

§ 168-18

RUSHFORD CODE

§ 168-18

Chapter 176

SUBDIVISION OF LAND

ARTICLE I
General Provisions

§ 176-1. Authority.

Pursuant to Section 276 of the NYS Town Law and by the authority of the resolution adopted by the Rushford Town Board on the 13th of March 1995, the Rushford Town Planning Board is empowered and authorized to approve, approve with modification, or disapprove plats for the subdivision of land within the Town of Rushford, County of Allegany, State of New York.

§ 176-2. Purpose.

The purpose of these regulations as herein adopted shall be to provide for the orderly growth and development of the Town with adequate provision for the housing, transportation, distribution, comfort, convenience, safety, health, desirable environment, and welfare of its population.

§ 176-3. Scope.

These regulations are not intended to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by deed, covenant or other private agreements except that where these regulations impose a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of these regulations shall control. These regulations specifically supersede any Town of Rushford subdivision regulations approved or in use prior to (date approved).

§ 176-4. Definitions.

For the purpose of these regulations, certain words used herein are defined as follows:

COUNTY — The County of Allegany, State of New York.

EASEMENT — Authorization by a property owner for the use of any designated part of his/her property by another party for some specified purpose.

HEALTH DEPARTMENT — The Department of Health of the County of Allegany, State of New York.

HIGHWAY DEPARTMENT — The Department of Highways of the County of Allegany or the Town of Rushford, or the State of New York, whichever department exercises jurisdiction over the roads involved.

LETTER OF INTENT -- An initial presentation in writing submitted to the Planning Board for its consideration in classifying the subdivision as a major or minor subdivision.

LOT — Any parcel of land in a subdivision, whether it be a lot, plot, site, or other division.

PLANNING BOARD — The Planning Board of the Town of Rushford, New York.

PLAT — The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Board for review, also known as the final plat, and which, if fully approved, shall be submitted by the subdivider to the County Clerk for recording.

PRELIMINARY PLAT — The preliminary drawings indicating the proposed layout of the subdivision required to be submitted to the Planning Board in conforming with the requirements of Article II, § 176-7, of these regulations.

STREET — A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, place or however otherwise designated.

STREET PAVEMENT — The exposed surface of any right-of-way used by vehicular traffic.

STREET WIDTH — The distance between property lines on either side of a right-of-way.

SUBDIVIDER — Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself/herself or for another.

SUBDIVISION — The division of any parcel of land into a cumulative total, over five years, of three or more lots by deed, land contract or other conveyance for the purpose, whether immediate or future, of transfer of ownership or building development. This definition shall be deemed to include townhouse or condominium developments where the lands are held in common and no actual transfer of ownership is involved. For the purpose of these regulations there shall be two classifications of land subdivision. A subdivision as defined herein shall be considered a Minor Subdivision - if it meets the following criteria:

- A. The division of any parcel into five or fewer lots within a three-year period after the effective date of this act.
- B. All lots front on an existing public highway; and
- C. All lots meet the Health Department standards with regard to water supply and sewage disposal.
- D. All lots must meet at least the minimum requirements of the Town of Rushford Zoning Ordinance for lot size and land use.

All other subdivisions as defined herein shall be considered Major Subdivisions.

SUBMISSION DATE — The date when a Subdivision Plat, or a Preliminary Layout, meets both of the following: (1) it is received at an official meeting of the Planning Board, and (2) the Planning Board schedules a Public Hearing on same.

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TOWN — The Town of Rushford, Allegany County, New York.

TOWN ENGINEER — A qualified person or company hired by the Rushford Town Board.

ZONING ORDINANCE — The officially adopted ordinance of the Town to establish controls for the development of land in the Town, in accordance with the Town Development (or Land Use) Plan.

ARTICLE II

Procedure for Filing Subdivision Applications**§ 176-5. General.**

Whenever any subdivision is proposed, before the transfer of any lot or other interest therein and before the execution of any contract providing for such transfer, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider or his/her authorized agent shall apply for and secure the final approval of the Planning Board for such proposed subdivision, and shall record the plat in the office of the Allegany County Clerk in accordance with procedures set forth therein.

§ 176-6. Letter of intent.

