

SUBDIVISION REGULATIONS

TOWN OF STARKEY

PREPARED BY:
STARKEY PLANNING BOARD
Revised 2/2024

INTRODUCTION

Land subdivision affects the welfare of a community in many respects. As each approved subdivision represents that much more land which will be consumed by development, its regulation and control has become widely accepted as a municipal government function.

Such regulation and control are necessary to:

1. Ensure that land subdivision will fit into the land use pattern and general plan for physical development of the community.
2. Ensure that adequate provision will be made for necessary community and neighborhood facilities so that a harmonious and desirable environment will result.
3. Provide for uniformly high standards in the development of land subdivisions with particular attention to such factors as utilities, drainage, street widths, street layout, lot size and improvement.
4. Provide a basis for clear and accurate official property boundary lines and records.
5. Promote the public health, safety, and welfare of all citizens.
6. Protect sensitive environmental areas within the town.

ARTICLE 1 GENERAL REGULATIONS

1.100 Legislative Authority

By the authority of the resolution of the Starkey Town Board, adopted on July 10th, 1969, pursuant to the provisions of Town Law of the State of New York, the Planning Board of the Town of Starkey is authorized and empowered to approve Plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped plats already filed in the Office of the Clerk of the County of Yates, and to conditionally approve preliminary plats, within the Town of Starkey.

These regulations which shall be known as, and which may be cited as the TOWN OF STARKEY LAND SUBDIVISION REGULATIONS have been adopted by the Planning Board on May 6th, 1969, and approved by the Town Board on July 10th, 1969. Revised by the Planning Board on May 1997, and March 2020, and approved by the Town Board on May 13, 2021.

These regulations are subject to Sections 276, 277, 278, and 279 of the NYS Town Law.

1.200 Purpose and Intent

It is declared to be the purpose of these subdivision regulations that the Planning Board consider land subdivision plats as part of a plan for the orderly, efficient, and economical development of the Town of Starkey. It is also the intent of these regulations to maintain the agrarian nature of the Town of Starkey and maintain its rural appearance in accordance with the Comprehensive Plan, and to protect the general health, safety, and welfare of the public. Objectives of this subdivision regulation include, but are not limited to:

1. That land to be subdivided shall be of such character that it can be used safely for building purposes.
2. That the proper provisions shall be made for drainage, water supply, sewerage, and other needed improvements.
3. That all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
4. That the proposed streets shall compose a convenient system and shall be of such width, grade, and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings.
5. That proper provision be made for open spaces, parks, playgrounds, and land conservation areas.
6. That green infrastructure as defined by Section 502 of the Clean Water Act be encouraged within subdivision plats.
7. That cluster and conservation subdivisions are encouraged as major subdivision techniques and are required within an agricultural zone in order to preserve active farmland.
8. That negative impacts on agricultural operations be minimized.

1.300 Application

1. No subdivision of any lot, tract or parcel of land shall be affected; no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use and travel, or the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of these regulations.
2. All subdivision plans shall be submitted to the Code Enforcement Officer for the determination of whether they are major or minor.
3. All plans for subdivisions shall be submitted to the Starkey Planning Board and approved by it before they shall be recorded.
4. Agricultural Data Statements shall accompany all applications within 500 feet of a farm within the Agricultural Zone per New York State Agriculture and Markets Law, article 25-AA section 305-B.
5. Notice of the public hearing shall be given in writing to all adjacent property

owners at the address of record, and to the Newspaper of Record for the Town of Starkey.

6. The provisions contained herein shall apply to all land within the limits of the Town of Starkey but excluding the Village of Dundee.

ARTICLE 2 DEFINITIONS

2.100 Definition of Terms

Board – The Planning Board of the Town of Starkey.

CEO – The Code Enforcement Officer of the Town of Starkey.

Cluster Development- a subdivision in which the same number of parcels that would be allowed in a given area for a conventional subdivision are clustered at a higher density in the most appropriate portion of the property, leaving the rest of the parent parcel to remain permanently open and undeveloped.

