

Chapter 163: SUBDIVISION OF LAND

GENERAL REFERENCES

Numbering of buildings — See Ch.
Flood damage prevention — See Ch.
Parks and Recreation Areas — See Ch..
Sewer & Water Districts — See Ch 80.
Sewers — See Ch 88.
Water — See Ch 88.
Zoning — See Ch 235.

ARTICLE I General Provisions

§ 163-1. Authority.

By authority of the resolutions adopted by the Village Board pursuant to the provisions of § 7-728, Subdivision 2, of the Village Law of the State of New York, and pursuant to the powers and jurisdiction vested through the Municipal Home Rule Law, Statute of Local Governments, Zoning Chapter and other applicable laws and regulations of the State of New York and of the Village of South Blooming Grove, the Planning Board does hereby exercise the power and authority to review and approve, modify and approve, or disapprove plats for subdivisions within the Village of South Blooming Grove which show lots, blocks or sites, either with or without new streets or highways. By the same authority, the Planning Board does hereby exercise the power and authority to pass and approve the development of plats already filed in the office of the Clerk of Orange County if such plats are entirely or partially undeveloped. The plat shall be considered to be entirely or partially undeveloped if (a) said plat has been recorded with the Orange County Clerk's office without or prior to approval by the Planning Board of the Town of Blooming Grove or (b) said plat has been approved by the Planning Boards of the Town of Blooming Grove or Village of South Blooming Grove where the approval has been granted more than three years prior to any application for building permit on the partially or entirely undeveloped land and the zoning district or the bulk or use regulations for the subdivision have been changed subsequent to the original final subdivision approval. Preliminary and final plats shall be referred to the Orange County Department of Planning in accordance with § 239-n of the General Municipal Law.

§ 163-2. Jurisdiction.

No land shall be subdivided within the Village of South Blooming Grove until the sub-divider or his agent has complied with these regulations and other applicable laws of the Village of South Blooming Grove and until the approved plat is filed with the Orange County Clerk. No building permit or certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations.

§ 163-3. Policy and purposes.

It is hereby declared to be the policy of the Village of South Blooming Grove to consider the subdivision of land and the subsequent development of the subdivided plat as a separate business and occupation and subject to the control by the Village of South Blooming Grove pursuant to the objectives of the Village for the orderly, planned, efficient, physical and economical development of the Village. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace, and land shall not be subdivided until available municipal services, facilities and improvements exist and proper provision has been made for drainage, water, sewerage and capital improvements such as schools, transportation, parks and other needed improvements. The existing and proposed public improvements shall conform to the Official Map, if such exists, and shall be properly related to the proposals shown on the Village Comprehensive Plan and capital program, if such exist. It is hereby declared to be the purpose of these regulations to:

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- A. Promote orderly development by maintaining the present character and stability of lands in the Village consistent with the development process.
- B. Encourage the location and design of streets and roadways which will promote the free flow of traffic while discouraging the location of such facilities and routes which will result in congestion.
- C. Promote a desirable visual environment through creative development techniques and good civic design and arrangements.
- D. Promote the conservation of open space and valuable natural resources and to prevent degradation of the environment through improper use of land.
- E. Encourage coordination of various public and private procedures and activities shaping land development with a view toward the more effective use of land.
- F. Require that construction of facilities yield no net incremental discharge of storm-water from a site after development than occurred prior to development where existing downstream conveyances are inadequate. Where construction of such facilities is impractical, a donation of funds may be accepted to be used to carry out drainage improvements.
- G. Approve development when off-site impacts have been eliminated or mitigated to the maximum extent possible, whether by providing off-site improvements or making a contribution toward the undertaking of these off-site improvements by public agencies.
- H. Provide the legal authority to the Planning Board to disapprove plats if the requirements of these regulations and the policies and purposes of these regulations cannot, in the judgement of the Planning Board, be met.

§ 163-4. Enactment.

In order that land may be subdivided in accordance with this policy these regulations are hereby recommended for adoption by the Village Board of Trustees.

§ 163-5. Plats straddling municipal boundaries.

Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance from the Village Attorney that access is legally established and from the Village Engineer that the access road is adequately improved, or that adequate security has been provided and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines. Where access is required across land in another municipality, any necessary approvals from that municipality shall be obtained prior to, or as a condition of, final approval by the South Blooming Grove Planning Board.

§ 163-6. Re-Subdivision.

For a re-subdivision, the same procedure, rules and regulations shall apply as for a subdivision.

§ 163-7. Conditions.

The subdivision of land is a privilege conferred upon the developer by the Village Law of the State of New York and through these subdivision regulations. It is the developer who is seeking to acquire the advantages of lot subdivision and upon the developer rests the duty of compliance with reasonable conditions laid down by the Village Planning Board for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical development of the Village and to the safety and general welfare of the future lot owners in the subdivision and of the community at large.

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§ 163-8. Conformance with regulations.

Any and all final plat approvals granted by the Planning Board shall be deemed to be conditioned upon conformance with the requirements of these regulations, unless it is specifically set forth otherwise in the resolution granting such approval or unless set forth otherwise in these regulations.

§ 163-9. Rules and regulations.

The Planning Board may, after a public hearing, recommend to the Village Board of Trustees regulations relating to any subject matter over which the Planning Board has jurisdiction under this article or any other statute, or under any local law of the Village. Adoption of any such recommendations by the Village Board of Trustees shall be by local law.

ARTICLE II Definitions

§ 163-10. Terms defined.

For the purpose of the regulations, certain words and terms used herein are defined as follows, or as defined and used in the Zoning Law of the Village of South Blooming Grove.

APPLICANT — The owner of land proposed to be subdivided or any other party in interest who shall submit the written consent of the owner.

BOND — See "security."

CALIPER — The diameter of a tree at a height four feet above grade.

COMMUNITY DESIGN REVIEW COMMITTEE (CDRC) to act as an advisory panel to the Planning Board. The CDRC shall be composed of the Village Engineer, the Mayor, the Village Attorney, the Chairperson of the Planning Board, or their respective designees. The CDRC shall have those powers and duties as are set forth in these regulations or as may be delegated to them from time to time by the Planning Board; provided, however, that in no case may the CDRC be empowered to approve or disapprove, on behalf of the Planning Board, any application for relief or approval.

COMPREHENSIVE PLAN — A comprehensive plan for development of the Village prepared and adopted by the Village Board, pursuant to Article 7 of the Village Law, including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

CONDITIONAL APPROVAL OF A FINAL PLAT — Approval by a Planning Board 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 any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk or register as herein provided.

CONSTRUCTION PLAN — The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Board as a condition of the approval of said plat.

CONSTRUCTION STANDARDS AND SPECIFICATIONS — The standards and specifications adopted by the Village Board for the construction of new subdivision streets and related improvements.

DEVELOPER — The individual or business entity designated by the property owner or

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applicant to develop the subdivision.

ENGINEER or LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.

FINAL PLAT — The final map or drawing, described in [Article VI, § 163-33](#) of the regulations, on which the sub-divider's plan of subdivision is presented to the Planning Board for approval and which, if approved, may be submitted to the County Clerk for recording.

FINAL PLAT APPROVAL — The signing of a plat in final form by a duly authorized officer of a Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk or register in the county in which such plat is located.

FRONTAGE STREET — Includes any street to be constructed by the developer or any existing street in which development shall take place on both sides.

OFFICIAL MAP — The map established by the Village Board, under Article 7 of the Village Law, showing the streets, highways and parks, and drainage systems theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the Village Board, or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

OFFICIAL SUBMITTAL DATE — The date on which the Planning Board determines that the application is complete in all respects, including but not limited to all maps, drainage reports, narrative summaries, fees, SEQRA requirements, affidavits, Building Inspector letter.

OFF-SITE — Any premises not located within the area of the property to be subdivided whether or not in the same ownership of the applicant for subdivision approval.

OWNERSHIP, SAME — Includes all vested or contingent interests in land of any person or his agent, representative, successor or assignee, irrespective of whether or not such interest is recorded, in the following circumstances:

- A. Direct ownership by such person, or his or her child, parent, sibling or spouse of sibling, heir or next of kin or agent, corporation, firm, entity, partnership or unincorporated association.
- B. Property owned by different corporations, firms, partnerships, entities or unincorporated associations, in which such a person is a stockholder, partner or associate, or his or her child, parent, sibling or spouse of sibling, heir or next of kin, and owns a ten-percent or greater interest in each corporation, firm, partnership, entity or unincorporated association.
- C. When such person or his estate, successors or assigns or any person or entity included in Subsections A and B herein may be materially or substantively affected by the relief sought or by any determination made in any proceeding sought before any board, body, commission or agency of the Village of South Blooming Grove, whether or not such person is a party to such application or proceeding and whether or not such person appears on the record of such proceeding.

PERIMETER ROAD — Includes any existing street to which the parcel of land to be subdivided abuts on only one side.

PLANNING BOARD — The Village Planning Board.

PLAT — Subdivision plat.

PRELIMINARY PLAT — The preliminary drawing or drawings, described in [§ 163-31](#) of the regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Board for its approval.

PRELIMINARY PLAT APPROVAL — The approval of the layout of a proposed subdivision as

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set forth in a preliminary plat but subject to the approval of the plat in final form in accordance with the provisions of this section.

RE-SUBDIVISION — A change in a map of an approved or recorded subdivision plat if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

RIGHT-OF-WAY — The area designated or dedicated for street purposes, usually 50 feet in width for Village streets, between lot lines, and including pavement and shoulder.

ROAD — A public or private highway or traveled way.

ROAD, COLLECTOR — A road, which serves or is designed to carry traffic from local residential streets to secondary streets.

ROAD, COMMERCIAL or INDUSTRIAL — A road, which serves, or is designed to serve, commercial or industrial properties.

