

Subdivision Regulation

Local Law 8 of 2011

Town of Candor

Adopted by the Planning Board on July 17, 1990

Approved by the Town Board on August 28, 1990

Amended by Town Board on December 13, 2011

ARTICLE 1: GENERAL PROVISIONS

Section 110: Title

These regulations shall be known as the "Subdivision Regulations of the Town of Candor."

Section 120: EFFECT

All Subdivisions as defined herein shall be made known to the Town Clerk by written notice. It shall be illegal, to create in the Town of Candor a Subdivision Development, as defined herein, without the approval of the Planning Board.

Section 130: AUTHORIZATION

The Town Board of Candor, as empowered by Article 16 of the Town Law of the state of New York and by means of a resolution adopted August 28, 1990, authorizes the Planning Board of the Town of Candor to approve or disapprove applications for subdivision developments within the Town of Candor, approve or disapprove the development of subdivision developments already filed in the office of the Clerk of Tioga County if such plats are entirely or partially developed, and to approve or disapprove (a) changes in the lines of existing streets, highways, or public areas shown on subdivision plats or maps filed in the office of the Clerk of the County of Tioga, and (b) the laying out, closing off, or abandonment of streets, highways, or public areas under the provisions of the town and highway Laws within the Town of Candor and outside the Limits of any incorporated village.

Section 140: PURPOSE

The purpose of these regulations is to provide for orderly and efficient growth within the community in accordance with duly-established community development goals and a resulting comprehensive plan, and the need to protect public health, safety, and environmental quality. Accordingly, all proposed lots shall be laid out with due regard to topography so that the natural beauty of the land and vegetation shall be protected; that the lots are of such size to be in harmony with the development of neighboring properties; that the proposed streets shall be of such width, grade, and location as to accommodate prospective traffic and to facilitate fire protection and access of firefighting equipment to buildings; and that proper provision shall be made for open spaces and/or recreation areas.

Section 150: ADMINISTRATION

The Subdivision Regulation shall be administered by the Planning Board.

Section 160: WAIVERS

Where the Planning Board finds that extraordinary hardships may result from strict compliance with these regulations because of unusual circumstances of shape, topography, or other physical features of the subdivision tract, or because of the nature of adjacent developments, the Planning Board may waive or vary

Town Planning, Board Secretary: the person designated by the Planning Board of the Town of Candor, New York, to perform the duties of the Secretary of the Town Planning Board.

Tract: any body or bodies of land or water, whether contiguous or non-contiguous, under one ownership under common control of any group of persons acting in concert as part of a common scheme or plan.

Undeveloped or Partially Undeveloped Land: as taken from the Town Law of the state of New York, Subdivision Control, Article 276 (the term "undeveloped" shall mean those plats where twenty percent (20%) or more of the lots within the plat, whether contiguous or non-contiguous, are unimproved [see definitions: improvements]).

ARTICLE 3: PROCEDURES AND INFORMATION REQUIRED

Section 310: Determination of Land Suitability

No subdivision plan shall be approved unless adequate investigation and consultation with the County Environmental Health Department and the Planning Board determines that the land can be used for building purposes without danger to public health and safety and is otherwise suitable for such purposes. Approval of a subdivision maybe withheld by the Planning Board if the proposed system for the drainage of surface water or the cumulative effect of septic effluent discharge is found to put water supplies or other resources at risk.

Section 320: Application and Review Sequence

- A. All subdivisions, including those that do not meet the definition of Subdivision Development, shall be made known within five working days after their occurrence by written notification to the Town Clerk. (No charge.)
- B. A subdivision meeting the definition of Subdivision Development shall be processed in the following stages:
 - 1. Sketch Plan Conference.
 - 2. Application for Preliminary Plat.
 - 3. Posting of notification sign on premises, publication of notice in newspaper having general circulation within the Town, and written notice mailed to adjacent land owners by Town Officials.
 - 4. Submission of application to county Planning Board, if required by sections 239m or 239n of the General Municipal Law.
 - 5. Public hearing.
 - 6. Decision on preliminary plat:
 - 7. If preliminary plat is approved, submission of final plat.
 - 8. If approved, second hearing (optional).
 - 9. Decision on final plat.

Section 330: Approvals of County and State Agencies

Approval of plans by the Tioga County Department of Environmental Health will be required for all sewage disposal systems.

