

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underling to indicate new matter.

Town of Fort Ann, Washington County

Local Law No. 1 of the year 1994

A Local Law amending Local Law No. 5 of 1990 (Land Subdivision Regulations) so  
as to provide for an Immediate Family Exemption

Be it enacted by the Town Board of the

Town of Fort Ann, Washington County

as follows:

Article II of Local Law No. 5 of 1990 is hereby amended so as to provide a new section 2.5 following:

**Section 2.5 APPLICATION FOR WAIVER OF REQUIREMENTS FOR COMPLIANCE WITH  
MINOR SUBDIVISION REGULATIONS**

**25.1 - Preamble**

As a matter of local policy, the Fort Ann Town Board hereby deems it to be in the best interest of the Health, safety, and general welfare of the citizens of the Town of Fort Ann, Washington County, to make Provision for an exemption from the Minor Subdivision requirements of the Land Subdivision Regulations Of the Town of Fort Ann, Washington County (Local Law No. 5 of 1990), where the subdivider wishes to Transfer a single parcel of land to an immediate family member (the "Immediate Family Exemption")

- A. **Amendment of Definition of "Subdivision"** - The definition of "subdivision" appearing in 8.2 of Article section VIII of the Land Subdivision Regulations shall be and hereby is amended so as to exclude an application for an Immediate Family Exemption, as provided for hereunder.
- B. **Exemption of Court-ordered Subdivision** - The division of land by decree of any Court of Competent jurisdiction, inclusive of the Surrogate's Court, shall be excluded from the definitions of "subdivision" and exempt from any further review under this Article.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**2.5.2 - Procedure to File for Immediate Family Exemption**

**A. Request For Immediate Family Exemption**

Any owner of land may, prior to subdividing or re-subdividing land, apply to the Planning Board for a Waiver of the application of the Town Subdivision Regulations on the grounds that the application is not Required in the interest of the public health, safety and general welfare, and that the issuance of an Immediate Family Exemption is appropriate under the circumstances and will not have the effect of nullifying the intent and purpose of the Land Subdivision Regulations of the Town of Fort Ann, Washington County.

**B. Eligibility For Immediate Family Exemption**

To be eligible for an Immediate Family Exemption, the following criteria, rules and regulations apply:

- (1) The subdivider must transfer the parcel subdivided to an immediate family Member, which shall be defined to mean the subdivider's descendants or parents and no others (e.g., siblings, nieces and nephews excluded).
- (2) The Immediate Family Exemption may only pertain to an application for what would otherwise be a Minor Subdivision, as defined by the Land Subdivision Regulations. The Planning Board expressly reserves the right to classify and treat successive or large-scale applications for an Immediate Family Exemption as a Major Subdivision, where the interests of the public health, Safety and general welfare so dictate.
- (3) The subdivider shall be limited to one waiver per immediate family member, and the transfer of more than one lot to an immediate family member who has previously been the beneficiary of the Immediate Family Exemption on an exempt basis is expressly prohibited.
- (4) Lots transferred on the basis of an Immediate Family Exemption shall not count against the number of lots the subdivider may transfer for the purpose of calculating a minor or major subdivision.
- (5) The Planning Board shall have no authority to consider an application for an Immediate Family Exemption where the subdivider is a partnership or corporation, or an association, as defined by law.

**C. Discussion of Immediate Family Exemption**

The subdivider or his or her duly authorized representative shall attend a meeting of the Planning Board to discuss the application for an Immediate Family Exemption, and shall submit an application which shall comply with the requirements set forth herein.

### 2.5.3 – Documents to be submitted

#### **A. Immediate Family Exemption Application, Signed by the Applicant, Which Shall Include:**

- (1) Actual field survey of the parcel for which an Immediate Family Exemption is sought, prepared and certified to by a licensed land surveyor, which survey shall show the entire parcel from which the subject parcel is taken, and give complete descriptive data by bearings and distances: and
- (2) Documentation or proof, as required by the Planning Board in its reasonable discretion, of eligibility for the Immediate Family Exemption.

The Planning Board shall be responsible for preparing an appropriate application form, detailing the above, and shall have the power to amend and / or supplement the same as required from time to time. Immediate Family Exemption applications shall be obtained from the Secretary to the Planning Board.

#### **B. Review Pursuant to New York State Environmental Quality Review Act (SEQRA) :**

Pursuant to 6 NYCRR section 617.13 (b), the consideration of an application for an Immediate Family Exemption shall be classified as a "TYPE II" Action.

### 2.5.4 – Circumstances for Granting

#### **A. Required Finding to be Made By the Planning Board**

To grant an Immediate Family Exemption, the Planning Board shall find that due to the special circumstances of a particular plat, formal compliance with the requirements of the Land Subdivision Regulations and the provision of certain required design standards or improvements:

1. is not requisite in the interest of the public health, safety and general welfare; and
2. waiver of such requirements, subject to appropriate conditions, will not have the effect of nullifying the Land Subdivision Regulations of the Town of Fort Ann, Washington County.

#### **B. Grant of Immediate Family Exemption**

Upon submission of the documentation referenced herein, the Immediate Family Exemption shall be granted, provided that (1) the Planning Board makes the requisite findings set forth herein, and (2) there is no misrepresentation of the part of the applicant, as defined in Section 7.4 of Article VII of the Land Subdivision Regulations. If the Immediate Family Exemption is granted, the subdivider shall be entitled to a waiver of the fee(s) ordinarily charged for Minor Subdivision review, as well as his or her duty to comply with the Minor Subdivision review requirements set forth in the Land Subdivision Regulations with respect to the plat in question.