- A. Filing requirements. Should the subdivider interpret these regulations as defining his/her proposal as a minor subdivision, he/she must submit a Letter of Intent to the Planning Board on the standard form available from the Town Clerk. Attached to the Letter of Intent shall be a scale drawing (minimum one inch equals 100 feet) of the proposed subdivision or a survey map prepared by a licensed NYS Surveyor. Drawing or survey shall include the following:
- (1) Location of property, including name of Town and Township, Range and lots as per Holland Land Company's survey and liber and page numbers.
 - (2) All existing and proposed houses and buildings.
 - (3) All existing and proposed property lines, easements, streets and rights-of-way.
 - (4) Minimum building setback lines as per Rushford Zoning Ordinance.
 - (5) A table of area and dimensional requirements for applicable zoning district(s).
 - (6) Subdivider's name and address, scale, north arrow, date, and name, address and license information of surveyor.
- B. Submission requirement. The Letter of Intent, map and application fees shall be submitted to the Town Clerk who shall forward the submittal to the Chairman of the Planning Board; such letter shall be submitted at least 21 days prior to the meeting of the Planning Board at which the matter is to be considered and the Town Clerk shall give notice of such meeting to the subdivider who should attend.
- C. Planning Board review. The Planning Board shall review and respond to the Letter of Intent within 45 days of the date that the Letter of Intent is received by the Town Clerk.

- (1) If the Planning Board determines that the proposal does not meet the criteria, in Article I, § 176-4, established for a minor subdivision, it shall return one copy of the Letter of Intent to the subdivider and require that the subdivider submit a preliminary plat as outlined in Article II, § 176-7, of these regulations.
- (2) If the Planning Board determines that the proposal meets the criteria established for a minor subdivision, but further determines that the proposed subdivision will potentially have the impact of a major subdivision; i.e.: on the orderly growth or development of the Town, it shall return one copy of the Letter of Intent to the subdivider and require that the subdivider submit a preliminary plat as outlined in Article II, § 176-7, of these regulations.
- (3) If the Planning Board determines that the proposal meets the criteria established for a minor subdivision and further determines that the proposed subdivision will not have a major impact on the orderly growth or development of the Town, it shall return one copy of the Letter of Intent to the subdivider marked as approved, dated, and signed by the Chairman of the Planning Board. The Planning Board Chairman may also be authorized by the Planning Board to sign a plat for filing in the Allegany County Clerk's office if the requirements of this paragraph have been met.

§ 176-7. Submission requirements for preliminary plat.

- A. Initial presentation - sketch plan review. Prior to the preparation of the preliminary plat, the subdivider shall seek the assistance of the Planning Board staff in order that he may become familiar with the zoning requirements, subdivision review procedures, and with other plans, proposals or regulations which might affect the geographic area in which the subdivision is located. Applications shall be made on Subdivision Development Form No. 1 and are available in the office of the Town Clerk. Applications shall be accompanied by a fee of \$50. The Planning Board shall review the sketch plan and hear the applicants general project plans. The sketch plan shall be reviewed for its compliance with the zoning requirements in terms of land use, yield, area dimensional requirements, general road layout and availability of services. The Planning Board may ask for further detail and/or more information before determining that a project should go forward to the preliminary plat phase. Planning Board acceptance of a sketch plan shall not imply that preliminary plat approval will be given. The sketch plan shall be drawn to scale (minimum one inch equals 100 feet), indicate proposed and existing property lines and streets. In the case of townhouses, the general location of buildings shall be shown. The plan shall also include sufficient contours and topographic features to allow the Planning Board of evaluate the project.
- B. Preliminary plat application. On reaching conclusions regarding his general program and objectives, and within six months of the sketch plan review, the subdivider shall make application in writing to the

Planning Board for preliminary approval of the proposed subdivision. Included in this submission shall be 10 copies of the preliminary plat and three copies of all other exhibits required in Article II, § 176-8, of these regulations. Applications for Preliminary plat Approval, Subdivision Development Form No. 2, shall be available in the office of the Town Clerk, who shall forward the application to the Chairman of the Planning Board. Applications shall be accompanied by a fee of \$100 plus \$75 per lot.