ROAD, DEAD-END — A road or a portion of a street with only one vehicular traffic outlet.

ROAD, LOCAL — A road intended to serve primarily as an access to abutting residential properties.

ROAD, MAJOR — A road which is used primarily as a route for traffic between communities or large areas.

ROAD PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic, excluding curbs or gutters.

ROAD RIGHT-OF-WAY WIDTH — The distance between property lines measured at right angles to the centerline of the street.

ROAD, SECONDARY — A road, which serves or is designed to carry traffic from collector streets to the system of major streets.

SALE OR LEASE — Any immediate or future transfer of ownership, including contract of sale or transfer of an interest in a subdivision or part thereof.

SECURITY — As may be defined in Chapter 108, as such may be amended from time to time.

STREET — See the definition of "road."

SUBDIVIDER — Any person who, having an interest in land, (1) causes it, directly or indirectly, to be divided into a subdivision, or (2) directly or indirectly sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit or plot in a subdivision, or (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plot in a subdivision; and is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing.

SUBDIVISION — The division of any parcel of land into a number of lots, blocks or sites as specified in a law, rule or regulation, with or without streets or highways, for the purpose of sale, transfer of ownership, or development. The term "subdivision" shall include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the County Clerk or register of the county in which such plat is located. Subdivisions may be defined and delineated by local regulation, as either "major" or "minor," with the review procedures and criteria for each set forth in such local regulations.

SUBDIVISION AGENT — Any person who represents, or acts for or on behalf of, a sub-divider or developer, in selling, leasing or developing or offering to sell, lease or develop any interest, lot, parcel, unit, site or plot in a subdivision, except a professional whose representation of another person consists solely of rendering professional services.

SUBDIVISION PLAT — The plat endorsed by the owner/applicant and the Chairperson of the Planning Board, and recorded in the Office of the County Clerk.

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SUPERINTENDENT OF HIGHWAYS — The person designated by the Village Board with the responsibility of maintenance of Village streets.

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

TOWN — The Town of Blooming Grove.

VILLAGE — The Village of South Blooming Grove.

VILLAGE ATTORNEY — The duly designated attorney of the Village.

VILLAGE ENGINEER — The duly designated engineer or engineering consultant of the Village.

VILLAGE PLANNER — The duly designated or retained planner or planning consultant of the Village.

ZONING LAW — The officially adopted Zoning Local Law of the Village, together with any and all amendments thereto.

ARTICLE III Subdivision Application Procedure and Approval Process

§ 163-11. General procedure.

Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure, which includes several informal and formal steps for preliminary plat and subdivision plat.

- A. An applicant may request a meeting with the Planning Board to informally discuss a plan. The Board has the option of providing such an opportunity. If an informal plan is to be discussed, it shall be noted on the Planning Board agenda.
- B. There is hereby established a **Community Design Review Committee (CDRC)** to act as a referral technical advisory panel to the **Planning Board** and the **Village Board**. The **CDRC** shall be composed of the **Chairperson of the Planning Board**, a **second Planning Board member**, a **member of the Village Board**, the **Village Engineer**, the **Village Planner** or their designees and others as appropriate such as the Village Attorney or Building Inspector. The CDRC shall have those powers and duties as are set forth in the Village regulations or as may be delegated to them from time to time by the Planning Board or Village Board, provided, however, that in no case may the CDRC be empowered to approve or disapprove, on behalf of the Planning Board or Village Board, any application for relief or approval. It is anticipated that the CDRC will review applications prior to each applicants' appearance at a Planning Board meeting. All fees established by the Village, including appearance fees and escrow for consultants shall be paid in advance of each appearance. Minutes will be kept of each applicant's appearance before the CDRC and will be distributed to the applicant and Planning Board members. Where a prospective applicant has retained a design professional, the design professional must appear at each CDRC meeting at which an application is scheduled.
- C. An applicant for a major subdivision in the RR Zoning District (a subdivision resulting in more than three new residential lots, excluding the parent lot from which they are subdivided) shall elect to either perform a site analysis process or apply a density of one unit per 10 gross acres in accordance with the provisions of Sec 235-14.1 of the Zoning Code. If the site analysis process is selected the applicant shall provide the information required in Sec 163-12 Approval of preliminary plat, in a form intended to meet the sequential requirements of Sec 235-14.1 of the Zoning Code. That process must be completed before an application is made for preliminary plat approval. If the applicant chooses to apply a density of one unit per 10 gross acres an application may be made for preliminary plat approval in accordance with Sec.

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163-12.

§ 163-12. Approval of preliminary plat.

A. Application procedure and requirements.

- (1) Prior to subdividing or resubdividing land, an owner of land, or an applicant authorized by the owner of land, shall file an application for preliminary plat. The application shall:
 - (a) Be made on forms available at the office of the Planning Board, together with a submission fee in accordance with the Standard Schedule of Fees. An additional submission fee in accordance with the Standard Schedule of Fees will accompany every subsequent preliminary submission.
 - (b) Include all contiguous holdings of the owner, including land in the same ownership, as defined in the Zoning Chapter, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the liber and page of each conveyance into the present owner as recorded in the Orange County Clerk's office. The affidavit shall state the legal owner of the property, the contract owner of the property, the date the contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers and stockholders of each corporation owning more than 5% of any class of stock.
 - (c) Include all land which the applicant proposes to subdivide and all land immediately adjacent extending 500 feet there from, or of that directly opposite thereto extending 500 feet from the street frontage of such opposite land, with the names of owners as shown in the Town Assessor's files. This information may be shown on a separate current Tax Map reproduction from the Assessor's office showing the subdivision superimposed thereon.
 - (d) Be accompanied by a minimum of 12 copies of the preliminary plat as described in Article VI, § 163-32. Where necessary, additional copies shall be provided.
 - (e) Be accompanied by a minimum of 12 copies of construction plans as described in Article VI, § 163-33.
 - (f) Be accompanied by a full environmental assessment form per 6 NYCRR Part 617.
 - (g) Be presented to the Clerk to the Planning Board at least 26 days prior to the regular meeting of the Board at which this application is to be considered. The Clerk must receive the application and all supporting material no later than 12:00 noon of the 20th day. A preliminary plat which does not fully comply with the requirements of Article VI, § 163-32, or which is accompanied by construction plans, which do not fully comply with the requirements of Article VI, § 163-33, shall not be deemed to be officially submitted for the purposes of these regulations.
 - (h) Be accompanied by a letter not more than 30 days old from the Building Inspector identifying any outstanding violations.
 - (i) Be accompanied by a narrative summary and an identification of environmental and planning issues, as well as a description of the proposal.
 - (j) An affidavit shall be submitted by the applicant declaring that the names of each owner of property within a distance of 500 feet from the proposed subdivision, not including those included in Subsection A (2) immediately following and addresses of the adjacent or opposite property owners are correct as within the knowledge of the applicant or as shown on the latest tax assessment roll of the Village of South Blooming Grove. The applicant shall provide proof of mailing receipts and proof of delivery to the Clerk in the form provided by the United States Postal Service.

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- (2) The Clerk shall refer the proposed preliminary plat to other interested government agencies and municipalities abutting the proposed subdivision, with a date by which a response is needed.
- (3) To comply with Article 12B, §§ 239-f and 239-n of the General Municipal Law, all subdivisions in the following locational categories shall be referred to the Orange County Commissioner of Planning prior to preliminary action by the Planning Board.
 - (a) Real property within 500 feet of a municipal boundary, county or state park existing or proposed, right-of-way of any existing or proposed county or state road/parkway/thruway, boundary of any existing or proposed county or state owned land on which a public building or institution is situated.
 - (b) Real property within 1,000 feet of a right-of-way of any existing or proposed county drainage channel or stream for which the county has established channel lines.
 - (c) If the Orange County Commissioner of Planning fails to report within a thirty-day period or such longer period as may have been agreed upon by him and the Planning Board, the Planning Board may act without such report.
 - (d) If the Orange County Commissioner of Planning disapproves the proposal, or recommends modification thereof, the Planning Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.
 - (e) Within seven days after final action by the Board, a report of the Board's final action shall be filed with the Orange County Commissioner of Planning.
- (4) No application shall be deemed complete unless the following items have been obtained and submitted to the Clerk of the Planning Board:
 - (a) Acceptance by the Planning Board for purposes of public review of a Draft Environmental Impact Statement or issuance of a negative declaration pursuant to 6 NYCRR Part 617;
 - (b) All materials required by § 163-12A(1);
 - (c) All fees, including reimbursement for professional review by consultants to the Village, have been paid in full.

B. Public hearing on preliminary plat.

- (1) Within 62 days after the receipt by the Clerk of the Planning Board of a completed application for preliminary plat in full compliance with the requirements of § 163-12A, the Board shall hold a public hearing. Such hearing shall be advertised in the same manner as a public hearing on a final subdivision plat.
- (2) The Clerk shall advertise such a public hearing at least once in a newspaper of general circulation in the Village at least five days before such hearing.
- (3) At the time of a public hearing, the applicant shall submit an affidavit stating that he has notified by certified mail, return receipt requested, each adjacent or opposite owner of property as indicated on the application for subdivision approval at least 10 days prior to the public hearing, and that the applicant has placed at least two posters provided to him by the Clerk of the Planning Board on the four closest public roads in visible locations surrounding the proposed subdivision property, at least 500 feet apart if possible. The notice to be mailed shall conform to the official form of notice set forth in Appendix A.

C. Preliminary approval. After holding the public hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat within the time frame required by Village Law § 7-728, Subdivision 5. The basis of a modification, if any, or the basis for disapproval shall be stated upon the records of the Planning Board. Notwithstanding the

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foregoing provisions, the time in which the Planning Board must take action on the preliminary plat may be extended by mutual consent of the applicant and the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of the minutes memorializing a preliminary plat, it shall be certified by the Clerk to the Planning Board as granted preliminary approval and a copy placed in the Planning Board file. A certified copy shall be mailed to the applicant. In the event that the Planning Board fails to take action on the preliminary plat within the time prescribed herein, such plat shall be deemed granted preliminary approval.

