

Land Subdivision Regulations

LAND SUBDIVISION REGULATION FOR THE TOWN OF BERKSHIRE

PURPOSE: To insure that division of property and subdivisions are reasonable and will not unfairly burden neighborhoods or the Town.

The Planning Board can be authorized by the Town Board to administer the Regulation. The Town Board must be the approving authority.

SUBDIVISION is defined as the division of a property into five (5) or more parcels within a period of five (5) years.

The approval process depends on the type of subdivision planned.

Much of the regulation deals with the extensive subdivision involving street construction, parks, drainage, etc. In case such development should be considered the Town will have some measurement of protection.

APPROVAL 11/14/95

◆ SECTION 1.0 GENERAL PROVISIONS

1.1 Title

This ordinance shall be known as the LAND SUBDIVISION REGULATION of the Town of Berkshire.

◆ SECTION 2.0 PURPOSE

The purpose of the regulation is to insure that any subdivision plats contribute to the orderly, efficient and economic development of the Town of Berkshire. The undeveloped or partially undeveloped land to be subdivided shall be of such character that it can be used safely for building or recreation purposes without hazard to health or peril from fire, flood or other predictable menace; that proper provisions shall be made for drainage, water supply, sewage, flood, fire protection and other needed improvements; that all proposed lots shall be designed so as to be in harmony with neighboring properties or the future development of those properties; that any proposed streets shall be of such construction, width, grade and location to accommodate the prospective traffic, to facilitate fire protection; and when applicable, that the proper provisions shall be made for open spaces for parks and playgrounds.

◆ SECTION 3.0 AUTHORIZATION

The Town Board of Berkshire is the approval authority for applications for subdivision developments within the Town of Berkshire. The Town Board by means of a resolution adopted on _____ authorized the Planning Board of the Town of Berkshire to administer the Town of Berkshire Subdivision Regulation. The Planning Board will review all applications for compliance with local, county, and state regulations and will make appropriate recommendations to the applicant. The Planning Board recommends approval/disapproval to the Town Board at the conceptual and final stages of the application filing process.

◆SECTION 4.0 DEFINITIONS

4.1 General Statement

For the purpose of these regulations, the following words, terms and phrases shall have the meaning ascribed to them in this section. Except where defined herein, all words used in these regulations shall carry their customary meanings. Words using in the present tense include the future and the singular includes the plural. The word "lot" includes "plot" and "site"; the word "shall" is mandatory; and subdivider includes company or organization. Certain other words and terms used herein are as defined in the following:

4.2 Agribusiness

Agricultural farming requiring at least twenty-five (25) acres of land with a minimum gross income of ten thousand (10,000) dollars per year.

4.3 Plat

A drawing legally describing a parcel of land with actual and proposed features represented.

4.4 Preliminary Plat

A drawing or drawings clearly marked as "Preliminary Plat" showing the layout of a proposed subdivision, as specified in paragraph 7.2 of these regulations, submitted to the Town Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Town Board of the layout of the proposed subdivision.

4.5 Final Plat

A drawing, in final form, as prescribed by a professional engineer or licensed land surveyor, and as specified in paragraph 7.3 of these regulations, showing a proposed subdivision. The final plat must contain all information or detail required by law, by these Regulations, and all information required to appear on a Preliminary Plat, if any, or Sketch Plan, and any modifications required by the Town Board at the time of review of the Sketch Plan or approval of the Preliminary Plat. The final plat must be presented to the Town Board for approval, and if approved, be duly filed or recorded by the applicant in the office of the Tioga County Clerk.

4.6 Sketch Plan

A sketch of a proposed subdivision showing the information specified in paragraph 7.1 of these Regulations to enable the subdivider to save time and expense in reaching general agreement with the Town Board as to the form of the layout and to meet the objectives of these regulations.

4.7 Subdivision

The division of any tract of land into five (5) or more lots, parcels or blocks which are for sale, rent, lease or transfer as residential lots or residential building plots, or as business, commercial or industrial lots or building plots, regardless of how described therefrom, within any consecutive five (5) year period, with or without streets, highways, easements, rights-of-way or extension of Town facilities, and includes re-subdivision. A "subdivision" shall not include the division of land for agribusiness purposes.