Section 340: Sketch Plan Conference

- A. At least fourteen days before the next regularly scheduled meeting of the Planning Board, the sub divider should submit 8 (eight) copies of the sketch plan to the Town Clerk (consult clerk for specifications for preparation) and request an appointment with the Planning Board for the purpose of reviewing the Sketch plan. The Town Clerk will notify the sub divider of the time, date, and place that the Planning Board will meet to consider and review the sketch plan and the sub divider's ideas as they relate to the Town Master Plan (if any), design standards, and required improvements. Prior to the sketch plan conference, the Planning Board may make the plan available to appropriate government agencies such as the County Planning Board and the Soil and Water Conservation District for a comment.
- B. A short-form environmental form is required at the Sketch Plan Conference for proposed subdivisions smaller than ten acres or of fewer than ten dwellings. Long-form environmental assessment forms are required for larger subdivisions.
- C. A Sketch Plan Conference is intended to assist the sub divider in the planning and preparing of a Final Plat and to inform the Planning Board of the situation. A Sketch Plan Conference does not require formal application, fee, or official filing with the Planning Board (although the 14-day advance notice requirement still applies). Any advice and suggestions received by a potential sub divider at a Sketch Plan Conference are unofficial and do not obligate the potential sub divider or Planning Board in any way.

Section 350: Information Required By Planning Board

The following shall be submitted with all formal applications for approval, of a Subdivision Development, both at the Preliminary and Final Plat application stages:

A. DESCRIPTION OF EXISTING CONDITIONS:

- 1. Proof of legal ownership of or pending purchase offer for the real property in question.
- 2. A survey of the boundary lines of the tract, giving complete description by bearings and distances, shall be made and certified to the Planning Board by a licensed surveyor.
- 3. A separate mailing list of names and addresses of all property owners of record within 1,be0 feet of the proposed subdivision shall be submitted.
- 4. Existing restrictions on the use of the land including easements, covenants, zoning, flood hazard areas, state-designated agricultural districts and related individual agricultural assessment agreements, and important natural areas.
- 5. Maps and drawings of property drawn to a scale appropriate to show clBondy all existing conditions in and near the proposed subdivision, to include:
 - a. Name and address of owner and sub divider;
 - b. Name, address, and license number of any engineers, surveyors, or other professionals involved;
 - c. Subdivision name, scale, north arrow, date, Tome, County, tax map number, and farm or military lot number;
 - d. subdivision boundaries, including name of owner, deed book and page, and bearings and distances on all existing and proposed property lines;

- e. Properties and names of their owners, locations of all wells and septic systems within 1,000 feet of proposed subdivision;
 - f. Existing roads, utilities, structures, wells, septic tanks, dry wells, tile fields, etc. on the site;
 - g. water courses, wetlands (indicate whether designated as wetland by NYS), public facilities, and other significant physical features on or near the site;
 - h. Land contours at minimum intervals of five (5) feet, or other suitable indicators of slope;
 - i. Subsurface conditions on the tract: locations and results of tests made to ascertain subsurface soil; rock and ground water conditions; depth to ground water, unless test pits are dry at a depth of eight (8) feet; location and results of soil percolation tests if individual sewage disposal systems are contemplated. USDA Soil Conservation Service soil classification maps and interpretations for the site shall be provided.
6. A location map showing the subdivision in relation to other known landmarks, such as road intersections, lot lines, other subdivisions, etc.
 7. Total acreage of subdivision and area of each proposed lot expressed within one hundredth of an acre or in square feet.
 8. Existing buildings and types, including their approximate size and usage at time of application,

B. PROPOSED PLANS:

1. Eight (8) copies of the plat map, drawn to scale.
2. Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, water supply, and sewage disposal facilities, as well as electric distribution lines, including in ground or above ground location.
3. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer. For any proposed public roads, include a statement of dedication to the Town where applicable.
4. Construction drawings of roads shall include plans, profiles, and typical cross sections including the proposed location, size, and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, and sub base and other facilities.
5. Drawings showing placement of all buildings.
6. Grading and landscaping plans.
7. All parcels of land, roads, pedestrian ways, lots, easements, and areas proposed to be dedicated to public use and the conditions of such use.
8. The location and size of all proposed water lines, hydrants, and sewer lines, or other infrastructure, showing connection to existing lines, if appropriate.
9. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
10. Preliminary designs for any bridges or culverts.

11. Where the proposed plat covers only a part of the sub divider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted to the Planning Board for study.
12. Road lines, pedestrian ways, lots, easements, and areas to be dedicated to public use.
13. Proposed restrictions on the use of the land including easements, covenants, zoning, flood hazard areas, state-designated agricultural districts and related individual agricultural assessment agreements, and important natural areas.