- C. Public hearing. As required by Section 276 of the Town Law, the Planning Board shall hold a public hearing within 45 days after receipt of a complete submission. The hearing must be advertised at least once in a newspaper of general circulation in the Town at least five days before it is held. The Planning Board may choose to advertise in at least one other local newspaper. The Town Clerk shall notify the subdivider in writing of the date of the Public Hearing. The subdivider or his/her agent shall attend the Public Hearing.
- D. Review of preliminary plat. The subdivider or his/her agent shall attend all scheduled meetings of the Planning Board where it is intended to discuss the Preliminary plat. The Planning Board shall carefully study the practicability of the proposed layout, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the following areas:
- (1) Arrangement and location of streets.
 - (2) Relation of proposed street and lot layout to the topography of the land particularly as it applies to accessibility and constructability.
 - (3) Domestic water supply.
 - (4) Sanitary sewage disposal.
 - (5) Storm drainage and runoff control.
 - (6) Lot sizes and arrangement.
 - (7) Future development of adjacent lands.
 - (8) The requirements of the Town Zoning Ordinance and any other applicable Town plans.
- E. Approval. Within 45 days after the Public Hearing, the Planning Board shall approve, approve with modifications or disapprove the application. The Planning Board shall advise the applicant in writing of its decision. Time can be extended by mutual agreement. In its written decision, the Planning Board shall, if granting preliminary approval, state the specific changes, if any, which it will require, the character and extent of any required improvements and reservations which it will require, and any special conditions applicable as a prerequisite to the approval of the final Subdivision Plat. One copy of the Preliminary plat shall be returned with its written decision. The plat shall have a

notation stating that it has received preliminary approval. The date of the preliminary approval, and that the preliminary approval is revocable pending compliance with the final approval requirements. If the Preliminary plat is disapproved, the Planning Board shall clearly state the reasons for its disapproval.

§ 176-8. Preliminary plat content and supplementary information.

- A. Form. The Preliminary plat shall be clearly and legibly drawn. The map shall be on one or more sheets 24 inches by 18 or 36 inches. All maps of subdivisions containing less than 100 acres shall be drawn at scale no smaller than one inch equals one inch equals 100 feet; larger subdivisions may be drawn at a scale of one inch equals 200 feet.
- B. Coverage. The Preliminary plat shall include all contiguous property under ownership even though only a portion of the tract is to be initially developed and/or recorded.
- C. Requirements for preliminary plat submission.

- (1) Data and maps shall be provided, including the following information describing the existing conditions at the site, except when otherwise specified by the Planning Board:
- (a) Location of tract, including name of Town or towns, and Range, Township and Lots per the Holland Land Company's survey and recording information on the deed, including the liber and page numbers; and Tax Map parcel number(s). Plat shall be tied to Holland Land Company Great Lot corner wherever possible.
 - (b) Existing property lines, easements, streets, and rights-of-way;
 - (c) Existing utility lines on or adjacent to the tract, including location, size, and invert elevations;
 - (d) Existing ground elevation contours on the tract at intervals of not more than five vertical feet; other conditions on the tract, including watercourses, wetlands, floodplain boundaries, wooded areas, houses, other buildings and other significant features;
 - (e) Zoning district boundaries on and adjacent to the tract; and land title and survey (if any) by deed description and map survey.
- (2) The Proposed Preliminary plat map shall include the following information, except when otherwise specified by the Planning Board:
- (a) Proposed streets information, including names, right-of-way and road widths; approximate grades and gradients.