4.8 Undeveloped or Partially Undeveloped Land

As taken from the Town Law, of the State of New York, Article 16 Section 276, the term "undeveloped" shall mean those plats where twenty (20) per cent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

◆ SECTION 5.0 PROCEDURE IN FILING SUBDIVISION APPLICATIONS

5.1 General Procedure

Whenever any subdivision of land, which is entirely or partially undeveloped, is proposed to be made, and before any contract for the sale of any part thereof and before any permit from the Town of Berkshire for any type of construction, excavation, grading, surveying or building construction for such proposed subdivision shall be granted, the subdivider or the authorized representative shall apply in writing to the Town Board for approval of such proposed subdivision in accordance with the procedures there herein. It is recommended that any potential applicant for subdivision contact the Town Planning Board to discuss the nature of the proposal on an informal basis prior to initiating a formal request for review.

5.2 Types of Subdivision

5.2.1 Major Subdivision. Includes five or more lots, new streets, extension of utilities or deviation from Town policy; requires submission of sketch plan, preliminary plat and final plat with bonds (if needed). Public hearing is required prior to final approval.

5.2.2 Minor Subdivision. Includes five or more lots of three acres or less and requires no new public facilities; sketch plan and preliminary plat required. Public hearing at the discretion of Planning Board or Town Board.

5.2.3 Rural Land Division. Includes five or more lots of more than three acres each and no new public facilities; sketch plan is required. Approval may be concluded at a single meeting.

5.3 Process

5.3.1. Sketch Plan

5.3.1.1. Submission. Any owner of land shall, prior to subdividing land, submit to the Town Clerk at least ten (10) days prior to the regular meeting of the Town Board two (2) copies of a Sketch Plan of the proposed subdivision, which shall comply with the requirements of paragraph 5.1, for the purpose of classification and preliminary discussion. Preliminary discussion with the Planning Board will normally expedite the decision by the Town Board.

5.3.1.2. Discussion of Requirements and Classification. The applicant, or the authorized representative, shall attend the meeting of the Town Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection, and similar aspect, as well as the availability of existing services and other pertinent information.

5.3.1.3. Study of Sketch Plan. The Town Board shall determine whether the Sketch Plan meets the purpose of these regulations and shall (1) approve the plan; (2) make specific recommendations in writing to be incorporated in the next sketch plan submission or (3) refer the applicant to the Planning Board for coordination and modification to comply with existing laws, ordinances and regulations. If the plan is approved, the applicant shall then comply with the remainder of Section 5, as applicable.

5.3.2 Preliminary Plat

5.3.2.1 Submission. Within six months after the approval and classification of the Sketch Plan, the applicant will submit using the same procedure as for the Sketch Plan, a Preliminary Plat of the proposed subdivision in the form described in paragraph 7.2 of this regulation. The Preliminary Plat shall comply in all aspects with the requirements of Town Law Ordinances and this regulation except for specific waivers granted by the Town Board. The applicant or authorized representative shall attend the Town Board meeting at which the Preliminary Plat is to be discussed.

5.3.2.2 Study of the Preliminary Plat. The Town Board shall study the Preliminary Plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, and their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Town Master Plan, if any. The acceptance of a Preliminary Plat will be by a resolution of the Town Board.

5.3.2.3 Public Hearing. If the town Board decides a public hearing is required, said hearing shall be scheduled within 45 days of the acceptance of the Preliminary Plat. The hearing will be advertised in the prescribed manner at least five (5) days before the hearing. Additional advertising may be directed by the town Board based upon significance and impact of the proposed subdivision on the Town.

5.3.2.4 Action on Preliminary Plat. Within forty-five (45) days after the public hearing, the Town Board shall approve with or without modification or disapprove such Preliminary Plat. The grounds of modification, if any, or the ground for disapproval shall be stated upon the records of the Town Board. The time in which the Town Board must take action on such Plat may be extended by mutual consent of the Board and the applicant. When so approving a Preliminary Plat, the Town Board shall state in writing any modifications it deems necessary for submission

of the Final Plat.

Within five (5) days of the approval of the Preliminary Plat it shall be certified and filed by the Town Board with the Town Clerk. A copy of the certified Preliminary Plat shall also be mailed to the applicant by the Town Clerk.

Failure of the Town Board to act within forty-five (45) days of the public hearing shall constitute approval of the Preliminary Plat and a certificate as to the date of submission and the failure of the Town Board to take action shall be issued on demand, and shall be sufficient in lieu of written endorsement or other evidence of approval. Approval of the Preliminary Plat shall not constitute approval of the Final Plat, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plat as a guide to the preparation of the Final Plat, which may be submitted for approval of the Town Board and for recording upon fulfillment of the requirements of these regulations.