Comprehensive Plan – A comprehensive plan prepared by the Planning Board and adopted by the Town Board which indicates the general locations recommended for various functional classes of public works, places, and structures and for general physical development of the Town of Starkey and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein that may be approved by the Town Board.

Conventional Subdivision - The division of land into lots in strict accordance with the minimum requirements laid out in Schedule II for the zone in which the subdivision is located.

Driveway – Access to an individual lot.

Easement – A right of way granted for limited use of private land for a public or quasi-public purpose.

Engineer or Architect – A person licensed and registered as a professional engineer or architect by the State of New York.

Engineer, Town – The engineer employed by the Town of Starkey.

Lot – A tract or parcel of land.

Lot line adjustment – An adjustment of the boundaries of any number of parcels, that does not result in the net creation of any parcel(s), in which all parcels meet the minimum requirements set forth in the Zoning Regulations. A lot line adjustment shall not be considered a subdivision; however, any lot line adjustment shall be reviewed by the Planning Board to ascertain that it meets these requirements.

Monumentation – The establishment of concrete or steel markers indicating certain property line junctions of a subdivision.

Parent Parcel – The entire area being considered for subdivision.

Plat – A drawing showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for review.

Road or Street – A public or private way which affords a principal means of access or egress to an abutting property.

Subdivider – The owner, or authorized agent of the owner, of a subdivision.

Subdivision – The division of any parcel of land into two (2) or more lots, except for divisions in which no lot is created which is less than twenty-five (25) acres, or if the new property boundary consists solely of a public highway and is a lot of legal minimum size as stated in Zoning Regulations.

a. Major Subdivision – Any subdivision which does not qualify under the definition of minor subdivision.

b. Minor Subdivision – Any subdivision which:

1. Is any division of land into fewer than five (5) parcels conforming to Zoning which fronts on either an existing public road, or an existing private road which has a three rod right of way (49 ½ feet) which has been previously approved by the Planning Board as having met the Town standards of radius of curves and slope,
2. Has not been subdivided or re-subdivided into more than four (4) parcels within a two-year period.
3. Complies with the Town Zoning Ordinance.
4. Does not prevent building access roads to internal acreage.
5. Provides property and building drainage so as not to adversely affect any adjoining property.

Surveyor – A person licensed and currently registered as a land surveyor by the State of New York.

ARTICLE 3 PROCEDURE AND PLAT REQUIREMENTS

3.1. REQUIREMENTS FOR MINOR SUBDIVISIONS

3.100 Submission of Plans

General Procedure. Whenever any subdivision of land is proposed, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures:

Submission of Final Plat.

Any owner of land shall, prior to subdividing or re-subdividing land, submit to the Code Enforcement Officer at least ten (10) days prior to the regular meeting of the Board, five (5) copies of a Plat of the proposed subdivision. The regular date of the Planning Board meeting shall be deemed the date of submission. A plat submission shall not be considered complete until all documentation required by the Planning Board is received and a negative declaration of SEQRA or a notice of completion of the draft environmental impact statement is established.

Plat requirements.

The plat submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The plat map shall be submitted,

showing the following:

1. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
2. All existing structures, wooded areas, streams, and other significant physical features, within the portion to be subdivided and within two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
3. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
4. The tax map sheet, block, and lot numbers, if available.
5. All the utilities available, and all streets which are either proposed, mapped, or built.
6. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, buffer areas and landscaping, systems of drainage, sewerage, and water supply within the subdivided area.
7. All existing restrictions on the use of land including easements, covenants, or lot lines.
8. The location of any existing environmental contaminants/hazards, including any brownfield areas.
9. Agricultural Data Statements shall accompany all applications within 500 feet of a farm within the Agricultural Zone.
10. The stamp or seal with signature of the currently registered engineer, surveyor, or architect responsible for the plat.

3.101 Approval of Plat.

1. All applications or plat approval shall be accompanied by a fee as determined from the schedule of fees established by the Town Board.
2. The subdivider or duly authorized representative shall attend all meetings of the Planning Board pertaining to the discussion of the plat.
3. A public hearing shall be held by the Planning Board within 62 days of the acceptance of a completed final plat. Notice of said hearing shall be given in writing to all adjacent property owners and any additional property owners identified by an Agricultural Data Statement at the address of record and shall be advertised in the Town's newspaper of public record at least ten (10) days before such hearing. The public hearing shall be closed within 120 days of opening.
4. The Planning Board shall, within sixty-two (62) days from the date of the close of the public hearing, approve, modify and approve, or disapprove the plat.

