLIC IMPROVEMENTS

- A. The applicant shall provide the following improvements when required by the Planning Board:
1. Paved streets.
 2. Corner curves and paved aprons.
 3. Sidewalks and shared use paths.
 4. Bicycle facilities.
 5. Traffic calming improvements.
 6. Water mains and fire hydrants.
 7. Sanitary sewage disposal facilities.
 8. Storm drainage system facilities.
 9. Street signs.
 10. Streetlighting.
 11. Street trees.
 12. Streetscaping improvements.
 13. Seeding or sodding of planting strips with lawn grass.
 14. Parklands in accordance with Article 6 of this Chapter.
- B. In making a determination to require such improvements, the Planning Board shall take into consideration the prospective character of the development, whether a hamlet or multi-use area, residential, business or industrial, and the surrounding transportation network.

§103-5.8 MISCELLANEOUS REQUIREMENTS

- A. **Lot Monumentation.** The property corners of all lots created pursuant to this Chapter shall be permanently marked in the field by installation of iron pipe, rods or other suitable monumentation approved by the Town Engineer. Monumentation for each individual lot shall be located and installed by a licensed land surveyor and be in place prior to issuance of a certificate of occupancy.
- B. **Model Homes.** Prior to the acceptance of Town highways and infrastructure within an approved subdivision, the developer may make application for a building permit for a model home within said subdivision. No building permit may be issued for a model home unless the following conditions have been satisfied:
1. The final plat has been approved and filed in the Albany County Clerk's office.
 2. The model home consists of a single-family detached structure, a single-family attached structure, or multi-family units.

3. The model home is located within 600 feet of an existing public fire hydrant.
4. Access is provided to the model home lot directly from an abutting, improved and dedicated public street, or in the absence of an improved and dedicated street, an abutting street that will be dedicated to the Town under the provisions of the subdivision approval and which street abutting the lot has been improved to the point of installation of the base course that meets the requirements of the New York State Fire Code for emergency access.
5. Prior to issuance of a temporary certificate of occupancy (CO) for the model home, said home shall be supplied with public water, sanitary sewer, electric power, and such other essential services as determined by the Building Inspector or otherwise required under applicable New York State Building and Fire Safety Codes.
6. The temporary CO shall be issued for use of the structure as a model home only, and no final CO shall be issued for occupancy as a single-family dwelling until such time as all required public highway and infrastructure improvements have been made and said facilities have been dedicated to and accepted by the Town.

ARTICLE 6. PARKLAND RESERVATION & FEE

§103-6.1 APPLICABILITY

- A. In reviewing residential site plans and residential subdivisions, or proposals for planned development districts, the Planning Board, in the case of site plans and subdivisions, or the Town Board in the case of planned development districts, shall ensure that the park and recreation demands generated by new residential development are addressed in accordance with the provisions of this article.
- B. To the extent that this section is inconsistent with Town Law §274-a, Subdivision 6, or §277, Subdivision 4, or any other provision of Article 16 of the Town Law, the provisions of this Chapter are expressly intended to and do hereby supersede any such inconsistent provisions.

§103-6.2 LAND RESERVATION REQUIREMENT

- A. **Residential Developments Requiring Site Plan or Subdivision Approval.** Where the Planning Board determines that suitable land for a public park, playground or other recreational purpose exists within the parcel boundaries of a proposed residential development, the Planning Board may require as a condition of site plan or subdivision approval that a portion of the development parcel be reserved for such purpose.
- B. **Residential Developments Requiring Planned Development Approval.** Where the Town Board determines that suitable land for a public park, playground or other recreational purpose exists within the parcel boundaries of a proposed planned residential development, the Town Board may require as a condition of building project approval that a portion of the development parcel be reserved for such purpose.
- C. **Criteria.** In determining whether or not to require the reservation of land for public park, playground or other recreational purpose, the Planning Board, in the case of residential site plans and subdivisions, and the Town Board, in the case of planned development districts, shall be guided by the criteria and procedures outlined in this Article.
- D. **Amount of Land Reservation.** The minimum amount of land area to be reserved for public park, playground or other recreational purpose shall be determined by the number and type of new residential units located within the proposed residential development, according to the following schedule:

UNIT TYPE	MINIMUM RESERVED LAND
<i>Single-Family, Detached</i>	1,800 sf / du ⁴
<i>Single-Family, Attached</i> ¹	1,500 sf / du ⁴
<i>Two- To Four-Family Dwelling Unit</i> ²	1,600 sf / du ⁴
<i>Multi-Family Dwelling Unit</i> ³	1,300 sf / du ⁴

- NOTES:**
- (1) Refers to single-family attached units such as townhouses where each dwelling unit sits on its own individual lot.
 - (2) Refers to units located in structures with two to four dwelling units, including condominium units, but excluding single-family attached units such as townhouses.
 - (3) Refers to units located in structures with five or more dwelling units, including

condominium units, but excluding single-family attached units such as townhouses.

- (4) The notation “sf / du” shall mean square feet per dwelling unit.

§103-6.3 CRITERIA FOR LAND RESERVATION

In determining whether or not to require the reservation of land for public park, playground or recreational purposes, the Planning Board, in its review of residential site plans or subdivisions, or the Town Board, in its review of planned development districts, shall consider the following factors:

1. Whether suitable land exists within the parcel boundaries of the proposed development, in terms of its size, shape, and dimensions, to reasonably accommodate a public park, playground or other recreation use.
2. Whether the characteristics of the land in terms of topography, soils, vegetative cover, hydrology and/or other natural features readily lend themselves to development of the site for active recreation use.
3. Whether there are state or federal regulatory restrictions that would limit the usefulness of the site for active recreation development.
4. Whether the site, in terms of its physical characteristics, would provide an attractive and safe area for recreational use.
5. Whether the site is located such that reasonable and safe pedestrian, bicycle and vehicular access can be provided between the site and surrounding residential areas.
6. Whether the character of the proposed residential development and that of the surrounding area are compatible with a public park and/or recreational use.
7. Whether the anticipated population of the proposed residential development, together with the population density of surrounding neighborhoods, is sufficient to justify development and long-term maintenance of a public park, playground or other recreation facility at the location.
8. Whether the site is located near or duplicates recreation facilities already provided in the area, particularly those providing the same type of recreation opportunities, including facilities located on public school grounds.
9. Whether development and long-term maintenance of the site would place an undue burden on the Town Parks and Recreation Department, given other commitments and priorities of that Department.
10. Whether the site contains any unique and significant physical, aesthetic or ecological features that would make it particularly suited for environmental education, trail development, a nature preserve, or other passive recreation use.
11. Whether reservation of the land is consistent with recommendations contained in the Comprehensive Plan for the Town of Bethlehem and/or the Master Plan for Parks and Recreation in the Town of Bethlehem, if any, in effect at the time the development application is made.
12. Whether reservation of the land is consistent with the general goals and objectives of the Town Parks and Recreation Department and the Town Board with respect to parks and recreation facility development.

§103-6.4 PROCEDURES

A. Referral Required.

1. Site plan and subdivision applications. Prior to making any final determination that land within a proposed residential development will be reserved for public park, playground or other recreational purpose, the Planning Board, in the case of site plans or subdivisions, shall first refer the proposal to both the Town Board and the Administrator of Parks and Recreation for their input on the matter. If no response is rendered within 30 days of the date of referral, the Planning Board may make a final determination. A referral is not necessary where the Planning Board makes a determination that it will not require the reservation of land within the residential development.
2. Planned residential development applications. Prior to making any final determination that land within a proposed residential development will be reserved for public park, playground or other recreational purpose, the Town Board, in the case of planned development districts, shall first refer the proposal to the Administrator of Parks and Recreation for their input on the matter. If no response is rendered within 30 days of the date of referral, the Town Board may make a final determination. A referral is not necessary where the Town Board makes a determination that it will not require the reservation of land within the residential development.

B. Findings Required. Prior to making any final determination that land will be reserved for public park, playground or other recreational purpose, the Planning Board, in the case of residential site plans and subdivisions, or the Town Board, in the case of planned development districts, shall make a finding, in accordance with §274-a, Subdivision 6, or §277, Subdivision 4, of the New York State Town Law that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. The finding shall include an analysis of the criteria of §103-6.3 above.