- (b) Other proposed rights-of-way or easements and their location, width, and purpose.
 - (c) Locations of proposed and existing utilities.
 - (d) Proposed subplot lines, subplot numbers, subplot dimensions, and subplot areas.
 - (e) Proposed sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
 - (f) Proposed sites, if any, reserved for multifamily dwellings, stores or shops, shopping centers, churches, industry or restaurants or other uses exclusive of single-family dwellings.
 - (g) Minimum building setback lines as per current zoning ("building envelope").
 - (h) A table of site data including number of proposed residential lots, individual lot area, areas of parks, or other specified nonresidential use.
 - (i) Zoning district area and dimensional requirements.
 - (j) Proposed subdivision name or title under which it will eventually be recorded. Also, the scale of the plat, north arrow, date, name and address of subdivider, and the name, address, and license number of surveyor or engineer.
- (3) Supplementary data and maps shall be provided, further detailing the proposed improvements; including the following, except where otherwise specified by the Planning Board. Letters of conceptual approval from the Town Engineer and County Health Department Engineer for the applicable items a.-g.below. These shall be prerequisites of a complete preliminary plat application. Preliminary plat approval shall not be granted prior to the applicant obtaining the prerequisite approvals. All detailed construction drawings shall be at a scale of one inch equals 50 feet or larger.
- (a) Profiles along the center line of proposed streets showing existing ground surface, and proposed finished street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
 - (b) Cross-sections of the proposed street right-of-way showing, grading, street, driveway access, sidewalks (if applicable), and utility locations. These cross-sections shall be taken every 100 feet and shall extend from building setback line to building setback line.
 - (c) Preliminary plans of water supply.

- (d) Preliminary plans for sanitary sewage collection and treatment or disposal.
- (e) Preliminary drainage plans, including proposed individual lot drainage and proposed method of collection and discharging of storm drainage.
- (f) If the water supply proposed involves an extension to an existing municipal water collection system, a letter of approval shall be provided from the governing body of the concerned water district stating that they are able and willing to provide safe and reliable water service to all lots in the proposed subdivision, that sufficient water is available for adequate fire protection, and that they approve the preliminary water system plan accompanying the application.
- (g) If the sewage collection system is an extension to an existing municipal sewage collection system, a letter of approval shall be provided from the governing body of the concerned sewage district stating that they are able and willing to accept the flows generated by the proposed subdivision and that they approve the preliminary sewage system plan accompanying the application. A letter from the governing body of the ultimate treatment facility stating that they have sufficient capacity to accept the expected flows shall be provided. All plans for public improvements shall be prepared by a professional engineer registered to practice in the State of New York, pursuant to applicable provisions of the New York State Education Law.

- (4) In addition, a draft of protective covenants or restrictions whereby the subdivider proposed to regulate land use in the subdivision shall be provided. This shall include deed restrictions, homeowners' association agreements, etc. The Planning Board may require inclusion of certain restrictions or covenants or the formulation of mandatory. However, the Planning Board shall not be responsible for enforcing the developers restrictive covenants which are more restrictive than the existing zoning requirements.

§ 176-9. Submission requirements for final plat.

- A. General. Within six months of the approval of the Preliminary plat, the applicant shall submit an Application for Final Plat Approval, Subdivision Development Form No. 3, to the Planning Board. The time allotment may be extended by mutual agreement between the subdivider and the Planning Board. The application shall include two Mylar copies and 10 paper copies of the plat and other exhibits required for approval as specified in Article II, §§ 176-9 and 176-10, of these regulations. Applications shall be submitted, with application fee of \$250 plus \$35 per lot, to the Town Clerk who shall forward the application to the Chairman of the Planning Board.

- B. Public hearing. As required by Section 276 of the Town Law, the Planning Board shall hold a public hearing within 45 days after the receipt of the plat in final form. The hearing must be advertised at least once in a paper of general circulation in the Town at least five days before it is held. The Planning Board may also advertise in additional local papers. If the Planning Board deems the final plat to be in "substantial agreement" with the approved preliminary plat, the hearing may be waived. The Town Clerk shall notify the subdivider in writing of the date of the Public Hearing.
- C. Review process. The subdivider or his/her agent shall attend all meetings of the Planning Board where it is intended to discuss his/her final plat.
- Within 45 days after the public hearing, or 45 days after the final plat submission, if the hearing has been waived, the Planning Board must, by resolution, conditionally approve (with or without modification), disapprove or grant final plat approval. If a plat receives conditional approval, the applicant shall have 180 days to meet the conditions of the approval by the Planning Board. If the 180 days are not met, the applicant must file for an extension of time, stating the reasons the conditions were not met within the 180-day period. Upon review, the Planning Board may approve or disapprove the request for an extension of time. If an extension of time is approved, the Planning Board will determine the length of time of the extension. Once the conditions are met, the plat must be signed by an official of the Planning Board before it can be filed. If a plat is disapproved, the Planning Board shall clearly state the reasons for its disapproval. The approval of the Planning Board of a Subdivision Plat shall not be deemed to constitute or imply the acceptance by the Town or by Town Special Improvement Districts of any street, park, playground, open space, water facilities, drainage facilities, or other areas or improvements shown of the Plat. All improvements shall meet the applicable standards of the Town.
- D. Filing. After the satisfactory completion of the foregoing procedures and of the requirements outlined elsewhere herein and the notation to that effect upon the plat, it shall be deemed to have final approval and within 30 days thereafter the developer must file the plat with the County Clerk. Otherwise, such approval will expire as provided in Section 276 of the Town Law.