3.2. REQUIREMENTS FOR MAJOR SUBDIVISIONS

3.210 Submission of Plans

General Procedure. Whenever any subdivision of land is proposed, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures:

Preliminary Discussion. Prior to the formal submission of a sketch plan, the developer (subdivider) may attend the regular meeting of the Planning Board to informally discuss development plans. Such discussion may include zoning and subdivision requirements, street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.

3.220 - Submission of Preliminary Plat

Fee: All applications or plat approval shall be accompanied by a fee as determined from the schedule of fees established by the Town Board.

Plat requirements. The preliminary plat submitted to the Planning Board shall be a sketch map based on tax map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. Design standards listed in section 3.3 should be used as a guideline. The plat map shall be submitted, showing the following:

1. The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
2. All existing structures, wooded areas, streams, and other significant physical features, within the portion to be subdivided and within two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
3. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
4. The tax map sheet, block and lot numbers, if available.
5. All the utilities available, and all streets which are either proposed, mapped, or built.
6. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, buffer areas and landscaping, systems of drainage, sewerage, and water supply within the subdivided area. If applicable, when submitting a cluster or conservation type subdivision, a conventional subdivision plat layout shall be provided to compute lot count.
7. All existing restrictions on the use of land including easements, covenants, or lot lines.
8. The location of any existing environmental contaminants/hazards, including any brownfield areas.
9. Agricultural Data Statements shall accompany all applications within 500 feet of a farm within the Agricultural Zone.

3.221 - Approval of Preliminary Plat

1. The subdivider or a duly authorized representative shall attend all meetings of the Planning Board pertaining to the discussion of the plat.
2. A plat submission shall not be considered complete until all documentation required by the Planning Board is received and a negative declaration of SEQRA or a notice of completion of the draft environmental impact statement is established.
3. A public hearing shall be held by the Planning Board within 62 days of the acceptance of a completed preliminary plat. Notice of said hearing shall be given in writing to all adjacent property owners and any additional property owners

identified by an Agricultural Data Statement at the address of record and shall be advertised in the Town's newspaper of public record at least ten (10) days before such hearing. The public hearing shall be closed within one hundred twenty (120) days of opening.

4. The Planning Board shall, within sixty-two (62) days from the date of the close of the public hearing, approve, modify and approve, or disapprove the plat.

3.222 Submission of Final Plat.

Any owner of land shall, within 6 months of the approval of a Preliminary Plat, submit to the Code Enforcement Officer at least ten (10) days prior to the regular meeting of the Board, five (5) copies of a Final Plat of the proposed subdivision. The regular date of the Planning Board meeting shall be deemed the date of submission.

3.223 Approval of Final Plat.

1. The subdivider or duly authorized representative shall attend all meetings of the Planning Board pertaining to the discussion of the Plat.
2. If the Final Plat is in "substantial agreement" with the Preliminary Plat, the Planning Board shall by resolution, decide within sixty-two (62) days upon acceptance of the Final Plat.
3. If the Final Plat is not in "substantial agreement" with the Preliminary Plat, a secondary application fee shall be collected, and a public hearing shall be held by the Planning Board within 62 days of the acceptance of a completed Final Plat. Notice of said hearing shall be given in writing to all adjacent property owners at the address of record and shall be advertised in the Town's newspaper of public record at least ten (10) days before such hearing. The public hearing shall be closed within one hundred twenty (120) days of opening.
4. The Planning Board shall, within sixty-two (62) days from the date of the close of the public hearing, approve, modify and approve, or disapprove the Plat.

