

**Chapter 138**

**SUBDIVISION OF LAND**

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**[HISTORY: adopted by the Town Board of the Town of Patterson 7-22-1998 by L.L. No. 2-1998<sup>1</sup>; amended in its entirety 4-25-2001 by L.L. No. 3-2001. amended in part 2-25-04 by L.L. No. 3. Amendments noted where applicable.]**

### **GENERAL REFERENCES**

- Building Construction – See Ch. 64**
- Fees – See Ch. 87**
- Fire Prevention – See Ch. 90**
- Flood damage prevention – See Ch. 91.**
- Numbering of streets and buildings – See Ch. 112**
- Sidewalks – See Ch. 131**
- Streets – See Ch. 135**
- Zoning – See Ch. 154**

**<sup>1</sup> Editor’s Note: This local law also superseded former Ch. 138, Subdivision of Land, adopted 3-11-1976 by the Planning Board, approved 4-14-1976 by the Town Board, as amended.**

### **ARTICLE I General Provisions**

#### **§ 138-1. Authority.**

In order that land will be subdivided in accordance with the following statements of intent, the Official Map, if one exists, the Comprehensive Plan and Chapter 154, Zoning, these regulations are hereby adopted by authority pursuant to the provisions of Article 16, §276 of the Town Law and §10 of Municipal Home Rule Law. The Planning Board is hereby authorized and empowered to approve plats for subdivisions within the Town of Patterson. To the extent that any provision of this Part 1 is inconsistent with Article 16 of the Town Law of the State of New York, including §§ 276 and 277, this Part 1 shall supersede such provision of Article 16 pursuant to Municipal Home Rule Law §10. These regulations shall be known as and may be cited by the title “Subdivision Regulations, Town of Patterson.”

#### **§ 138-2. Policy.**

It is declared to be the policy of the Planning Board to consider land subdivisions as part of the orderly and efficient development of land guided by the following regulations. These regulations provide a set of procedures and standards. Their intent is to encourage the most appropriate and best development of land in order to protect and promote the health, safety, and general welfare, which is intended to include the following:

- A. To assure that land to be subdivided will produce building sites of such character and area as will permit their development for homes without danger to health or peril from fire, flood or other menace.
- B. To facilitate the adequate and efficient provision of community facilities, services and utilities. The most desirable and appropriate systems for drainage, water supply, sewage disposal and other needed improvements, including any appropriate parks and playgrounds, shall be required.
- C. To promote the safe and convenient circulation of vehicles and pedestrians. Roads and streets shall be designed, located and constructed as to accommodate current traffic and future traffic where required, shall be properly related to the proposals shown on the Town Comprehensive Plan, and shall facilitate fire protection and provide access of fire-fighting equipment to buildings.
- D. To restrain the destruction of the natural character of the land and promote the conservation of all elements of topography and vegetation which contribute to the natural beauty of the land.
- E. To promote the wise use and sound management of the groundwater systems, drainage basins, wetlands, streams, lakes and ponds and all other natural resources throughout the Town.
- F. To maintain, through all subdivision planning and development the existing character and development patterns of neighboring properties.

### **§ 138-3. Definitions.**

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

CLERK OF THE PLANNING BOARD - That person who shall be designated to perform the duties of the Clerk of the Planning Board for all purposes of these regulations.

CUL-DE-SAC - A street or portion of a street with only one (1) point of vehicular traffic ingress or egress.

EASEMENT - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

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

EROSION AND SEDIMENT CONTROL PLAN - A plan, including detailed drawings and narrative indicating the specific measures and sequencing to be used to minimize erosion and control sediment on a development site during and after construction. **[added 2-25-04 by L.L. No. 3]**

MASTER OR COMPREHENSIVE PLAN - A Comprehensive Plan prepared by the Town Board pursuant to § 272-a of Town Law, which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the Town, and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

OFFICIAL MAP - The map established by the Town Board pursuant to § 270 of Town Law, showing streets, highways, parks and drainage, both existing and proposed.

PLANNING BOARD or BOARD - The Planning Board of the Town of Patterson.

PRELIMINARY PLAT - A drawing or drawings clearly marked 'preliminary plat,' showing the layout of a proposed subdivision, as specified in Article V, §138-33 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

SEQRA - State Environmental Quality Review Act 6 NYCRR -Part 617

STREET - Includes streets, roads, avenues, lanes or other traffic ways between right-of-way lines.

A. MAJOR STREET - A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

B. COLLECTOR STREET - A street which serves as an access to abutting properties and also is designed to serve as a traffic way ~~for~~ between neighborhoods or subdivisions or as a feeder to a major street.

C. MINOR STREET - A street intended to serve primarily as an access to abutting properties.

D. DEAD-END STREET or CUL-DE-SAC - A street or a portion of a street with only one (1) vehicular traffic outlet.

SUBDIVIDER - Any person, firm corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or others.

SUBDIVISION - The division of any parcel of land which creates two (2) or more lots or parcels, with or without streets or highways.

A. MAJOR SUBDIVISION - Any subdivision not classified as a minor subdivision, including but not limited to subdivisions of five (5) or more lots or any size subdivision requiring any new street or extension of municipal facilities. A Major subdivision shall also include any resubdivision of a lot which occurs within a two (2) year period .

B. MINOR SUBDIVISION - Any subdivision containing not more than four (4) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities and not adversely affecting the development of the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Comprehensive Plan, Official Map or Chapter 154, Zoning, if such exists, or these regulations.

C. RESUBDIVISION - The subdivision of a parcel into two or more lots, where said parcel was part of a subdivision application approved by the Planning Board within a period of two (2) years prior thereto. For the purpose of determining the date of Planning Board approval, the date of approval shall be the date the subdivision plat was filed in the office of the Putnam County Clerk. **[added 2-25-04 by L.L. No. 3]**

D. LOT LINE ADJUSTMENT - Any change of existing property lines, excluding the joining or combining of one or more lots into a single larger parcel. **[added 2-25-04 by L.L. No. 3]**

SUBDIVISION PLAT or FINAL PLAT - A drawing in final form showing a proposed subdivision containing all information of detail required by law and by these regulations to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Registrar.

SUBSTANTIAL COMPLETION - The completion (including acceptance by the Town Engineer's Office) of all improvements necessary for the construction of a new road up to and including all grading, road pavement binder course, curbing, final grading, seeding and mulching of all shoulder areas, any grading for driveways required under §138-31 of the Subdivision Code, utility conduits and all drainage improvements for that portion of the development. **[added 2-25-04 by L.L. No. 3]**

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

TOWN ENGINEER - A duly designated engineer of the Town.

ZONING ORDINANCE - That body of regulations which is in effect at the time of application to the Planning Board, also known as the "Zoning Ordinance of the Town of Patterson" and which was adopted by the Town Board of Patterson to establish a

comprehensive zoning plan for the Town by establishing various districts for the unincorporated area of the Town and prescribing certain regulations for each of said districts.

## **ARTICLE II Procedures**

### **§ 138-4. Compliance required.**

A. Whenever any subdivision of land or an adjustment to any property line is proposed to be made, and before any contract for the sale of or an offer to sell any lots in such a subdivision of part thereof or any lot to which an adjustment of a lot line is made, and before any permit for the erection of a structure in a proposed subdivision or lot line adjustment shall be granted, the subdivider or his duly authorized agent shall comply with the following regulations and procedures.

B. Before submitting an application for the subdivision or resubdivision of land in the Town of Patterson, a subdivider and his consultants and agents shall become knowledgeable of the requirements of the Patterson Town Code including:

- (1) This Part 1.
- (2) Chapter 154, Zoning, of the Code of the Town of Patterson
- (3) The Comprehensive Plan of the Town of Patterson.
- (4) The Fee Schedule of the Town of Patterson.
- (5) The New York State Environmental Quality Review Act.

C. The subdivider or his duly authorized representative shall attend regularly scheduled meetings or any public hearings during which his subdivision is to be considered by the Planning Board.

### **§ 138-5. Fees**

A. Fees for application to the Planning Board and review of applications before the Planning Board shall be set for in Chapter 87, Schedule of Fees.

B. Certified Check. All fees required by any part of these regulations shall be in the form of a certified check or bank draft payable to the Town of Patterson.

### **§ 138-6. Date of official submission.**

In order to determine the date of submission for either major or minor subdivision application, an application, complete in every respect and accompanied by the required plans and fees, shall be considered officially submitted to and received by the Planning Board on the date of its regularly scheduled monthly meeting following no less than fourteen (14) days the date on which the same was submitted to the Secretary or Clerk of the Planning Board.