C. ADDITIONAL REQUIREMENTS AT FINAL PLAT STAGE:

1. Property corner markers shall be installed at all lot boundary angle points. Markers must be of permanent material such as iron pins, pipes, concrete monuments or drill holes in ledge or rock, with the tops reasonably close to the ground surface. The developer must certify to the Planning Board through a registered land surveyor that such markers have been installed.
2. Approval of the Tioga County Department of Environmental Health for water supply systems and sewage disposal systems proposed or installed.
3. A statement from the Town and County Superintendents of Highways describing the existing highways and bridges serving said property, present and projected traffic volumes, current plans for improvement, and regular maintenance performed.
4. Any and all additional information as requested by the Planning Board to insure compliance with regulations and to ensure public health, safety, and compatibility with the Town's planning goals and objectives.

Section 355: Fees

Applicants must pay an application fee for any Subdivision Development. Applicants must also establish with the Town an escrow fund to which the Town shall have access for the payment of any consultants needed by the Town to evaluate the technical details of the application and project. These are not to be confused with performance bonds (see Article 8) or fees that maybe levied under authority granted by Section 617.17 of 6 NYCRR, "State Environmental Quality Review" to enable the Town to hire professional assistance expressly for environmental quality review.

The Town shall provide to any interested party upon written request a written accounting of the disbursement of these escrow funds.

The check for the application fee and escrow fund shall be made payable to the Town of Candor, New York, in an amount determined by resolution of the Town Board and the Town Clerk shall maintain a schedule of this and any other fee set by the Town Board.

Proof of performance bond (See Article 6).

Section 360: Review Procedures, Schedules, Timetables for Action

- a. Application. The sub divider shall file with the Town Clerk, as agent for the Planning Board, an application for Preliminary or Final plat approval, as is appropriate, on forms available from the Town Clerk.
- b. Public Notice. Notice of the proposed Subdivision Development and a hearing about it shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing. An approved sign shall be posted by the Town Code Enforcement Officer or other Town official on the site to notify the public of the proposed Subdivision Development. It shall remain in place until a final decision is rendered by the Planning Board or the application is withdrawn. Owners

of properties located within 100 feet of the proposed Subdivision shall be identified by the Planning Board by registered mail.

- c. Recommendation By the County Planning Department. When required by Section 239 of the General Municipal Law, the application for final plat approval shall be referred to the County Planning Board for its recommendation. Any recommendation received from the County Planning Board within the 30-day period prescribed shall be reviewed and taken into account by the Candor Town Planning Board before rendering any decision on the final plat.
- d. Requirement for Hearings. within forty-five days after the receipt of such preliminary or final plat, as the case maybe, by the Town Clerk, the Planning Board shall hold a public hearing. This hearing shall be held within 45 days of the official submission date of the preliminary or final plat. This hearing shall also fulfill the requirements of the SEQRA Act regarding the potential impact which the proposed subdivision may have upon the environment. Within forty-five (45) days following the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the preliminary plat. The time in which the Planning Board must take action maybe extended beyond the forty-five (45) day period by mutual agreement of the sub divider and the Planning Board.
- e. Effect of Approval. Approval or conditional approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any Portion thereof, for formal approval, the sub divider must comply with all requirements set forth by the Planning Board for approval, of the preliminary plat. This includes any requirements of the Tioga County Department of Environmental Health or other state agencies.
- f. Conditional Approval. Upon conditional approval of a Final Plat, the Planning Board Chairman is duly authorized to sign the Final Plat upon completion of such requirements as may have been stated in the conditional approval resolution. A certified statement of the requirements shall be noted on the Final Plat. Upon the signing of the conditionally approved plat by the Planning Board Chairman, the Final Plat shall then be certified by the Town Clerk. Conditional approval of a Final Plat shall expire one hundred-eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time by not more than one hundred eighty (180) days.
- g. Filing of Final Plats in Sections. Prior to granting conditional or final approval of a plat, the Planning Board may permit the Final Plat to be subdivided into two or more sections. In the event the sub divider shall file only a section of such approved final plat in the office of the County Clerk, the entire approved plat shall be filed within thirty (30) days, unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Article 16 of the Town Law of the state of New York (exemptions found in para. 265-a which in certain cases exempt subdivision plans from having to comply with standards approved after the Subdivision plan is approved).
- h. Notice of Decision. The Planning Board shall approve, conditionally approve, or disapprove the preliminary or Final Plat, as the case may be, within 45 days of the public hearing, if one is held. If no hearing is held, the Planning Board shall approve, conditionally approve, or disapprove the Plat within forty-five (45) days of receipt of all required application materials by the Town Clerk. The time in which the Planning Board must take action on the Final Plat may be extended by agreement of the applicant and the Planning Board.