### 2.5.5 – Town Not Liable; Other Responsibilities of Subdivider

The Immediate Family Exemption exists as a matter of legislative grace, and this section does not create any right to said exemption absent full and complete compliance with the criteria set.

forth herein. In choosing to make an application for an Immediate Family Exemption, the subdivider shall be deemed to have waived his or her right to a full review under the Town of Fort Ann Land Subdivision Regulations. In keeping with this general intent, the subdivider(s), upon filing an application for an Immediate Family Exemption, shall be deemed to expressly acknowledge and agree as follows:

1. The Town of Fort Ann, acting by and through its Planning Board or otherwise, shall not be deemed to have made any warranty to the subdivider or subsequent transferee(s), express, implied or otherwise, that property subdivided shall be fit for any use of purpose, inclusive of use for residential purposed; and
2. The subdivider or his or her transferee(s) shall be solely responsible for ensuring that the property subdivided is fit for the purposed contemplated, if any; and
3. The subdivider or his or her tranferee(s) shall be solely responsible for obtaining any and all permits or other approvals required by other local, state or federal agencies having jurisdiction over the property subdivided, and nothing in this section shall be deemed to have relieved the subdivider or his or her transferee(s) from compliance with the same.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 94  
Of the (County) (City) (Town) (Village) of Fort Ann, Washington County was duly passed by the  
Town Board on July 19 94, in accordance with the applicable provision of law.  
(Name of Legislative Body)

**~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer \*.)~~**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_  
Of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the  
\_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved) (not approved) (repassed after  
(Name of Legislative Body)  
disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 19 \_\_\_\_\_,  
(Elective Chief Executive Officer \*)

**3. (Final adoption by referendum.)**

Hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_  
Of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the  
\_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved) (not approved) (repassed after  
(Name of Legislative Body)  
disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, Such local law was submitted to the  
people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of  
the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 19 \_\_\_\_\_,  
in accordance with the applicable provisions of the law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_  
Of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the  
\_\_\_\_\_ on \_\_\_\_\_ 19 \_\_\_\_\_, and was (approved) (not approved)  
(Name of Legislative Body)  
(repassed after disapproval) by the \_\_\_\_\_ on 19 \_\_\_\_\_, Such local law was subject to  
(Elective Chief Executive Officer \*)  
permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19 \_\_\_\_\_, in  
accordance with the applicable provision of law

- Elective Chief Executive Officer means or includes the Chief Executive Officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law, concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_  
Of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of  
section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of  
the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 19 \_\_\_\_\_,  
Became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19 \_\_\_\_\_  
Of the County of \_\_\_\_\_ State of New York, having been submitted to the electors  
at the General Election of November \_\_\_\_\_ 19 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the  
Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of  
the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered  
as a unit voting at said general election, became operative.

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the  
same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in  
the manner indicated in paragraph \_\_\_\_\_ 1 \_\_\_\_\_, above.

\_\_\_\_\_  
Clerk of the County Legislative body, City, Town or Village Clerk  
Or other designated by local legislative body

Mary Jane Godfrey, Town Clerk

Date \_\_\_\_\_ July 12, 1994 \_\_\_\_\_

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village  
Attorney or other authorized attorney of locality.)

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_ ALBANY \_\_\_\_\_

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper  
proceedings have been had or taken for the enactment of the law annexed hereto.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Attorney to the Town.....  
Title

Town of Fort Ann, Washington County \_\_\_\_\_  
Date: \_\_\_\_\_ July 12, 1994 \_\_\_\_\_

## SUBDIVISION REGULATIONS

Town of .....FORT ANN.....  
Local Law No .....5..... of the year 19.. 90.....

A local law .....FORT ANN.....  
(Name of Legislature Body)

Be it enacted by the .....TOWN BOARD ..... of the  
Town of .....FORT ANN..... as follows:

### TOWN OF FORT ANN LOCAL LAW NO. 5 OF 1990 SUBDIVISION REGULATIONS

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## ARTICLE I

## GENERAL PROVISIONS

### Section 1.1 Legislative Authority

By the authority of the resolution of the Town Board of the Town of Fort Ann, adopted on July 10, 1989, and July 9, 1990, pursuant to the provisions of Article 16 of the Town Law of the State of New York and Municipal Home Rule Law, the Planning Board of the Town of Fort Ann is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development entirely or partially undeveloped plats already filed in the office of the Clerk of the County and to conditionally approve preliminary plats, within the Town of Fort Ann.

### Section 1.2 Citation

These regulations, which shall be known as, and which may be cited as the "Town of Fort Ann Land Subdivision Regulations" have been adopted by the Town Planning Board on June 26y, 1989, and approved by the Town Board on July 10, 1989, with amendments approved by the Town Board on July 9, 1990.

### Section 1.3 Effective Date

These regulations shall take effect immediately upon filing with the New York State Secretary of States Office.

### Section 1.4 Application

No subdivision of any lot, tract or parcel of land shall be effected; no street, sanitary sewer, storm sewer, water main or other facilities in connection therewith shall be laid out, constructed, opened or dedicated, for public use and travel, or the common use of occupants of buildings abutting thereon except in strict accordance with the provisions of these regulations.

All plans for subdivisions shall be submitted to the Fort Ann Planning Board for review and appeal.

The provisions contained herein shall apply to all land within the limits of the Town of Fort Ann (outside the Village of Fort Ann)

### Section 1.5 Policy

1.5.1 It is declared to be the policy of the Planning Board to consider Land Subdivision plats as part of a plan for the orderly, efficient and economical development of the Town of Fort Ann. This means among other things:

- a) 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.
- b) Proper provision shall be made for water supply, drainage sewerage and other needed public improvements and utilities.
- c) Proposed roads shall compose a convenient system conforming to the official map (where, or as may be approved) and developed plans.
- d) Roads shall be of such width, grade and location as to accommodate present and prospective traffic, and shall comply with the requirements listed herein and the Town Highway Ordinance, if such exists.
- e) All development shall facilitate adequate fire protection and provide access for fire fighting equipment and other emergency equipment.
- f) Nothing in these regulations shall prohibit the subdivider from self-imposed restrictions, not in violation of these regulations on the development. Such restrictions however, shall be

Open space for parks, playgrounds and green areas of suitable location, size and character shall be provided whenever appropriate.