- (1) Before the Board approves a preliminary plat showing park reservation or land for other municipal use proposed to be dedicated to the Village, the Board shall obtain approval of the park or land reservation from the Village Board, as the case may be.
- (2) The Planning Board shall require the applicant to indicate on the plat all roads and public improvements to be dedicated, all trees that are required to be preserved, all districts for water and sewer, fire or utility improvements which shall be required to be established or extended upon petition of the applicant to the Village Board and any other special requirements deemed necessary by the Planning Board in order to conform the subdivision plat to the Official Map and Comprehensive Plan of the Village, as may be adopted by the Village Board or Planning Board.

D. Tenure of Planning Board approval. Within six months of the approval of a preliminary plat, the applicant shall submit the plat in final form. The approval of a preliminary plat shall be effective for a period of one year, at the end of which time final approval on the subdivision must have been obtained from the Planning Board although the plat need not be signed and filed with the County Clerk. The status of any plat not receiving final approval within the period of time set forth herein shall be null and void and the applicant shall be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations. The Planning Board may grant two extensions of 90 days, where the applicant is able to demonstrate that additional time is necessary to receive other agency approvals.

§ 163-13. Approval of final plat.

A. Application procedure.

- (1) Following the preliminary plat the applicant, if wishing to proceed with the subdivision, shall file with the Clerk to the Planning Board an application for final plat approval. The application shall:
 - (a) Be made on forms available at the office of the Planning Board, together with a submission fee in accordance with the Standard Schedule of Fees. An additional submission fee in accordance with the Standard Schedule of Fees, if necessary, shall accompany subsequent submissions. A request for an extension of final approval or new security shall constitute a submission.
 - (b) Include a map of that portion of the property for which final approval is sought.
 - (c) Be accompanied by a minimum of 12 copies of the subdivision plat, and 12 copies of the construction plans, described in Article VI, § 163-34 and §163-33, respectively, of these regulations. Where necessary, additional copies may be required for referrals.
 - (d) Comply in all respects with the preliminary plat, as approved.
 - (e) Be presented to the Clerk of the Planning Board on the 20th day prior to a regular meeting of the Board in order that a public hearing may be scheduled and the required five days' notice given. The Clerk must receive the application and all supporting material no later than 12:00 noon of the 20th day. A final plat which does not fully comply with the requirements of Article VI, § 163-34, or which is

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accompanied by construction plans, which do not fully comply with the requirements of Article VI, § 163-33, shall not be deemed to be officially submitted for purposes of these regulations.

- (f) Be accompanied by an amendment, if appropriate, of the affidavit required under Article III, § 163-12A(1)(b) of these regulations to include all changes in ownership of the property proposed to be subdivided and all changes of officers, directors or stockholders of the applicant corporation or owners of property, legal or by contract, as of the date of application for final approval.
 - (g) An affidavit shall be submitted by the applicant declaring that the names of each owner of property within a distance of 500 feet from the proposed subdivision and addresses of the adjacent or opposite property owners are correct as within the knowledge of the applicant or as shown on the latest tax assessment roll of the Village of South Blooming Grove. The applicant shall provide proof of mailing receipts and proof of delivery to the Clerk in the form provided by the United States Postal Service.
 - (h) Be accompanied by an inspection fee in an amount to be determined on the basis of the provisions of Article IV, § 163-17A, and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed, and proof that the applicant has submitted petitions in writing to the Village Board for the creation or extension of any improvement districts as required by the Planning Board upon preliminary plat approval. The applicant shall also pay a fee in accordance with the Standard Schedule of Fees for each street sign shown on the final plat, which street signs shall be installed by the Village.
- (2) If the applicant believes the final plat is in substantial agreement with a preliminary plat approved pursuant to § 7-728 of the Village Law, these subdivision regulations and any other applicable regulations, the applicant shall provide written evidence of such substantial agreement, in the form of map and narrative material describing the substantial agreement, documenting that all of the requirements of § 163-32, §163-33 and §163-34 of these regulations have been met; that there are no substantive changes to the plans and supporting documents; and that all permits have been obtained.
- (3) The request by an applicant for a determination by the Planning Board that a final plat is in substantial agreement with a preliminary plat approved pursuant to § 7-728 of the Village Law, these subdivision regulations and any other applicable regulations shall be considered by the Planning Board as an agenda item at a scheduled Planning Board meeting.
- (4) If the Planning Board determines that the final plat is in substantial agreement with a preliminary plat approved pursuant to § 7-728 of the Village Law, these subdivision regulations and any other applicable regulations, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days of its receipt by the Clerk of the Planning Board.
- (5) No application shall be deemed complete unless the following items have been obtained and submitted to the Clerk of the Planning Board:
- (a) All items required pursuant to preliminary approval pursuant to § 163-12.
 - (b) All materials required by § 163-13A(1).
 - (c) Approval by the Village Board, by resolution, of any reservation of lands for parks, playgrounds, or recreation pursuant to § 163-12C.
 - (d) All fees, including reimbursement for professional review by consultants to the Village, have been made in full.
 - (e) All items necessary to meet the requirements of 6 NYCRR Part 617.

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- (6) The Clerk of the Planning Board shall refer the proposed final plat to the Orange County Commissioner of Planning for subdivisions within the jurisdiction as described in § 163-12A(3) herein.
- B. Endorsement of County Health Department.** Subdivision plats shall be properly endorsed by the County Health Department, if required by applicable county law or regulation, before being submitted to the Planning Board for final approval. The plat should be in final form before submission to the County Health Department for approval.
- C. Authorization to call public hearing.** Upon receipt of a completed application and all accompanying material, the Clerk to the Planning Board shall be authorized to call a public hearing for the next scheduled meeting of the Planning Board to be held at least 26 days after the submission of the completed application. The public hearing shall be held within 62 days of the submission of the complete application. The Clerk will submit notices for publication, as required by Village Law, will mail notices to all property owners, as specified in Article III, § 163-13A(1)(g), and will maintain file copies of the plat and construction plans for public review prior to the hearing. The Clerk to the Planning Board shall furnish at least two posters to the applicant to be posted by the applicant in visible locations surrounding the proposed subdivision property at least 500 feet apart where sufficient frontage exists, at least 10 days prior to the public hearing. The Clerk shall advertise such public hearing in a newspaper of general circulation in the Village at least five days before such hearing. The notice to be mailed shall conform to the official form of notice set forth in Appendix A.
- D. Public hearing and resolution approving or disapproving application.** At the public hearing the applicant shall furnish an affidavit as to placement of posters required by § 163-13C, and the Planning Board will give an opportunity to any interested persons to examine or comment upon the plat and construction plans. After the public hearing and within the time frame required by Village Law § 7-728, Subdivision 6, the Planning Board shall approve, modify and approve or disapprove the subdivision plat. Conditional approval of a final subdivision plat shall expire 180 days after the date of the resolution granting conditional approval unless such requirements have been completed. The Planning Board, upon written request of the applicant, may extend the time of conditional approval for two additional periods of 90 days each, if in its opinion, such extension is warranted by the particular circumstances thereof. Final approval shall be deemed to have been granted as of the date of signature of the plat by the Chairperson of the Planning Board.
- E. Public improvements.** All public improvements shall be installed and dedicated prior to the signing of the subdivision plat by the Chairperson of the Planning Board. The Planning Board, in its discretion, may waive such requirements and require instead that prior to signing of the subdivision plat by the Chairperson of the Planning Board, adequate security shall be posted in an amount established by the Planning Board based upon the recommendation of the Village Engineer, which security shall be submitted by the applicant at the time of application for subdivision plat approval.
- F. Vested rights.** No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Chairperson of the Planning Board; and all requirements, conditions or regulations adopted by the Planning Board applicable to the subdivision or to all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the subdivision plat by the Chairperson. Where the installation of improvements prior to signing of the subdivision plat is required, the Planning Board shall not unreasonably modify the conditions set forth in the final approval.
- G. Final resolution.** The resolution granting final approval need not restate the requirements of these regulations. Such requirements shall be deemed incorporated in such resolution by reference.

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§ 163-14. Subdivision plat.

A. Submission and review of proposed subdivision plat. Subsequent to the resolution of the Planning Board approving the final plat, five paper copies of the construction plans, and two copies of the original of the proposed subdivision plat on Mylar, and five copies of the subdivision plat on paper shall be submitted to the Clerk for final review, accompanied by a narrative identifying changes made in accordance with Board approval. A check payable to the Orange County Clerk in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the subdivision plat until a review has indicated that all requirements of the resolution have been met.

B. Signing of plat.

(1) When installation of improvements is required. The Chairperson shall endorse approval on the subdivision plat after all conditions of the resolution and these regulations have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the Village as shown by a report signed by the Village Engineer and any other affected governmental entity and report of the Village Attorney that the necessary dedication of public lands and improvements has been accomplished.

(2) When security is required. The Chairperson shall endorse approval on the subdivision plat after adequate security has been approved by the Village Board and all the conditions of the resolution pertaining to the final plat and these regulations have been satisfied.

(3) Security. The applicant shall furnish adequate security, if required, in a form satisfactory to the Village Attorney and in an amount established by the Planning Board upon recommendation of the Village Engineer. Such security shall run to the benefit of the Village of South Blooming Grove and shall include a provision that the principal of the security shall comply with all of the terms of the resolution of final plat approval as determined by the Planning Board, and shall include, but not be limited to, the performance of all required subdivision and off-site improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the Village of South Blooming Grove free and clear of all liens and encumbrances on said premises.