Prior to approval of the Final Plat, the Town Board may require further improvements or changes as a result of further study of the subdivision in the final form or as a result of new information obtained at a public hearing.

5.3.3 Final Plat for a Subdivision

5.3.3.1 Endorsement of Government Agencies. Application for approval of all water or sewer/sewerage facilities shall be filed with all necessary Town, County and State agencies. Water and sewer/sewerage facility proposals shall be properly endorsed and approved by the Tioga County Health Department. Endorsement and approval of the Tioga County Health Department shall be secured prior to the submission of the Final Plat to the Town Clerk by the applicant.

5.3.3.2 Application for Approval. The applicant shall, within six (6) month after the approval of the Final Plat, file with the Town Clerk an application for approval of the Final Plat in final form as outlined in Paragraph 7.3. If the Final Plat is not submitted within six (6) months after the approval of the Preliminary Plat, the Town Board may require re-submission of the Preliminary Plat.

5.3.3.3 Copies of Final Plat. An applicant intending to submit a proposed Final Plat for the approval of the Town Board shall provide the Town Clerk of Berkshire with an application for Final Plat approval. They shall also provide the Town Clerk with five (5) copies of the Final Plat (one (1) copy in ink, on mylar). Two (2) true copies of all offers of cession, covenants, and agreements and two (2) prints of all construction drawings as required.

5.3.3.4 Public Hearing. Within forty-five (45) days of the submission of the Final Plat in final form for approval, a public hearing shall be held by the Town Board. This hearing shall be advertised at least twice, five (5) days prior to the hearing. The Town Board may waive the requirement for such public hearing.

5.3.3.5 Action on Proposed Final Plat. The Town Board, shall by resolution, conditionally approve, conditionally approve with modification, disapprove, or grant final approval and authorize the signing of such Final Plat by the Town Clerk.

Upon resolution of conditional approval of such Final Plat the Town Board shall request the

issuance of appropriate permits by the Code Enforcement Officer and empower the Town Supervisor upon completion of such requirements as may be stated in the resolution, to sign a notation of completion on the Final Plat.

Within five (5) days of the resolution on conditional approval, the Final Plat shall be certified by the Town Board as conditionally approved, and a copy filed with the Town Clerk and a copy mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements which, when complete will authorize the signing of the notation on the conditionally approved Final Plat by the Town Supervisor.

Conditional approval of the Final Plat shall expire one hundred and eighty (180) days after the date of said resolution of approval unless the requirements have been completed within that time. The Town Board may, however, extend the time within which a conditionally approved Final Plat may be submitted for signature, if in its opinion such extension is warranted, for not to exceed two (2) additional periods of ninety (90) days each.

5.3.4. Required Improvements

5.3.4.1. Improvements and Performance Bond. Before the Town Board grants final approval of the Final Plat, the subdivider shall in an amount set by the Town Board, file with the Town Clerk either a certified check or a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Town Law and be satisfactory to the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety. A period of at least one (1) year but not more than five (5) years, as set by the Town Board, shall be set forth in the bond within which time the proper permits shall be obtained from the Code Enforcement Officer and the required improvements must be completed. In the event the subdivider proposes to develop the subdivision in stages, the requirements of the security for improvements shall only be as to the stage or stages of the subdivision proposed to be developed at that time.

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5.3.4.2 Modification of Design Improvements. If, at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Town Code Enforcement Officer or Town Engineer, that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Code Enforcement Officer may, upon approval of the Town Board, authorize modifications provided they are within the spirit

and intent of the Town Board approval and do not extend to the waiver or substantial alternation of the function of any improvements required by the Town Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Town Board at their next regular meeting.

5.3.4.3 Inspection of Improvements At least five (5) days prior to commencing construction of required improvements the subdivider shall complete an inspection request form notifying the Town Code Enforcement Officer of the time when he proposed to commence construction of each improvement so that the Town Code Enforcement Officer may perform the proper inspections to insure that all Town specification and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Town Board.

5.3.4.4 Proper Installation of Improvements. If the Town Code Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, the Officer shall report to the Town Board. The town Board shall then notify the subdivider and, if necessary, the bonding company, and take all necessary action to preserve the Towns rights under the bond. No Plat (Preliminary or Final) shall be approved by the Town Board as long as the subdivider is in default on a previously approved Final Plat.

