

CHAPTER 67

SUBDIVISION REGULATIONS

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[HISTORY: Adopted by the Common Council of the City of Dunkirk on 4-25-1995 as L.L. #12-1995. Amendments noted where applicable.]

ARTICLE I
Introduction

§ 67-1010 Intent.

The City of Dunkirk will consider the land subdivision plats as part of a plan for the orderly efficient and economical development of the City. No subdivision of any lot, tract or parcel of land shall be effected, and no street, sanitary sewer, storm sewer, water main or other facilities in connection with the subdivision shall be laid out, constructed, opened or dedicated for public use and travel, or for the common use of occupants of buildings abutting the subdivision, except in strict accordance with the provisions of these regulations.

The regulations established by this Chapter are designed to assist in the systematic implementation of the comprehensive plan, Zoning Law and other regulations and to provide for public needs, health and safety, convenience and general welfare. Neither the approval nor conditional approval of the subdivision plat shall constitute or waive compliance with any other applicable provisions in the City of Dunkirk.

§ 67-1020 Title.

This law shall be known and may be cited as the "City of Dunkirk Subdivision Regulations".

§ 67-1030 Fees.

Fees for minor and major subdivision reviews shall be as established by the City Council in the City of Dunkirk as in effect at the time of application. The Planning Board may retain consulting services from engineers, architects, landscape architects, lawyers, planners or other professional services during the course of subdivision plat review conducted pursuant to this law; an agreement shall be made with the subdivider to retain these professional services. The subdivider shall pay any actual costs attributable to a consultant's review of an application. The Planning Board may require a subdivider to deposit such funds as may be necessary to pay for these services with the City in advance.

**ARTICLE II
Procedure****§ 67-2010 Approval.**

The subdivider, or his duly authorized agent, shall apply, in writing, for approval of a proposed subdivision:

- 1) whenever any subdivision of land is proposed to be made and;
- 2) before any contract for the sale of or any offer to sell any lots in such subdivision or any part is made and;
- 3) before any permit for the erection of a structure in such proposed subdivision shall be granted.

Proposed subdivision shall be determined by the Building Inspector to be either minor or major as defined in Article VII - Definitions and shall comply with all applicable application requirements, review procedures and design standards contained herein. The subdivision review procedure shall be as defined herein and consists of the following actions:

- 1) Minor Subdivision
 - a) sketch plan conference (optional but recommended)
 - b) submission or application for final plat approval procedure followed and the State Environmental Quality Review Act (SEQRA) process completed
 - c) Staff review and recommendation
 - d) Planning Board review
 - e) Public hearing
 - f) Final SEQRA action
 - g) Planning Board action on final plat
 - h) File plat with County Clerk (by subdivider)
- (2) Major Subdivision

- a) sketch plan conference (optional but recommended)
- b) submission of application for preliminary plat approval and the State Environmental Quality Review Act (SEQRA) process initiated
- c) staff review and recommendations
- d) planning Board review
- e) public hearing
- f) planning Board action on preliminary plat
- g) submission of application for final plat approval
- h) planning Board review
- i) public hearing (optional - based on preliminary plat action)
- j) final SEQRA action
- k) planning Board action of final plat
- l) file plat with County Clerk (by subdivider)

§ 67-2020 Minor Subdivision Review Procedure.

All applicants for minor subdivision review and approval shall follow the procedures of this Section.

1) Sketch Plan Conference

All potential subdividers are encouraged to meet with City of Dunkirk staff prior to the submission of a formal application for a minor subdivision approval. The applicant should consult with the following as applicable:

- a) Department of Planning and Development;
- b) Department of Public Works;
- c) Fire Department;
- d) Police Department;

- e) Building Department.

Such a meeting may be used to expedite the review process by allowing the City and applicant to be advised of the following:

- a) Classification of the project as a minor or major subdivision;
- b) Requirements under the State Environmental Quality Review Act (SEQRA);
- c) Applicability County Planning Board review;
- d) Applicable County or State reviews;
- e) Determination of wetlands and floodplains;
- f) Infrastructure requirements.