(4) Offers of dedication.

(a) The applicant shall furnish all formal irrevocable offers of dedication to the public of all streets, municipal uses, utilities, parks and easements, in a form approved by the Village Attorney; and the subdivision plat shall be marked with a notation indicating said formal offers of dedication as follows:

"The owner, or his representative, hereby irrevocably offers for dedication to the Village of South Blooming Grove or other governmental entity, all the streets, municipal uses, easements, parks and required utilities shown in the within subdivision plat and construction plans in accordance with an irrevocable offer of dedication dated _____, and recorded in the Orange County Clerk's office.

By: _____
Owner or Representative
Date"

(b) The applicant shall deliver a deed to all such lands in proper form for recording, together with a title policy in favor of the Village of South Blooming Grove in a form approved by the Village Attorney, in a sum not less than \$10,000, which sum shall be determined by the Village Attorney before signing of the subdivision plat.

(5) An applicant who proposes to convey land to the Village of South Blooming Grove for

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any reason whatsoever shall be required to post security for a period of at least five years guaranteeing the payment by the applicant of any and all taxes due on such parcel of land until the deed has been fully accepted by the Village Board of the Village of South Blooming Grove or the governing body of any other affected governmental entity.

- (6) Other approvals and permits. Prior to signature by the Chairperson, all necessary permits or approvals from other agencies shall have been obtained, including, but not limited to: New York State Department of Transportation road opening permit, Orange County Health Department, New York State Thruway Authority, New York State Department of Environmental Conservation, U.S. Army Corps of Engineers, Orange County Sewer District No. 1 (Moodna Group), Palisades Interstate Park Commission, adjoining municipalities.

C. Zoning regulations. Every plat shall conform to existing zoning regulations and subdivision regulations applicable at the time of final approval.

D. Filing of plat.

- (1) If all of the requirements of these regulations have been met, the Chairperson will sign the Mylar original of the subdivision plat and two sepia prints of the subdivision plat. The sepia prints will be returned to the applicant's engineer.
- (2) It shall be the responsibility of the Clerk of the Planning Board to file the subdivision plat with the Orange County Clerk's office on or after the date of signature. Simultaneously with the filing of the subdivision plat, the Clerk shall record any agreements of dedication together with such legal documents as shall be required to be recorded by the Village Attorney; provided, however, that any such documents relating to a conveyance of public improvements to any governmental entity, including the Village of South Blooming Grove, may be held in escrow and not recorded until such improvements have been completed to the satisfaction of the governmental entity to which they are to be conveyed.

§ 163-15. Amendment to a filed plat.

The Planning Board may, in its sole judgment, determine whether a proposed amendment to a filed plat endorsed by the Chairman shall be subject to preliminary and final approval, final approval or waiver of specific requirements of the subdivision regulations prior to Planning Board approval; which determination shall be based on the effect the proposed amendment will have on the lots subject to the amendment, adjoining lots, the neighborhood or the Village at large. Lots created prior to the initial adoption of zoning regulations by the Town of Blooming Grove are eligible for this procedure.

ARTICLE IV Required Improvements and Agreements

§ 163-16. Improvements and security.

- A. **Completion of improvements.** Before the plat is signed by the Chairperson of the Planning Board, all applicants shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the Village Engineer and Town Superintendent of Highways, as the case may be, all the street, sanitary and other improvements specified in the final subdivision plat, as approved by the Planning Board, and to dedicate same to the Village of South Blooming Grove or other governmental agencies free and clear of all liens and encumbrances on the property and public improvements thus dedicated.
- B. **Posting of security.** The Planning Board in its discretion may waive the requirement that the

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applicant complete and dedicate all public improvements prior to the signing of the subdivision plat and that as an alternative the applicant may post adequate security at the time of application for final subdivision approval in an amount estimated by the Planning Board as sufficient to secure to the Village the satisfactory construction, installation and dedication of the incomplete portion of required improvements. In no event shall the amount of the security be less than 125% of the estimated cost of such improvements as determined by the Village Engineer. Such security shall comply with the requirements of Article 7 of the Village Law and shall be satisfactory to the Village Attorney as to form, sufficiency and manner of execution as set forth in Article III, § 163-14B(3) of these regulations. The period within which the required improvements must be completed shall be specified by the Planning Board in the resolution approving the final subdivision plat and shall be incorporated in the security agreement.

- C. Temporary improvements.** The applicant shall build and pay for all costs of temporary improvements required by the Planning Board, and shall maintain same for the period specified by the Planning Board. Prior to construction of any temporary facility or improvement, the applicant shall file with the Village adequate security for temporary facilities, which shall insure that the temporary facilities will be properly constructed, maintained and removed.
- D. Costs to be borne by applicant.** All required improvements shall be made by the applicant, at his expense, without reimbursement by the Village or any improvement district therein.
- E. Failure to complete improvements.** For subdivisions for which no security has been provided, if the improvements are not completed within the period specified by the Planning Board in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where adequate security has been provided and required improvements have not been installed within the term of such security, the Village Board may thereupon declare said security to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the security is declared to be in default. In either case, any sums expended by the Village to complete such improvements shall be a lien on the property encompassed by the plat, to be assessed on the next ensuing tax roll.

§ 163-17. Inspection of improvements.

- A. General procedure and fees.** Required improvements shall be inspected during construction to ensure their satisfactory completion. The applicant shall pay to the Village an inspection fee in accordance with the Standard Schedule of Fees of the Village Code, and the Chairperson of the Planning Board shall not sign the subdivision plat unless such fee has been paid. Such fees shall be due and payable upon demand of the Village, and no permits or certificates of occupancy shall be issued until all fees are paid. If the Village Engineer or the Superintendent of Highways finds, upon inspection, that any of the required improvements has not been constructed in accordance with the Village's highway and drainage specifications, the applicant shall be responsible for completing said improvements. Wherever the cost of improvements is covered by security, the applicant and the security provider shall be severally and jointly liable for completing said improvements according to specifications.
- B. Certificates of satisfactory completion.**
 - (1)** The Village Board will not accept dedication of required improvements, nor release nor reduce security until the Village Engineer and the Superintendent of Highways have submitted reports stating that all required improvements have been satisfactorily completed, and until the applicant's engineer or surveyor has certified to the Village Engineer that the layout of the line and grade of all public improvements is in accordance with the construction plans for the subdivision and that a title insurance policy has been furnished to and approved by the Village Attorney indicating that the improvements shall have been completed, are ready for dedication to the Village, and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the Village Board shall thereafter accept the improvements for

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dedication in accordance with the established procedure. Similar requirements and procedures shall apply to improvements to be dedicated to other public agencies.

- (2) Security shall be reduced only to the ratio that the public improvement dedicated bears to the total public improvements required for the plat. No application for a reduction of amount shall be entertained until at least 75% of the secured improvements have been completed to the satisfaction of the Village Engineer. In no event shall security be reduced below 25% of the principal amount until all improvements are complete.

C. Temporary certification of occupancy and escrow deposits.

- (1) Whenever, by reason of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, the Building Inspector may, nevertheless, issue a temporary certificate of occupancy with a maximum time limit of six months, provided there is no danger to health, safety or general welfare upon the Village Clerk / Treasurer accepting a cash escrow deposit in an amount to be determined by the Village Engineer for the cost of said improvements. Only one temporary certificate of occupancy may be issued for each structure.
- (2) All required improvements for which the Village Clerk / Treasurer has accepted escrow moneys at the time of issuance of a temporary certificate of occupancy shall be installed by the developer within a period of six months from the date of deposit and issuance of the temporary certificate of occupancy. In the event that said improvements have not been properly installed, at the end of said time period the Building Inspector shall give two weeks written notice to the developer requiring him to install same, and in the event that same are not installed properly, in the judgment of the Building Inspector, the Building Inspector may request the Village Board to authorize the Village to contract for the installation of the necessary improvements. At the time of the issuance of the temporary certificate of occupancy for which escrow monies are being deposited with the Village Clerk / Treasurer, the developer shall obtain and file with the Building Inspector prior to obtaining the temporary certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building Inspector to install the improvements at the end of the six-month period in the event that the same have not been duly installed by the developer. Any sums expended by the Village in excess of the amount of the escrow deposit shall become a lien on the improved property, to be assessed on the next ensuing tax roll.

§ 163-18. Utilities.

- A. Where utilities required by the Planning Board are to be installed by a public utility company or Water and Sewer Districts or improvement district, the Planning Board may accept assurance from the public utility company or improvement district or the Village Engineer, in writing, that such installations will be furnished by the company or improvement district within a specified period of time and in accordance with the approved construction plans.
- B. The applicant shall provide underground wiring sufficient to allow for the future provision of street lighting along the streets of the subdivision, as may be required by the Planning Board and shown on the final construction plans. The applicant shall also deposit, at the time of submitting the plat for signing, a sum equal to 125% of the then-current cost of installing such street lighting. Such deposit shall be held in an interest-bearing escrow account for a period of five years from the date of filing the subdivision or sections thereof with the County Clerk. If such street lighting is not installed during such time, or if such street lighting is installed at a cost, which is less than the amount on deposit, then any unexpended sums, together with any accrued interest thereon, shall be returned to the applicant.

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§ 163-19. Maintenance of improvements.

The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks, if necessary, until acceptance of said improvements by the Village Board or other governmental entity. If there are any certificates of occupancy on a street not dedicated to the Village, the Village may on 12 hours' notice plow the street, or effect emergency repairs and charge same to the applicant. The applicant shall be required to file maintenance security with the Village Board, together with the irrevocable offer of dedication of such improvements in an amount considered adequate by the Village Engineer and in a form satisfactory to the Village Attorney in order to assure the satisfactory condition of the required improvements for a period ending one year after the date of their acceptance by the Village Board and dedication of same to the Village.