If the Preliminary or Final Plat is disapproved, the grounds for disapproval (including a reference to the provisions of these regulations violated by the Plat), shall be stated in the record of the Planning Board. Failure of the Planning Board to render a decision regarding a final plat application within the required period shall be deemed final Plat approval. Within five (5) days of approval, conditional approval, or disapproval, the action of the Planning Board shall be noted on three (3) copies of the plat and reference made to any modifications required. One (1) copy shall be returned by mail to the sub divider and the other two (2) copies retained by the Planning Board,

- i. Recording Final Plat. The sub divider shall record an approved final plat, or the approved section thereof, in the Office of the Clerk of Tioga County, N.Y., within sixty (60) days after the date of approval; otherwise the Final Plat shall be considered void and must be submitted again to the Planning Board for approval before recording it in the Office of the Tioga County Clerk.
- j. Permits. The Building Inspector/Code Enforcement Officer shall not, issue a building permit or a Certificate of Occupancy for any structure on any lot in the Subdivision unless and until the applicant shall show proof that such subdivision has been filed in the office of the County Clerk as required by this paragraph, and unless the Town Engineer has certified in writing that required infrastructure is sufficiently completed to serve the needs of the buildings for which the building permit is sought.

ARTICLE 4: DESIGN STANDARDS AND REQUIRED IMPROVEMENTS

Section 405: Road Design Standards

Conformity with General Plan. The arrangement, width, location, and extent of all roads shall conform and be in harmony with the Town Master Plan (if any) for the Town. Roads not in the Town Master Plan (if any) shall conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience, and proposed uses of land. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.

Arrangement. Residential minor roads shall be designed to discourage through traffic whose origin or destination is not within the subdivision.

Location. When a proposed Subdivision is adjacent to or contains a state highway, the Planning Board may seek information from the New York State Department of Transportation as to the status of said highway regarding the state highway right-of-way and direction. The Planning Board may require the sub divider to establish a marginal road approximately parallel to and on each side of such a right-of-way a distance suitable for an appropriate use of the intervening land as for park purposes in residential districts, or for commercial or industrial purposes. Such distance shall also be determined with due regard for the requirements of approach grades and future grade separation.

Intersections. Roads shall intersect one another at angles as near to a right angle as possible, and no intersections of roads at angles less than sixty (60) degrees shall be approved. Road intersections shall be rounded with a radius of twenty-five (25) feet measured at the right-of-way line when the intersection occurs at right angles. If an intersection occurs at an angle other than a right angle, it shall be rounded with a curve of radius acceptable to the Planning Board. Road jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.

The developer must seek from the State Department of Transportation the appropriate rules and specifications for connecting subdivision roads to state highways.

Snow Removal. When laying out streets, sub dividers must make provision for efficient snow removal and other maintenance.

Access. In commercial and industrial districts, definite and assured provision shall be made for service access, such as off-road parking, and loading and unloading consistent with and adequate for the uses proposed.

Names and addresses. Names of new roads shall not duplicate existing or platted roads in Tioga County. The sub divider shall contact the County Fire Coordinator regarding proposed names of new roads. The Fire Coordinator will tell the sub divider whether or not a particular road name is already being used in the community. New roads which are extensions of or in alignment with existing roads shall bear the name of the existing roads.

Road signs. The sub divider shall provide and erect road signs of a type to be approved by the Town Board at all road intersections at the time of construction of the road. (Consult Town of Candor Billboard and Sign Regulation.)

Trees. If roadside trees are provided, they should be outside of the road right-of-way and planted in such a manner as not to impair motorist visibility at any corner or corners. A 200-foot minimum horizontal sight distance at intersections, unobstructed by trees and plant materials, shall be maintained.

Consult the Town's official list of approved trees for guidance.

Section 410: Road Construction Standards

- A. All road improvements shall be installed at the expense of the sub divider.
- B. Roads shall be built in conformity with "Minimum Road Specifications for Building a Road to be Considered for Takeover by the Town of Candor," available from the Town Clerk and Highway Superintendent, and to include the following:

Minimum width Right-of-way	50 feet
Minimum width of Pavement	18 feet
Minimum width of Shoulders	4 feet and flush with pavement, with a 3 percent downward gradation outward from that point.
Minimum radius of Horizontal curves	500 feet
Maximum Grade	6% except that grades up to 10% maybe approved on short runs
Minimum Braking Sight Distance	200 feet

Section 415: Sidewalks

Sidewalks may be required in certain areas, as specified in the Town's Master Plan, and in those cases shall be installed as follows:

- A. Sidewalks shall be installed at the expense of the sub divider, at such locations as the Planning Board may deem necessary.
- B. Sidewalks must be constructed to comply with the detailed specifications required by the Town Engineer and approved by the Planning Board.
- C. Sidewalks shall be concrete or other approved material, and have a minimum width of four (4) feet in residential areas, and five (5) feet in commercial and industrial areas.