2) Application Procedure

The review procedure for a minor subdivision shall consist of a final application approval. The application procedure shall include:

- a) Submission of Application - All application and fees for minor subdivision final approval shall be submitted by the subdivider to the Building Inspector at least thirty (30) days prior to the Planning Board meeting at which the application is to be considered. The application shall contain all items as required in Article IV- Application and Plat Requirements of this law.
- b) Acceptance of Completed Application - The Building Inspector shall consider the application for completeness and shall:
 - i) classify the subdivision as minor or major;
 - ii) determine requirements of the State Environmental Quality Review Act;
 - iii) submit the application to the Chautauqua County Planning Board as required;
 - iv) determine if additional information should be submitted.

- c) Submission Date - The Planning Board shall establish an official submission date for the subdivision application. Such date shall be the date the following has occurred:
- i) the application has been accepted as complete including all information required in Article IV - Application and Plat Requirements of this law;
 - ii) a draft environmental impact statement has been prepared if necessary;
 - iii) the recommendation of the Chautauqua County Planning Board has been received or the 30 day review period for the County has lapsed.
- d) Non Compliance with Zoning Law - Where the application shows lots that are not in compliance with the Zoning Law, the Planning Board may require the developer refer the application to the Zoning Board of Appeals for an area variance review prior to the commencement of the Planning Board review.
- e) Public Hearing - Following the review of the application for conformity to this law and negotiations with the subdivider on applicable changes, the Planning Board shall hold a public hearing. This hearing shall be held within forty five (45) days of the official submission date of the application. The subdivider or his agent shall attend the public hearing or the project will be tabled until the Board is contacted by the subdivider. This hearing may also fulfill the requirements of the State Environmental Quality Review Act (SEQRA) for the draft environmental impact statement when such hearing is required. The hearing shall be advertised at least once in the City's official newspaper at least five days prior to the hearing.
- f) Action on Final Application - The Planning Board shall by resolution:
- i) approve the subdivision;
 - ii) approve with modifications or;
 - iii) disapprove the application;

within forty five (45) days of the public hearing. This time frame may be extended by mutual consent of the subdivider

and Planning Board. The subdivider shall be notified of the final action by the Planning Board within five (5) days.

If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board including reference to the provisions violated by the application.

- g) Approval with Modifications - A copy of the approval with modifications shall be filed with the Planning Board and a copy provided to the subdivider along with a statement of the requirements that shall accompany the application which, when completed, shall authorize the signing of the conditionally approved plat by the Planning Board Chairperson. Conditional approval of an application shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may extend the expiration time, not to exceed two additional periods of ninety (90) days each.

Upon staff acceptance of the completion of the conditional approval requirements as stated in the conditional approval resolution, the Planning Board Chairperson shall sign the plat thus granting final approval.

- h) Filing Final Plat - The subdivider shall file the plat in the office of the Clerk of Chautauqua County, New York within thirty (30) days after the date of final approval. If the subdivider fails to file the plat, the plat shall be considered void and must again be submitted along with a complete application and appropriate fees to the Planning Board for approval.

A mylar copy of the approved subdivision will also be filed with the City of Dunkirk Department of Public Works.

§ 67-2030 Major Subdivision Review Procedure.

All applicants for major subdivision review and approval shall follow the procedures outlined in this Section.

- 1) Sketch Plan Conference

All potential subdividers are encouraged to meet with the City of Dunkirk staff prior to the submission of a formal application for a major subdivision approval. The applicant should consult with the following as applicable:

- a) Department of Planning and Development;
- b) Department of Public Works;
- c) Fire Department;
- d) Police Department;
- e) Building Department;
- f) Recreation Department.

Such a meeting may be used to expedite the review process by allowing the City and applicant to be advised of the following:

- a) classification of the project as a minor or major subdivision;
- b) requirements under the State Environmental Quality Review Act (SEQRA);
- c) applicability of County Planning Board review;
- d) applicable County or State reviews;
- e) determination of wetlands and floodplains.