3.300 Design Standards

1. Land Requirements. Land shall be suited to the purposes for which it is to be subdivided.
2. Street System Layout.
 - a. The location of all major streets in the proposed subdivision shall conform in general alignment to the Comprehensive Plan.
 - b. The proposed street layout shall provide for the continuation or projection of existing streets in the surrounding areas unless the Board deems such extension undesirable for specific reasons of topography or design.
 - c. Streets shall be logically related to the topography to produce usable lots and reasonable grades.
 - d. All lots shall be accessible to fire equipment.
 - e. Provision for pedestrian and bicycle access shall be made as appropriate.
3. Street Intersections.
 - a. Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect another at an angle of less than sixty (60) degrees.
 - b. Multiple intersections involving the junction of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.

- c. To the fullest extent possible, intersections shall be located not less than two hundred (200) feet apart, measured from centerline to centerline.
4. Lots and Lot Sizes.
 - a. Lot size and dimensions shall be in accordance with the Zoning Ordinance.
 - b. All lots shall front upon an approved street.
5. Easements. Easements with a minimum width of ten (10) feet plus the width of any required pipe or other improvement shall be provided as necessary for utilities.
6. Storm Drainage. Storm water drainage plans shall be developed in conjunction with Yates County Soil and Water.
7. Monumentation. All land identified as a subdivision by these regulations shall have appropriate monumentation/survey markers to indicate the corners of the subdivision and any intersecting street corners.

3.400 Required Improvements

The minimum improvements and construction standards required of all subdivisions shall be set forth in this section and shall further be in accordance with the prevailing standards as established by the Town Board.

1. Streets. Required improvements and construction standards shall be in accordance with the specifications of the Town of Starkey and shall include as a minimum a three (3) rod right of way (49 ½ feet).
2. Public Water Supply. Where a public water supply, in the opinion of the Board, is reasonably accessible, the subdivision shall be provided with a complete water distribution system, including a connection for each lot. Where a public water supply is not within a reasonable distance, an alternate supply, approved by the NYS Department of Health, shall be furnished.
3. Public Sewer System. Where a public sewer system, in the opinion of the Board, is reasonably accessible, the subdivision shall be provided with complete public sewer connections, including connections for each lot. Where a public sewer system is not in reasonable distance, an alternate system, approved by the NYS Department of Health, shall be furnished.
4. Performance Bond. The Planning Board may, at its discretion, require that the subdivider post with the Town Board, a certified check or bond made out to the Town of Starkey in an amount sufficient to cover the full cost of installing the required improvements as estimated by the Town Engineer. In the case of a bond filed, it shall be with surety and satisfactory to the Town Board and the time for the completion of improvements and installations shall be specified, such time to be satisfactory with the Town Board.

3.500 Cluster or Conservation Subdivisions

3.5-1: Purposes.

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

1. To conserve open land, including areas containing unique and sensitive natural features such as steep slopes, streams, floodplains, and wetlands, by setting them aside from development.
2. To provide greater design flexibility and efficiency at the site of services and infrastructure, including the opportunity to reduce the length of roads and the

- amount of paving required.
3. To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
 4. To conserve a variety of resources and lands as established in the Town of Starkey Comprehensive Plan.
 5. To protect agricultural areas by conserving blocks of land large enough for continued agricultural operations.
 6. To create neighborhoods with direct visual or physical access to open land and that have strong neighborhood identity that is consistent with the rural character of Starkey.
 7. To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties.
 8. To conserve elements of the Town's rural character, and to minimize views of new development from existing roads

3.5-2: Applicability; Uses; Density.

1. Applicability.

- a. The Planning Board shall allow application of a clustering or conservation subdivision design on all contiguous parcels of land where four or more parcels are proposed to be subdivided, either now or in the future. When two or more parcels are combined, a cluster subdivision shall occur if their combined area is 20 acres or more. The Planning Board may require a cluster design on a parcel smaller than 20 acres if, in the judgement of the Board, unusual characteristics of the specific lot make it advisable; and may in any case consider a cluster design on such a parcel if the applicant so desires.
- b. Minimum lot size to be considered for cluster subdivision shall be greater than 5 acres.
- c. When an applicant includes only a portion of the landowner's entire tract, a sketch plan according to this article shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with current codes and with appropriate access. Submission and review of the sketch plan at this stage shall not constitute approval of the future subdivision shown thereon.