5.3.5 Filing of Approved Final Plat

5.3.5.1 Final Approval and Filing. Upon completion of requirements in paragraph 5.3 in this Section, a notation to that effect upon the Final Plat, signed by the Town Supervisor, shall be deemed to complete final approval and shall then be properly signed by the Town Clerk and may be filed by the applicant in the office of the Tioga County Clerk. Any Final Plat not so filed or recorded within thirty (30) days of the date upon which such Final Plat is approved or considered approved by reasons of the failure of the Town Board to act, shall become null and void.

5.3.5.2 Final Plat Void if Revised After Approval. No changes, erasures, modifications, or revisions shall be made in any Final Plat after approval has been given by the Town Board and endorsed in writing on the Final Plat, unless said Plat is first resubmitted to the Town Board and such Board approves any modifications. In the event that any such Final Plat is recorded without complying with this requirement, the same shall be considered null and void, and the Town Board shall institute proceedings to have the Final Plat stricken from the records of the Tioga County Clerk.

5.3.6. Public Streets and Recreation Areas

5.3.6.1. Public Acceptance of Streets. The approval by the Town Board of a Final Plat shall not be deemed to constitute or be evidence of any acceptance by the Town Board of any street, easement, or other open space shown on such Final Plat

5.3.6.2. Ownership and Maintenance of Recreation Areas. When a park, playground, or other recreation area shall have been shown on the Final Plat, the approval of the Plat shall not constitute an acceptance by the Town Board of such area. The Town Board shall require the Final Plat to be endorsed with appropriate notes to this effect. The Town Board may also require

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

◆ SECTION 6.0 GENERAL REQUIREMENTS AND DESIGN STANDARDS

6.1 General. In considering applications for subdivision of land, the Town Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived only under circumstances set forth in Section 6.0 herein.

6.1.1 Character of the 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.

6.1.2 Conformity to the Town Master Plan. Subdivision shall conform to the Town Master Plan, if such exists.

6.1.3 Specifications for Required Improvements. All required improvements shall be constructed or installed to conform to the Town Specifications, these regulations and other Regulations, Codes, Laws and Ordinances, which may be obtained from the Town Code Enforcement Officer or the Town Clerk. The minimum requirements for the construction of Town roads to be taken over by the Town of Berkshire are attached to these Regulations as Appendix A. Wherever the requirements of Appendix A are less than the requirements of the Land Subdivision Regulations, the Land Subdivision Regulations shall apply.

6.2 Street Layout

6.2.1 Width, Location and Construction. Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Town Master Plan if such exists, in order to accommodate the prospective traffic and afford access for fire fighting, snow removal, school transportation and road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.

6.2.2 Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, or needed utilities and public services such as sewer/sewerage, water and drainage facilities. Where in the opinion of the town Board, topography and other conditions make such continuance undesirable or impracticable, the above conditions may be modified. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with the existing public streets, or streets shown on the Town Official map, if such exists, or streets on an approved Final Plat for which a bond has been filed.

6.2.3 Minor Streets. Minor street shall be laid out to discourage through traffic.

6.2.4 Special Treatment Along Major Streets. When a subdivision abutts or contains an existing or proposed major street, the Town Board may require marginal access streets, reserve frontage with screen planning contained in a non-access reservation along the rear property line, deep lots

with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

6.2.5 Provision for Future Re-subdivision. Where a tract is subdivided into lots substantially larger than the minimum size required by the Town ordinances or required in the Town Land Use Law (if such exists) in which a subdivision is located, the Town Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these regulations.

6.2.6 Dead-end Streets with Cul-de-sacs. The creation of dead-end streets with Cul-de-sacs or loop residential streets will be allowed wherever the Town Board finds such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end, Cul-de-sac streets, where needed or desirable, the Town Board may require the reservation of a twenty (20) foot wide minimum easement to provide for the continuation of pedestrian traffic and utilities to the next street.

6.2.6.1 Where dead-end streets are designed to be permanent, they shall terminate in a circular turn-around with a minimum right-of-way outside radius of eighty (80) feet and a thirty-four (34) foot wide pavement with a centerline radius of sixty (60) feet. At the end of temporary dead-end streets a temporary turn-around with a pavement width of fifty (50) feet shall be provided, unless the Town Board approves an alternate arrangement. Temporary dead-end street shall be allowed for a period of not more than three years. A bond shall be posed to cover the cost of removal of the dead-end street or to terminate the dead-end street in a Cul-de-sac at the end of the three year period.