- g) The proposed development shall be aesthetically compatible with the existing development and character of the Town.

- 1.5.2 Nothing in these regulations shall prohibit the subdivider from self-imposed restrictions, not in violation of these regulations on the development. Such restrictions, however, shall be indicated on the plat.

#### Section 1.6 Inconsistency with Town Law

Should any of these regulations conflict or be inconsistent with any provision of the Town Law, such provision of this local law shall apply.

#### Section 1.7 Separability Clause

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

## ARTICLE II PROCEDURE FOR FILING SUBDIVISION APPLICATIONS

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

### Section 2.1 Application Review

#### 2.1.1 Submission of Sketch Plan

Any owner of land shall, prior to subdividing or resubdividing land, submit to the Secretary of the Planning Board at least ten (10) days prior to the regular meeting of the Board three (3) copies of the Sketch plan of the proposed subdivision, which shall comply with the requirements of Article IV, for the purpose of classification (Major or Minor) and preliminary discussion.

#### 2.1.2 Other Governmental Agency Requirements

Any owner of land shall determine the requirements of the appropriate governmental agencies whose approval is required by these Regulations, and which must eventually approve any subdivision plat coming within their jurisdiction.

#### 2.1.3 Discussion of Requirements and Classifications

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the requirements of these regulations, for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information made on the sketch plan.

Classification of the Sketch plan is to be made at this time by the Planning Board as to whether it is a minor or major subdivision as defined in these regulations. When the subdivision is classified by the Planning Board as a Major or Minor subdivision, a notation to that effect shall be made on the sketch plan. The board may require, however when it deems necessary for protection of the public health, safety or welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivision. If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure outlined in Article III, Section 2.2 of these regulations. If it is classified as a major subdivision, the subdivider shall then comply

with the procedures outlined in Article III, Section 2.3 and 2.4 of these regulations.

#### 2.1.4 Study of Sketch Plan

The Planning Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations, in writing, to be incorporated by the applicant in the next submission to the Planning Board.

#### 2.1.5 Fees

There shall be no payment of fees with the filing of a sketch plan.

### Section 2.2 Approval of Minor Subdivision

#### 2.2.1 Application

Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan to the Planning Board for reclassification. The plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board. Said application shall conform to the requirements listed in Article IV.

#### 2.2.2 Fees

All applications for plat approval for a minor subdivision shall be accompanied by a fee of fifty dollars (\$50.00). Such fee shall be paid to the Secretary of the Planning Board.

#### 2.2.3 Number of Copies

Ten (10) copies of the subdivision plat shall be presented to the Secretary of the Planning Board at least 10 days prior to a scheduled monthly meeting of the Planning Board.

#### 2.2.4 Subdivider to Attend Planning Board Meeting

The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the subdivision plat.

#### 2.2.5 When Officially Submitted

The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which the application for plat approval, completed and accompanied by the required fee and all data required by Article IV of these regulations, has been filed with the Secretary of the Planning Board.

#### 2.2.6 Public Hearing

A Public Hearing shall be held by the Planning Board within Thirty (30) days from the time of submission of the subdivision plat, which has been deemed complete by the Planning Board. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days before such hearing.

#### 2.2.7 Action on Subdivision Plat

The Planning Board shall, within forty-five (45) days from the date of the public hearing, approve, modify and approve, or disapprove the subdivision plat.

### Section 2.3 Approval of Major Subdivision

### 2.3.1 Application and Fee

Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Article II, Section 3, hereof. The preliminary plat shall, in all respects, comply with the requirements set forth in the provision of Sections 276 and 277 of the Town Law, and Article IV, Section 4 of these regulations, except where a waiver may be specifically authorized by the Planning Board. The application for conditional approval of the preliminary plat shall be accompanied by a fee of five hundred dollars (\$500.), plus two hundred fifty dollars (\$250.) per lot for each lot in the proposed subdivision.

### 2.3.2 Number of Copies

Ten (10) copies of the preliminary plat shall be presented to the Secretary of the Planning Board at least 10 days prior to a regular monthly meeting of the Planning Board.

### 2.3.4 Study of Preliminary Plat

The Planning Board shall study the practicability of 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, locations and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangements, the future development of adjoining land as yet subdivided, and the requirements of the Master Plan and the official map, if such exist.

### 2.3.5 When Officially Submitted

The time of submission of the preliminary plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which the application for approval of the preliminary plat, complete and accompanied by the required fee and all data required by Article IV, Section 3 of these regulations, has been filed with the Secretary of the Planning Board.

### 2.3.6 Public Hearing

A public hearing shall be held by the Planning Board within thirty (30) days from the time of submission of the subdivision plat, which has been deemed complete by the Planning Board. Said hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days before such hearing.

### 2.3.7 Action on the Preliminary Plat

Within forty-five (45) days of the public hearing, the Planning Board shall take action to approve, with or without modification, or disapprove such preliminary plat and the ground of any modification required or the ground for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such forty-five (45) day period shall constitute approval of the preliminary plat.

When granting approval to a preliminary plat, the Planning Board shall state the conditions of such approval, if any, with respect to 1) the specific changes which it will require on the preliminary plat; 2) the character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals, and general welfare; and 3) the amount of improvement of the prerequisite to the approval of the subdivision plat. The action of the Planning Board, plus any conditions attached thereto, shall be noted on three (3) copies of the preliminary plat. One (1) copy shall be returned to the subdivider, one (1) retained by the Planning Board, and not constitute approval of the subdivision 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 plat, which will be submitted for the approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations and the conditional approval, if any. Prior to approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of further study of the subdivision in final form or as a result of new information obtained at the Public hearing.