Section 420: Utilities

Public utility improvements maybe required, as specified in the Town's Master Plan, and shall be installed as follows:

- A. Fire Protection: Adequate provision must be made for access to water for fire fighting, as approved by the local Fire Company.

- B. Street Lighting: Poles, brackets, and lights to be of size, type, and location approved by the Planning Board.
- C. Electricity/utilities: Except where infeasible, electric, telephone, and other utility lines shall be placed underground and shall be approved by the local power company.
- D. Utility Services: For ease of future maintenance and excavation, utilities shall be placed outside highway rights of way.

Section 425: Water Supply

A water supply system for the subdivision development maybe required. If so, it shall be installed at the expense of the sub divider to Town specifications.

Section 430: Sewage Disposal

A sewage treatment system for the subdivision development may be required. If so, it shall be installed at the expense of the sub divider to Town specifications.

Section 435: Lot Development Standards

Corner lots. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both roads.

Dimensions. Lot sizes shall conform to county and state Health Department requirements and Town regulations, zoning ordinances, and maps (if any).

Double Frontage Lots. Frontings on two roads by non-corner lots shall be discouraged.

Location. All lots should have suitable access to a public road.

Lot Lines. Side lot-lines shall be approximately at right angles to the road or radial to curved roads. On large lots, except when indicated by topography, lot lines shall be straight.

Nuisance strips. Parcels of land of such size and dimension as to be unsuitable for any reasonable purpose other than to exclude access to adjacent lands owned to be owned by others shall be avoided.

Pedestrian Easements. In order to facilitate pedestrian access to schools, parks, play areas, nearby roads, or other public facilities, perpetual unobstructed easements at least twenty (20) feet wide may be required by the Planning Board. Sidewalks, paths, or bicycle paths may also be required for reasons of safety and convenience.

Surface Grading and Stabilization. Ground surfaces shall be graded and restored within six (6) months of completion of any building construction or improvement so that no unsafe or unsightly mounds or depressions are left. Original topsoil removed during construction shall be returned and stabilized by appropriate seeding or other approved methods. Developers should make a good-faith effort to control erosion on and from the site.

Tree Preservation & Protection. In order to protect the natural beauty of the area and create the least adverse impact upon neighborhoods and local property values, damage to existing trees should be prevented to the fullest extent possible during construction projects. Large trees can be protected with barriers. Subdivision and development plans should show placement and species of intended tree plantings for screening, shade, and aesthetics. Consult the Town's official list of approved trees for guidance.

Unique and Natural Features. Unique features, such as historic landmarks and sites, rock outcrops, hill-top lookouts, desirable natural contours, and similar features, shall be preserved when possible, streams, lakes, ponds, and wetlands shall be left unaltered and protected by easements or other devices.

Section 440: Public Open Spaces and Recreation Sites

Consideration shall be given to the allocation of areas suitably located for open space and recreation sites in accordance with New York State Town Law Section 277, Municipal law 247, and as indicated on the Town Master Plan, if any, and be made available by one of the following methods:

- A. Dedication to the Town.
- B. Reservation of land for the use of property owners by deed or covenant, including to homeowners' associations.
- C. Reservation for acquisition by the Town within a reasonable period of time. Said reservation shall be made in such manner as to provide for a release of the land to the sub divider in the event the 'Town does not proceed with the purchase.
- D. The Planning Board will require the reservation and conveyance to the Town of areas or sites of such character, extent, and location as are suitable to the needs of the Town for such things as water treatment plants, sewage disposal plants, and other community purposes not necessarily anticipated in the Town Master Plan.

In accordance with New York state Town Law, Section 277, paragraph 1, if the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in the plat or that a provision for such parks would otherwise be impractical, the board may require, as a condition to approval of the plat, a payment to the Town of a dollar amount to be determined by the Town Board. This sum shall be used to establish a trust fund for use by the Town exclusively for Neighborhood Park, playground, and/or recreational purposes and which purposes also include the acquisition of property.

ARTICLE 5: PROTECTION OF SCENIC AND NATURAL RESOURCES

Section 510: Water Quality - Subdivision plans that pose clear and demonstrable risks to public health by threatening the quality or quantity of community or private water supplies, to include underground aquifers, shall not be approved.

Section 520: Cluster Developments

- A. Intent - This section authorizes the Planning Board, during the process of subdivision plat approval, to require clustered development in order to achieve the following duly-established community objectives:
 - 1. The preservation and enhancement of open spaces, water courses, wetlands, and areas designated as critical environmental areas.
 - 2. The development of active and passive recreational areas.
 - 3. The development of residential dwelling units in forms that are consistent with the public welfare and that provide reasonable safeguards to the appropriate use of adjoining land.
 - 4. Efficient and cost-effective development of roads, sidewalks, utilities, water and sewer lines, and other forms of public and private infrastructure.