**§ 138-7. Preliminary consideration/ Sketch Plan.**

A. Prior to the subdivision of any parcel of land and in accordance with the following provisions, the owner or his duly authorized representative shall meet with the Planning Board to discuss the general aspects of the project as to character of the site, land planning, its effect on existing and future developments, its effect on existing and future facilities, such as roads, drainage, lakes, ponds, wetlands, watercourses, recreation, water supply and sewage disposal, fire protection and similar aspects, as well as the availability of existing services and other pertinent information, any restrictions, covenants, easements and zoning lines, etc., and to determine classification as to whether it is a major subdivision, a minor subdivision or lot line adjustment as defined in these regulations.

B. Submission requirements. In order that the Planning Board may adequately understand the proposed subdivision the initial submission shall consist of eleven (11) copies of the following documents:

- (1) The application form.
- (2) Copies of all prior actions of the Town Board, Planning Board, Zoning Board of Appeals, and any other county, state, or federal agency.
- (3) Copies of any restrictions or easements on the land.
- (4) Sketch plan. The sketch plan shall contain the information as outlined in §138-33.A, B, E, G, H, I, M, N, O, P.
- (5) Full Environmental Assessment Form (EAF)
- (6) The review fee for preliminary consideration in an amount as set forth in the Schedule of Town Fees.

C. Classification of subdivision. Classifications will be made at this time by the Planning Board as to whether the subdivision is minor, major, or a lot line adjustment as defined in these regulations.

- (1) If classified as a major subdivision, all the regulations contained herein shall be complied with, and the subdivider shall then submit a “Land Utilization and Feasibility Report” which complies with §138-10.

- (2) If classified as a minor subdivision the applicant shall comply with the requirements of § 138-8.
- (3) If classified as a lot line adjustment the applicant shall comply with §138-9.

**§ 138-8. Minor subdivision.**

A. Application. If the application is classified as a minor subdivision, the application shall proceed directly to review of the final plat and follow the procedures and requirements of §138-12 and §138-35. The Board may require, however, for the protection of public health, safety and welfare, that a minor subdivision comply with all or some of the requirements of §138-10 and §138-11. Application for review of a final plat of a minor subdivision shall be made within forty-five (45) days of classification and shall incorporate the recommendations of the Planning Board into the final plat. If the applicant fails to submit the application for review of the final plat of a minor subdivision within the forty-five (45) day period, the Planning Board may in its discretion terminate the review of the application.

B. Submission requirements. In order that the Planning Board may adequately understand the proposed subdivision the initial submission shall consist of eleven (11) copies of the following documents:

- (1) The application form.
- (2) Copies of all prior actions of the Town Board, Planning Board, Zoning Board of Appeals, and any other county, state, or federal agency.
- (3) Copies of any restrictions or easements on the land.
- (4) A Final Subdivision Plan. The Final Subdivision Plat shall contain the information as outlined in § 138-28 and §138-35.
- (5) A Full Environmental Assessment Form.
- (6) The review fee for final plat consideration in an amount as set forth in §87 the Schedule of Town Fees.

C. A final plat shall not be considered complete until a negative declaration has been filed or until notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

D. Within sixty-two (62) days of the receipt of a complete application a public hearing

shall be held. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on a draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

E. Subdivider's notice to property owners. The subdivider shall mail notice of the public hearing to all property owners whose property is within five hundred (500) feet of the site of the proposed subdivision or within five hundred (500) feet of any property contiguous to said site that is owned partially or wholly by the subdivider, members of the subdivider's family (ies) or firms in which the subdivider owns a financial interest.

F. Decision. The Planning Board shall make its decision on the final plat as follows:

(1) If such Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two (62) days after the date of the public hearing; or

(2) If such Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the final plat. Within thirty days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

G. No lot created through a minor subdivision shall be treated as a minor subdivision again for a period of two (2) years from the date of Final Approval of the minor subdivision.

#### **§ 138-9. Lot Line Adjustment.**

A. Submission requirements. In order that the Planning Board may adequately understand the proposed lot line adjustment, the initial submission shall consist of eight (8) copies of the following documents:

(1) The application form.

- (2) Copies of all prior actions of the Town Board, Planning Board, Zoning Board of Appeals, and any other county, state, or federal agency.
- (3) Copies of any restrictions or easements on the land.
- (4) A Lot Line Adjustment Plat. The Lot Line Adjustment Plat shall contain the information as outlined in § 138-34.
- (5) A short-form Environmental Assessment Form (EAF)
- (6) The review fee for lot line adjustment consideration in an amount as set forth in §87 the Schedule of Town Fees.

B. Procedures for the review of a lot line adjustment. An application for a lot line adjustment shall be submitted to the Secretary or Clerk of the Planning Board at least fourteen (14) days prior to a regular meeting of the Board accompanied by ten (10) copies of the items described in 138-9(A).

- (1) A lot line adjustment plat shall not be considered complete until a negative declaration has been filed or until notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the state environmental quality review act. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.
- (2) Within sixty-two (62) days of the receipt of a complete application the Planning Board by resolution shall disapprove or approve, with or without modifications and/or conditions and authorize the signing of the plat.
- (3) A conditional final approval of a lot line adjustment plat shall expire within one hundred eighty days of the approval if the conditions of the approval have not been complied with. The signature of the duly authorized officer(s) of the Planning Board shall constitute final approval by the Planning Board of the plat. Final plat approval shall expire within sixty-two (62) days of the signing of the plat unless such plat has been filed or recorded by the owner in the office of the county clerk or register.

#### **§ 138-10. Land utilization and feasibility report.**

A. Submission of report. The subdivider shall submit eight (8) copies of the report for the proposed subdivision to the Secretary or Clerk of the Planning Board at least fourteen (14) days before a regular meeting of the Board.

B. Required information.

- (1) The report shall contain but not be limited to the following:

(a) An area map at a minimum scale of one (1) inch equals four hundred (400) feet. The area map shall contain contours and property lines of all properties within two thousand (2,000) feet of any point on the boundary of the subject property.

(b) The contour interval shall not exceed ten (10) feet.

(c) The area map shall show a proposed road layout and how it relates to adjacent properties and existing and future road patterns.

(d) United States Soil Conservation Service soil data and hydrologic soil cover complexes (classification for the determination of curve numbers) for the entire drainage basin.

(e) The area map shall show proposed method of storm drainage disposal on and off site and the limits and area of the drainage basin.

(2) The report shall consist of a study, prepared by a professional engineer licensed in the State of New York, of those items listed for discussion in §138-7.

C. Report study, modification and approval.

(1) The subdivider shall meet with the Planning Board to discuss the report, including the character of the site, existing development and facilities, as well as proposals for future development. Primary consideration shall be given to the intent of these regulations expressed in § 138-2 above, the Zoning Code and Comprehensive Plan of the Town of Patterson.

(2) The Planning Board shall determine whether the report meets the purposes of these regulations and shall specify any modifications which are required or suggested. Notification of Board action shall be made within twenty (20) days after the regular Board meeting occurring at least fourteen (14) days following submission. Required modifications shall be incorporated in the preliminary plat.

**§ 138-11. Preliminary plat.**

A. Prior to requesting approval of a final plat for a proposed major subdivision, the subdivider shall file an application for approval of a preliminary plat of the proposed major subdivision. A preliminary plat is a drawing prepared in a manner described in § 138-33 of these regulations, showing the layout of the proposed subdivision, including but not restricted to road and lot layout, approximate dimensions, key plan, topography and drainage, all proposed facilities unsized and road profiles. Accompanying and considered part of the drawing marked “preliminary plat” shall be the completed application forms and filing fee.

B. Submission of preliminary plat. A subdivider shall, within six (6) months of the Land Utilization and Feasibility report review, apply for preliminary plat approval on forms available at the office of the Town Clerk. Failure to do so shall require resubmission of the land utilization and feasibility report to the Planning Board for restudy. The application, shall be submitted to the Secretary or Clerk of the Planning Board at least fourteen (14) days prior to a regular meeting of the Board accompanied by eleven (11) copies of the preliminary plat as well as a minimum fee as set from time to time by resolution of the Town Board in the Schedule of Fees. The preliminary plat shall comply in all respects with the required conditions established by the Board in approving the land utilization and feasibility report.

C. Required information for preliminary plat. The preliminary plat shall, in all respects, comply with the requirements of Article V, § 138-33 of this chapter, except where a waiver may be specifically authorized by the Planning Board.

D. Preliminary plat review. The subdivider or his duly authorized representative shall attend the regularly scheduled meeting of the Planning Board to discuss the preliminary plat in terms of the expressed purposes and requirements of these regulations, the Town Comprehensive Plan and Official Map, as well as zoning regulations. Proposed roads shall be staked, if directed by the Board, along their center line every one hundred (100) feet, or more frequently if required, in order to permit the Board and Town Engineer to observe grades, type of terrain traversed, lot access and other factors on the site.

E. Coordination with the State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article eight (8) of the Environmental Conservation Law and its implementing regulations.