2) Application Procedure

The review procedure for a major subdivision consists of a preliminary application approval and a final application approval. The procedures for preliminary and final applications are outlined below:

Preliminary Application

- a) Submission of Application - All applications and fees for preliminary application approval shall be submitted by the subdivider to the Building Inspector at least thirty (30) days prior to the Planning Board meeting at which the application is to be considered. The application shall contain all items as required in Article IV - Application and Plat Requirements of this law.

- b) Acceptance of Completed Application - The Building Inspector shall consider the application for completeness and shall:
 - i) classify the subdivision as minor or major;
 - ii) determine requirements of the State Environmental Quality Review Act;
 - iii) submit the application to Chautauqua County Planning Board as required;
 - iv) determine if additional information should be submitted.

- c) Submission Date - The Planning Board shall establish an official submission date for the major subdivision preliminary application. Such date shall be the date the following has occurred:
 - i) the major subdivision preliminary application has been accepted as complete including all information required in Article IV - Application and Plat Requirements of this law;
 - ii) a draft environmental impact statement has been prepared for the major subdivision, if necessary;
 - iii) The recommendation of the Chautauqua County Planning Board has been received or the 30 day review period has lapsed.

- d) Non-compliance with Zoning Law - Where the application shows lots which are not in compliance with the City of Dunkirk Zoning Law, the Planning Board may refer the application to the Zoning Board of Appeals for an area variance review prior to the commencement of the Planning Board review.

- e) Public Hearing for Preliminary Application - Following the review of the preliminary application submitted for conformity to this law and the negotiations with the subdivider on applicable changes, the Planning Board shall hold a public hearing. This hearing shall be held within forty five (45) of days of the official submission date of the application. The subdivider shall attend the public hearing or the project will be tabled until the Board is contacted by the subdivider. This hearing may also fulfill the requirements of the State

Environmental Quality Review Act (SEQRA) for the draft environmental impact statement when such hearing is required. The hearing shall be advertised at least once in the City's official newspaper at least five days before the hearing.

- f) Action on Preliminary Application - The Planning Board shall by resolution:
- i) approve the preliminary application;
 - ii) approve the preliminary application with modifications or;
 - iii) disapprove the preliminary application;

within forty five (45) of days of the public hearing. This time frame may be extended by mutual consent of the subdivider and Planning Board. Within five (5) days, the action of the Planning Board shall be noted on three copies of the preliminary plat and a list of modifications attached. One copy shall be returned to the subdivider and the other two copies retained by the Planning Board.

If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board including reference to the provisions violated by the application.

- g) Preliminary Approval - Approval of a preliminary application shall not constitute approval of the final application, but shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion for formal approval, the subdivider shall comply with these regulations and all requirements set forth by the Planning Board in their review of the preliminary plat.

Final Application

- a) Submission of Application - All major subdivisions shall require final application approval by the Planning Board. If the final application is not submitted for approval within six (6) months of preliminary application approval, the Planning Board may revoke the preliminary application approval. The subdivider shall file an application and all supporting documentation with the appropriate fees for final application approval with the Building Inspector at least ten (10) days

prior to the Planning Board meeting at which the application is to be considered. The application shall contain all items as required in Article IV - Application and Plat Requirements of this law.

- b) Submission Date - The Planning Board shall establish an official submission date for the major subdivision final application. Such date shall be the date the Planning Board determines the application to be complete and include all items that were required as part of the preliminary application approval.
- c) Public Hearing (optional) - A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a final decision. This hearing shall be held within forty five (45) days of the official submission date of the application. The subdivider shall attend the public hearing or the project will be tabled until the Board is contacted by the subdivider. The hearing shall be advertised at least once in the City's official newspaper at least five days before the hearing.