§ 163-20. Future status of roads, parks and easements.

Acceptance of formal offers of dedication of streets, easements and parks shall rest with the Village Board. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the Village of any street, easement or park shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect.

§ 163-21. Deferral or waiver of required improvements.

- A. The Planning Board may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.
- B. Whenever it is deemed necessary by the Planning Board to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the developer shall pay his share of the costs of the future improvements to the Village, in escrow, prior to signing of the final subdivision plat, or the developer may post security insuring completion of said improvements upon demand of the Village. The Village shall refund any funds so paid if not used for their intended purpose; and refund shall be made when the Village Board determines said funds shall not be so used.

§ 163-22. Completion of improvements.

- A. No certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the improvements and dedication of same to the Village of South Blooming Grove, as required in the Planning Board's final approval of the subdivision plat, except for the wearing course on roads. For purposes of this subsection only, a street improvement shall be deemed complete if, in the judgment of the Building Inspector and the Village Engineer, it is adequate for vehicular access by the prospective occupant and by all emergency equipment, prior to the issuance of a certificate of occupancy. The developer shall at the time of dedication submit monies in escrow to the Village in a sum determined by the Village Engineer and Superintendent of Highways for the necessary final improvement of the street, including the wearing course.
- B. No building permit shall be issued for the final 10% of lots in a subdivision, or, if 10% be less than two, for the final two lots of a subdivision, until all the public improvements required by the Planning Board for the plat have been fully completed and dedicated. The final wearing course may be subject to a form of security, at the option of the Village.

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ARTICLE V General Requirements and Design Standards

§ 163-23. General requirements.

- A. Character of land.** Land of such a character that it cannot be used without danger to health or peril from fire, flood or other menace shall not be subdivided for residential purposes nor for such other uses as may increase danger to health, life or property, or aggravate a flood hazard, but such land may be set aside for such uses as shall not involve such danger.
- B. Conformance to Comprehensive Plan or Official Map.** Subdivisions shall conform to the streets, drainage systems or parks shown on the Official Map of the Village as it may be adopted by the Village Board, and shall be properly related to the Village Comprehensive Plan as may be adopted by the Planning Board.
- C. Frontage on improved road.** The area to be subdivided shall have frontage on, and access from, an existing street on the Official Map, which shall have been suitably improved as required by the highway and drainage specifications of the Village of South Blooming Grove or other public agencies having jurisdiction and with the width and right-of-way required by these subdivision regulations and the Official Map. Wherever the area to be subdivided is to utilize existing road frontage, said road shall be suitably improved as provided herein above. The entire right-of-way required by these subdivision regulations, shall conform to the Village Code regulating Streets and Sidewalks, and the Official Map shall be dedicated to the Village of South Blooming Grove as a condition of final plat approval.
- D. Monuments.** Monuments shall be of a type, which conform to the Village highway, sewer and water specifications and shall be required wherever deemed necessary by the Planning Board to enable all lines to be reproduced upon the ground. In general, monuments shall be located on street right-of-way lines at street intersections, angle points, points of curve and block corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits. There shall be a monument at the intersection of each subdivided lot line and street right-of-way.
- E. Construction standards.** Improvements in the property to be subdivided shall conform in all respects to the Highway and Drainage Specifications of the Village as may be adopted by the Village Board. Sewer improvements shall conform to requirements of the Village of South Blooming Grove and Orange County Sewer District No. 1 (Moodna Group), as appropriate.
- F. Referral to agencies.** The Planning Board may refer any subdivision to other village, town, county, regional, state, or special purpose agencies for a recommendation.

§ 163-24. Roads.

- A. Relation to topography.** Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in [Article V, § 163-24\(I\)](#) of these regulations.
- B. Block size.** Block dimensions shall be generally wide enough to accommodate two lots in depth and generally not more than 12 times the minimum lot width required in the zoning district in length. In long blocks, the Planning Board may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic. See [Article V, § 163-28B and C](#).
- C. Intersections.**
 - (1) Intersections of streets shall be at angles as close to 90° as possible. Toward this end, an oblique street should be curved approaching an intersection and should be

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approximately at right angles to the intersecting street for at least 100 feet there from. Where three or more streets intersect, the Planning Board may require a turning circle, or other special treatment. Wherever two streets intersect at an angle smaller than 75°, the right-of-way returns and the relation of gutter grades shall be given special treatment, as determined by the Board, and islands to channelize traffic may be required.

- (2) Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Village Comprehensive Plan or Official Map, or at other important traffic intersections. A distance of at least 150 feet shall be maintained between centerlines of offset intersecting streets. Grades shall be limited to not more than 3% within 75 feet of an intersection.

D. Continuation of roads into adjacent property. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and where such continuation is in accordance with the Village plan. If the adjacent property is undeveloped, and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnaround shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Planning Board may limit the length of temporary dead-end streets in accordance with [Article V, § 163-24\(l\)](#).

E. Permanent dead-end roads.

- (1) Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Board for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the Planning Board may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A circular turnaround shall be provided at the end of a permanent dead-end street in accordance with the Village highway, water and sewer specifications.
- (2) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with [Article V, § 163-24\(l\)](#). Where it is impossible to subdivide a property except by a dead-end road which is longer than permitted by these regulations, the Board may require that a divided roadway with center mall be constructed in a seventy-foot right-of-way (or greater width if required) in such a manner that either side of the roadway could be used, in emergencies, for two-way traffic.

F. Road names. The preliminary plat as submitted shall not indicate any names upon proposed streets. The developer at the time of preliminary approval shall consult with emergency service organizations, Orange County E-911, the Village Clerk, and the local postmaster and shall then render its request for road names to the Planning Board. Names shall be sufficiently different in sound and in spelling from other road names in the Village, Town of Blooming Grove, Town of Monroe, Village of Monroe, and the Village of Washingtonville, so as not to cause confusion. A road, which exists or is planned, as a continuation of an existing road shall bear the same name. All road names must conform to chapter 110 "Streets and Sidewalks" of the Village Code.

G. Location, width and improvement of roads. Roads shall be suitably located, of sufficient width, and adequately improved, to accommodate the prospective traffic and to afford satisfactory access to police, fire fighting, snow removal or other road-maintenance equipment, and shall be coordinated so as to compose a convenient system. The location, arrangement or design of streets shall be such as to cause no undue hardships to adjoining properties.

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- H. Reserve strips.** The creation of reserve strips adjacent to a proposed street in such a manner as to deny access from adjacent property to such street shall not be permitted.
- I. Design standards for new roads.** Roads shall meet the design standards set forth Village code chapter 110 (Streets and Sidewalks) Article IX "Street Specifications" and Article IX section 110 sub 114, "Classifications of Roads" . Road classification may be indicated on the Village Comprehensive Plan or Official Map. Otherwise, it shall be determined by the Planning Board.
- J. Required street access.** No permit for the erection of any building shall be issued unless the plat on which such building is proposed to be erected has access to a street or highway in accordance with the provisions of [§ 163-26E](#) of the Subdivision Regulations. This section shall not preclude access by means of a shared driveway if the Planning Board approves a special permit therefor.

§ 163-25. Improvements.

A. Road improvements.

- (1) Roads shall be graded and improved and conform to the Village highway and drainage specifications, and shall be approved as to design and specifications by the Village Engineer.
- (2) Frontage roads, perimeter streets and streets shall be improved and dedicated by the developer at his expense to the full width as required by these subdivision regulations.

B. Drainage improvements.

- (1) The developer may be required by the Planning Board to carry away by pipe or open ditch any surface water or groundwater that may exist either previously to, or as a result of, the subdivision. The removal of this water includes the control of runoff to minimize erosion and sedimentation, both during and after construction, as well as the preservation of water supplies, and the prevention or alleviation of flooding conditions. Such drainage facilities shall be located in the road rights-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the Village highway and sewer specifications. Drainage facilities shall be designed to be in accordance with the Village policy of not permitting any net incremental discharge where downstream drainage facilities are inadequate. Where this is not feasible, a contribution of funds toward Village drainage improvements may be accepted by the Planning Board in an amount to be determined by the Planning Board at the time of final plat approval.
- (2) A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Village Engineer shall approve the size of the facility, based on the provisions of the highway and sewer specifications, assuming conditions of maximum potential watershed development permitted by the Zoning Chapter.
- (3) The Village Engineer shall also review the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. The county drainage Moodna Watershed study, as it may be amended, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board may withhold approval of the subdivision until provision has been made for the improvement of said potential condition or, in the alternative, the developer may deposit in escrow the full cost of the required improvement of the said potential condition in such sum as the Planning Board shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility within the subdivision as determined by the Planning Board.

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C. Other improvements.

- (1) **Road signs.** The sub-divider shall deposit with the Village at the time of final subdivision approval a sum in accordance with the Standard Schedule of Fees for each road sign required by the Superintendent of Highways and Village Engineer at all road intersections. The Village shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved.
- (2) **Road lighting.** The Planning Board in all subdivisions may require streetlights of a type approved by the Village, and their location is to be shown on the construction drawings accompanying preliminary and final plats. Said streetlights are to be installed by the developer prior to the issuance of any certificate of occupancy, and are to be maintained at the developer's sole expense until such time as the roads have been accepted by the Village. In the case of a subdivision involving a county or state highway, approval shall be obtained from the appropriate agency. Where the Planning Board determines that streetlights are not to be provided, the provisions of [Article IV, § 163-18B](#) shall apply.
- (3) **Shade trees.** The sub-divider shall deposit with the Village at the time of final subdivision approval a sum in accordance with the Standard Schedule of Fees for each tree required by the Planning Board as shown on the construction plans accompanying the preliminary and final subdivision plats.
- (4) **Sanitary sewer facilities and sanitary sewer districts.** The developer shall install sanitary sewer facilities in a manner prescribed by the Village and shall conform to the Village code governing sewer and water. Necessary action shall be taken by the developer to enable the appropriate agency to extend a sanitary sewer or water district for the purpose of providing sanitary sewers to the subdivision where no district exists for the land to be subdivided.
- (5) **Fire hydrants and water supply districts.**
 - (a) Necessary action shall be taken by the developer to enable the Village to extend a water-supply district for the purpose of providing fire hydrants to the subdivision. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, shall be installed before any final paving of a street shown on the subdivision plat.
 - (b) To facilitate the above, the location of all fire hydrants and the boundary lines of the water district, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be included in the security to be furnished by the developer.
- (6) **Fencing and guide rails.** Each developer shall be required to furnish and install all fences and guide rails wherever the Planning Board determines that a condition warranting such fencing or guide rails may exist. Said fences or guide rails shall be constructed according to standards established by the Village Engineer or Superintendent of Highways and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence or guide rail improvements have been duly installed.