F. Receipt of a complete preliminary plat. A preliminary plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

G. Planning Board as lead agency under the State Environmental Quality Review Act; public hearing; notice; decision.

(1) Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the planning board may schedule pursuant to the State Environmental Quality Review Act, as follows:

a. If such Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within sixty-two days after the receipt of a complete preliminary plat by the clerk of the planning board; or

b. If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within sixty-two days of filing the notice of completion.

(2) Public hearing; notice, length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

(3) Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows;

(a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required such board shall make its decision within sixty-two days after the close of the public hearing; or

(b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forth-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement the planning board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.

H. Planning Board not as lead agency under the State Environmental Quality Review Act; public hearing; decision.

(1) Public Hearing on preliminary plats. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing

such agreement, the planning board shall hold the public hearing on the preliminary plat within sixty-two days after the receipt of a complete preliminary plat by the clerk of the planning board.

(2) Public hearing; notice; length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The planning board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.

(3) Decision. The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat within sixty-two days after the close of the public hearing on such preliminary plat.

I. Subdivider's notice to property owners. The subdivider shall mail notice of the public hearing to all property owners whose property is within five hundred (500) feet of the site of the proposed subdivision or within five hundred (500) feet of any property contiguous to said site that is owned partially or wholly by the subdivider, members of the subdivider's family (ies) or firms in which the subdivider owns a financial interest.

(1) Such notice shall be mailed, certified return receipt requested, not less than fifteen (15) calendar days prior to the date of the public hearing scheduled by the Planning Board. Prior to the public hearing the subdivider shall provide to the Planning Board a copy of the required notice and an affidavit listing all of the property owners to whom such notice was mailed and copies of all mailing receipts.

(2) Such notice shall be in a form approved by the Planning Board, including no less than:

(a) The name of the subdivider.

(b) The location of the site of the proposed subdivision.

(c) A brief description of the proposed subdivision including, as a minimum, the total acreage involved, the total number of lots, the location of proposed roadways and the proposed methods of providing water supply and sewage disposal.

(d) The date, time, and place of the public hearing.

J. Notwithstanding the foregoing provisions, the time in which the Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board.

When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the Plan in final form. Within five (5) days of the approval of the preliminary plat, the resolution shall be certified by the Clerk of the Planning Board and a copy filed with the Town Clerk and a certified copy mailed to the owner. Within six (6) months of the approval of the preliminary plat, the owner shall submit the plat in final form. If such plat is not so submitted, approval of the preliminary plat may be revoked by the Planning Board. If such approval is revoked, the subdivision will be null and void and any further consideration by the Planning Board will require an entirely new application and submission of plans and fees.

### **§ 138-12. Final plat.**

A. Within six (6) months after the approval of the preliminary plat the subdivider shall file with the Planning Board an application for approval of the final plat in final form. For review of the application for Final Plat approval ten (10) copies of the application shall be submitted. Accompanying and considered part of the application for final plat approval shall be the following documents:

- (1) The final application form and a fee in the amount, as from time to time by resolution of the Town Board in the Schedule of Fees, plus a fee by certified check to be deposited with the Planning Board for the purpose of securing five (5) certified copies of the final plat and proof of the filing of any deed restrictions or easements. Said fee to be an amount to be set by resolution of the Town Board of the Town of Patterson and shall be returned to the applicant upon receipt of said certified copies.
- (2) A final plat showing the proposed subdivision, prepared in a manner described in § 138-35 of these regulations
- (3) Construction drawings and specifications as specified in §138-36
- (4) A deed to the Town of all streets, parks or easements, unless the applicant has noted on the plat that no offer of dedication is to be made, in which case there shall be substituted documents providing for and fixing responsibility for their suitable maintenance.
- (5) A written abstract of the title to all lands and easements offered for dedication, provided by the applicant demonstrating that said lands area free of all encumbrances and /or, in the discretion of the Board, a title insurance policy in an acceptable amount from a title insurance company licensed to do business in the State of New York, certifying and ensuring that all lands and easements offered for dedication are free and clear of all encumbrances.
- (6) A statement from the applicant's engineer giving a detailed quantity and cost estimate for all improvements.

(7) Written evidence of approvals by those county and state agencies having jurisdiction.

B. Approval of final plat.

(1) Within sixty-two (62) days of the submission of a plat in final form as prescribed in Subsection A for approval by the Planning Board, a public hearing shall be held by the Planning Board, which hearing shall be advertised once in a newspaper of general circulation in the Town at least five (5) days before such hearing; however, when the Planning Board deems the final plat to be in substantial agreement with the approved preliminary plat, including modifications if any, the Planning Board may waive the requirements for such public hearing. The Planning Board shall, by resolution, conditionally approve, with or without modifications, disapprove or grant final approval and authorize the signing of such final plat within sixty-two (62) days of its submission if no public hearing is held or sixty-two (62) days after the date of the public hearing if such a hearing is held. Notwithstanding the foregoing provisions, the time in which a Planning Board must take action on such plat may be extended by mutual consent of the owner and the Planning Board.

(2) Conditional approval of a final plat is the approval granted subject to the conditions set forth by resolution of the Planning Board. Conditional approval does not qualify the final plat for recording nor authorize issuance of building permits and shall expire within one hundred eighty (180) days unless the conditional requirements have been completed. The Planning Board may extend the time of expiration for two (2) additional periods, not exceeding ninety (90) days each, if in its opinion particular circumstances warrant it.

(3) Final plat approval is the signing of the final plat by the duly authorized officer(s) of the Planning Board after a 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 of Putnam County. Furthermore, such final approval shall not be granted by the Planning Board until the subdivider has complied with the provisions for improvements in Article III.

C. Expiration of final approval of the plat. Final approval of the plat shall expire within sixty-two (62) days of the date of such approval if the plat has not been filed in the office of the County Clerk within such sixty-two day period.

D. Subdivision by sections. Prior to granting conditional or final approval of a final plat, the Planning Board may permit the plat to be divided into two (2) or more sections and may, in its resolution of conditional or final approval, impose such requirements as it deems necessary to ensure that the orderly development of the plat be completed before such sections may be signed by the duly authorized officers of the Planning Board. Conditional or

final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat. Each section shall encompass at least ten percent (10%) of the total number of lots in the approved plat. If only a section of the approved plat is filed in the office of the County Clerk, then the entire approved plat shall be filed within thirty (30) days of the filing of such section with the Town Clerk. The Planning Board shall determine that such sections are logical and will further the orderly development of the plat.

E. Signing and filing of final plat.

(1) The original and one (1) copy of the plat shall be signed by the Chairman or Acting Chairman and the Secretary or Acting Secretary of the Board under the following endorsement:

“Approved by resolution of the Planning Board of the Town of Patterson, New York, on the .....day of.....20..... Any change, erasure, modification or revision of the plat, as approved, shall void this approval. Signed this .....day of..... 20....., by

.....  
Chairman

.....  
Secretary

This plat is valid for filing until .....20.....”

(2) The plat shall also contain the following notations where applicable:

(a) “All roads, streets, highways, parks, easements and reservations shown hereon are hereby offered for dedication to the Town of Patterson.”

(b) “All lots shown hereon are subject to temporary easements for the purpose of roadway construction and slope grading until such time as the roads have been accepted by the Town of Patterson.”

(c) “The undersigned owner of the property hereon states that he is familiar with these drawings, their contents and their legends and hereby consents to all their said terms and conditions as stated hereon. Further, the owner consents to the filing of this map.”

.....  
Signature

(3) In addition, the plat shall also contain any other notations deemed appropriate by the Planning Board.

(4) The subdivider shall deliver to the Planning Board within ten (10) days after filing the final plat, five (5) certified copies, complete with file number and date of filing.

G. Resubdivision. For a resubdivision, the same procedure, rules and regulations apply as for a subdivision.

### **§ 138-13. Mutual consent for waiver of time.**

Requests for waiver of the time in which a public hearing shall be held or final action must be taken by the Planning Board, or for the submission of a final environmental impact statement, for either a preliminary or final plat or lot line adjustment, shall be in writing, subscribed to by the owner or his duly authorized representative, substantially in a form as approved by the Planning Board.

## **ARTICLE III Improvements; Bonds; Recreation; Agreements**

### **§138-14. Improvements required; bond.**

A. At least ten (10) days prior to the commencement of construction the subdivider shall meet with the Town Engineer and shall furnish a construction schedule and discuss job conditions and circumstances and shall comply with §138-19.

B. For the protection of the public health, safety and general welfare, the Planning Board shall not, except as provided for in Subsection C, grant final plat approval until all the streets or highways shown on the final plat shall have been fully improved to the satisfaction of the Planning Board, all in accordance with the Road Construction Standards and Specifications of the Town of Patterson, and accepted into the Town roadway system. Prior to the commencement of any site disturbance the subdivider shall comply with §138-14 B (1) and (2).