2. Uses.

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

3. Density.

The permitted number of dwelling units shall not exceed the number of units that would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Town of Starkey Zoning Law applicable to the district[s] in which such land is situated and conforming to all other requirements of the Town of Starkey Zoning.

3.5-3: Design process.

1. Once the maximum permissible number of lots in a cluster or conservation subdivision has been established, the next step is to create a design layout. This layout shall include an identification of primary and secondary conservation lands within a parcel(s), which includes those elements most highly valued by the community.
2. Sketch plan. A sketch plan shall be submitted by the applicant as a diagrammatic basis for informal discussions with the Planning Board regarding the design of a proposed subdivision or land development. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Town Zoning Law and Comprehensive Plan. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the sketch plan shall include an Existing Resources Map and Site Analysis Plan including the information listed below.
 - a. Slopes: slopes of 15% or greater.
 - b. Water resources: wetlands, aquifer, and aquifer recharge areas, if known, municipal water supply areas, flood-prone areas as shown on Federal Emergency Management Agency maps and streams.
 - c. Agricultural lands: active farmland within a New York State-certified agricultural district, or lands within 500 feet of a New York State-certified agricultural district, or soils classified in Groups 1 to 5 of the New York State Soil Classification System.
 - d. Community water and/or sewer: sites where community sewer, community water, or community water and sewer are available or planned.
 - e. Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law.
 - f. Designated open space areas: lands contiguous to publicly owned or designated open space areas, or privately owned designated natural areas.
 - g. Historic structures and sites: historic structures or areas of National, State or Local importance.
 - h. Scenic viewsheds and special features including land conservation zoning districts: sites bordering or in known scenic locations identified in the Town's Comprehensive Plan, or zoning districts within the zoning ordinance.
 - i. Significant natural areas and features: areas with rare vegetation, significant habitats, or habitats of endangered, threatened, or special-concern species as determined by the New York Department of Environmental Conservation (Natural Heritage Program): mature forests over 100 years old; locally important vegetation; or unique natural or geological formations.
 - j. Trails: existing and potential trails, bikeways, and pedestrian routes of Town, State or County significance.
 - k. Recreation: lakes, ponds or other significant recreational areas, or opportunities or sites designated in the Town's Comprehensive Plan.

- l. Existing Resources and Site Analysis Plan: shall be prepared to provide the developer and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be generally described based on existing published data available from governmental agencies, or from aerial photographs.
 - m. Topography: the contour lines of which shall be at two-foot intervals. A separate overlay map, and a map with contour lines at ten-foot intervals shall be provided if the topography lines are too close together on-site plan to clearly make out all specific design elements.
 - n. General locations of vegetative cover conditions: on the property according to general cover type, including cultivated land, grassland, old field, hedgerow, woodland and wetland, isolated trees with a caliper more than 12 inches, the actual canopy line of existing trees and woodlands.
 - o. Ridge lines: existing on the property shall be identified.
 - p. Man-made improvements: the location and dimensions of all existing streets, roads, buildings, and utilities, etc.
 - q. Historically significant sites or structures: locations of all sites or structures on the tract and on any abutting tract.
 - r. Easements and other encumbrances: property of record which are or have been filed with the Yates County Clerk's office shall be shown on the plan.
3. Preliminary plan documents. A preliminary cluster or conservation subdivision plan shall consist of and be prepared in accordance with the following requirements, which are designed to supplement and, where appropriate, replace the requirements of the Starkey Subdivision Law:
- a. Preliminary plan. The submission requirements for a preliminary plan include the requirements for sketch plans listed in 3, above and the submission requirements of 3.2 in the Town of Starkey Subdivision Ordinance. The Planning Board shall review the plan to assess its accuracy and thoroughness. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard-size sheet (24 inches by 36 inches).
4. Four-step design process for cluster subdivisions.
- All sketch plans shall include:
- Preliminary Plan Documentation with the four-step design process in determining the layout of proposed open space lands, house sites, streets, and lot lines, as described below.