6.2.7 Intersections with Collector or Major Streets. Minor or secondary street openings into such road shall be at least five hundred (500) feet apart.

6.2.8 Angle of Intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet the street is at right angles or radial to the street it joins.

6.2.9 Relation to Topography. The street plan of a proposed subdivision must bear a logical relationship to the topography of the property, and all streets shall be so arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.

6.3 Street Design. Note: See appendix A for Town of Berkshire Highway Minimum Requirements

6.3.1 Widths of Right-of-Way & Pavement. The classification of streets shall be determined by the Town Board. Streets shall have the following widths:

Street Type	Min. Right-of-Way	Min. Pavement
Major or Collector	60 feet	40 feet
Minor	50 feet	34 feet

6.3.2 Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks (including handicap access), storm drainage facilities, street lights, and street name signs, except where waivers may be requested by the Applicant. The Town Board may recommend a waiver, subject to appropriate conditions, of such improvements as it considers may be omitted without jeopardy to the public health, safety, and general welfare. Pedestrian easements, grading and improvements shall be approved as to design and specifications by the Town Engineer or Highway Superintendent.

6.3.2.1 All ponds or lakes in a subdivision shall have a dry fire hydrant within twenty-five feet of a street. The street shall be wide enough for fire trucks to turn around or a turn-around shall be constructed near the fire hydrant.

6.3.2.2 Lighting facilities shall be in conformance with the lighting system of the Town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized Town Code Enforcement Officer. All area lights shall have reflectors to direct the light into the street or park.

6.3.3 Utilities in Streets. The Town Board shall, whenever desirable, require that underground utilities be placed in the street right-of-way between the paved road and right-of-way line to simplify location and repair of utilities when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required facilities before the street is paved.

6.3.4 Utilities Easements. Where topography is such as to make impractical the inclusion of utilities within the street right-of-way, perpetual unobstructed easements of at least twenty (20) feet in width shall be otherwise provided with satisfactory access to street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required by the Town Board.

6.3.5 Grades. Grades of all streets shall conform in general to the terrain, and shall not be less than one-half (1/2) nor more than six (6) per cent for major or collector streets, or ten (10) per cent for minor streets in residential areas, but in no case more than three (3) per cent within fifty (50) feet of any intersection.

6.3.6 Curve Radii of Rights-of Way at Street Intersections. All street right-of-way lines at intersections shall be rounded by curves of at least twenty (20) feet of radius and curbs shall be adjusted accordingly.

6.3.7 Steep Grades and Curves; Visibility. A combination of steep grades and curves shall be avoided. In order to provide traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) shall be cleared of all growth (except for isolated trees) and obstruction above the level of three (3) feet higher than the center of the street. If required, the ground shall be excavated to achieve visibility.

6.3.8 Watercourses. Where a watercourse separates a proposed street from abutting property, provisions shall be made for access to all lots by means of culverts or other structures of design approved by the Town Code Enforcement Officer or Highway Superintendent. Where

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 and in no case less than twenty (20) feet in width.

6.3.9 Free Flow of Vehicular Traffic Abutting Commercial Development. In front of areas designed for commercial use, or where a change of Land Use Law (if such exists) which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Town Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate parking space for such commercial or business district.

6.4 Street Names

6.4.1 Type of Name. All street names shown on a Preliminary Plat or Final Plat shall be approved by the Town Board. In general, streets shall have names and not numbers or letters.

6.5 Drainage Improvements.

Note: See appendix C for construction drawings.

6.5.1 Removal of Surface and Spring Water. The subdivider may be required by the Town 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 subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

6.5.2 Drainage Structure to Accommodate Potential Development Upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream area, whether inside or outside the subdivision. The Code Enforcement Officer and Highway Superintendent shall approve the design and size of the facility based upon anticipated runoff from a "fifty (50) year" storm under conditions of total potential development permitted by the Town Land Use Law, if such exists, in the watershed.

6.5.3 Responsibility for Drainage Downstream. The subdivider's Engineer shall also study the effect of each subdivision on the existing downstream drainage facility outside the area of the subdivision; this study shall be reviewed by the Town Board. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a fifty (50) year storm, the Town Board shall not approve the subdivision until provision has been made for the improvement of said condition.