C. Timing of Land Reservation. The reservation of public park, playground or recreation land shall occur prior to the issuance of the first building permit for any dwelling unit located within the approved residential development.

D. Satisfaction of Land Reservation Requirement. The land reservation requirement of this section shall be satisfied by:

1. The presentation to the Town of a metes and bounds description of the site that is proposed to be reserved for public park, playground or recreation purposes;
2. The placing of a notation upon the approved plan indicating that the land is so reserved and cannot be further subdivided or built upon except for such purposes; and
3. The placing of deed restrictions upon the site. Said deed restrictions shall be in a manner and form acceptable to the Town Attorney and shall indicate that the land is reserved for public park, playground or recreational purposes and cannot be further subdivided or built upon except for such purposes. Said deed restrictions shall be filed in the office of the County Clerk, and upon their filing the land so reserved shall become part of the Official Map of the Town of Bethlehem.

§103-6.5 FEE IN LIEU OF PUBLIC PARK, PLAYGROUND, OR RECREATIONAL LAND

A. Fee In Lieu of Land Reservation. Where the Planning Board, in the case of residential site plans and subdivisions, or the Town Board, in the case of planned development districts, does not require the reservation of land for a public park, playground or other recreational purpose, the approving Board or agency shall instead require that a fee in lieu of said land be paid to the Town as a condition of project

approval.

- B. Amount of Fee.** The fee to be paid the Town above shall be determined by the number and type of new residential units located within the proposed residential development, according to the following schedule:

UNIT TYPE	FEE AMOUNT (PER DWELLING UNIT)
<i>Single-Family, Detached</i>	\$2,200
<i>Single-Family, Attached</i> ¹	\$1,600
<i>Two- To Four-Family Dwelling Unit</i> ²	\$1,650
<i>Multi-Family Dwelling Unit</i> ³	\$1,350

NOTES: (1) Refers to single-family attached units such as townhouses where each dwelling unit sits on its own individual lot.

(2) Refers to units located in structures with two to four dwelling units, including condominium units, but excluding single-family attached units such as townhouses.

(3) Refers to units located in structures with five or more dwelling units, including condominium units, but excluding single-family attached units such as townhouses.

- C. Findings Required.** Prior to requiring the payment of a fee in lieu of the reservation of land, the Planning Board, in the case of site plans or subdivisions, or the Town Board, in the case of planned development districts, shall make a finding, in accordance with §274-a, Subdivision 6, or §277, Subdivision 4, of the New York State Town Law, and §103-6.4 B, above that the proposed residential development presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan or within such building project.
- D. Timing of Fee Payment.** Payment of the fee shall be made to the Town at the time of application for a building permit for each approved dwelling unit. Fees may be paid on a unit-by-unit basis consistent with the number of units covered in each building permit application.
- E. Fees to Constitute Separate Trust Fund.** All fees collected pursuant to this section shall be placed in a separate trust fund(s) to be established and used by the Town exclusively for the acquisition of public park, playground or recreation land and/or the improvement of public park and recreation facilities.

§103-6.6 CREDITS

- A. Credit for Previous Land Reservations and Fee Payments.** Notwithstanding the provisions found elsewhere in this article, credit shall be given for previous land reservations and/or fee payments that were made pursuant to this Chapter or Chapter 128, Zoning, of the Town Code at the time of a prior residential development approval.
- B. Credit for Land Previously Reserved.** Any land reservation required pursuant to this article shall be reduced by an amount equal to the area of land reservation required for the approved dwelling unit(s) or lot(s) at the time of previous subdivision, site plan or planned residential development approval.
- C. Credit for Fees Previously Paid.** Any parkland fee required pursuant to this article shall be reduced by an amount equal to the parkland fee required for the approved dwelling unit(s) or lot(s) at the time of previous subdivision, site plan or planned residential development approval.
- D. Credit for On-Site Facilities.** In instances where private parkland facilities are provided on site for the benefit of residents of the development, the parkland fee required pursuant to this article may be

reduced by an amount equal to 50% of the required fee or 50% of the cost of such on-site facilities, whichever is less. Acceptable facilities shall include clubhouses, swimming pools, tennis courts, playgrounds, athletic fields, and other similar facilities for active recreation use. The acceptability of on-site facilities and any subsequent reduction in fee shall be determined by the Town Board in the case of planned residential and mixed economic developments or by the Planning Board in the case of residential site plans or subdivisions. The cost of any on-site facilities for which credit is sought shall be fully documented and may include the cost of materials and labor only.