## Section 2.4 Final Plat for Major Subdivision

#### 2.4.1 Application for Approval

The subdivider shall, within six (6) months after the conditional approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form, using the approved application blank available from the Secretary of the Planning Board. If the final plat is not submitted within six (6) months after the approval of the preliminary plat, the Planning Board may refuse to approve the final plat and require resubmission of the preliminary plat.

No fee shall be required with the application for final approval.

#### 2.4.2 Number of Copies

A subdivider intending to submit a proposed subdivision plat for the approval of the Planning Board shall provide the Secretary of the Planning Board with a copy of the application and Three (3) copies (one copy in Ink or Mylar) of the plat, the original and one (1) true copy of all offers of cession, covenants, and agreements, and two (2) prints of all construction drawings, at least Ten (10) days in advance of the regular monthly Planning Board meeting at which it is to be officially submitted.

#### 2.4.3 When Officially Submitted

The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee and all data required by Article IV, Section 4 of these regulations, has been filed with the Secretary of the Planning Board.

#### 2.4.4 Endorsement of State and County Agencies

Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the New York State Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary Town, County and State agencies. Endorsement and approval by the New York State Department of Health shall be secured by the subdivider before official submission of the subdivision plat.

#### 2.4.5 Public Hearing

A public hearing may be held by the Planning Board within forty-five (45) days after the time of submission of the completed subdivision plat for approval. This hearing shall be advertised in a newspaper of general circulation in the Town at least five (5) days before such hearing. A public hearing may be waived by the Planning Board if there does not exist substantial changes from preliminary plat approval.

#### 2.4.6 Action on Proposed Subdivision Plat

The Planning Board shall, within forty-five (45) days from the date of the public hearing on the subdivision plat, approve, modify and approve or disapprove the subdivision plat. However, the subdivision plat shall not be signed by the authorized officers of the Planning Board for recording until the subdivider has complied with the provision of Article V of this regulation.

#### 2.4.7 Final Approval and Filing

Upon completion of the requirements in Sections 2 and 3 above, and notation to that effect upon the subdivision plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officer of the Planning Board (Chairman or Acting Chairman and Secretary) and may be filed by the applicant in the Office of the County Clerk. Any subdivision plat not so filed or recorded within ninety (90) days of the date upon which such plat is approved or considered approved by reasons of the failure of the Planning Board to act, shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension, which shall not exceed two (2) addition periods of ninety (90) days.

#### 2.4.8 Plat Void if Revised After Approval

No changes, erasures, modifications, or revision shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and such Board approves any Modifications. In the event that any such subdivision plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceeding to have the plat stricken from the records of the County Clerk.

### ARTICLE III REQUIREMENTS AND DESIGN STANDARDS FOR ALL SUBDIVISIONS

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

#### Section 3.1 General Requirements

##### 3.1.1 Character of Land

Land to be subdivided shall be of such character that it can be used safely for building purposed without danger to health or peril from fire, flood or other menace.

##### 3.1.2 Conformity to Official Map and Master Plan

Subdivision shall conform to the Official Map of the Town and shall be in harmony with the Master Plan, if such exists.

##### 3.1.3 Specifications for Required Improvements

All required improvements shall be constructed or installed to conform the to Town specifications, which may be obtained from the Town authorized engineer.

##### 3.1.4 Preservation of Existing Features

Existing features which would add value to residential development, such as large trees, watercourse, historic spots and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision. Development shall cause minimum disturbance to existing landscaping.

#### Section 3.2 Street Layout

##### 3.2.1 Width, Location and Construction

Streets shall be of sufficient width, suitably located, and adequately constructed to conform with the Master Plan, if such exists, and to accommodate the prospective traffic and afford access for fire fighting, snow removal and other 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.

##### 3.2.2 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 suites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.

##### 3.2.3 Block Site

Block dimensions shall be at least twice the minimum lot depth and generally not more than twelve (12) times the minimum lot width. In long blocks, the Planning Board may require the reservation, through the block, of a twenty-five (25) foot wide easement to accommodate utilities or pedestrian traffic. Blocks at least

nine hundred (900) feet long are recommended with an easement in blocks exceeding one thousand two hundred (1,200) feet.

#### 3.2.4 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 traffic intersections. A distance of at least one hundred fifty (150) feet shall be maintained between offset intersections. Within forty (40) feet of an intersection, streets shall be approximately at right angles (but in no instance shall the angle be less than seventy (70) , and grade shall be limited to one percent (1%) . All street intersection corners shall be rounded by curves of at least twenty-five (25) feet in radius at the property line.

#### 3.2.5 Visibility at Intersections

Within the triangular area formed at corners by the intersecting street lines, for a distance of forty (40) feet from their intersection and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating if necessary. Nothing in the way of fences, walls, hedges, or other landscaping, shall be permitted to obstruct such visibility.

#### 3.2.6 Design Standards

Streets shall meet the following standards, unless otherwise indicated on the town Plan, if one exists.

STREET CLASSIFICATION	MINOR STREETS	COLLECTOR / SECONDARY
A) Minimum width of right of way	50 feet	60 feet
B) Minimum width of Pavement	26 feet	36 feet
C) Minimum radius of Horizontal curves	150 feet except for street intersection corners	400 feet
D) Minimum length of Vertical Curves as measured from center Of line or right of way	100 feet, but no less than 20 feet for each 1 % algebraic difference of grade	200 feet, but not less than 60 feet for each 1 % algebraic difference of grade
E) Minimum length of tangent Between reverse curves	100 feet except where excessive grades may be reduced to reasonable grades by shortening tangent	200 feet
F) Maximum grade	12 %	8 %
G) Minimum grade	1 %	1 %
H) Minimum sight Distance (Vertical)	150 feet	250 feet

#### 3.2.7 Construction Requirements

All subdivision roads shall be constructed according to standards established by the Town Board of the Town of Fort Ann, who shall periodically review said standards.