The public hearing may be waived by the Planning Board if the final application is in substantial agreement with the preliminary application. If the final application is not in substantial agreement with the approved preliminary application, or additional hearings are required under SEQRA, then the public hearing shall be conducted.

- d) Guarantees for Required Improvements - The applicant shall enter into one of the following agreements with the City of Dunkirk to ensure the construction and installation of public improvements:
 - i) the subdivider will construct all improvements as required by these regulations and by the Planning Board prior to final approval of the application;
 - ii) the applicant shall file a performance bond in such amount and form as determined by the Department of Public Works to ensure that the public improvements are built in compliance with the approved subdivision
- e) The applicant shall guarantee all public improvements for a period of two (2) years after complete installation. Prior to the City Council accepting the improvements for the purpose of

perpetual maintenance, the Department of Public Works shall review the condition of all construction and prepare a report of recommendation to the Council. All pavements or other improvements requiring replacement or repair shall be defined by the Department of Public Works and the subdivider shall complete all required replacement or repairs at his/her own expense prior to acceptance by the City Council.

- f) Action on Final Application - The Planning Board shall, by resolution:
- i) approve the final application;
 - ii) approve the final application with modifications;
 - iii) disapprove the final application;

within forty five (45) of days of the public hearing. If the public hearing has been waived, the Planning Board shall act within forty five (45) days of the final application official submission date. This time frame may be extended by mutual consent of the subdivider and Planning Board. The subdivider shall be notified of the final action of the Planning Board.

If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board including reference to the provisions violated by the application.

- g) Approval with Modifications - The final application approval shall be certified by the Planning Board within five (5) days of approval with modifications. A copy shall be filed with the Planning Board and a copy provided to the subdivider along with a statement of all requirements that shall accompany the application that, once completed, will authorize the signing of the conditionally approved plat by the Planning Board Chairperson. Approval with modifications of the application shall expire one hundred eighty (180) days after the date of the resolution granting conditional approval. The Planning Board may extend the expiration time, not to exceed two additional periods of ninety (90) days each.
- h) Approval of Final Plat in Phases - Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be divided into two or more phases and may, in its resolution granting conditional or final approval, state such requirements as it deems necessary to insure the

orderly development of the plat be completed before such phases may be signed by the Planning Board Chairperson. Conditional or final approval of the phases of the final plat, subject to any conditions imposed by the Planning Board, shall be granted concurrently with conditional or final approval of the plat.

In the event the owner shall file only one phase of such approved plat in the Office of the County Clerk, two copies of the entire approved plat shall be filed within thirty days of the filing of such phases with the City Assessor. Such phase shall encompass at least ten (10) percent of the total number of lots contained in the approved plat and the approval of the remaining sections of the approved plat shall expire unless said phases are filed in the Office of the County Clerk within three (3) years of the filing of the first section with the County Clerk. Segmentation, as defined by the State Environmental Quality Review Act, shall be avoided in all cases.

- i) Filing of Final Plat - The subdivider shall file the major subdivision final plat in the office of the Clerk of Chautauqua County, New York within thirty (30) days after the date of final approval. If the subdivider fails to file the plat, the plat shall be considered void and must again be submitted along with a complete application and appropriate fees to the Planning Board for approval.

§ 67-2040 Acceptance of Improvements.

The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the City of any street, park, playground, recreation area, easement, public utility or any other improvement. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the City Council covering future deed and title, dedication and provision for the costs of developing and maintaining such improvements.

§ 67-2050 Modifications of Designs After Approval.

If at any time it is demonstrated that unforeseen conditions make it necessary to modify the location or design of improvements required by the Planning Board, the Planning Board Chairperson may authorize such modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not substantially alter the function of any such improvement required by the Planning Board. Any such authorization issued

under this section shall be in writing and shall be reported to the Planning Board at the next regular meeting.

ARTICLE III
Design Standards and Required Improvements

§ 67-3010 General.