ARTICLE 7. CLUSTER / CONSERVATION SUBDIVISIONS

§103-7.1 ESTABLISHMENT & PURPOSE

- A. Statement of Policy.** The Town of Bethlehem hereby establishes a policy of encouraging, and in some cases requiring, the use of cluster/conservation subdivision design to preserve open space, agricultural land, water supplies, and other environmental resources identified in the Town of Bethlehem Comprehensive Plan and to harmonize new development with the traditional open, wooded, agricultural and hamlet landscapes of the Town. These principles allow the Planning Board to modify the applicable area and bulk provisions of this Chapter in order to preserve open space and encourage more sensitive and efficient development patterns than would be possible by strict adherence to the conventional specifications.
- B. Grant of Authority.** The Town Board of the Town of Bethlehem hereby grants to the Planning Board of the Town of Bethlehem the authority to modify applicable area, yard and bulk provisions of the Zoning Law as they apply to a specific plat so long as the modified plat is consistent with the goals and objectives of the Comprehensive Plan pertaining to conservation subdivisions and this Chapter. To the extent that any provisions of this Chapter are inconsistent with §278 of the Town Law, the Town Board of the Town of Bethlehem hereby declares its intent to supersede that section of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law §10, Subdivision 1(ii)(d)(3) et seq.
- C. Purposes.** This section provides for flexibility in the design and development of land in order to promote its most appropriate use and to preserve as permanent open space important natural features and resources, wildlife habitat, water resources, ecological systems, and scenic areas to protect the long-term health and stability of the environment, increase ecological resilience, and benefit present and future residents. A cluster/conservation subdivision plan may involve grouping development on one or more portions of a parcel and modifying the minimum lot, area, setback or frontage requirements in order to achieve one or more of the following specific purposes:
1. Long-term protection of natural and man-made resources identified in the Comprehensive Plan and this Chapter.
 2. Compatibility with surrounding land uses and the overall character of the neighborhood in which the property proposed for subdivision is located.
 3. Provision of adequate setbacks and visual buffers from adjoining properties.
 4. Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces providing linkages between existing and potential future open space areas.
 5. Preservation of open space where the preserved lands border active agricultural land or land which is suitable for agricultural use.
 6. Protection of ground- and surface water, regulated wetlands, steep slopes, floodplains or unique areas of natural, scenic or historic significance.
 7. Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act requirements.

8. Reduction of the number of new roads or driveways obtaining access from existing public roads and reduction of the amount of new road that may be required to be dedicated to the Town.
 9. Protection of designated critical environmental areas.
- D. Preservation of Land.** A cluster/conservation subdivision accomplishes the purposes set forth above by reducing the generally applicable minimum lot size and bulk requirements of this Chapter for the district in which the property is located and by grouping residences in those areas where development would have the least impact on identified natural and community resources. The approved cluster/conservation subdivision plat shall identify, with specificity, the location and types of resource(s) to be preserved. The resources shall then be permanently preserved through the use of a conservation easement(s), restrictive covenant(s) and/or appropriate deed restriction(s) as determined by the Planning Board.