#### 3.2.8 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 Master Plan, if such exists.

If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right of way and improvements shall be extended to the property line. A temporary circular turn-around, a minimum 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 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 abutters whenever the street is continued.

#### 3.2.9 Permanent dead-end Streets (cul-de-sacs)

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 (20) foot wide easement to accommodate pedestrian traffic or utilities. A circular turn-around with a minimum right of way radius of sixty-five (65) feet shall be provided at the end of a permanent dead-end street. For general convenience to traffic, and more effective police and fire protection dead-end streets shall, in general, be limited in length to eight hundred (800) feet.

#### 3.2.10 Street Names

All the 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.

#### 3.2.11 Improvements

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

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

Grading and improvements shall conform to the specifications contained herein and any Town road standards as have been adopted by the Town Board, and shall be approved as to design and specifications by the Town Engineer or other duly designated Town official.

### Section 3.3 Lots

#### 3.3.1 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 building on each lot and in providing access to building on such lots from an approved street.

#### 3.3.2 Access Across a Watercourse

Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure, of a design approved by the Town Engineer or their duly designated Town official.

#### 3.3.3 Side Lot Lines



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

#### 3.3.4 Access from Major Streets

Lots shall not, in general, derive access exclusively from a major street. Where a 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.

### Section 3.4 Reservations and Easements

#### 3.4.1 Parks and Playgrounds

The Planning Board may require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes to be reserved on the plat, but in no case more than ten percent (10 %) of the gross area of any subdivision. The area shall be shown and marked on the plat "Reserved for Park or Playground Purposes".

If the Planning Board determines that a suitable park or parks of adequate size can not be properly located in any such plat or is otherwise not practical, the Board may require as a condition to approval of any such plat a payment to the Town in the amount of ten percent (10 %) of the appraised market value of the land to be subdivided. Such money shall be used by the Town for Park and recreational purposes, including the acquisition of property.

#### 3.4.2 Realignment or Widening of Existing Streets

Where the subdivision borders an existing street, and the official map or Town Plan indicates plans for realignment or widening of the streets 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".

#### 3.4.3 Utility and Drainage Easements

Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights 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.

#### 3.4.4 Easements for Pedestrian Access

The Planning Board may require, in order to facilitate pedestrian access from street to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least eight (8) feet of width.

#### 3.4.5 Responsibility for Ownership of Reservation

Ownership shall be clearly marked on plat on all reservations.

## ARTICLE IV REQUIRED DATA AND PLATS

### Section 4.1 Sketch Plan

The sketch plan initially submitted to the Planning Board shall be based on tax map information or some other similarly accurate base map at a scale (preferably not less than fifty (50) feet to an inch) the entire tract to be shown on one sheet. The sketch plan shall be submitted, showing the following directions:

- 1) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest street intersection.

- 2) All existing structures, wooded area, streams and other significant physical features, within the portion to be subdivided and with two hundred (200) feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than ten (10) feet.
- 3) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- 4) The tax map sheet, block and lot numbers, if available.
- 5) All the utilities available, and all streets, which are either proposed, mapped or built.
- 6) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area.
- 7) All existing restrictions on the use of land including easements, covenants, or zoning line.
- 8) Environmental Assessment Form (short form)

#### Section 4.2 Minor Subdivision Plat

In the case of minor subdivisions ONLY, the subdivision plat applicant shall include the following information:

- a) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
- b) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by monuments as approved by the Town authorized engineer, and shall be referenced and shown on the plat.
- c) All on-site sanitation and water supply facilities shall be designed to meet the minimum specifications of the State Department of Health and the Washington County Sanitary Ordinance, and a note to this effect shall be stated on the plat and signed by a licensed engineer.
- d) Proposed subdivision name, name of the Town and County in which it is located.

#### Section 4.3 Major Subdivision Preliminary Plat and Accompany Data

The following documents shall be submitted for the conditional approval:

Ten (10) copies of the preliminary plat prepared at a scale of not more than one hundred (100), but preferably not less than fifty (50) feet to the inch, showing:

- 1) Proposed subdivision name, name of Town and County in which it is located, date, true north point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
- 2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
- 3) Zoning District including exact boundary lines of district, and any proposed changes in the zoning district lines and / or the zoning ordinance text applicable to the area to be subdivided.
- 4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

- 5) Location of existing property lines, easements, buildings, water courses, marshes, rock outcrops, wooded areas, and other significant existing features for the proposed subdivisions and adjacent property, district, if more than one.
- 6) Location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
- 7) Contours with intervals of five (5) feet or less as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to change more than two (2) feet.
- 8) The width and location of any streets of public ways or places shown on the official map or Master Plan, if such exist, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
- 9) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.
- 10) Storm drainage plans indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
- 11) Plans and cross-sections showing the proposed location and type of sidewalks, street lighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the locations of manholes, basins and underground conduits.
- 12) Preliminary designs of any bridges or culverts which may be required.
- 13) The proposed lot lines with approximate dimensions and area of each lot.
- 14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas 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 other public open space shown on the subdivision or the official map.
- 15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town authorized engineer, and shall be referenced and shown on the plat.
- 16) If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than fifty (50) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of subdivider's entire holding submitted shall be considered in light of the entire holdings.
- 17) A copy of such covenants of deed restrictions are intended to cover all or part of the tract.
- 18) Long form Environmental Assessment Form.