Land to be subdivided into lots shall be of such character that it can be used safely for building purposes without danger to the public safety and shall be in harmony with the City of Dunkirk's comprehensive plan including the zoning law. Parcels that can not be used safely for building purposes shall have a designated benefit including, but not be limited to, access, parks or natural areas. All required improvements shall be constructed or installed in conformance with City specifications outlined in this law.

§ 67-3020 Minor Subdivision Design Standards.

1) Subdivision Design

The following standards shall be incorporated into all minor subdivisions, as applicable:

- a) All side lines of lots shall be generally at right angles to street lines.
- b) All parcels shall comply with the provisions of the City of Dunkirk Zoning Law, except that the Planning Board may, in unique circumstances, approve substandard parcels in the following circumstances:
 - i) for street or access rights of ways;
 - ii) where the parcel is intended to be used permanently for non-structural recreational purposes;
 - iii) where the land is intended to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel;
 - iv) where the land is intended to be left permanently undeveloped or;
 - v) where the land is to be used for essential facilities as defined by the Zoning Law.
- c) The Planning Board shall, wherever possible, preserve all natural features which add value to residential developments and the community, such as large trees or groves, water

courses, beaches, historic sites, vistas and other similar irreplaceable natural assets.

- d) The lot arrangement shall be such that in constructing a building in compliance with the City of Dunkirk Zoning Law there will be no foreseeable difficulties for reasons of natural conditions.
- e) Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard. Such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions. Subdivided areas in flood hazard areas are subject to the City of Dunkirk Zoning Law.

2) Access

- a) All lots shall be designed so as to allow for safe access.
- b) All lots shall be designed so as to allow for the construction of driveways within the street right of way not exceeding an eight (8) percent grade.
- c) When a watercourse separates a street from abutting lots, provisions shall be made for access to all lots by means of culverts or other structures.

3) Utility Easements

Where lot configuration is such as to make impractical the inclusion of utilities within the street rights of way, perpetual unobstructed easements shall be otherwise provided with satisfactory access to the street. Such easements shall be cleared and graded where required.

4) Monuments

Permanent monuments shall be set at the subdivision boundaries at all corners and at such other points as required by the Planning Board. Such monuments shall be iron rods or pipes or concrete monuments.

5) Water Supply

All developable lots in minor subdivisions shall be connected to the City of Dunkirk municipal water supply in compliance with NYS Health Department and City of Dunkirk regulations. The final plat shall show all proposed connections.

6) Sanitary Sewage System

All developable lots in minor subdivisions shall be connected to the City of Dunkirk sanitary sewage system in accordance with the City's Department of Public Works regulations. The final plat shall show all proposed connections.

7) Storm Sewage Management

The following shall apply to all minor subdivisions:

- a) Surface water shall be carried off site by pipe and connected to the City of Dunkirk storm water system where required by the Planning Board. Drainage facilities shall be located in the street right of way when feasible or in perpetually unobstructed easements of appropriate width.
- b) Culverts or other drainage facilities shall be sized to accommodate potential run-off from the entire upstream drainage area whether inside or outside the subdivision. All storm water facilities shall be sized to accommodate a one hundred (100) year storm under conditions of total potential development permitted by the City of Dunkirk Zoning Law.
- c) Water shall not be discharged, retained or detained in such a way that it will negatively impact abutting or adjacent property
- d) The rate of runoff upon completion of the development will not increase from the pre-development rate of storm water runoff.

§ 67-3030 Major Subdivision Design Standards.

1) Subdivision Design

The following standards shall be incorporated into all major subdivisions, as applicable:

- a) All parcels shall comply with the provisions of the City of Dunkirk Zoning Law, except that the Planning Board may, in unique circumstances, approve substandard parcels in the following circumstances:
 - i) for street or access rights of ways;
 - ii) where the parcel is intended to be used permanently for non-structural recreational purposes;
 - iii) where the land is intended to be conveyed to an adjacent landowner for purposes of combination with an adjacent parcel;
 - iv) where the land is intended to be left permanently undeveloped or;
 - v) Where the land is to be used for essential facilities as defined by the Zoning Law.
 - b) All side lines of lots shall be generally at right angles to street lines.
 - c) The Planning Board shall, wherever possible, preserve all natural features which add value to residential developments and the community, such as large trees or groves, water courses, beaches, historic sites, vistas and other similar irreplaceable assets.
 - d) The lot arrangement shall be such that in constructing a building in compliance with the City of Dunkirk Zoning Law there will be no foreseeable difficulties for reasons of natural conditions.
 - e) Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard. Such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions. Subdivided areas in flood hazard areas are subject to the City of Dunkirk Zoning Law.
- 2) Access
 - a) All lots shall be designed so as to allow for safe access.

- b) All lots shall be designed so as to allow for the construction of driveways within the street right of way not exceeding an eight (8) percent grade.
- c) When a watercourse separates a street from abutting lots, provisions shall be made for access to all lots by means of culverts or other structures.
- d) Subdivisions containing twenty (20) or more lots shall have at least two access points.

3) Utility Easements

Where lot configuration is such as to make impractical the inclusion of utilities within the street rights of way, perpetual unobstructed easements shall be otherwise provided with satisfactory access to the street. Such easements shall be cleared and graded where required.

4) Monuments

Permanent monuments shall be set at the subdivision boundaries at all corners and at such other points as required by the Planning Board. Such monuments shall be iron rods or pipes or concrete monuments.

5) Water Supply

All developable lots in major subdivisions shall be connected to the City of Dunkirk municipal water supply in accordance with NYS Health Department and City of Dunkirk regulations. The final plat shall show all proposed connections.

6) Sanitary Sewage System

All developable lots in major subdivisions shall be connected to the City of Dunkirk sanitary sewage system in accordance with the City's Department of Public Works regulations. The final plat shall show all proposed connections.

7) Storm Sewage Management

The following shall apply to all major subdivisions:

- a) Surface water shall be carried off site by pipe and connected to the City of Dunkirk storm water system where required by the Planning Board. Drainage facilities shall be located in the street right of way when feasible or in perpetually unobstructed easements of appropriate width.
 - b) Culverts or other drainage facilities shall be sized to accommodate potential run-off from the entire upstream drainage area whether inside or outside the subdivision. All storm water facilities shall be sized to accommodate a one hundred (100) year storm under conditions of total potential development permitted by the City of Dunkirk Zoning Law.
 - c) Water shall not be discharged, retained or detained in such a way that it will negatively impact abutting or adjacent property. Where it is anticipated that the additional run-off incident to the development of the subdivision will adversely impact downstream lands or overload an existing downstream drainage facilities during a five (5) year storm or greater, the Planning Board shall not approve the subdivision until provision has been made by the developer for mitigating the condition.
 - d) The rate of runoff upon completion of the development will not increase from the pre-development rate of storm water runoff.
- 8) Street Layout and Design Standards

Public streets shall be of sufficient width, suitably located and adequately constructed to conform to the City of Dunkirk comprehensive plan. Streets shall accommodate the anticipated traffic and afford access for fire fighting vehicles, snow removal and other street maintenance equipment. The arrangement of streets shall not cause undue hardship to adjoining properties and shall be coordinated to comprise an efficient and convenient system.

Public streets shall be graded and improved in accordance with the New York State Department of Transportation Highway Design Manual. Storm drainage facilities, water mains, sewers, lighting, signs, street trees and fire hydrants shall be provided in accordance with the NYS Uniform Fire Prevention and Building Code, the NYS Department of Transportation Highway Design Manual, the City of Dunkirk Water Regulations and City of Dunkirk Plumbing Code.

- a) Street Layout - The street plan of the proposed subdivision shall bear a logical relationship to the topography and other natural features of the site. All streets shall be arranged to ensure a maximum number of building sites are at or above the grade of the streets.
- b) Street Grades - Street grades shall conform in general to the terrain and shall not be less than one half (0.5) percent nor more than six (6) percent for major or collector streets or eight (8) percent for minor streets. No grade shall be more than three (3) percent within fifty (50) feet of any intersection.