5. The development of housing that is more affordable than that normally developed under conventional lot development.

B. Approval of Cluster Subdivisions

1. The Planning Board may consider a developer's request for approval of a cluster subdivision or may require that a developer prepare and submit plans for a cluster subdivision that contains no greater number of dwelling units than that proposed by the developer in the conventional plat. The approval, of a cluster subdivision shall follow the same rules and procedures as a conventional plat evaluation.
2. In addition to the information required to be submitted in Section 350 of this ordinance, developers shall submit the following supplementary information:
 - a. An area plan showing the proposed cluster subdivision and all existing land use and major natural features of the land within 500 feet of the project site.
 - b. A site development plan showing the location, size, use, and physical features of all proposed buildings and accessory uses; the location and design of vehicular and pedestrian access and the location of proposed parking areas.
 - c. A landscaping plan showing the type and location of all existing trees, vegetation, and natural features on the site; the identification of all existing vegetation to be preserved; the identification of all new vegetation to be added; and the location and type of fences, berms, or buffer areas.
 - d. A plan showing the boundaries of common areas to be reserved, and the proposed use, development, and maintenance of those spaces.
 - e. Elevations of typical dwelling units to be constructed in the cluster subdivision.
 - f. Environmental review of the project (see State Environmental Quality Review Act).
 - g. Any other information that the Planning Board may reasonably require.
3. The approval of a cluster subdivision shall constitute the approval of a site development plan for the affected area. No development shall occur on the site that is not in strict conformance with the elements of the approved site development plan, nor shall the plan be modified without the approval of the Planning Board.
4. A cluster subdivision shall not be approved unless the Planning Board makes the following findings and states in writing the facts that support those findings:
 - a. That the development is found to be compatible in appearance, character, and overall density with both the existing and potential development in the surrounding area.
 - b. That the development will not place an unreasonable burden on the public roads or utilities that will service the project.
 - c. That the development will promote the preservation of open space and natural resources within the neighborhood to a greater degree than would conventional development.
 - d. That the development is consistent with the public welfare and that the appropriate use of adjoining land is reasonably safeguarded.

- e. That the development will not have an undue adverse impact on any critical environmental resource.
- f. That the development complies with the approved street plan and Town Master Plan.

ARTICLE 6: REQUIRED BONDS

Section 610: General

The following financial security must be established before final approval can be granted:

- A. A performance bond, certified check deposit, or irrevocable letter of credit approved by the Town Board and Town Attorney as to form, sufficiency, manner of execution and surety, shall be filed with the Town Clerk in the amount estimated by the Town Board to secure the satisfactory construction and installation of the required improvements.
- B. The bond, deposit, or letter of credit shall guarantee the construction and installation of all streets and other required infrastructure in accordance with standards and requirements set forth in this Regulation.
- C. The Planning Board shall specify the time period within which the required improvements or phase of improvements must be completed, and this period shall be expressed in the Bond.
- D. In the event that any of the required improvements are not completed under the terms of the Bond, the Town Board, upon recommendation of the Planning Board, shall declare the Bond to be in default and shall collect the sum remaining payable there under.
- E. The Bond shall provide that fifteen percent of the Bond value shall be retained by the Town for a period of one year after the date of completion of required improvements to ensure their satisfactory condition.

Section 620: Extension of Time

The construction or installation of any improvements or facilities, other than roads, for which guarantee has been made by the sub divider in the form of a bond, deposit, or letter of credit, shall be completed within one year from the date of approval of the Final Plat. Road improvements shall be completed within two years from the date of approval of the final plat. The sub divider may request an extension of time, but must show reasonable cause for his inability to perform the improvements within the required time. The extension shall not exceed twelve months, at the end of which time the Town may use as much of the bond, deposit or letter of credit to construct the improvements as it deems necessary. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications. There shall be no extension of time given unless and until the terms of the bond, deposit, or letter of credit shall be extended as well, and proof of such extension provided to the Town in sufficient time to enable the Town to grant an extension.

Section 630: Agreement - Schedule of Improvements

When a performance bond, certified check, or letter of credit is provided pursuant to the preceding sections, the Town and the sub divider shall enter into a written agreement that itemizes the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost, as listed, may be repaid to the sub divider upon completion and approval, after inspection of such improvement or installation. However, fifteen percent of the check deposit, letter of credit, or performance bond shall not be repaid to the sub divider until one (1) year following the completion, inspection, and acceptance by the Town of all construction and installation covered by the check deposit or performance bond, as outlined in the sub divider's contract [which, see].