D. Underground utilities. All utility facilities shall be located underground throughout the subdivision. Wherever existing utility facilities are located aboveground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. Underground service connections to the street right-of-way line of each platted lot shall be installed at the developer's expense. At the discretion of the Planning Board, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

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§ 163-26. Lots.

- A. Lot arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Chapter and County Health Department Regulations, and in providing driveway access to buildings on such lots from an approved street.
- B. Access across a watercourse.** Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure of design approved by the Village Engineer.
- C. Lot dimensions.** Lot dimensions shall comply with the minimum standards of the Zoning Chapter. Where lots are more than double the minimum required area for the zoning district, the Planning Board may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the Zoning Chapter and these regulations.
- D. Side lot lines.** In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless in the opinion of the Planning Board a variation from this rule will result in a better street or lot plan. The Planning Board will discourage the use of small angular sections of lots that have no useful purpose by discounting those areas in calculating minimum lot size.
- E. Access from major and secondary roads.** Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. Where possible, driveways should be designed and arranged so as to avoid the necessity for vehicles to back into streets.
- F. Corner lots.** Dimensions of corner lots shall be large enough to allow for erection of buildings, while observing the minimum front yard setback from both streets.
- G. Water bodies.** If a tract being subdivided contains a water body, or portion thereof, the Planning Board may require that lot lines be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots.
- H. Lands along watercourses.** Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.
- I. Trees.** No existing trees shall be removed from any portion of any required side yard of a subdivision created pursuant to these regulations.

§ 163-27. Reservations for parks, playgrounds and recreation areas.

- A. Recreation standards.** The Planning Board shall require that land be reserved for parks and playground or other recreation purposes in locations designated on the Village Comprehensive Plan or Official Map, or otherwise where such reservations would be appropriate. Each reservation shall be of suitable size, dimension, topography and general character, and shall have adequate road access, for the particular purposes envisioned by the Planning Board. The area shall be shown and marked on the plat "Reserved for Park and/or Recreation Purposes." When recreation areas are required, the Planning Board shall determine the area reserved and the conditions to be imposed thereon, from the "Parks and Recreation Areas" Local Law (Chapter 120), as same may be amended from time to time, of the Village of South Blooming Grove.
- B. Applicability to land utilizing average density resolution.** Any subdivision plat in which the principle of average density has been utilized, pursuant to the average density resolution of

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the Village of South Blooming Grove, shall not be exempt from the provisions of this section, except as to such portion of land which is deemed by the Planning Board to be suitable for park, recreation and/or playground purposes, and actually dedicated to the Village for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Board for park and/or recreation purposes, the full fee shall be paid, as required by Village regulations. If further land is required for reservation, apart from the land reserved by averaging, a credit shall be given in accordance with Village regulations.

§ 163-28. Other reservations.

- A. Widening or realignment of existing roads.** Where a subdivision borders an existing undersize road or when the Village Comprehensive Plan or Village or County Official Map indicates proposed realignment or widening of a road that would require use of some of the land in the subdivision, the sub-divider may be required to show areas for widening or realigning such roads on the plat marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the plat when a proposed widening or realignment is shown on the Village, Town or County Official Maps.
- B. Utility and drainage easements.**
- (1) Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within road rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities or drainage facilities shall be provided across property outside of the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
 - (2) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
 - (3) The applicant shall dedicate, either in fee or by drainage or conservation easement, land on both sides of existing watercourses, as shown on the Official Map, to a distance to be determined by the Planning Board upon the recommendation of the Village Engineer.
- C. Easements for pedestrian access.** The Planning Board may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easements at least 20 feet in width. Easements shall be indicated on the plat.
- D. Shade tree easement.** The preliminary plat and final plat shall indicate a reservation of easement authorizing the Village to plant shade trees within five feet of the required right-of-way of the Village.

§ 163-29. Additional guidelines and restrictions.

- A.** Existing features, which would add value to residential development or to the Village as a whole, such as trees, as herein defined, watercourses and ponds, falls, cemeteries, historic areas or sites and similar irreplaceable assets, shall be preserved in the design of the subdivision. The Planning Board may require that any feature to be retained be flagged, fenced, or otherwise delineated in the field prior to any earth movement or clearance action. No trees shall be removed from any subdivision nor any change of grade of the land effected until the final plat has been filed. All trees on the plat required to be retained shall be preserved, and where required, all trees shall be welled and otherwise protected against change of grade. The preliminary plat shall show the number and location of existing trees, and shall further indicate all those marked for retention, which shall be keyed to a table listing species, height, caliper and condition as certified by a licensed landscape architect or botanist. The public improvement security shall include the amount of \$5 per linear foot of street frontage for purposes of calculating the security amount.

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- B. Self-imposed restrictions.** If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Chapter or these or other Village regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Planning Board may require that restrictive covenants be recorded with the Orange County Clerk in a form to be approved by the Village Attorney.
- C. Subdivisions including land zoned for nonresidential purposes.** If a proposed subdivision includes land that is zoned for nonresidential purposes, the layout of the subdivision with respect to such land shall make such provision as the Planning Board may require for safe and convenient access to such automobile parking and loading and unloading spaces as may be required by the Zoning Chapter, or otherwise for safe and convenient service access to such land.
- D. Deposit and disposition of trees, debris and waste.** No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried in any land or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy on a subdivision. The same shall not be left or deposited in any area of the subdivision at the time of expiration of the security or dedication of public improvements, whichever is sooner. The security shall include an amount for removal of such materials in the event the provisions of this section are not met.
- E. Soil preservation and final grading.** No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot recovered with topsoil with an average depth of at least six inches over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation seriously damaged. The security shall include an amount for correction of grading and placement of topsoil. Whether or not a certificate of occupancy has been issued, at the expiration of the security the Village may enforce the provisions of said security where the provisions of this section or any other applicable law, ordinance or regulation have not been met.
- F. Where the development of proposed lots in a subdivision presents potentially difficult site problems** due to topography, wetlands, soils, driveway gradient, site grading, existing plant materials or other features particularly unique to the proposed lot, the Planning Board may require site plan approval for specifically identified lots.

§ 163-30. Adjustment of regulations.

Where the Planning Board finds that, because of special circumstances of a particular plat, extraordinary hardships may result from strict compliance with these regulations, it may adjust the regulations so that substantial justice may be done and the public interest secured; provided that any such adjustment will not have the effect of nullifying the intent and purpose of these regulations, the Village Comprehensive Plan or the Official Map of the Village. In granting any adjustment, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure substantially the objective of the standards or requirements so adjusted.

ARTICLE VI Specifications for Documents to be Submitted

§ 163-31. Base data.

All plats submitted to the Planning Board shall show the following information:

- A.** Title of proposed subdivision, graphic scale, North arrow, date, revision date (if any), property owner's name and address, sub-divider or applicant's name and address (if other than the owner) and the name, address and phone number of the licensed professional preparing the

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plat; documentation of ownership of land or permission to act in the owner's behalf.

- B.** Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses, wetlands, ponds, steep slopes, wooded areas, specimen trees, other irreplaceable assets, areas within the one-hundred-year floodplain, width and names of all existing or platted streets or other public ways within or immediately adjacent to the tract; names of adjoining property owners from the latest assessment rolls within 500 feet of any perimeter boundary of the subdivision. Where requested by the Planning Board, the applicant and/or its consultants shall identify any of these features in the field for examination.
- C.** Location, sizes, elevations and slopes of existing sewers, water mains, culverts and other underground structures within the tract and within approximately 100 feet of the site property lines, existing permanent buildings or structures, driveways and utility poles on or immediately adjacent to the site.
- D.** Topography, with a contour interval of two feet referred to sea level datum, based upon the 1929 National Geodetic Vertical Datum or NAAVD 88 and should be so noted on the plat and extending 200 feet into contiguous area obtained through an actual field survey or through photogrammetry methods and date of the survey.
- E.** The location of temporary stakes to enable the Planning Board to find and appraise features of the plat in the field.
- F.** Whenever the plat covers only a part of an owner's or applicant's contiguous holdings, the applicant shall submit, at the scale of no more than 200 feet to the inch, a sketch of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.
- G.** A vicinity map showing streets and other general development of the surrounding area at a scale of one inch equals 300 feet. The proposed lot lines should be shown on the vicinity map, as should the relationship to the existing highway system, zoning districts, school and improvement districts, municipal properties and boundaries, parks and other public places.
- H.** The plat shall show all school and improvement district lines and zoning district lines with the zones properly designated.
- I.** A statement or tabulation on the plat identifying all variances that would be necessary.
- J.** Tree map, showing existing wooded areas and all trees with a caliper of eight inches or more at a point four feet above ground. Such map shall show the location of each tree in relation to the proposed location of streets, driveways, lot lines, setbacks, clearing limit lines, and drainage courses. Trees shall be identified by their common and scientific names. The scale of the tree map shall be the same as that which is to be used for submission of the preliminary plat.
- K.** Zoning Overlay areas on or within 500 feet of the property.
- L.** Total area of property, number of proposed lots.