(1) Prior to the commencement of construction the subdivider shall file with the Town a security, satisfactory to the Town Board in all respects as to form, sufficiency and manner necessary to cover site restoration and erosion controls.

(2) In those instances where the subdivider has completed all required improvements and the road has not been accepted into the Town Highway system prior to the issuance of building permits the subdivider shall post such security, satisfactory to the Town Board equal to ten percent (10%) of the amount originally determined as security for the improvements for a period of one (1) year after the satisfactory completion of all improvements or until the Town has accepted the road for dedication, whichever is latter, in order to ensure the soundness and integrity of such improvements.

C. Exceptions. At its discretion, the Planning Board may grant final plat approval subject to the receipt and approval by the Town Board of a performance bond covering the full cost of the improvements and further subject to the full understanding of the subdivider and stipulation of same by him on the final plat that no building permit may be granted for any structure until the roads have been substantially completed to the satisfaction of the Planning Board in accordance with Subsection D and E.

D. Extent of improvements.

(1) Where no bond has been posted, the subdivider shall fully complete all the improvements to the satisfaction of the Planning Board, and all streets or highways shall be accepted by the Town Board as public roads before final plat shall be approved by the Planning Board for filing.

(2) Where a performance bond has been posted, the subdivider shall substantially complete all the improvements to the satisfaction of the Planning Board on a section of street or highway not less than one thousand (1,000) feet in length before any building permit may be granted for a structure fronting on said substantially improved street or highway.

E. No permit for the erection of any building shall be issued unless a street or highway giving access to such proposed structure has been duly placed on the Official Map or unless such street or highway is an existing state, county or town highway or a street shown upon a final plat which has been granted final plat approval by the Planning Board in accordance with these regulations.

F. Performance bond.

(1) A performance bond shall comply with the requirements of § 277 of the Town Law and shall be approved by the Town Board as to form, surety, sufficiency and manner of execution. The period within which required improvements must be completed will be specified by the Planning Board in its resolution and expressed in the bond. Such bond shall also provide for the retention by the Town of ten percent (10%) of the originally fixed amount for a period of one (1) year after the satisfactory completion of all improvements or until the road is accepted for dedication, whichever is latter, in order to ensure the soundness and integrity of such improvements.

(2) If the improvements are not completed within the term of such performance bond and if no application for the extension of the bond has been made by the subdivider and approved by the Planning board, the Town Board may thereupon declare said bond in default.

G. Extension of period specified in bond.

(1) The time period specified for the completion of all required improvements, as set forth in the bond, shall not be extended except upon the approval of the Planning Board with the consent of the parties thereto. Requests for an extension shall be addressed in writing to the Planning Board and shall set forth the following:

(a) Detailed reasons for failure or inability to complete the work within the time specified in the bond.

(b) The amount of work which has been completed, as certified by the applicant's engineer.

(c) The maximum estimated time required to complete the remainder of the work.

(d) The period for which extension of the bond is requested.

(2) Whether or not road improvements have been started by the developer prior to granting extension to the specified time period, the Planning Board shall consider escalations in construction costs and may require the amount of the bond to be increased to reflect increased construction costs.

H. Reduction of bond. The Town Board, upon recommendation from the Planning Board, may reduce pursuant to § 277 of the Town Law the required amount of a performance bond during its term where the Board finds the required improvements to have been installed in sufficient amount to warrant such reduction. Requests for reduction in the bond amount shall be addressed in writing to the Planning Board and shall itemize the amount of required improvements already completed and the amount of reduction requested.

I. Acceptance of roads. No portion of any road may be accepted by the Town Board as a town road nor shall any bond be released until such time as all streets and highways shown on the final plat have been fully improved to the satisfaction of the Planning Board and a final as-built plan, certified by a professional engineer or land surveyor licensed in the State of New York. Such plan shall show the as-built location of all drainage structures and utilities installed to date, including inverts at all manholes and catch basins and utility line crossings, and the width and location of the improved roadbed with respect to the road boundary and a profile of its constructed center line, and such other details as may be required by the Town Engineer. Further, no road shall be considered for acceptance as a town road nor shall any bond be released until the Town Engineer has previously certified the road as complete and until at least one (1) year has expired from the time of the certification, except where the plat has been divided into sections, then reference is made to the streets and highways shown on the particular section.

J. Snow removal bond. Where certificate of occupancy may be granted prior to acceptance of any road by the Town Board, the subdivider shall post a cash bond in an amount as set from time to time by the Town Board for the purpose of guaranteeing that he

will remove snow and ice from the road quickly and expeditiously. The cash bond shall not relieve the subdivider from the obligation of snow and ice removal, and in the event the Supervisor of the Town shall deem that the subdivider is negligent in removing snow and ice, he shall, after twenty-four (24) hours' notice to the subdivider, order the Superintendent of Highways to remove the snow and shall deduct the cost of said removal from the cash bond. The snow removal bond shall remain in place until the road has been accepted into the Town road system.

- (1) The Town Board may reduce the amount of road for which a bond is required provided that such variation will not impair the interest of the public health, safety and general welfare.

### **§ 138-15. Inspection fees.**

The subdivider, whether he elects to complete all the improvements or post a bond for completion, shall pay to the Town a fee for inspection of improvements in the amount of five percent (5%) of the total estimated cost of all improvements, and neither may a road be accepted as a town road nor any final plat endorsed for filing nor any building permits issued until said fee is paid.

### **§ 138-16. Reservation of parkland on subdivision plats containing residential units.**

A. Before the Planning Board may approve a subdivision plat containing residential units, such subdivision plat shall also show, when required by such Board and in compliance with § 277 (4) of Town Law, a park or parks suitably located for playground or other recreation purposes. The area or areas shall be shown and marked on the plat "Reserved for Park or Playground Purposes."

B. In the event the Planning Board makes a finding pursuant to §277 (b) of Town Law that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Town Board. In making such determination of suitability, the Board shall assess the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood.

### **§ 138-17. Additional requirements.**

In addition to the requirements that all streets or other public places shall be suitably graded and paved, street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices, including necessary ducts and cables or other connecting facilities, sanitary

sewers and storm drains or combined sewers shall be installed, all in accordance with town standards and specifications.

**§ 138-18. Application for area variance.**

Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the Zoning Code regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to §267-b of Article 16, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. In reviewing such application the zoning board of appeals shall request the planning board to provide a written recommendation concerning the proposed variance.

**§ 138-19. Inspection of improvements.**

A. Job meeting and construction schedule. At least ten (10) days prior to the start of construction of any required improvements, the subdivider shall meet with the Town Engineer and shall furnish a construction schedule and discuss job conditions and circumstances.

B. Notification of Town Engineer. All improvements shall be subject to inspection and approval by the Town Engineer, who shall be notified by the subdivider at least forty-eight (48) hours prior to the start of construction.

C. Subdivider to employ professional engineer. The subdivider shall employ a professional engineer licensed in the State of New York who shall be available at the Town Engineer's request to implement any changes which job conditions may necessitate.

D. Certificate of completion. The Town Engineer or other duly designated official shall inspect required improvements during construction to assure their satisfactory completion, and the Planning Board shall require a certificate from such official stating that all required improvements have been satisfactorily completed.

E. Responsibility of subdivider. Whether or not the Town Engineer or other duly designated official carries out inspection of required improvements during construction, the subdivider shall not in any way be relieved of his responsibilities to comply with these regulations and any conditions or requirements of the subdivision approval.

**§ 138-20. Proper installation of improvements.**

A. Liability for improper work. If the Town Engineer or other duly designated official shall find, upon inspection, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the subdivider and the bonding company will be jointly and severally liable for the costs of completing said

improvements according to specifications.

B. Compliance with specifications. Unless covered by a performance bond as specified in §138-14, no plat which may be an extension of a previously recorded plat or no new plat, regardless of location, shall be approved by the Board if the subdivider has not fully complied with the specifications of all the required improvements in a previously recorded plat submitted by him for approval. As a condition for approval of such plat, the Board shall require that the conditions of the former agreement be met by the subdivider before the Board shall take action on the plat.

C. Unforeseen conditions. Whenever a developer, during the course of development and before acceptance of any construction under this chapter and the road specifications of the Town of Patterson, encounters conditions such as flood areas, groundwater conditions, springs, intermittent streams, rock, unsuitable slopes or unusual circumstances not foreseen in the general planning, such conditions shall be reported to the Town Engineer, together with the developer's recommendations for securing adequate and permanent construction. The Planning Board shall, without unnecessary delay, investigate with the Town Engineer the condition and either approve the developer's recommendations to correct same or a modification thereof or issue its own specifications for the correction of the conditions. Unusual circumstances or detrimental conditions observed by the Planning Board or its agents shall be similarly treated.