Step 1: Delineation of open space lands. Proposed open space lands shall be designated using the Existing Resources and Site Analysis Plan as a base map. Primary conservation areas shall be delineated comprising streams, lakefront, floodplains, wetlands, and slopes over 15%. In delineating secondary conservation areas, the applicant shall prioritize

natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open space, in consultation with the Planning Board to create a prioritized list of resources to be conserved. Based on those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, secondary conservation areas shall be delineated to meet at least the minimum area percentage requirements for open space lands and in a manner clearly indicating their boundaries as well as the types of resources included within them. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract. The result is the potential development area.

Step 2: Location of house sites. Potential house sites shall be tentatively located, using the proposed open space lands as a base map as well as other relevant data on the Existing Resources and Site Analysis Plan. House sites should generally be located not closer than 100 feet to primary conservation areas and 50 feet to secondary conservation areas, taking into consideration the potential negative impacts of residential development on such areas as well as the positive benefits of such locations to provide attractive views and visual settings for residences.

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

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

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

5. Dimensional standards. Within the framework of limitations set forth in this section of this article, the Planning Board shall establish, on a case-by case basis, the appropriate modifications of lot, bulk, and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this article. Lots shall be arranged in a way that preserves open space as conservation areas, as described in this section and 3 through 5.
 - a. Minimum required open space. In all zoning districts, a cluster or conservation subdivision must preserve at least 50% of the tract's developed acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space.
 - b. Minimum Street frontage: 20 feet.
 - c. Yard regulations. The builder or developer is urged to consider variations in the principal building position and orientation but shall observe, as practical, the following minimum standards:
 - (1) Front yard: 20 feet.
 - (2) Rear yard: 40 feet.
 - (3) Side yard: thirty-feet separation for principal buildings, with no side yard less than 10 feet.
 - (4) Lakefront: lakefront lots shall meet minimum requirements of the zoning district. Lakefront lots which are a part of the non-buildable portion of the cluster subdivision being retained as open space shall have a minimum of 100' of lake frontage.
 - d. Maximum impervious coverage. No more than 35% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures.
 - e. Minimum lot size. The minimum lot size for developments in fee simple ownership shall be equal to that required by the Yates County Department of Health to meet standards for water and septic system approvals.
6. Open space standards.
 - a. The required open space land consists of a combination of primary conservation areas and secondary conservation areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. Primary conservation areas shall be included in the required open space area to the greatest extent practical. The applicant shall also demonstrate that such features will be protected by the proposed subdivision plan. Secondary conservation areas include special features of the property that would ordinarily be overlooked or ignored during the design process, such as agricultural lands, woodlands, significant natural areas and features, stone walls, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, and trails. Secondary conservation areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
 - b. Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space.
 - c. Active agricultural land with farm buildings may be used to meet the

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

- d. Open space land should generally remain undivided. No individual parcel of common open space shall be less than one acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
- e. No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a restriction.
- f. The required open space may be used for underground drainage fields or for individual or community septic systems.
- g. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground utilities. However, land within the rights-of-way of high-tension power lines shall not be included as comprising part of the minimum required open space.

7. Evaluation criteria.

- a. House lots shall not encroach upon primary conservation areas, and their layout shall respect secondary conservation areas.
- b. Views of house lots from exterior roads and abutting properties shall be minimized using changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements, if applicable, of the Zoning Law and Subdivision Regulations.
- c. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two accessways into and out of subdivisions containing 20 or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- d. At least 3/4 of the lots shall directly abut or face conserved open space, if practical.
- e. The Planning Board shall evaluate proposals to determine whether the proposed layout:
 - (1) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction.
 - (2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

- (3) Sites dwellings on the least prime agricultural soils, or in locations at the edge of a field, as seen from existing roads if development is on open fields.
- (4) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.
- (5) Maintains or creates a buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds.
- (6) Designs around existing hedgerows and tree lines between fields or meadows and minimizes impacts on large woodlands greater than five acres.
- (7) Designs around and preserves sites of historic, archeological, or cultural value insofar as needed to safeguard the character of the feature.
- (8) Provides open space that is reasonably contiguous.
- (9) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