Section 4.4 Major Subdivision Final Plat and Accompanying Data

The following documents shall be submitted for plat approval:

4.1.1 The plat to be filed with the County Clerk shall be printed upon linen or Mylar, or be clearly drawn in India ink upon tracing cloth or polyester film or to be photographic copies of polyester film. The sheets shall include a margin for binding of two (2) inches, outside of the border, along the left side and a margin of one (1) inch outside of the border along the remaining sides. The 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 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 plat shall show:

- 1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and subdivider, name, license number and seal of the licensed land surveyor.
- 2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- 3) Sufficient data acceptable to the Town authorized engineer 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.
- 4) The length and bearing of all straight lines, radii, and length of curves and central angles all curves, tangent bearings shall be given for each street. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true north point.
- 5) Permanent reference monuments shall be shown, and shall be constructed in accordance with specifications of the Town authorized engineer. When referenced the State system of plane coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Town authorized engineer and their location noted and referenced upon the plat.
- 6) All lot corner markers shall be permanently located satisfactorily to the Town authorized engineer, at least three-quarters (3/4) inches, if metal, in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade
- 7) Monuments of a type approved by the Town authorized engineer 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, point of curve and such intermediate points as shall be required by the Town authorized engineer.

4.4.2 Construction drawing 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, sanitary sewers and storm drains, pavements and sub-base, manholes, catch basins, and other facilities.

## ARTICLE V REQUIRED IMPROVEMENTS, AGREEMENTS AND FEES

### Section 5.1 Improvements and Performance Bond

Before the Planning Board grants final approval of the subdivision plat, the subdivider shall follow the procedure set forth in either subparagraph 5.1.1 or subparagraph 5.2.2.

5.1.1 In an amount set by the Planning Board, the subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of Section 277 of the Town Law and shall be satisfactory to the Town Board and the Town authorized engineer as to form, sufficiency, and manner of execution and surety. A period of one (1) year for

such other period as the Planning Board may determine appropriate, not to exceed three years shall be set forth in the bond within which required improvements must be completed.

5.1.2 The subdivider shall complete all required improvements to the satisfaction of the Town authorized engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Town Clerk a bond or certified check covering the costs of such improvements and the cost of satisfactorily installing any improvements not approved by the Town authorized engineer. Any such bond shall be satisfactory to the Town Board and Town authorized engineer as to form, sufficiency, and manner of execution and surety.

5.1.3 The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town authorized engineer and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to subparagraph 5.1.2, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check for all required improvements as specified in subparagraph 5.1.1 such bond shall not be released until such a map is submitted.

## Section 5.2 Modification of Design and Improvement

If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town authorized engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town authorized engineer may, upon approval by a previously delegated member of the Planning Board authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Town authorized engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

## Section 5.3 Inspection of Improvements

At least five (5) days prior to commencing construction of required improvements, the subdivider shall notify the Town Board in Writing of the time when he proposed to commence construction of such improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

## Section 5.4 Proper Installation of Improvements

If the Town authorized engineer 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, he shall so report the Town Board and the Planning Board. The Town Board shall then notify the subdivider and if necessary, the bonding company, and Take all necessary steps to preserve the Town's rights under the bond. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.

## Section 5.5 Utilities

The Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time, in accordance with the approved subdivision plat.

## Section 5.6 Fees

5.6.1 The Planning Board may employ consultants, legal counsel, professional engineers and/or inspection services for their assistance and advise in the review of any application before it and for such purposes as the Planning Board may require therefore, including on-site investigation, evaluation and inspection; verification of

the adequacy of plans, of the sufficiency of submitted reports, flood hazard evaluation; and study of the impact of proposals upon the resources and environment of the Town; preparation and/or review of environmental impact statements; review of the design and layout of improvements; inspection of installed improvements and other services or technical assistance as the Planning Board shall deem necessary for its review of such application and for the administration of these regulations in relation thereto.

5.6.2 All costs incurred for such services shall be borne by the subdivider, as further provided below, deposits shall be required in advance to cover the estimated costs of said services. Such deposits shall be in the amounts determined by the duly adopted fee schedule therefore, if any, or in the amounts to be determined by the Planning Board, or its duly authorized agent, as sufficient to cover all such costs. Fees for the preparation of, or review of, environmental impact statements shall be as determined by 6 NYCRR, Part 617, adopted pursuant to Article 8 of the Environmental Conservation law.

5.6.3 Deposits due for such said services are as deemed by the Planning Board to be required for its appropriate review of any particular application shall be filed by the subdivider, or his duly authorized agent, with the Town Clerk by certified check endorsed to the Town of Fort Ann. An application shall not be complete until all such aforementioned deposits have been received; no application shall be deemed complete by the Planning Board until the requirements of this section have been complied with.

5.6.4 In like manner, deposits required for such services, as are related to the development of a plat and the installation of improvements therein shall be filed in the Town Clerk's office before final plat approval (signing of the plat by the duly authorized officer of the Planning Board).

5.6.5 The balance of such deposits, if any, remaining in excess of such incurred costs shall be returned by the Town Board to the depositor, or paid to the order of the depositor, without payment of interest.

5.6.6 Any deficiency in the amount of such deposits to cover such incurred costs in full shall be submitted to the Town Clerk on or before the specified due date; building permits and / or certificates of occupancy may be withheld for construction within a plat for which any balance of such an amount due remains unpaid until said balance has been duly submitted in full.

## ARTICLE VI VARIANCES AND WAIVERS

### Section 6.1 Variances

Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulation, 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, the Master Plan or the zoning ordinance, if such exist.

### Section 6.2 Waivers

Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

### Section 6.3 Objectives

In granting variances and modifications, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied or modified.