§ 176-10. Final plat content and supplementary information and bonding.

- A. Form. The final subdivision plat shall be clearly and legibly drawn in ink on Mylar or tracing cloth on sheets either 24 inches by 18 inches or 24 inches by 36 inches. The scale shall be 100 feet to the inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Board.

B. Content. The final plat, which must be prepared and certified by a licensed land surveyor, shall show, in addition to information approved on the preliminary plat (as required by Article II, § 176-8,), the following:

- (1) Primary control points, approved by the Town Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
- (2) Tract boundary lines, right-of-way lines of streets, easements and other right-of-way, and property lines of lots; with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curves.
- (3) Purpose for which lots are dedicated or reserved.
- (4) Location and description of monuments (shown thus "x") and lot corner markers (shown thus "o").
- (5) Adjoining properties shall be clearly indicated and shall include owner's name and recording data of relevant deeds.
- (6) Certification of title showing the state of title of the parcel proposed to be subdivided and that the applicant has authority to act in the capacity of the subdivider.
- (7) Water supply and sewage disposal facilities, together with locations and other necessary details with certification of approval by the Allegany County Health Department. Where any water or sewer line, water plant or sewage treatment plant is to be installed by the subdivider and/or municipality outside existing districts, the establishment or enlargement of a water district and/or a sewer district may be required at the expense of the subdivider. The formation of private utility companies, if any shall be in accordance with the Transportation Corporations Law in New York State.
- (8) Offers of cession by owner dedicating streets, rights-of-way and any sites proposed for public uses; and final agreements covering the improvement and maintenance of unceded public spaces and areas designated for common use and/or ownership and the conditions and time limits, if any, applying to site reservations.
- (9) Proposed street names.
- (10) Title or name under which subdivision will be filed, scale, north point and date.

C. Supplementary information. The final submission shall include the following data and supplementary information.

- (1) Assurance from each public utility company whose facilities are proposed to be installed, in writing, addressed to the Planning

Board, stating that such public utility company has made or shall make the installations necessary for the furnishing of its services in accordance with the approved construction detail sheet. This letter shall specify the time when service will be available. Locations of such public utilities are subject to the review and approval of the Planning Board.

- (2) Other data. Such as other certificates, affidavits, endorsements, protective covenants, homeowners' association application and report filed with NYS Attorney General's office or other agreements as may be required by the Planning Board or the Town Attorney in the enforcement of these regulations.
- (3) Performance bond/letter of credit. Pursuant to Section 277 of the NYS Town Law, the Planning Board shall require all necessary and appropriate improvements including but not limited to roads, sewers, water and drainage controls to be made to the standards and requirements of the appropriate Town Officials or Departments. If improvements are not complete prior to final plat approval a performance bond or letter of credit sufficient to cover the full cost of the improvements, as estimated by the Town, shall be provided by the applicant prior to obtaining signature on the final plat. In such case, final plat approval shall be granted conditional to the posting of the bond. Terms of the bond shall be determined by the Planning Board when the preliminary plat approval is granted. Term of the bond shall run for no longer than three years. However, it may be extended by the Planning Board with consent of the applicant(s). Such performance bond shall be issued by a bonding or surety company acceptable by the Town Board and shall also be approved in terms of form, sufficiency and manner of execution. In the event that any required improvements have not been installed within the term of the bond, the Town Board may thereupon declare the bond to be in default and collect the sum remaining payable and install such improvements as covered.