Section 640: Inspections

Periodic inspections during the installation of improvements shall be made by the Town Engineer to insure conformity with the approved plans and specifications as contained in the sub divider's contract and these regulations. The sub divider shall notify the Town Engineer when each phase of improvement is ready for inspection. Upon acceptable completion and installation of the improvement, as certified by the Town's Engineer, the Planning Board shall issue a letter to the sub divider or his representative and such letter shall be sufficient evidence for the release by the Town of the portion of the performance bond, certified deposit, or letter of credit, as designated in the sub divider's contract, to cover the cost of such completed work.

Section 650: Acceptance of Roads and Facilities

Following the final inspection of the subdivision, when the Town's Engineer certifies to the Planning Board and the Town Board that all installations and improvements have been completed in accordance with the sub divider's contract, the Town Board may, by resolution, proceed to accept the facilities for which the performance bond has been posted, letter of credit issued, or the certified check deposited. Prior to acceptance of the facilities, the sub divider shall deposit with the Town Clerk a complete set of as-built drawings which show the location and extent of all installations and improvements required to be completed by the sub divider's contract.

ARTICLE 7: MISCELLANEOUS PROVISIONS

Section 710: Provisions

- A. The violation of any rule or regulations approved by the Town Board herein shall be deemed an offense against such rules and regulations.
- B. For any violation of these regulations, the person violating same shall be subject to a fine of not more than three hundred fifty (\$350), or imprisonment not exceeding fifteen days, or both. Each day's continued violation shall constitute a separate violation.
- C. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town of Candor in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of the rules and regulations herein.

Section 720: Certification and Filing with County

The Town Clerk is hereby directed to forthwith file a certified copy of these regulations with the Clerk of Tioga County.

Section 730: Severability

If any clause, sentence, paragraph, section, or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate any other clause, sentence, paragraph, section, or part of these regulations.

Section 740: Effective Date These regulations shall take effect on the 1st day of January 2012.

Street, Minor: a street used primarily for access to abutting properties.

Street Pavement: the wearing or exposed surface of the roadway or parking lanes used by vehicular traffic.

Street Width: the width of right-of-way, as measured at right angles to each street boundary line.

Sub divider: any person, firm, corporation, partnership, or association that shall layout any subdivision or part thereof as defined herein, either for themselves or for others.

Subdivision: the division of any parcel of land into three or more lots, plots, sites, or other division of land for immediate or future use, sale, transfer, rent, lease, or occupancy. Division of land for agricultural purposes shall not constitute a subdivision within the scope of this definition and regulation, although subsequent change or intended change of land-use from agriculture by the present or any subsequent owner shall nullify this agricultural exemption.

Subdivision development: any subdivision (as defined above) that creates three or more lots of seven acres or less in any consecutive 48 months; also, development in such a way as to create one or more new streets or any infrastructure that would serve more than one dwelling or place of business.

Surveyor: a person licensed as a professional land surveyor by the state of New York.

Town Building Inspector: the person, if any, designated by the Town Board to Perform the duties of Town Building Inspector.

Town Clerk: the person elected by the Town of Candor, New York, to perform the duties of secretary of the Town Board for all purposes of these regulations.

Town Code Enforcement Officer: the person designated by the Town Board of the Town of Candor, New York, to perform the duties of Town Code Enforcement Officer.

Town Electrical Inspector: the person, if any, designated by the Town Board to perform the duties of Electrical Inspector.

Town Fire Inspector: the person, if any, designated by the Town Board to perform the duties of Fire Inspector.

Town Engineer: the person designated by the Town Board to perform the duties of Town Engineer.

Town Law: Town Law of the state of New York, including all Town Laws relating to Land-use planning including, but not limited to, Article 16, section 276, 277, and 278.

Town Master Plan: the plan for the development of the Town of Candor, prepared by the Planning Board pursuant to Article 272-a of Town Law and including any part of such plan separately prepared and any amendment to such plan.

Town Official Map: the map established and approved by the Town Board showing existing or proposed streets, roads, highways, parks, drainage, and use of other lands in the Town of Candor.

Town Planning Administrator: the person, if any, appointed by the Town Board as Planning Administrator to administer the Subdivision Regulations and to perform such other duties as maybe assigned by the Planning Board.

Town Planning Board: the Planning Board of the Town of Candor, New York.

application of the Regulation so that substantial justice may be done and the public interest secured, provided that no such waiver shall be granted that will have the effect of nullifying the intent and purpose of the Official Town Map, the Zoning Ordinance, these regulations, or any other pertinent rules, regulations, ordinances, or local Laws of the Town of Candor.

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

No such waiver or variance exists except as confirmed by written notice from the Planning Board and resolution to that effect in approved minutes of Planning Board meetings.