D. Modification of design of improvements. If at any time before or during the construction of the required improvements, unforeseen but not unusual circumstances arise that make it necessary or preferable to make minor modifications to the location or design of such required improvements, the Town Engineer may authorize said modifications; provided, however, that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver of, or substantial alterations of the function of, any improvement required by the Board.

#### **§ 138-21. Utilities assurance.**

Where utilities required by the Planning Board are to be installed by a public utility company, the Planning Board may require written assurance that such installations will be furnished by the company within a specified period of time and in accordance with the approved subdivision plat.

#### **§ 138-22 Agreements.**

A. Public acceptance of streets and reservations. No act by the Planning Board with respect to a subdivision plat shall be deemed to constitute or imply the acceptance by the Town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town

covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any park or playground area.

B. Responsibility for ownership of reservations. Ownership shall be clearly indicated on all reservations for park and playground purposes.

C. Offers of cession and releases. The plat shall be endorsed with the necessary agreements in connection with required easements or releases. Offers of easement or release shall be presented prior to plat approval.

#### **ARTICLE IV Planning Criteria**

##### **§ 138-23. Guidelines.**

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy specified in § 138-2, Article I, of these regulations and the following criteria.

##### **§ 138-24. General considerations.**

A. Character of land. 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. In general a subdivider shall demonstrate that a lot has a suitable house location including a thirty (30) foot building envelope which is free from a Town- or State- regulated wetland area and buffer.

B. Preservation of existing features. Existing features which would add value to residential development, such as large trees, wooded areas, historic spots, watercourses and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision. Land to be subdivided and resubdivided shall be designed in reasonable conformity with existing topography in order to minimize grading, cut and fill and to retain, insofar as possible, the natural contours, to limit stormwater runoff and to conserve the natural vegetative cover and soil. No tree, topsoil or excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved final plat.

C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Town specifications.

##### **§ 138-25 Streets.**

A. Relation to topography. Streets shall be logically related and conform insofar as possible to the original topography. They shall be arranged so as to obtain as many as possible

of the building sites at or above the grade of the street. A combination of steep grades and sharp curves shall be avoided.

B. Block size. Block dimensions shall be at least twice the minimum lot depth and generally not more than one thousand (1,000) feet long.

C. Intersections. Intersections of major streets by other streets shall be at least eight hundred (800) feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at important and higher volume traffic intersections. A distance of at least one hundred fifty (150) feet shall be maintained between offset intersections. Within fifty (50) feet of an intersection, streets shall be approximately at right angles and grades shall be limited to three percent (3%). All street intersection corners shall be rounded by curves of at least twenty-five (25) feet in radius at the property line.

D. Visibility at intersections. Within the triangular area formed at corners by the intersecting street lines, for a distance of seventy-five (75) feet from their intersection and the diagonal connection the end points of these lines, visibility for traffic safety shall be provided by excavating if necessary. Nothing in the way of fences, wall hedges or other landscaping shall be permitted to obstruct such visibility.

E. Continuation of streets into adjacent property. Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly where such continuation is in accordance with the Town Comprehensive Plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way of fifty (50) feet in radius shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutting owners when the street is continued.

F. Permanent dead-end streets (cul-de-sac). Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than one hundred (100) feet. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property; however, the Planning Board may require the reservation of a twenty-foot-wide easement to accommodate utilities. A circular turnaround with a minimum right-of-way radius of fifty (50) feet shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police protection, permanent dead-end streets shall, in general, be limited in length to a maximum of one thousand five hundred (1,500) feet along centerline from intersection of street centerlines to center of circular turnaround.

G. Street names. All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and spelling from other street names in the Town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name. In determining new street

names, the Planning Board shall give preference to names that acknowledge an element of historical significance of the area, or where no historical element can be identified, to an immediate natural feature of the landscape. **[amended 2-25-04 by L.L. No. 3]**

H. Improvements.

(1) Streets shall be graded and improved with pavement, street signs, monuments, sidewalks, street lighting, curbs, gutters, trees, water mains, sanitary sewers, storm drains and fire hydrants, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of public health, safety and general welfare.

(2) Underground utilities shall be required by the Planning Board and shall be placed between the paved roadway and street line to simplify location and repair of the lines. The subdivider shall install underground service connections, where required, to the property line of each lot before the street is paved.

(3) Grading and improvements shall conform to Town road specifications and shall be approved as to design and specifications by the Planning Board.

**§ 138-26. Lots.**

A. Arrangement. The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot and in providing access to buildings on such lots from and approved street.

B. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the access street, a culvert or other structure shall be required, of a design approved by the Town Engineer.

C. Lot dimensions. All lot dimensions for proposed lots shall comply with the minimum standards of Chapter 154, Zoning except where,

(1) those lots which will serve as a public benefit and are used strictly for utility purposes such as roads and storm water management practices.

(2) those lots which will be dedicated in perpetuity as passive open space. **[amended 2-25-04 by L.L. No. 3]**

D. Monuments and lot corner markers. Permanent concrete monuments meeting specifications approved by the Town Engineer as to size and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.

E. Side lot lines. Side lot lines shall be at right angles to street lines unless a variation from this rule will give a better street or lot plan.

F. Access from major streets. Lots shall not, in general, derive access from a major street. Where driveway access from a major 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.

G. Curve radii at street intersections. All street right-of-way lines at intersections shall be rounded by curves at least twenty-five (25) feet in radius and curbs shall be adjusted accordingly.

H. Drainage easements. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the Town Engineer, and in no case less than twenty (20) feet in width.

#### **§ 138-27. Reservations and easements.**

A. Realignment or widening of existing streets. Where a subdivision borders an existing town, state, or county road and that road boundary is less than fifty (50) feet or the road alignment is such that there does not exist a distance of twenty-five (25) feet between the center line of the road (or traveled way) and the highway boundary, or where the town, county or state has a plan for realignment or widening of the road that would require reservation of some land of the subdivision, the Planning Board may require that such areas be shown and marked on the plat "Reserved for Street Alignment (or Widening) purposes."

B. Utility and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street right-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.

C. Easements for pedestrian access. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least twenty (20) feet in width.

D. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.

#### **§ 138-28. Drainage improvements.**

A. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either

previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way, where feasible. Or in perpetual unobstructed easements of appropriate width.

B. Land subject to flooding. Land subject to flooding shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions..

C. Responsibility for drainage. The subdivider shall be responsible for development of a Stormwater Management Plan which complies with the requirements of Chapter 133. A Stormwater Management Plan will examine pre-development and post-development stormwater quality and quantity. The Stormwater Management Plan will provide areas within the subdivision where excess stormwater resulting from the development can be attenuated through temporarily storage. Such areas shall be designed to attenuate the increased rate of runoff from the 2-, 10-, and 25- Year Design Storm (and safely pass the 100-Year Design Storm) through means of an outlet control structure, emergency overflow spillway, or other means approved by the Planning Board and/or Town Engineer. Calculations to support the design of the stormwater facilities shall be based upon the USDA Soil Conservation Service's methodology utilizing the SCS soil maps and soil classifications, and designs shall provide for sufficient retention so that after development, no more stormwater shall flow at any point and at any one time than would have flowed before development (i.e., Zero-Net Increase in runoff rate shall be demonstrated for the Post-Development site condition). The Stormwater Management Plan shall be designed in accordance with the "New York Standards and Specifications for Erosion and Sediment Control" and the "New York State Stormwater Management Design Manual" The Stormwater Management Plan shall discuss the means and methods that will be used to control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste during construction. In designing the Stormwater Management Plan, the use of wetland areas for either the attenuation of stormwater flows or for water quality treatment of stormwater will not be permitted by the Planning Board. **[amended 2-25-04 by L.L. No. 3]**

D. Proper Operation and Maintenance. The Planning Board shall ensure that adequate provisions exist for the proper operation and maintenance, of any stormwater management practices upon their completion. The Stormwater Management Plan shall identify the party that will be responsible for future maintenance of each practice, and the anticipated maintenance that will be required. The Planning Board shall also require that the subdivider provide future access to each stormwater practice by easement, or such other suitable means, for the purpose of inspection, by the Town's inspectors.

#### **§ 138-29. Erosion control standards. [amended 2-25-04 by L.L. No. 3]**

A. An Erosion and Sediment Control Plan shall be prepared and approved by the

Planning Board for all land disturbance. No construction of any improvements or disturbance of any area shall begin until all required erosion and sediment control measures and facilities have been satisfactorily installed in accordance with an approved Erosion and Sediment Control Plan. The Planning Board may require the subdivider to verify through written progress reports that erosion and sediment control measures and facilities have been performed or installed in compliance with the approved Erosion and Sediment Control Plan and are being correctly operated and maintained. Such progress reports may be requested at any and all times during the construction of all proposed improvements.