§103-7.2 APPLICABILITY

- A. Applicability.** This Article shall be applicable only to land parcels zoned for residential uses for which an application for approval of a major subdivision pursuant to this Chapter is submitted to the Planning Board.
- B. Cluster/Conservation Subdivision Required.**
1. Cluster/Conservation subdivision layout is required for major subdivision applications where such subdivision involves a parent parcel and/or subdivision site area of 10 acres or more (total parcel area).
 2. Cluster/conservation subdivision layout shall also be required for major subdivision applications where the parent parcel was previously 10 acres or more and previously subdivided resulting in a lot less than 10 acres, after the effective date of the Town of Bethlehem Zoning Law and Subdivision Regulations.
 3. The Planning Board may consider a cluster/conservation subdivision layout for major subdivisions less than 10 acres and minor subdivisions at the request of the applicant.
- C. Conventional Plan Review.**
1. An application for cluster/conservation subdivision must include a conventional subdivision plan. It is the intent of this Article, however, to streamline the process of conventional plan review, recognizing its preparation as the initial step for cluster/conservation subdivision applications.
 2. Lots and dwellings shown on the conventional plan must be fully consistent with the bulk and dimensional requirements for the zoning district in which the land is located.
 3. The Planning Board must have sufficient information to make a credible judgement as to the density permitted through a conventional subdivision and that the conventional plan presented complies with all applicable zoning laws and standards and reasonably demonstrate that detailed technical issues or concerns would be resolved with further investment of resources during the cluster/conservation plan review.

§103-7.3 DENSITY & AREA CALCULATIONS

- A. Determination of Development Density.**

1. The maximum development density of cluster/conservation subdivisions shall be based upon the conventional maximum density unit calculation for major subdivisions, as provided by §103-5.2.
2. In no case shall the maximum number of lots and dwelling units within a cluster/conservation development exceed the maximum number capable of being developed within a conventional subdivision layout of the same property.
3. The Planning Board shall determine the minimum lot area, width, and yard setbacks for each lot created as part of a cluster/conservation subdivision.
4. During cluster/conservation plan review, the Planning Board has the authority to reduce the number of dwelling units and/or lots shown, if deemed necessary, as a result of utility and infrastructure analysis.
5. An applicant proposing a cluster/conservation subdivision may apply for an incentive adjustment to the maximum development density in exchange for certain community benefits in accordance with Article 46, Incentive Zoning, of the Town Zoning Law.

- B. Buildable Area Calculation.** The buildable area of a cluster/conservation subdivision shall be determined as follows:

$$T - C = BA$$

WHERE:

T = Total Site Area in the development

C = Constrained Land Area, determined by the total acreage of the following:

- + NYS and federal regulated wetlands and required buffer areas
- + Streams or waterways and all required buffer areas, in accordance with the Town of Bethlehem Code and/or any applicable permits adjusting said buffers
- + Ponds and lakes
- + Slopes in excess of 20% of grade
- + Existing utilities and road rights-of-way
- + 100-year floodplain areas

BA = Buildable Area

- C. Minimum Open Space Required.**

1. Cluster/conservation subdivisions shall be required to provide a minimum of 50% of the buildable area as open space within the overall subdivision as determined by the previous Subsection B.

$$OS = BA \times 0.5$$

WHERE:

OS = Minimum Open Space within Total Site Area

BA = Buildable Area (See Subsection B)

2. The buildable area is considered separate from the constrained lands as calculated under Subsection B. The constrained lands on the property shall be preserved in accordance with §103-7.6 B.

3. The location and preservation of open space shall be in accordance with §103-7.5 and §103-7.6.

D. Dwelling Unit Mix and Design Requirements.

1. Within the cluster/conservation subdivision, 1/3 of the dwelling units proposed shall be single-family (attached or detached) dwellings and/or two-family attached dwellings where each structure contains no more than two units. This limitation may be exceeded where required by the design standards of §128-30.11 (Multi-Family & Mixed Residential Development) or when applying incentive zoning pursuant to Article 46 of the Town Zoning Law.
2. Cluster/conservation subdivision layouts must apply the residential design standards of §128-30.11 (Multi-Family & Mixed Residential Developments) and §128-30.12 (Infill Residential Development).

§103-7.4 UTILITIES & SITE IMPROVEMENTS

- A. **Pedestrian Access.** The Planning Board may require that the cluster/conservation subdivision layout include sidewalks and trails for pedestrian circulation. Such pedestrian accessways shall be designed and installed to meet the needs of the residents of the cluster/conservation subdivision.
- B. **Water Supply and Sewage Disposal.** Water supply and sewage disposal facilities serving the cluster/conservation subdivision shall be designed in accordance with all applicable County Health Department standards and shall be prepared by a licensed professional engineer.
- C. **Utilities.** All telephone, natural gas, electric and similar utilities serving the cluster/conservation subdivision shall be located underground.