§ 163-32. Preliminary plat.

- A.** The preliminary plat shall be prepared by a licensed land surveyor at a convenient scale not more than one inch equals 100 feet, and the sheets shall be numbered in sequence if more than one sheet is used, and shall be of such size as is acceptable for filing in the office of the Orange County Clerk, but shall not be larger than 34 inches by 44 inches. It shall contain the entire base data required by § 163-31, plus the following additional information. Since the plan prepared for the preliminary plat may also be used for the final subdivision plat, it should be drawn on tracing cloth or Mylar.
- B.** The preliminary plat shall show the following:
 - (1)** The location of the property with respect to surrounding property and streets, the

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names of all adjoining property owners of record, or the names of adjoining developments; the names of adjoining streets.

- (2) The location and dimensions of all boundary lines of the property.
- (3) The location of existing water bodies, streams, marshes, wetlands, flood hazard boundaries, steep slopes, and other pertinent features such as railroads, buildings, burial grounds and structures of any kind.
- (4) The location and width of all existing and proposed streets and easements.
- (5) Bulk regulations and other development criteria, once established by the Planning Board or as permitted by the Zoning Law, Chapter 235.
- (6) Building set back lines dashed and dimensioned.
- (7) The locations, dimensions and areas of all proposed or existing lots, and any calculations showing portions of lots not receiving full lot area credit because of environmental and other zoning constraints.
- (8) The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof.
- (9) Sufficient data acceptable to the Village Engineer to determine readily the location, bearing and length of all existing and proposed property and easement lines, and to reproduce such lines upon the ground; the location of all proposed monuments.
- (10) Names of all new streets as proposed by the applicant.
- (11) All information submitted shall be based upon a certified survey made within one year of the filing of the application for preliminary approval with the Clerk. The following notation shall also be shown:
 - (a) Explanation of drainage easements, if any.
 - (b) Explanation of sight easements, if any.
 - (c) Explanation of reservations, if any.
 - (d) Endorsement of owner as follows:

Approved for filing:
Owner _____ Date _____
 - (e) Form for endorsements by Planning Board as follows:

Approved as preliminary plat by resolution of the South Blooming Grove
Planning Board
Date _____
- (12) Map notes as described in Appendix B.
- (13) Landscaping Plan (where required)
 - (a) Trees to be retained and protected with a caliper of eight inches or more at a point four feet above ground.
 - (b) Location and identification by species and size (caliper, height, as appropriate) of proposed plantings.
 - (c) Standard planting notes regarding topsoils, seeding, or sodding, staking or other protections, guarantees, planting methods, inspection, certification, etc.
 - (d) Wetlands restoration areas, including grading, landscape materials, maintenance access, perimeter delineation, standard notes.
- (14) Soil tests witnessed by Village Engineer or designee and septic design prepared by the applicant's licensed professional provided on the plans for each lot (private septic fields

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with no OCHD review).

- (15) Wetlands jurisdictional determination approval from USACOE and/or NYSDEC on the property and within 200 feet of property line."

§ 163-33. Construction plans (grading and drainage plans).

- A. Construction plans shall be prepared for all required and proposed on-site and off-site improvements. Plans shall be drawn at a scale no more than one inch equals 50 feet, and map sheets shall be of the same size as the preliminary plat. The following shall be shown:
- (1) Profiles showing existing and proposed elevations along the centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevations along the centerline of the existing road or roads, within 100 feet of the intersection, shall be shown.
 - (2) The Planning Board may require, where steep slopes exist, the cross sections of all proposed streets at one-hundred-foot stations, which cross sections shall contain the existing and proposed grade that shall be shown at five points, as follows: On a line at right angles to the center line of the street, said elevation points shall be at the center line of the street, each property line, and points 25 feet inside each property line.
 - (3) Plans and profiles showing: the locations and typical cross section of street pavements, including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes, catch basins and headwalls; the locations of street lighting standards; driveways; the location, size when requested and invert elevations of existing and proposed sanitary sewers, storm water drains and fire hydrants; and exact location (and size when requested) of all water, gas or other underground utilities or structures.
 - (4) Location, size, elevation and other appropriate description of any existing facilities or utilities, including but not limited to existing streets, sewers, drains, water mains, at the point of connection to proposed facilities and utilities within the subdivision, easements, water bodies, streams, wetlands and other pertinent features such as railroads, buildings, and features noted on the Official Map.
 - (5) Topography, at the same scale as the preliminary plat, with a contour interval of two feet, referred to sea level datum. All datum provided shall be latest applicable United States National Geodetic Vertical Datum and should be so noted on the plat.
 - (6) All specifications and references required by the Village highway and drainage standards, including a site-grading plan for the entire subdivision.
 - (7) Notation of approval as follows:
Approved by
Owner _____ Date _____
Chairperson _____ Date _____
 - (8) Title, name, address and signature of professional engineer and surveyor, and date, including revision dates.

§ 163-34. Final plat.

- A. The final plat shall be presented in ink on tracing cloth or Mylar and shall be at the same scale and contain the same information, except for any changes or additions required by resolution of the Board, as shown on the preliminary plat. The preliminary plat may be used as the final subdivision plat if it meets these requirements and is revised in accordance with the Board's resolution. All revision dates must be shown, as well as the following:

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- (1) Notation of any Board-imposed or self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Planning Board in accordance with [Article V, § 163-29B](#).
 - (2) Endorsement of the County Health Department.
 - (3) Lots numbered as directed by the Assessor.
- B. The final subdivision plat shall be prepared by a land surveyor licensed by the State of New York.

ARTICLE VII Performance and Maintenance Bonds

§ 163-35. Legislative intent.

The Village Board of the Village of South Blooming Grove hereby finds and determines that the existing system of performance and maintenance bonds provided to the municipality as an alternative to the prior completion of public improvements in a subdivision is deficient in providing for and protecting the public health, safety and welfare. Inflation, inadequate estimates, incomplete and/or inadequate description of improvements in bonds, unmeritorious defenses to enforcement of bonds and the high cost of enforcing performance and maintenance bonds have resulted in failure to properly complete public improvements, hardship to purchasers of lots in the subdivisions and to the general public and unjust enrichment of owners, sub-dividers and developers of subdivisions. It is the intent of this article to provide clarity and definition to the established method of guaranteeing the proper completion of public improvements in subdivisions, to nullify the imposition of unmeritorious defenses and to eliminate the costs of enforcement of performance and maintenance bonds so as to protect purchasers of lots in subdivisions and the general public and to advance the intent of Village Law that public improvements in subdivision be completed at the expense of the owner, sub-dividers or developer.

§ 163-36. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DEFAULT — A declaration by the Village Board at any time subsequent to the expiration of the term of a performance or maintenance bond that the development of the subdivision has advanced to a stage where the public improvements shall be completed forthwith.

FULL COST — Full cost of completing public improvements shall include, without limitation, the cost of preparation and review of plans, reports, specifications and documents, the cost of enforcement of performance or maintenance bonds and/or the obligation of owners to complete the public improvements, and the cost of municipal compliance with prevailing wage and bidding requirements.

OWNER — The person or entity which undertakes to subdivide land and whose responsibility it is to properly complete public improvements in subdivisions. The term "owner" shall include the terms "principal" and "subdivider" and "developer" and the term "coprincipal" as used in a performance or maintenance bond.

MAINTENANCE BOND — A bond, collateral to the principal obligation of the owner, to secure or guarantee the proper maintenance of public improvements in a subdivision, which bond remains in full force and effect for a period of time after completion of said improvements or the bond is released by resolution of the Village Board with the concurrence of the Planning Board.

PERFORMANCE BOND — A bond, collateral to the principal obligation of the owner, to secure

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or guarantee the proper completion of public improvements in a subdivision, which bond remains in full force and effect until all public improvements are complete, the subdivision is abandoned without the sale of lots or the bond is released by resolution of the Village Board with the concurrence of the Planning Board.

PUBLIC IMPROVEMENTS — Those improvements which are to be used in common by residents of the subdivision or by the public whether or not such improvements are offered for dedication. Public improvements shall include, without limitation, improvements referenced in Village Law, improvements depicted or referenced on the plat, improvements required by law, code, ordinance, rule or regulation and improvements agreed to by the owner.

TERM — The term of a performance or maintenance bond is the period during which the municipality may not declare a default.

§ 163-37. Performance Security Bond

Performance Bond:

- (1) A performance security shall be delivered to the Village Clerk to guarantee to the Village that the developer will faithfully cause to be constructed and completed within a reasonable term the required public improvements.
- (2) Before the Planning Board grants final approval of the subdivision plat or site plan, the applicant shall follow the procedure set forth below:
 - (a) In an amount set by the Village Board, the applicant shall file with the Village Clerk either a certified check to cover the full cost of the required improvements or an adequate and acceptable security issued by a bank or surety company approved by the Village Board to cover the full cost of the required improvements or any combination thereof. Any such security shall comply with the requirements of § 277 of the Village Law and, further, shall be satisfactory to the Village Board and the Village Attorney as to form, sufficiency, manner of execution and surety. A period of three (3) years shall be set forth in the document of surety within which required improvements must be completed. However, the term of such performance security may be required to be extended by the Village Board if improvements are not completed within the original term of the security.
 - (b) The required improvements shall not be considered to be completed until the installation of the improvements has been accepted by the Village Engineer, and any appropriate department head and as-built or record drawings satisfactory to the Village Engineer have been submitted. If the applicant elects to provide a security or certified check for all required improvements as specified in this Article or Zoning Code, such security shall not be released until such as-built plans are submitted. The Village shall release the security upon certification of the Village Engineer and the Village Attorney that all requirements of the security have been satisfied.
 - (c.) The applicant shall complete all required improvements or post the required performance bond, either or both to the satisfaction of the Village Board, before any building permits shall be issued.
 - (d) If the Planning Board shall decide at any time during the term of the performance security that the extent of the building development that has taken place in a subdivision is not sufficient to warrant all the improvements covered by such performance security or that required improvements have been installed as provided in this section and by the Planning Board in sufficient amount to warrant reduction in the face amount of said security or that the character and extent of such development required additional improvements previously waived for a period stated at the time of fixing the original terms of such security, the Village Board may modify its requirements for any or all such improvements, and the face value of such performance security shall thereupon be modified by an appropriate amount so that the new face value will cover

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the cost in full of the amended list of improvements required by the Planning Board, and any security deposited may be reduced proportionately.