6.5.4 Land Subject to Flooding. Land subject to flooding or land deemed by the Town Board to be uninhabitable shall be platted for residential occupancy, not for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land with 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 Town Board to remedy said hazardous conditions.

6.5.5 Compliance with EPA/DEC. Any subdivision which drains or affects five (5) or more acres is subject to EPA/DEC regulations and permits. Subdivider/Contractor must present all required compliance documentation to the Town Board before final approval will be given.

◆ SECTION 7.0: DRAWINGS AND DATA REQUIREMENTS

7.1 SKETCH PLAN

The Sketch Plan initially submitted to the Town Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than one hundred (100) feet to the inch) to enable the entire subdivision to be shown on one sheet. The Sketch Plan shall be submitted showing the following information:

7.1.1 The location and boundary area of that to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.

7.1.2 All existing structures, wooded areas, streams and other significant features, within the portion to be subdivided and within two hundred (200) feet thereof. If topographical conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.

7.1.3 The name, address and phone number of the owner, subdivider and professional adviser and the names of all adjoining property owners as disclosed by the most recent Tioga County tax records.

7.1.4 The tax map sheet, block and lot numbers, if available.

7.1.5 All the utilities available, and all streets which are either proposed, mapped or built.

7.1.6 The proposed pattern of lots (including lot width and depth), street layout, recreational areas, system of drainage, sewerage, and water supply within the subdivided area.

7.1.7 All existing restrictions on the use of land including easements, right-of-ways, covenants, or Land Use Laws (if such exist) and a copy of the deed restriction if this is a Parcel Division.

7.1.8 The subdivision name, if any, and the north point and scale.

7.2 SUBDIVISION PRELIMINARY PLAT AND ACCOMPANYING DATA

7.2.1 Documents to be Submitted. The following documents shall be submitted for approval: Five (5) copies of the Preliminary Plat at a scale of not more than one hundred (100) feet but preferably not less than fifty (50) feet to the inch, showing:

7.2.1.1 Proposed subdivision name, date, true north point, map scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.

7.2.1.2 The names of all subdivisions immediately adjacent and the name of the owners of record of all the adjacent property.

7.2.1.3 Land Use District (if such exists), including exact boundary lines of the district, if more than one (1) district, and any proposed changes in Land Use District lines and/or Land Use District text applicable to the area to be subdivided.

7.2.1.4 All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

7.2.1.5 Location of existing property lines, easements, right-of-ways, buildings, water courses, marshes, rock outcrops, wooded areas, and other significant existing features for the proposed subdivision and adjacent property.

7.2.1.6 Location of existing sewers/sewerage and/or septic systems, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.

7.2.1.7 Contours with intervals of five (5) feet or less as required by the Town Board, including elevations on existing roads. Approximate grading plans if contours are to be changed by more than two feet.

7.2.1.8 The width of any public streets or ways or place within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.

7.2.1.9 The approximate location and size of all water lines, wells and profiles of all sewer lines and/or sewerage and/or septic systems.

7.2.1.10 Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.

7.2.1.11 Plans and cross-section showing the proposed location and the type of sidewalks, street lighting standards, street trees, curbs, water mains, sewers and/or sewerage and/or septic systems and storm drains and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.

7.2.1.12 Preliminary designs of any bridges or culverts which may be required.

7.2.1.13 The proposed lot lines with approximate dimensions and area of each lot.

7.2.1.14 Where the topography is such as to make difficult the inclusion of any of the required facilities within the public area as laid out, the Preliminary Plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to an existing public highway or public open space or other public highway shown on the subdivision or the Town Official map.

7.2.1.15 An actual field survey of the boundary lines of the subdivision, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the subdivision shall also be located on the ground and marked by substantial monuments of such type as approved by the Town Board and shall be referenced and show in the Preliminary Plat.

7.2.2 Application for Part of a Tract. If the application covers only a part of the subdivider's entire holdings, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and an indication of the probably future street system with its grades and drainage in the remaining portion of the

tract and the probably future drainage system of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holding.