## ARTICLE VII ENFORCEMENT

### Section 7.1 Penalty

Any person owning, controlling or managing any building, structure, land or premises wherein or whereon there shall be place on or there exists or is practiced or maintained anything or any use in violation of any of the provision of this local law, shall be guilty of an offense and subject to fines or imprisonment as follows:

- a) First offense: Not exceeding three hundred fifty dollars (\$350) or six months imprisonment, or both
- b) Second offense: If within five (5) years of the first offense: not less than three hundred fifty dollars (\$350) or more than seven hundred dollars (\$700), or up to six months Imprisonment or both
- c) Third offense: Or subsequent offense (if within five (5) years of the first and second offenses); not less than seven hundred dollars (\$700) or more than one thousand dollars (\$1,000), or up to six months imprisonment, or both.

Such fines shall be recovered by the Town in a civil action. Every such person shall be recovered by the Town in a civil action. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purpose of this local law.

#### Section 7.2 Alternative Remedy

In case of any violation or threatened violation of any of the provisions of this local law, or conditions imposed by a building permit, in addition to other remedies herein provided, the Town may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

#### Section 7.3 Stop Work Order

- 7.3.1 The Town Board for the Town of Fort Ann herein grants to the Town's Code Enforcement Office the administrative responsibility of immediately terminating any actions by posting a Stop Work Order on the premises wherein the violation has occurred.
- 7.3.2 The Stop Work Order shall serve notice to the owner, builder, developer, agency and/or other individual or business on the premises that all such actions specified on the Stop Work Order must be terminated immediately.
- 7.3.3 Relief from the Stop Work Order can be realized as follows:  
If all provisions of this Local Law, together with other conditions specified by the Town's Code Enforcement Office are met, then the Town Board may authorize the termination of the Stop Work Order.

#### Section 7.4 Misrepresentation

Any permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact of circumstance known, by or on behalf of an applicant shall be void. This section shall not be construed to affect the remedies available to the Town under the above sections of the local law.

#### Section 7.5 Complaints and Violations

Whenever a violation of this local law occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Code Enforcement Office, who may require such complaint to be in writing. The Code Enforcement Office shall have the complaint properly investigated and report thereon to the governing body.

## ARTICLE VIII TERMINATION, INTERPRETATION OF WORDS AND DEFINITIONS.

### Section 8.1 Use and Interpretation of Words

Except where specifically defined herein, all words used in these Regulations shall carry their customary meanings. Words used in the present tense shall include the future. Words use in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

The word "shall" is always mandatory. The word "may" is permissive. "Building" or structure" includes any part thereof, except fence and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the "plot" or "parcel". The word "person" includes a corporation as well as an individual. The phrase "used for" includes "arranged for", "designed for", "intended for" and "occupied for".

### Section 8.2 Definitions

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

Agricultural Use – Any management of any land for agriculture; raising of cows, horses, pigs, poultry and/or other livestock, truck gardens, horticulture or orchards, including the sale of products grown or raised directly on such land and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

Agricultural Use Structure - Any building or structure directly and customarily associated with agricultural use.

Arterial Street - See Major Street.

Building – Any structure which is permanently affixed to the land, is covered by a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or chattels (see Structure")

Cluster Development – A planned development in which the lots are plotted with less than the minimum lot size and dimensional requirements, but which have access to common open space which is a part of the overall development plan.

Collector Street – A street which carries traffic from minor streets to the major system of secondary or arterial streets, the principal entrance and circulation streets within a development.

Commercial Use - Any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. The term shall include but not be limited to the following: drive-in restaurant, fast food operation; filling station; public garage; restaurant, retail store; retail stand and tavern.

Commercial Use, Transient and / or Temporary – Any commercial use where retail display is principally outdoors such as sidewalk sales or within temporary structures including tents. Said use is typically seasonal, not a principal part of a commercial establishment, operating from the same site and facility year round. Such use shall not include community based religious or civic groups or organizations.

Common Facilities - Complementary structures and / or improvements located on a common open space appropriate for the benefit and enjoyment of the space by the public or members of the controlling association or condominium.

Common Open Space - A parcel or parcels of land or an area of water, or a combination of land and water designated and intended for the private or public use of enjoyment of the space and may include such appurtenant structures that are necessary to allow the enjoyment of the space.

Condominium Development – A project or individual single family dwelling units which may consist of one, a part, or more than one structure wherein the dwelling units are individually owned, each owner holding a title thereto, while retaining together with all the other owners of units in the project, an undivided interest in the



common facilities and areas of the buildings and ground which are used by all the residents, through an offering prospectus. All condominium developments shall be reviewed as subdivision.

Condominium Unit – An individual single family dwelling unit within a condominium development

Dead-End Street – (cul-de-sac) – A street or a portion of a street with only vehicular outlet and with a turn-around at its terminus.

Duplex or Dwelling, Two Family – A detached building containing two (2) dwelling units.

Dwelling Unit – A building or portion thereof providing complete housekeeping facilities for one family.

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

Family – One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

Farm – Any parcel of land used for agricultural or silviculture use including any structure, building, or residence which is incidental to the permitted use.

Home Owners Association – A contract agreed to by owners of home in an area that provides regulations for the operation and maintenance of a commonly owned facilities and / or open space.

Land Clearing – The excavation, cutting, removal, alteration, destruction or clearing of perennial or annual vegetation, including trees, or the disturbance of soil.

Landscape – All the natural features, such as fields, hills, forests, water, etc. , that distinguish one part of the earth's surface from another part, usually that portion of land or territory which the eye can comprehend in a single view, including all of its natural characteristics.

Landscape Plan – A plan of sufficient detail to describe proposed changes in topography, structures, vegetation and visual characteristics.

Major Street – A street which serves or is designated 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.

Major Subdivision – Any Subdivision not classified as a minor subdivision or a resubdivision.