- (e) An adequate performance bonds shall be provided in accordance with Chapter for Subdivision of Land and/or the Village's Zoning Code.
- (f) **As-built plans.** As define in this chapter shall be all plans that accurately depict the construction of any and all roadways and / or improvements, which shall be provided to the Village prior to the issuance of a Certificate of Compliance and / or final approvals. The as-built plans shall accurately depict the actual constructed field conditions and provide sufficient dimensions and measurements.

§ 163-38. Maintenance Bonds.

Maintenance bonds:

- (1) Prior to acceptance by the Village of the dedication of the street as guaranteed, the developer shall deposit with the Village Clerk a performance and maintenance bond of acceptable security or shall deposit with the chief fiscal officer of the Village acceptable negotiable government bonds, cash or certified check drawn upon a national or state bank payable at sight to the Village Board guaranteeing that for a minimum period of two (2) years from the date of acceptance of the dedication of the street by the Village or until the issuance of the final certificate of occupancy, whichever is latter, the developer will maintain the street to the standard of construction set by these specifications, normal wear and tear excepted. This shall be interpreted to mean that the developer will, at his own expense, repair and make good any defects or damage which may develop during this maintenance period as a result of faulty construction within the right-of-way or as a result of other construction by the developer or third parties who may have purchased a lot or lots outside of the right-of-way. During the maintenance period, the Village shall be responsible for snow and ice control, street cleaning, cleaning of culverts and catch basins and other work of similar routine nature, provided that such work has in no way been caused by the developer's operations.
- (2) The amount of the maintenance bond shall be at least equal to ten percent (10%) of the original amount of the performance bond.
- (3) Subsequent to the dedication of the street and after receipt of the maintenance bond, the Village Board shall release the performance security.
- (4) An adequate maintenance bonds shall be provided in accordance with Chapter for Subdivision of Land and/or the Village's Zoning Code.

§ 163-39. Forms of bonds.

All performance and maintenance bonds posted subsequent to the effective date of this article shall be in a standard form approved by the Village Board. The Village Board, with the advice of the Attorney, shall from time to time adopt, by resolution, standard form bonds of the following types:

A. Irrevocable letter of credit.

B. Cash bond.

§ 163-40. Approval.

No performance or maintenance bond, nor any increase or reduction thereof, shall be deemed approved until the following are entered into the minutes of the Village Board:

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- A. Approval by the Planning Board of the bond amount or the increase or reduction of such amount.
- B. Approval by the attorney of the form, sufficiency and execution of the bond, or of the form, sufficiency and execution of the increase or reduction thereof.
- C. Approval by the Village Board of the security or surety. The Village Board may in particular cases require a particular form of bond.
- D. Certification by the owner's engineer that the amount of the bond would be sufficient to fully compensate the municipality for the cost of constructing all required improvements, including the costs of competitive bidding and compliance with public works laws.

§ 163-41. Estimate of amounts.

Estimates of performance and maintenance bond amounts shall be based upon the full cost of properly completing the public improvements. Allowance shall be made for the cost of compliance with bidding and public works laws and for the expense of enforcement of the bond. Underestimation of the bond amount shall not stop the Village of South Blooming Grove in an action against the owner on the obligation to complete the improvements.

§ 163-42. Increase or reduction of amounts.

- A. Whenever warranted by changed circumstances and upon approval of the Village Board, the Planning Board may, upon due notice and public hearing, modify the requirements for public improvements or increase or reduce the amount of the performance or maintenance bond.
- B. Whenever the amount of a performance or maintenance bond is increased and the owner fails within a reasonable time thereafter, as determined by the Village Board, to post such increased amount, the Village Board may declare a default whether or not the term of any existing bond has expired.
- C. No decrease or reduction in the amount or quality of public improvements in a subdivision shall be effective until an amendment to the plat is duly recorded in the County Clerk's office.

§ 163-43. Completion of improvements.

- A. The public improvements in a subdivision shall not be deemed complete unless the Municipal Engineer certifies that all the public improvements are complete and said certification has been accepted by resolution of the Village Board; nor shall any portion of such public improvements be deemed complete unless the Municipal Engineer certifies that particularly specified improvements are complete and said certification has been accepted by resolution of the Village Board. A certification by the Municipal Engineer, which is incorrect, shall be void.
- B. The Municipal Engineer shall issue the certification required by Subsection A above upon written demand by the owner or his authorized agent if in fact the public improvements are properly completed. The Municipal Engineer may require that the owner provide the certification of a competent engineer licensed in New York certifying to the Village of South Blooming Grove either that all or a specified portion of the public improvements are properly complete. Such certification shall bear the seal of the Engineer.
- C. The public improvements in a subdivision shall not be deemed complete unless acceptance of the certification of such completion or partial completion as required by this section is made by resolution of the Village Board, and said acceptance shall not be effective unless said resolution is recorded in the minutes of the Village Board.

§ 163-44. Rights of owner.

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If the full cost of completion of the public improvements by the Village of South Blooming Grove is less than the amount of the bond paid over to the Village of South Blooming Grove, the monies not expended shall be returned to the owner.

§ 163-45. Enforcement and defenses.

- A. The obligation of the owner to complete all the public improvements is not limited by the posting of a performance and maintenance bond, and such obligation may be enforced independently of the obligation on the performance and maintenance bond.
- B. Whenever any person or corporation shall fail to pay any bonding or penalty imposed by this article, the Village Attorney shall, upon request of the Board of Trustees, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Clerk-Treasurer. Each such penalty shall be a lien upon the property of the person liable to pay the same in the same manner and to the same extent as the tax imposed on real property by the Real Property Tax Law.
- C. The absence from the minutes of the Village Board of the certification of completion required above shall create a rebuttal presumption that the public improvements are not properly complete.

§ 163-46. Applicability.

This article shall be applicable to all subdivisions hereafter approved and to all subdivisions which have been heretofore approved but in which public improvements have not been completed pursuant to the terms of this article, except that provisions of this article which are determined to be inconsistent with Village Law shall be applicable to subdivisions heretofore approved three years after the effective date of this article.

§ 163-47. Implementation by Village officers and employees.

The duties of the Village of South Blooming Grove, its officers, agents and employees pursuant to this article are general duties of the Village of South Blooming Grove to protect the public health, safety and welfare. No person is authorized to create or imply a special relationship pursuant to this article.

§ 163-48. Interpretation of provisions; severability.

- A. This article shall be interpreted so as to most fully implement the intent that public improvements in a subdivision be properly completed at the owner's expense. If any provision, sentence, word or phrase of this article be judicially determined to be invalid, illegal or unconstitutional, such invalidity, illegality or unconstitutionality shall be confined to the particular part which is so determined and shall not affect the validity of the remainder of this article, which shall be interpreted so as to most fully implement the intent of this article.
- B. No action or proceeding to challenge the consistency, validity, legality or constitutionality of any part of this article shall be commenced or prosecuted unless the Zoning Board of Appeals of the Village of South Blooming Grove has rendered an interpretation of such part of this article.

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ARTICLE VIII Enforcement of Subdivision Regulations

§ 163-49. Conformance required.

No land in the Village of South Blooming Grove shall be subdivided except in conformance with Village of South Blooming Grove Subdivision of Land Regulations, duly adopted by the Village Board and any amendments thereof.

§ 163-50. Issuance of building permits contingent upon compliance.

No building permit shall be issued to any person, firm or corporation for the construction of any building upon property, which has been subdivided without complying with the Subdivision of Land Regulations of the Village of South Blooming Grove. For the purposes of this article, the term "subdivided" shall mean the subdivision of land as defined in this chapter.

§ 163-51. Penalties for offenses.

Any person, firm or corporation who shall subdivide land in the Village of South Blooming Grove without complying with the Village of South Blooming Grove Subdivision Regulations shall be guilty of an offense punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed 15 days or by both fine and imprisonment. Each week's continued violation shall constitute a separate additional violation.

§ 163-52. Enforcement.

All provisions of this chapter shall be enforced by Building Inspector, Village Engineer, Code Enforcement Officer or any other person authorized by resolution of the Village Board. All such enforcement officers shall have the right and authority to issue appearance tickets for the violation of any provision of this chapter or any prohibition or limitation that this chapter imposes.

§ 163-53. Judicial review.

Any persons aggrieved by any decision or determination made by the Village Board pursuant to this article may bring a proceeding to review such determination in the manner provided by Article 78 of the Civil Practice Law and Rules.

§ 163-54. Application.

No statement in this article shall be construed to interfere with any additional requirements that may be imposed by any federal, state or local authority having jurisdiction.

§ 163-55. Supersession of other laws.

This chapter supersedes, and is in derogation of, Chapter 209 of the Code of the Town of Blooming Grove, County of Orange, and State of New York. In addition, it is not intended that this chapter supersede the authority of the County of Orange Department of Health.

§ 163-56. Authority.

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

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§ 163-57. Repeal.

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

§ 163-58. Effective Date.

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.