B. All subdivisions shall comply with the provisions of Chapter 133, and shall prepare an Erosion and Sediment Control Plan or a Stormwater Pollution Prevention Plan as required therein, and all erosion and sediment control practices shown thereon, or as may otherwise be required to be installed on a development site shall be designed in accordance with Patterson’s Erosion and Sediment Control Law and the “New York Standards and Specifications for Erosion and Sediment Control”. Calculations to support the design of erosion and sediment control practices shall be based upon the USDA Soil Conservation Service’s methodology utilizing the SCS soil maps and soil classifications.

**§ 138-30. Street design standards.**

A. The following street design standards shall be observed.

<b>Classification</b>	<b>Major</b>	<b>Minor</b>
Right-of-way	60 ft.	50 ft.
Pavement width	24 ft.	24 ft.
Design speed	30mph	30mph
Minimum radius of horizontal curve at center line	250 ft.	200 ft.
Minimum radius at intersections R.O.W. /pavement	25 ft./35ft.	20 ft./30 ft.
Minimum grade	1%	1%
Maximum grade	8%	10%
Minimum sight distance	300 ft.	200 ft.

Minimum length of vertical curve	K 40	K 25
Cul-de-sac radius/pavement	N/A	R 40 ft./50 ft.
Minimum length of tangent between reverse curves	100 ft.	100 ft.
Curbs	Yes	Yes
Street name signs	Yes	Yes
Street trees	Yes	Yes

B. The following street construction standards will be observed.

- (1) The foundation course shall be eight inches (8) compacted thickness of Subbase Course Type 4 (NYS DOT Item. #304.05), placed in two lifts with 95% of Standard Proctor Maximum Density.
- (2) The binder course shall be set at a compacted thickness of three inches (3) of asphalt concrete-type 3 Binder Course (NYS DOT #403.13) placed in a single lift.
- (3) The top course shall consist of any one of the following specifications:
  - (a) NYSDOT Item #403.16: Two (2) inches compacted thickness Asphalt Concrete-Type 6 Top Course, placed in a single lift.
  - (b) NYSDOT Item #403.1701: Two (2) inches compacted thickness Asphalt Concrete-Type 6F Top Course, placed in a single lift.
  - (c) NYSDOT Item #403.18: Two (2) inches compacted thickness Asphalt Concrete-Type 7 Top Course, placed in two lifts.
  - (d) NYSDOT Item #403.1901: Two (2) inches compacted thickness Asphalt Concrete-Type 7F Top Course, placed in two lifts.
- (4) Curbs. Curbs shall be constructed of Class "A" concrete (3000 psi) with an overall height of eighteen (18") inches, a base width of eight (8") inches, a top width of six (6") inches with a one-quarter (1/4") inch radius finished edge at the road face, and shall have a reveal of six (6") inches along the road face.

C. Requirements may be modified by Planning Board to satisfy adequate safety of traffic

and pedestrian movement.

D. Grades exceeding maximum shown require waiver from Planning Board.

E. Collector streets may be classified as either major or minor by the Planning Board. Cul-de-sacs will be classified as minor streets.

**§ 138-31. Driveways [amended 2-25-04 by L.L. No. 3]**

A. The Planning Board may impose such conditions as may be necessary to ensure the safe use of driveways exceeding seven hundred (700) feet in length including, but not limited to requiring areas of suitable width to enable the passage of two vehicles. The maximum length of a driveway shall be 2,000 feet.

B. Driveway grades. Driveway grades shall not exceed a 3% grade for a distance of 25 feet from the point at which the driveway connects to the street providing access and thereafter shall not exceed fifteen percent (15%) in grade at any point. Areas designated for vehicle parking shall not exceed a 5% grade. Driveway profiles and grades may be required by the Planning Board.

C. Where in the construction of a new subdivision road, driveways proposed as part of the subdivision require material to be removed or excavated in the construction of the driveway the material will be removed by the subdivider for a distance of seventy-five (75) feet from the right of way as part of the construction of the new street.

D. Sight Distances. The design of driveways shall be such that suitable sight distance is provided in accordance with the standards established by agency with primary jurisdiction or where no such standards exist, AASHTO standards shall be used.

**§ 138-32. E-911**

The following standards will be applicable to all new subdivisions:

A. E-911 Addressing Standards

(1) E-911 numbers will be assigned to all new subdivision lots and will be included on the Final Subdivision Plat in the Table of Zoning Requirements

(2) For all new streets or drives with only one point of ingress E-911 lot numbers will begin at the street or drive entrance. For those streets or drives with two points of ingress E-911 lot numbers will begin at the eastern or southern end of the road.

(3) Numbers will be assigned with odd numbers on the left and even numbers on the right.

(4) For all new lots which may not be subdivided in the future or will not, because of zoning restrictions, can not contain an accessory structure needing a Certificate of Occupancy, numbering of a street will begin with 1 and will proceed incrementally using every other number odd number or every other even number depending on the side of the street; on the left side 1,5,9,15,17... and on the right side 2,6,10,14, 18 ... irrespective of whether or not a property building exists on the property. The number thirteen (13) is not to be used.

(5) For all new lots which may be subdivided in the future or may contain an accessory structure needing a Certificate of Occupancy, E-911 numbers will be determined using fifty foot intervals where possible as a guide for determining numbers. In the design of a new subdivision the assignment of E-911 numbers should take into consideration any special circumstances which may reasonably be expected in the foreseeable future.

**B. New Street Names**

(1) New street names shall not duplicate existing street names in the Town of Patterson or in the Zip Code area in which the subdivision lies.

(2) All applicants must submit to the Planning Board proof that a proposed road name is acceptable to the local Post Office which will service that subdivision.

(3) Names will be assigned to all streets or drives which contain three or more structures or do not have road frontage.

**ARTICLE V**  
**Specifications for Plans and Plats**

**§ 138-33. Preliminary plat.**

The preliminary plat shall be clearly marked "preliminary plat" and shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet and shall show the following information:

A. Name of proposed subdivision; name and address of subdivider (and owner if other than subdivider); name and address and signature and seal of the licensed professional engineer and/or licensed surveyor responsible for the plat; the date, North arrow and scale.

B. Locations and dimensions of tract boundary and the area of the proposed subdivision.

C. Topography at a contour interval of not more than two (2) feet unless waived by the Planning Board. Topographic datum shall be referenced to the United States Geological Survey.

- D. The names of adjoining property owners and the boundaries and designation of all zoning districts.
- E. Location, name and dimensions of existing streets, easements, property lines, buildings, parks and public properties.
- F. Location of existing sewers, watermains, culverts and storm drains, if any, including pipe sizes, invert elevations, slope (%) and direction of flow.
- G. Location of pertinent natural features that may influence the design of the subdivision, such as floodplains, wetlands, rock outcrops and large trees.
- H. Key map at a scale of one (1) inch equals one thousand (1,000) feet, showing locations of proposed subdivision with respect to all streets and property within one thousand (1,000) feet of the applicant's tract and identifying all property in area held by the applicant or any corporation or partnership in which the applicant is a party.
- I. Location, width and approximate grade of all proposed streets, showing center-line radii, high and low points and sags.
- J. Location and dimensions of all proposed easements.
- K. Profiles showing existing and proposed elevations along the center-line of all proposed streets and the elevations of existing streets for a distance of one hundred (100) feet on either side of their intersection with a proposed street.
- L. Proposed provision of water supply, fire protection, sanitary waste disposal, storm water drainage, street trees, streetlight fixtures, street signs and sidewalks.
- M. Approximate shape, dimensions and area of all proposed or existing lots and suggested location of buildings.
- N. Approximate location and dimensions of all property proposed to be reserved for park or public use.
- O. The boundaries of all wetlands, watercourses, water bodies and their associated control areas.
- P. Soil types and approximate soil boundaries and unified soils codes therefore, as reported and shown in the most current issue of the Putnam County Soil Survey and accompanying soil maps published by the Putnam County Soil and Water Conservation District.