7.2.3 Covenants and Restrictions. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

7.3 SUBDIVISION FINAL PLAT AND ACCOMPANYING DATA

The following documents shall be submitted for Final Plat approval:

7.3.1 Final Plat Drawings. The Final Plat, to be filed with the Tioga County Clerk and the Berkshire town Clerk in accordance with Article 9 of Real Property Law, shall be printed on mylar. The size of the sheets shall be eight and one-half (8.5) inches by either fourteen (14) or eleven (11) inches, including a two (2) inch margin for binding, outside of the border, along the left side and a margin of one (1) inch, outside the border along the remaining sides. The Final Plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the north point at the top of the map. When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The Final Plat shall show:

7.3.1.1 Proposed subdivision name or identifying title, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.

7.3.1.2 Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to the public use.

7.3.1.3 Sufficient data to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State system of plane coordinates, and in any event should be tied to reference points previously established by a public authority.

7.3.1.4 The length and bearing of all straight lines, radii length of curves and central angles of all curves. Tangent bearings shall be given for each street. All dimensions and the angles of the lines of each lot shall also be given. All dimensions shall be given in feet and decimals of a foot. The Final Plat shall show the boundaries of the property, location, graphic scale, and true north point.

7.3.1.5 The Final Plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the Final Plat copies of agreements or documents showing the manner in which such areas are to be maintained and the provisions made therefore.

7.3.1.6 All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

7.3.1.7 Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the Town of Berkshire 911 system.

7.3.1.8 Permanent reference monuments shall be shown, and when referenced to the State system

of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Board and their location noted and referenced on the Final Plat.

7.3.1.9 All lot corner markers shall be permanently located at least three-quarters (3/4) of an inch in diameter (if metal) and at least twenty-four (24) inches in length, and located in the ground to existing grade.

7.3.1.10 Monuments shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such immediate points as shall be required by the Town Engineer or Highway Superintendent.

7.3.2 Construction Drawings. Construction drawings including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of streets, sidewalks, street lighting standards, street trees, curbs, water mains, sewers and/or sewerage and/or septic systems and storm drains, pavements and sub-base, manholes, catch basins and other facilities.

(Note: see appendix A)

◆ SECTION 8.0 EFFECTIVITY

9.1 COMPLIANCE WITH LAW

9.1.1 These Land Subdivisions Regulations shall be in force and effect immediately upon approval and publication as required by law.

9.1.2 Legal Notice of a public hearing was published on October 25, 1995.

9.1.3 A public hearing was held on November 9, 1995.

9.1.4 These regulations were approved by the Town Board on November 14, 1995.

9.1.5 Notice of the adoption of these regulations was published by the Tioga County Courier on December 13, 1995.

9.1.6 These regulations were posted at The Town Clerks Office on November 15, 1995.

9.2 APPROVAL OF LAND SUBDIVISION REGULATIONS

9.2.1 Approval Statement

The Town Board of Berkshire, by reason of the signatures below, hereby approves these regulations.

TOWN SUPERVISOR TOWN COUNCIL

TOWN CLERK TOWN COUNCIL

TOWN COUNCIL

TOWN COUNCIL

APPENDICES

Appendix A: BERKSHIRE TOWN HIGHWAY MINIMUM SPECIFICATIONS

A.1 Right-of-Way

Each Right-of-Way shall be a minimum of fifty (50) feet.

A.2 Driving Lanes

Each driving lane shall be ten (10) feet in width.

A.3 Shoulders

Each shoulder shall be three (3) feet wide.

A.4 Road Base

All sod and topsoil shall be removed from all roadway areas before the three separate six (6) inch gravel lifts are applied. Each lift of six (6) inches is to be compacted and stabilized with liquid calcium, at a minimum rate of four tenths (4/10) inch per square yard.

The first two lifts shall be bank run gravel, and the final lift shall be of processed gravel with a maximum stone size of one and one-half (1 ½) inches.

Each lift shall be inspected and approved by the Highway Superintendent. Additionally, the roadway shall not suffer damage of any kind over its first nine months of use which shall include one winter season.

A.5 Road Surface

A.5.1 Two courses of liquid asphalt stone top are required. One course of HFMS2 AND #1 stone with a rate of five tenths (5/10) of an inch per square yard of liquid asphalt. The second course of HFMS2 AND #1 stone with a rate of five tenths (5/10) of an inch per square yard of liquid asphalt. A two-day minimum waiting period between the two courses is required. Each course shall be rolled with a metal drum roller with a minimum weight of twelve thousand (12,000) pounds.

A.5.2 All HFMS2 must have a N.Y. State Certification on each load. Certification shall consist of a lot number, (indicating when they processed the asphalt) and Tank number (indicating the storage tank at the time of manufacture).