ARTICLE 2: DEFINITIONS

For the purpose of these regulations, the following words, terms, and phrases shall be defined as follows. Other words used in these regulations shall be defined by Webster's latest standard dictionary. Words used in the present tense include the future and the singular includes the plural. The word "lot" includes "plot" and "site;" the word "shall" is mandatory; and sub divider includes person, individual, partnership, association, corporation, company, or organization.

Applicant: the party applying for a subdivision approval.

Block: a tract of land which has been or will be subdivided into a number of lots with or without streets or highways.

Bond: a performance bond issued by a bonding or surety company approved by and with security acceptable to the Town Board, or a performance bond duly issued by the developer-obligator, accompanied by security in the form of cash, United States Government bonds, or other security acceptable to the Town Board.

Building: a structure having a roof supported by columns or walls and intended for shelter or enclosure of persons, animals, or chattels.

Chattel: a movable item of personal property.

Cluster development: the planned or actual distribution or construction of residential or business buildings in such a fashion as to create open space in one part of a subdivision and increased density of buildings and/or occupants in another part.

Conditional Approval of a Final Plat: approval of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a Final Plat for recording nor authorize issuance of building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and the recording of the plat in the office of the County Clerk in accordance with the provisions herein.

Dead End Street: a street or portion of a street with only one vehicular traffic outlet.

Easement: a conveyance by a property owner granting to another the right to use the grantor's property as described in the easement for a specific purpose, reserving fee title to the property to the grantor.

Engineer or Licensed Professional Engineer: a person licensed as a Professional Engineer by the state of New York.

Engineer's Certificate of Compliance: a statement from an engineer that the sub divider's plats, specifications, construction documents, and proposed improvements are in compliance with all applicable Laws, regulations, and codes, and that they provide adequate provisions for drainage, sewage, water, utilities, roadways, and consideration of impact on ground water, open space, and public health and safety.

Grade: an angle, one side of which is level and the other representing the grade surface.

Improvement: any installation, structure, implement, device or part thereof, such as, but not limited to: sanitary sewer pipes, curbs, and gutters, storm sewer pipes, manholes, catch basins, lateral sewers, bridges, water pipes, valves, pumps, open or enclosed culverts, or any other facility which is or will be located on or in any public property or could become public responsibility.

Infrastructure: improvements to the land to be subdivided that are deemed necessary to provide the basis for final development and operation of the subdivision. Such improvements include, but are not limited to, streets, sidewalks, gutters and curbs, water mains, storm and sanitary sewer mains, drainage ways, telecommunications lines, street lighting facilities, and other public and private utility structures and facilities, and may include indemnity features, such as street trees. Improvements to individual lots in a subdivision are not considered infrastructure for the purpose of this ordinance.

Lot: a parcel of land shown on a subdivision plat. (For information regarding specific lot sizes allowable, refer to Town Building Code or zoning regulation, if any.)

Lot, Double-Frontage: a lot whose rear and front lines abut existing or proposed streets.

Lot, Reverse-Frontage: a lot whose rear lot line abuts an existing or proposed limited-access highway.

Owner: the owner of the land proposed to be subdivided or his authorized agent.

Plat: a subdivision development plan in final form, prepared by a licensed land surveyor or similar licensed professional as authorized by the New York State Education Law, which bears the signature and seal of the licensed professional, together with a certification to the Planning Board by which the professional certifies as to the accuracy of all the details shown on the subdivision Plat.

Plat, Preliminary: a drawing or drawings clearly marked as "Preliminary Plat" showing the layout of a proposed subdivision development, as specified in Section 350 of these regulations, submitted to the Town Planning Board for approval, prior to submission of the plat in final form and of sufficient detail to apprise the Town Planning Board of the layout of the proposed subdivision development.

Sketch Plan: a sketch of a proposed subdivision development showing the information specified in these regulations to enable the subdivider to save time and expense in reaching general agreement with the Town Planning Board as to the form of the layout and objectives of these regulations.

Standards: the size, volume, area, shape, grade, and/or other limiting factors, whether minimum or maximum, as set forth herein.

Street: includes streets, roads, avenues, lanes, highways, or other traffic ways, between right-of-ways or not; any public way for vehicular traffic which affords the principle means of access to abutting properties.

Street Center Line: a line midway between and parallel to two (2) street property lines.

Street, Collector: a street which carries traffic from minor streets to a major system of arterial highways.

Street, Cul-De-Sac: a street with only one vehicular traffic outlet and a circular turn around at the end.

Street, Major: a street used primarily for fast or heavy traffic, usually with complete or partial control over access from abutting properties or other major or minor streets, and which is used as a primary route between adjacent towns or other heavy traffic-generating areas.

Street, Marginal Access: a minor street parallel to and adjacent to a major street, which provides access to abutting properties.