**§ 138-34. Lot Line Adjustment Details.**

Lot line adjustments submitted to the Planning Board shall be drawn to a convenient scale, not less than one (1) inch equals one hundred (100) feet, submitted on uniform size sheets, not larger than 36 by 48 inches, and shall show the following information:

- A. The proposed project name or identifying title, including “Lot Line Adjustment”.
- B. The date, approximate true North arrow, and scale.
- C. The name, address, and signature(s) of the owner(s) or corporate officer(s) for all parties involved in the adjustment and the signature and seal of the licensed engineer and/or surveyor responsible for the plat.
- D. The names of the owner(s) of record of abutting properties or developments.
- E. A location map (suggested scale 1" = 1000'), showing the location of the proposed subdivision with respect to all streets within 1000 feet of the applicants' tracts, and identifying all of the property held by the applicant in the area in question.
- F. Identification of the Zoning Districts in which all of the involved lots are situated and the location of any district boundaries on the properties.
- G. The locations, names, and dimensions of existing streets and highways, easements, property lines, buildings, and parks and/or other public properties.
- H. The plot areas, in square feet or acres, of both the existing and the proposed areas of the lots involved and of the parcel(s) to be “transferred”.
- I. The location, bearings, and dimensions of the tract boundary and all lot lines, easements, roads (including curve data), Town boundaries, and Zoning Districts.
- J. The location, composition, and approximate size of all existing and proposed monuments.
- K. An approval block for the endorsement of the Plat by the Town Planning Board.
- L. Tax map numbers of the parcels involved.
- M. Labeling of the “old” and “new” property lines.
- N. The location of existing and proposed structures, septic systems, and wells in order to insure that the proper setback distances are maintained.
- O. Putnam County Department of Health approval (non-jurisdictional).

**§ 138-35. Final plat details.**

The final plat shall be drawn on transparent tracing cloth or mylar with black waterproof ink, at a scale of not less than one (1) inch equals one hundred (100) feet. The tracing size shall not exceed thirty-six by forty-eight (36x48) inches and shall show the following information:

- A. Items required by § 138-33.
- B. Location, bearings and dimensions of: the tract boundary, all lot lines, easements, roads (including curve data), town boundaries, zoning districts.
- C. Proposed topography at a contour interval of not more than two feet, referenced to the United States Geological Survey, for any disturbed areas.
- D. Location of all wetlands, streams, bodies of water. The Planning Board, in their discretion may require that the plat include the survey-located boundaries of any Town-regulated wetland, stream or other body of water and any controlled area. For projects which contain state-regulated wetlands, the plat shall include the NYSDEC Wetland Validation Block which shall contain the endorsement of the appropriate NYSDEC Official.
- E. Location of all existing or proposed buildings and driveways.
- F. Identification and area of all lots and parks to the thousandth of acre.
- G. Names of existing streets and approved names of proposed streets.
- H. Location of all existing and proposed monuments.
- I. Notations concerning all reservations, restrictions or covenants, and any requirements as determined by the Planning Board for the creation of one or more special improvement districts.
- J. All endorsements and notations as required in § 138-12(E)
- K. Tabulated notation:
  - Area of lots:.....acres.
  - Area of roads .....acres.
  - Area of parks.....acres.
  - Area of reservation strips..... acres
  - Total:.....acres.
- L. Table of Zoning. A table listing the requirements of the applicable zoning district(s), the district(s) bulk dimensional regulations noting both what is required or permitted and those dimensions which will be provided by the subdivision design for each lot shown. In

addition, should any variances be issued by the Patterson Zoning Board of Appeals for any of the lots shown on the plat, they shall be clearly noted in this table and shall include the Case number, the variance granted and the date of issuance.

M. The E-911 street number and address for any lot shown on the plat as assigned by the Town of Patterson.

### **§ 138-36. Construction plans.**

Separate construction plans shall be prepared for all required improvements by a licensed professional engineer. Minimum scale shall be one (1) inch equals fifty (50) feet on drawings not larger than thirty by thirty-six (36x48) inches. Data required to be shown is as follows:

- A. Typical cross sections showing street pavement, curbs, slopes and sidewalks if required.
- B. Details of manholes, catch basins, headwalls and any other required structures.
- C. Road alignment, complete with stations, center-line curve data and existing and finished contours of the road and all regraded areas.
- D. Location, size and invert elevations of all existing and proposed storm water and sanitary systems.
- E. Location of water lines, fire hydrants and all utilities to be installed.
- F. Location of all street signs, sidewalks, street lighting standards and street trees if required.
- G. Profiles of proposed roads and all storm drainage, sanitary sewers and water lines.

## **ARTICLE VI Variances and Waivers**

### **§ 138-37. Variances.**

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, if any, Chapter 154, Zoning,, the development plan or these regulations.

**§ 138-38. Waivers.**

The Planning Board may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy of lack of connecting facilities adjacent to or in proximity to the subdivision. (However, fire alarm signal devices, including necessary connecting facilities, can only be waived with the approval of the Board of Supervisors in a county central fire alarm system or the Town Board in any other case or the Board of Fire Commissioners where no town fire alarm system has been established.)

**§ 138-39. Conditions.**

The Board may require such conditions as will, in its judgment, secure substantially the objectives or requirement necessary for the orderly subdivision of lots.

**ARTICLE VII  
Indemnification; Enforcement; Severability**

**§ 138-40. Indemnification.**

A. Although this Part 1 authorizes and empowers public officials, their employees and their duly designated representatives to inspect premises and to inspect improvements being constructed or completed and to order reconstruction of improvements where such improvements do not conform to this Part 1, nothing in this Part 1 is intended to require any construction work to be performed under the supervision, direction and control of the Town, the Planning Board, their employees or their duly designated representatives, and none of them shall be responsible for the means, methods, controls, techniques, sequences or procedures of construction or for construction safety.

B. Each subdivider making an application for approval of a subdivision or resubdivision under the provisions of this Part 1 and each and every owner of land who consents to such application shall be deemed to agree, by making or consenting to such application, to indemnify and hold harmless the Town, the Planning Board, their employees and their duly designated representatives, acting within the scope of authority vested by this chapter, from all claims, demands and liability for any and all injuries, damages, losses and expenses of whatever kind and nature incurred by any person or firm arising out of or in connection with the performance, correction, execution, cessation or any related delays in the work of constructing the improvements required as part of any subdivision plat or section thereof approved under the provisions of this Part 1.

**§ 138-41. Enforcement.[amended 2-25-04 by L.L. No. 3]**

The Town Board may designate a representative or representatives to enforce the provisions of this Part 1. Said designated representative(s) may cause any place, premises or work to be inspected or examined, order the cessation of any work when any condition is found to violate this Part 1 and order the remedy of any such condition. The Planning Board may institute an action of proceeding to prevent or restrain any such work or to correct or abate any such condition. In addition to any civil or criminal penalties or other remedies as may be provided by law, a violation of this Part 1 may be enforced by mandatory or other injunctive relief.

**§ 138-42. Penalties for Offenses.**

A. Any individual committing an offense against any of the provisions of this Part 1 or any part thereof or of any condition or requirement imposed as part of an approved subdivision, shall be guilty of a violation, punishable by a fine not exceeding three hundred fifty dollars or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred dollars or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars not more than one thousand dollars or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof or any condition or requirement of subdivision approval shall be deemed misdemeanors. Each week's continued violation shall constitute a separate additional violation.

B. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town and a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such Part 1.

**§ 138-43. When effective; applicability.**

This Part 1 shall take effect immediately. All applications before the Planning Board which have not received preliminary approval shall comply with this chapter.

**Part 2**  
**Additional Subdivision Requirements**  
**[Adopted 6-25-2003 by L.L. No. 4-2003]**

ARTICLE VIII  
**Open Space Development**

**§138-44. Intent.**

A. The Town Board of the Town of Patterson finds that encouraging the protection of open space is beneficial to the Town in that open space helps to preserve the rural character of the Town, provides for a healthy environment within the Town, helps sustain natural resources and wildlife and helps to harmonize new development with the traditional open, rural, wooded landscapes of the Town.

B. The provisions in this Part 2 are intended to encourage flexibility in the design and development of land in order to promote the most appropriate use of land, to preserve as permanent open space agricultural land, important natural features, wildlife habitat, water resources, sensitive ecological systems, and scenic areas for the benefit of present and future residents. To accomplish these goals an open space subdivision plan may involve grouping development on one or more portions of a parcel to permanently preserve other portions of the parcel (“open space development”), modifying road design and frontage requirements, or a combination of these approaches, all in return for permanent open space preservation measures (“conservation density subdivision”). An open space subdivision shall seek to achieve the following specific purposes:

- (1) Minimizes nonpoint source pollution by reducing the amount of impervious surfaces in a development site.
- (2) Reduces pollutant loads to streams and other water resources.
- (3) Reduces potential pressure to encroach on resource buffer areas.
- (4) Provide adequate buffers between adjoining properties.
- (5) Encourage creative and flexible site design that is sensitive to the land’s natural features and adapts to the natural topography
- (6) Preserve natural drainage patterns.
- (7) Promotes cost savings in infrastructure installation and maintenance by reducing the length of streets.
- (8) Protects environmentally sensitive areas of a development site and preserves on a permanent basis open space, natural features

**§138-45. Authority.**

Pursuant to Town Law, Article 16, Subsection 278 the Town Board of the Town of Patterson hereby authorizes the Planning Board, simultaneously with the approval of a plat showing the subdivision of a parcel into lots for residential development and designed in conformance with the

conditions and requirements of this Part 2, to modify applicable provisions of Chapter 154, Zoning subject to the limitations found hereinafter. The regulations contained in this Part 2 shall constitute the rules and regulations required by § 278 of the Town Law, setting forth criteria pursuant to which a cluster subdivision may be required, excepting that the rules and regulations contained herein shall, pursuant to Municipal Home Rule Law supersede § 278 of Town Law.