A.5.3 Samples shall be taken of the HFMS2 load at the job site in the presence of the Highway Superintendent. The samples shall be taken in two empty plastic bottles furnished by the contractor for each load.

A.6 Road Drainage Pipes

New galvanized steel drainage pipes with a minimum wall thickness of three eighths (3/8) of an inch or acceptable corrugated plastic shall be installed.

The pipes shall have a diameter adequate to handle a water flow defined by the Highway Superintendent.

A.7 Cut Back Road Banks

Cut back road banks shall be sloped and seeded to prevent erosion.

A.8 Depth of Ditches

All ditches shall be a minimum of one-half (1/2) foot deep as measured from the highest point of the roadway, normally the center line. Furthermore, the roadway will be built up higher than the surrounding land area wherever the Highway Superintendent deems it possible to do so.

A.9 Dead End Roads

Dead end turnarounds shall be constructed to accommodate a Town tandem axle plow and wing-equipped Town truck.

A.10 Proof of Construction

Proof of construction technique shall consist of documented visits by the Highway Superintendent and Town Supervisor during each stage of the construction required above.

A.11 Minimum Requirements

These Town road construction requirements are considered to be the minimum requirements for roads which are proposed to be deeded or otherwise legally transferred to the Town of Berkshire.

Appendix B: LAND SUBDIVISION APPLICATION AND APPROVAL PROCESS

B.1 Applicant to contact and discuss the nature of the proposed subdivision with the Berkshire Town Board.

B.2 Applicant files copies of the Sketch Plan in accordance with paragraph 7.1 with Town Clerk 10 days prior to Town Board meeting.

B.3 No fee is required with the Sketch Plan filing.

B.4 Berkshire Town Board conducts a formal review of the Sketch plan with the applicant in attendance.

B.5 The Town Board passes a resolution accepting the Sketch Plan as complete, recommends modification, or disapproves the Plan.

B.6 A subdivision Preliminary Plat requires the following:

B.6.1 Town Board gives the applicant written recommendations if required, based on the Sketch Plan.

B.6.2 The Applicant incorporates these recommendations into the Preliminary Plat in accordance with paragraph 7.2 and files copies with the Town Clerk and pays fees.

B.6.3 Town Board by resolution receives the Preliminary Plat and establishes the submittal date with the applicant in attendance.

B.6.4 The Preliminary Plat is automatically disapproved if the applicant does not attend the meeting.

B.6.5 The Town Board studies the Preliminary Plat and accepts it as complete. Then sets a date for a public hearing within 45 days and arranges to publish a notice at least 5 days prior to the hearing.

B.6.6 Town Board decides status of Preliminary Plat, then by resolution approves, disapproves, approves with modification or makes no decision within 45 days of the public hearing.

B.6.7 Reasons for disapproval are stated in writing. Required modification and terms of approval as a prerequisite to approval of the Final Plat are stated in writing.

B.6.8 Performance bond requirements are stated.

B.6.9 Applicant files Final Plat master, data and copies in accordance with paragraph 5.3.3 and 7.3 and pays fee to Town Clerk.

B.6.10 Official submittal date is set by the Town Board resolution accepting the Final Plat data at a regular meeting.

B.6.11 A public hearing shall be held within 45 days of the submittal date. This hearing may be set aside if there is no substantial change from Preliminary Plat. The Town Board has 45 days from the time of the hearing or the set aside to make a decision of final approval, disapproval or conditional approval with or without modification. If no decision is made, the Final Plat is automatically approved.

B.6.12 Within 5 days after the final approval the Town Supervisor and the Town Clerk sign the Final Plat. The Final Plat shall be filed with the County Clerk by the Applicant within 30 days.

B.6.13 If the Final Plat is conditionally approved, the Town Supervisor will mail a copy of the conditions to the applicant and the applicant has 180 days to complete the conditions. Completion may be extended by two additional 90 day periods, if mutually agreed upon by the Town Board and applicant.

B.6.14 When Final Plat changes are complete, the Code Enforcement Officer informs the Town Board. The Town Supervisor signs a notation to that effect on the Final Plat and the Town Clerk then signs the Final Plat. If the conditions are not met in the time allotted the applicant must reapply.

APPENDIX C

FEE SCHEDULE

SKETCH PLAN NO FEE

PRELIMINARY PLAT \$ 50.00

FINAL PLAT \$200.00