8. Streets and driveways.

- a. Common driveway access may be provided. A pedestrian circulation and/or trail system may be designated and installed sufficient for the needs of residents, as deemed practical by the Planning Board.
- b. Cluster/conservation subdivision streets shall meet the Town street specifications. Where appropriate, the Planning Board shall work with the Town Highway Superintendent to ensure that the Town of Starkey's street specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a cluster or conservation subdivision.
- c. From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by bends of 90° and 135° are preferred in a more formal or traditional arrangement.
- d. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
- e. The use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 miles per hour.
- f. Single-loaded streets are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- g. Landscape common areas and both sides of new streets with native species of shade trees.

3.5-4: Open space protection; maintenance standards.

- 1. Permanent protection of open space.

- a. All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through one of the following:
 - (1) A conservation easement in a form acceptable to the Town and recorded at the County Clerk's office.
 - (2) A declaration of covenants or deed restriction, in a form acceptable to the Town and recorded in the County Clerk's office, where a conservation easement has been shown not to be practicable.
- b. The conservation easement, declaration of covenants or deed restriction shall restrict development of the open space and allow the use of such space only for agriculture, forestry, recreation, or similar purposes. The Planning Board, with the advice of the Town Attorney, shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:
 - (1) The conservation organization is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
 - (2) The conveyance contains appropriate provisions for proper reversion or retransfer in the event that the conservation organization or the Town of Starkey becomes unwilling or unable to continue carrying out its functions.
 - (3) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization or the Town of Starkey to insure perpetual maintenance of the open space.
 - (4) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.
- c. Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowners' association (HOA). Open space may also be dedicated to the Town, County, or State governments, transferred to a nonprofit organization, or held in private ownership. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
 - (1) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
 - (2) The open space restrictions must be in perpetuity.
 - (3) If land is held in common ownership by a homeowners' association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space

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

- (4) The Planning Board shall find that the HOA documents satisfy the conditions stated above.
- (5) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title, with voting of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on the sale of the majority, of the lots or units.
- (6) The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
- (7) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- (8) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Town no less than 30 days prior to such event.
- (9) The association shall have adequate resources to administer, maintain, and operate such common facilities.

2. Maintenance standards.

- a. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues or special assessments.
- b. Failure to adequately maintain the undivided open space in reasonable condition is a violation of the Zoning Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property.

3.5-5: Future subdivisions.

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

3.5-6: Sewage treatment systems.

Sanitary sewage disposal systems of either an individual or community nature may be located within or extend into required open space areas, provided that subsurface

sewage disposal methods are employed, all required separation distances are observed, and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority, and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and I2-A of New York State Town Law.

ARTICLE 4

PROVISION FOR FUTURE RE-SUBDIVISION

Where a parcel is divided into lots substantially larger than the minimum requirements in the Zoning Regulations, the Board may require that lots, streets, and/or infrastructure be laid out as to provide for the future re-subdivision in accordance to the requirements contained in these regulations

ARTICLE 5

WAIVERS

5.100 Waivers

1. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and, in the interest, secured, provided that such variations will not have the effect of nullifying the Comprehensive Plan or Zoning Ordinance.
2. Where the Planning Board finds that, due to the special circumstances of a particular Plat, the provisions of certain required improvements, is not requisite to the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.
3. In granting modifications, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

ARTICLE 6

SEPARABILITY

6.100 Separability

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so decided to be invalid.

ARTICLE 7
VIOLATIONS AND PENALTIES

7.100 Violations and Penalties

1. A violation of any section of these regulations shall constitute a violation as defined in the Penal Law and shall be punishable by a fine not exceeding \$250.00, by a sentence of imprisonment not exceeding fifteen (15) days, or both. Every day out of compliance shall be considered a new violation.
2. In addition to other remedies provided by the law, any appropriate action, or proceedings whether by legal process or otherwise, may be instituted or taken to prevent the unlawful erection, construction, alteration, repair, conversion, moving, maintenance, or use, to prevent the occupancy of such building, structure, or lot, or to prevent any illegal act, conduct, business or use in or about such premises.