**138-46. Definitions.**

AFFORDABLE HOUSING - housing sold at less than two and one-half times (2 ½ ) the median income for Putnam County as established by the most recent census.

COMMON OPEN SPACE - that portion of a proposed subdivision that will be maintained as permanently protected open space.

CLUSTER or CLUSTERING - see “Open Space Development”.

ENVIRONMENTALLY SENSITIVE AREAS - wetlands, watercourses or other bodies of water including any regulated control zone and steep slopes.

OPEN SPACE DEVELOPMENT - a site planning technique that concentrates buildings and structures in specific areas on a lot, site or parcel by varying the required lot area and bulk dimensional requirements in order to allow the remaining land to maintained in a natural state.

STEEP SLOPES - Ground areas with a minimum slope of twenty percent (20%) or greater, with a minimum horizontal distance of ten feet (10') and a minimum area of one hundred square feet (100 s.f.).

SUBDIVIDER - any individual, or a principal in any firm or corporation who’s intention is to benefit financially from subdividing a parcel of land into lots, in order to sell those lots with or without improvements.

**§138-47. Applicability.**

There is hereby created an Open Space Overlay Zone as shown on the Town of Patterson Zoning Map dated May 1, 2003. Any application requesting subdivision approval for a plat showing a lots, blocks or sites with or without streets that has been submitted to the Planning Board as required by Part 1 of this Chapter, which lots, blocks or sites also lies within the Open Development Overlay Zone, shall in addition to the procedures and requirements of Part 1 and Chapter 154 shall also comply with the requirements of this Part 2.

**§138-48. Maximum number of Lots Permitted.**

A. The maximum number of lots created by the subdivision of the lot shall be the lesser of:

- (1) The total lot area minus ten percent (10%) for infrastructure improvements, divided by minimum lot area for that zoning district, rounded down to the nearest whole number; or
- (2) The total lot area minus any environmentally sensitive areas, minus ten percent (10%) for infrastructure improvements, divided by one and one-half acres, rounded down to the nearest whole number.

B. The total number of lots permitted may be increased by ten percent (10%) if the units permitted by this increase are sold as affordable homes to qualifying first-time home buyers that are not related to the subdivider, a principal, officer or employee in a corporation undertaking a subdivision or an individual related to a principal, officer or employee in a corporation undertaking a subdivision. Any such homes so constructed shall generally conform to the style, size and construction of the typical home constructed within the subdivision.

- (1) Any sale of lots, and the structures erected thereon, created by this subsection must be sold for a price not exceeding affordable, as defined by this Law for a period of seven years from the issuance of the initial certificate of occupancy for the principal structure constructed on the lot.
- (2) Any person, firm or corporation violating any of the provisions of this subsection, or any firm or corporation who has as an Officer any person who was found guilty of violating this subsection, in addition to any other penalty provided by this Part 2, shall not be eligible for an increase in the number of lots under this subsection on any other subdivision.

**§138-49. Minimum lot requirements.**

A. No lot shown on a subdivision plat pursuant to this Part 2 shall be less than 40,000 square feet in area, nor greater than 80,000 square feet in area. In addition, the total area of all lots that will be developed for residential use, excluding roads and utilities, shall not exceed twenty-eight percent of the total lot area prior to its subdivision.

B. The following dimensional standards are the minimum standards that may be permitted under this section.

- (1) Road frontage . . . . . 125 linear feet
- (2) Maximum % of Impervious Coverage . . . . . 20%
- (3) Front Yard Setback . . . . . 35 ft
- (4) Side Yard Setback . . . . . 30 ft

- (5) Rear Yard Setback . . . . . 40 ft
- (6) Maximum height . . . . . 35 ft
- (7) Unattached accessory structure front yard setback . . . . . 35 ft
- (8) Unattached accessory structure side yard setback . . . . . 20 ft
- (9) Unattached accessory structure rear yard setback . . . . . 30 ft

C. All new residential units created pursuant to this section shall be detached single family dwelling units.

**§138-50. Design Requirements.**

The Planning Board in considering an application for a subdivision which is also required to comply with this Part 2 shall be guided by policy of §138-44 above and the following design requirements.

- A. A subdivision plat submitted under this section shall show lots proposed for development of residential units grouped together in one or more areas, so that the remaining portions of the lot may be maintained as common open space. Every effort will be made to maintain the maximum amount of land as permanent open space.
- B. Environmentally sensitive areas, prime agricultural farmland, unique features, natural and scenic resources shall be preserved to the maximum extend practicable.
- C. Consideration should be given to areas of protected open space adjacent to the parcel proposed for the subdivision. Every possible effort will be made to locate open space adjacent to open space located on adjoining property. Where ever possible, open space that is to be preserved under this Part 2 should be configured so that a network of interconnected greenway is created with open space from adjacent parcels.
- D. Open space that is to be preserved under this section shall be maintained in a natural state and shall not be used for common septic areas, drainage improvements or such other utility improvement as may be necessary for development of the lots.

**§138-51. Plat Requirements.**

- A. Procedures for the review of a subdivision plat submitted under this section shall follow the procedures of Part 1 for a major or minor subdivision.
- B. The information and details required to be shown on a plat shall be the same as the details for a major or minor subdivision under Part 1.

**§138-52. Conveyance and maintenance of open space.**

A. Common open space that is to be preserved under this section shall be conveyed as follows:

- (1) To the Town of Patterson
- (2) To a not-for-profit organization whose principal purpose is the conservation of open space.
- (3) To a cooperative of the owners (homeowners association) of the subdivision from which the open space originated.

B. Regardless of ownership, where the common open space in a residential cluster development is conveyed pursuant to Subsection A above, a deed restriction, enforceable by the Town of Patterson shall be recorded that provides that the common open space:

- (1) Shall be maintained in a natural condition. Activities permitted within the common open space shall be limited to passive recreation and/or agriculture, however that no permanent structures or improvements may be erected or otherwise constructed on common open space.
- (2) Shall not be developed for residential dwellings or uses accessory to residential dwellings including storage sheds, parking, common septic areas, roadways, drainage improvements or utility easements.

C. All such open space so conveyed shall provide access to that open space from a street or other such public right-of-way as may be acceptable to the Planning Board. Any such access so provided shall be across lands that are suitable for this purpose.

D. Nothing in this Part 2 shall prevent the routine maintenance or the removal of hazards that pose and eminent threat to life or property.

### **§138-53. Variance from Standards.**

A. Where a variation from one or more of the standards contained herein would result in a more appropriate design reflective of the character of the land while maintaining the intent herein, a variance from the standards and requirements of this Part 2 may be approved by the Town Board.

- (1) Prior to any determination by the Town Board on any variance from the standards herein, the Town Board shall request a written recommendation from the Planning Board on the proposed variance.
- (2) Prior to any determination by the Town Board on any variance from the standards herein, a public hearing shall be held by the Town Board who shall give

public notice of such hearing by publication in a paper of general circulation in the town at least fourteen (14) days prior to the date thereof.

(3) In considering the appropriateness of a variance pursuant to this subsection, the Town Board shall take into consideration the intent of this Part 2. No variance shall be granted unless the variance is consistent with the policy of this section to preserve open space and is at least as protective of protecting open space and maintaining the rural character of the Town as if the variance had not be granted.

#### **§138-54. Fees.**

The procedures and fees for the review of a cluster subdivision plan shall be the same as for a major or minor subdivision pursuant to Chapter 87 of the Town Code of the Town of Patterson, or any Schedule of Fees derived therefrom.

#### **§138-55. Penalties.**

A. Any person, firm or corporation violating any of the provisions of this Part 2 shall be guilty of a violation which shall be punishable by a fine of not less than two hundred dollars (\$200) nor more than three hundred and fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both, for a conviction of the first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than three hundred and fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both, and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or any part thereof shall be deemed a misdemeanor. Where a notice of violation has been duly issued, each additional week shall constitute a separate additional violation.

B. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town with a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

C. Any person, firm or corporation found guilty of the Affordable Housing clause of this Part 2 (§138-48B) shall be punishable by a fine of not less than ten thousand dollars (\$10,000), nor less than twenty thousand dollars (\$20,000).

**§138-56. When effective; compliance.**

This chapter shall take effect immediately. All applications before the Planning Board which have not received preliminary approval shall comply with this Part 2.