Master or Comprehensive Plan – A comprehensive plan prepared by the Planning Board pursuant to Section 272-1 of the 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.

Minor Street – A street intended to serve primarily as an access to abutting residential properties.

Minor Subdivision – Any subdivision containing not more than three (3) lots, in addition to the original, each fronting on an existing public street, not involving any new street or road or the extension of municipal facilities not adversely affecting the development of the remainder of the parcel or adjoining properties, and not in conflict with any provision or portion of the Master Plan. A landowner who has completed the requirements for a minor subdivision approval may not apply for another minor subdivision permit on the same premises until three (3) years has elapsed since the original approval.

Mobile Home – Any vehicle or similar portable structure or any part thereof or addition thereto with or without a foundation or wheels, jacks, skirting, wood or masonry block supports, designed or constructed to be

towed on its own chassis (comprised of frame and wheels), driven or otherwise transported to its resting site and which is designed to permit occupancy for residential, business, commercial or office purposes. Such will include units that may contain parts that may be folded, collapsed or telescoped when being towed or expanded later, as well as two or more separate components designed to be joined into one integral unit but excluding modular homes. See "Single Family Dwelling".

Mobile Home Park - A parcel of land under a single deed ownership which is designed and improved for the placement of two or more mobile home units thereof.

Modular Home - Any building comprised of two (2) or more sections with or without their own chassis, capable of being transported to their building site and permanently joined into one integral unit which indistinguishable in appearance from a conventionally built home, including, but not limited to, a sloped roof and permanent foundation.

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

Official Submittal Date - The time of submission of the subdivision plat shall be considered to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which the application for approval of the subdivision plat, complete and accompanied by the required fee, and all data required by these regulations has been filed with the Secretary of the Planning Board.

Planning Board - Pursuant to Section 271 of the Town Law, the Town of Fort Ann created a "Planning Board". Such Board consists of seven (7) members appointed by the Town board in such manner and for such terms as provided in the Town Laws. The Planning Board shall have all the powers and perform all the duties prescribed by Statute and by this Ordinance.

Plat, Final - The final map of all or a portion of the subdivision which is presented to the Planning Board for final approval in accordance with these regulations and which, if approved, shall be filed with the County Clerk.

Plat, Preliminary - A drawing or drawings clearly marked "Preliminary Plat" showing the salient features of a proposed subdivision, as specified in these Regulations, submitted to the Planning Board for purposes of consideration prior to submission of the Plat in final form and of sufficient detail to apprise the Planning Board of the lay out of the proposed subdivision.

Plat, Sketch, or Sketch Plan - A sketch of a proposed subdivision showing the information specified in these Regulations to enable the subdivider to save time and expense in reaching general objectives of these Regulations.

Resubdivision - A change in a subdivision plat or resubdivision plat filed in the office of the County Clerk, which change a) affects any area reserved thereon for public use; b) affects any street layout shown on such plat; or c) diminishes the size of any lot shown thereon.

Sketch Plan - A free-hand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

Street - A right of way for vehicular traffic, including road, avenue, lane, highway, or other way

Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street Width - The distance between property lines.

Structure - Any object constructed, installed or permanently placed on land to facilitate land use and development or subdivision of land, including, but not limited to, building, sheds, single family dwellings, mobile homes, signs, service station pumps, drive-in or drive through islands with or without canopies, all above ground tanks, and any fixtures, addition and alterations thereto but excluding animal shelters less than 100 square feet. (see "building").

Subdivider - Any person, firm, corporation, partnership or association, or successors in interest to any such parties, who shall lay out any subdivision or part thereof as defined herein, either for himself or others.

Subdivision - A division of any residential, commercial or industrial land into two (2) or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy by any person or by any other person controlled by, under common control with any such person or group of persons acting in concert as part of a common scheme or plan provided, however, that this shall not apply to conveyances of small amounts of land to correct a boundary of a lot so long as such conveyance does not create additional lots and furthermore, division of land for agricultural purposes shall be exempt. For the purpose of these regulations, a condominium shall be reviewed as a subdivision.

Subdivision Plat or Final Plat - A drawing in final form showing a proposed subdivision containing all information or 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.

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

Town - The Town of Fort Ann in New York State.

Town Authorized Engineer - The duly designated engineer of the Town.

Town House - A dwelling unit which is one of a series of units, having a common party wall between each adjacent unit, each with private outside entrances.

Townhouse Development - A multiple family dwelling project of individual single family units arranged in a row of at least three (3) such units each on its own separate lot of record and wherein each unit has its own front and rear access to the outside, no unit located over another unit, and each unit is separated from any other unit by one or more common walls.

Travel Trailer Camp - A parcel of land, which is occupied or used for the placement of two or more travel trailers, motor homes or similar temporary living quarters.

Travel Trailer or Travel Vehicle - Any portable vehicle, including a tent camper or motor home, which is designed to be transported on its own wheels, which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and which may or may not include on or all of the accommodations and facilities customarily included in a mobile home.

(Complete the certification in the paragraph, which applies to the filing of this local law)

1. (Final adoption by local legislative body only)

I hereby certify that the local law annexed hereto, designated as local law No. ..5... of 19...90...

of the Town of .....Fort Ann.....was duly passed by the .....Town Board.....  
(Name of Legislative Body)

on ....July.....9.....19.....90.....In accordance with the applicable provision of Law.

- Elective Chief Executive Officer means or Includes the chief executive officer of a county elected as a county-wide basis or, If there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph .....above.

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Mary Jane Godfrey  
Town Clerk

Date: July 9, 1990

(seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality)

STATE OF NEW YORK  
COUNTY OF .....Washington.....

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

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(Signature)

Attorney to the Town of Fort Ann

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(Title)

Date: July 9, 1990

Town of .....Fort..Ann.....