§103-7.5 LOCATION OF OPEN SPACE

- A. The location of open space within a parcel will be guided by the Town of Bethlehem Open Space Plan: Conservation Criteria Implementation, dated December 2017, and as amended. The Town's Open Space Conservation Criteria Assessment Form will be completed by the Town to serve as a basis for the discussion and determination.
- B. The Planning Board is authorized to require the reconfiguration of a cluster/conservation subdivision to ensure that the open space to be protected under the plan generally consists of large contiguous land tracts unbroken by intervening lots, structures, roads or driveways. In order to achieve a continuity of open space lands and avoid fragmentation, not less than 50% of the lands so preserved shall be continuous and unbroken by intervening lot lines or boundary lines and shall, at its narrowest point, not be less than 50 feet in width.
- C. Notwithstanding the above, the Planning Board may waive the requirement that 50% of preserved open space be continuous and unbroken in instances limited to the following:
 1. Where it finds that due to the configuration of the property, there are physical or institutional constraints that inhibit attainment of said 50% requirement; or
 2. Where it finds that implementation of said 50% requirement would result in a substantial reduction in the amount of land area that would otherwise be preserved as open space.
- D. In granting said waiver, the Planning Board shall also find that the configuration of the open space so provided is consistent with the goals, objectives and remaining standards of this Article. In no instance shall the amount of open space provided be less than that required by this Article.

§103-7.6 OPEN SPACE PRESERVATION REQUIREMENTS

The creation, preservation and management of open space to be protected as part of a cluster/conservation subdivision development shall be as follows:

- A. Ownership.** The preserved open space area may be:
1. Created as a separate parcel owned in common by the residents of the cluster/conservation subdivision through a homeowners' association (HOA) formed in accordance with state law and approved by the office of the State Attorney General;
 2. Created as a separate parcel owned in fee by the Town of Bethlehem or by a qualified not-for-profit conservation organization acceptable to the Town Board; or
 3. Owned by one or more of the owners of the lots of the cluster/conservation subdivision wherein the open space may comprise part of one or more of the lots of the subdivision with an appropriate conservation easement, restrictive covenant and/or deed restriction placed in the deed(s) to said lot(s) to ensure the permanent preservation of the open space.
- B. Prohibited Use.** No portion of the open space shall be used for roads, building lots, utility structures, driveways, or any principal or accessory structure, except for utility lines and connections installed underground. In addition, no part of the open space shall be used for residential, industrial, or commercial purposes except in connection with active agricultural and forestry use.
- C. Preservation and Enforcement.** Open space in a cluster/conservation subdivision shall be permanently preserved as required by this section. Each lot created as part of the cluster/conservation subdivision shall be granted individual rights to enforce the restrictive covenants, restrictions of the conservation easement(s) and/or deed restrictions protecting and preserving the open space, and the Planning Board may require that the right of enforcement also be granted to the Town or to a qualified conservation organization.
- D. Plat Notations.** Open space created by a cluster/conservation subdivision must be clearly labeled on the final plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land. The plat shall clearly show that the open space land is permanently reserved for open space purposes and shall contain a notation indicating the liber and page of any conservation easements, restrictive covenants or deed restrictions required to be filed to implement such reservations or restrictions.
- E. Permanent Protection of Open Space.** Open space shall be protected by a conservation easement, restrictive covenant or appropriate deed restriction restricting development of the open space land in perpetuity and allowing use only for active agriculture, forestry, active or passive recreation or protection of natural resources. Conservation easements shall be governed by §247 of General Municipal Law and/or §§49-0301 through 49-0311 of the Environmental Conservation Law. Said conservation easement may be granted to the Town with the approval of the Town Board or to a qualified not-for-profit conservation organization acceptable to the Town Board. Such restrictive covenants, conservation easements and/or deed restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plat approval hereunder.
- F. Recording.** The conservation easement, restrictive covenants and/or deed restrictions shall be recorded in the Albany County Clerk's office prior to or simultaneously with the filing of the cluster/conservation subdivision final plat in the County Clerk's office. A receipt from the filing with the County Clerk shall be given to the Department of Economic Development and Planning.