All changes in grade shall be connected by vertical curves of length and radius to ensure clear visibility is provided for a safe distance. A combination of steep grades and curves shall be avoided.

- c) Street Linkages - The arrangement of streets in subdivisions proposed in the City of Dunkirk shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided. This will help ensure necessary fire protection, movement of traffic and the construction or extension, presently or when required in the future, of needed utilities and public services such as sewers, water and drainage facilities.
- d) Major Streets - When a subdivision abuts or contains an existing or proposed major street, the Planning Board may require:
 - i) a marginal access street;
 - ii) reverse lot frontage with screen planting contained in a non-access reservation along the rear property line;
 - iii) deep lots with rear service alleys;
 - iv) other treatment as may be necessary;for adequate protection of residential properties and to afford separation of through and local traffic.
- e) Minor Streets - Minor streets shall be configured to discourage their use by through traffic.

- f) Dead End Streets - The creation of dead end or cul-de-sac residential streets will be allowed whenever such type of development will not interfere with normal traffic circulation in the area. An easement may be required to continue pedestrian walkways and utilities to the next street.

Streets designed to be permanently dead ended shall not exceed five hundred (500) feet in length. Such streets shall be terminated in a circular turn around having a minimum radius of sixty (60) feet and a pavement radius of fifty (50) feet.

- g) Street Widths - Streets shall have the following minimum widths:

<u>Street</u>	<u>Right-of-Way</u>	<u>Pavement Width</u>
Major Streets (2 lanes)	66 Feet	40 Feet
Collector Street	60 Feet	28 Feet
Minor Streets	50 Feet	28 Feet

Street right of ways and pavement widths may be increased as deemed necessary by the Planning Board to accommodate on street parking.

- h) Intersections - In general, all streets should intersect so that for a distance of at least one hundred (100) feet, the road is approximately at right angles to the road it joins. Intersections of minor streets with collector or major streets should, in general, be at least two hundred (200) feet apart. Center line offsets of two streets less than one hundred twenty five (125) feet should be avoided.
- i) Curve Radii - In general, road lines shall be connected with a curve, the radius of which for the center line of road shall not be less than four hundred (400) feet for major streets, two hundred (200) feet for collector streets and one hundred (100) feet on minor streets.
- j) Commercial Service Roads - Paved rear service roads or alleys of not less than twenty (20) feet in width or adequate off street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- k) Street Names - Streets shall be named so as not to be confused in sound or spelling with existing street names. Streets that join or align with roads of an abutting or

neighboring property shall bear the same name. General, no street should change direction by more than ninety (90) degrees without a change in name. Signs bearing road names shall be erected by the subdivider at all intersections.

- l) Utilities in Roadways - Underground utilities shall be placed, wherever possible, in the street right of way within the paved roadway to simplify location and repair of utilities. Underground service connections shall be installed to the lot line of each lot for all required utilities prior to road pavement.

Fire hydrants shall be spaced and installed in conformity with all requirements of the New York State Uniform Fire Prevention and Building Code.

When natural features make the inclusion of utilities within street right of ways impractical, perpetual unobstructed easements at least twenty (20) feet in width shall be provided with satisfactory access to the street. Wherever possible, easements shall be continued from block to block and shall present as few irregularities as possible. Such easement shall be cleared and graded when required.

Road lighting shall be in conformance with the lighting system of the City of Dunkirk in conformance with City regulations.

- m) Blocks - The length, width and shape of blocks shall be determined and consider the following:
- i) provision of adequate sites for buildings of the type proposed;
 - ii) zoning requirements;
 - iii) topography;
 - iv) requirements for safe and convenient vehicular and pedestrian circulation.

Blocks generally should not be less than two hundred (200) feet nor more than one thousand two hundred (1200) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty foot easement through the block to provide for

crossing utilities and pedestrian traffic and may specify a five (5) feet wide walkway.

- n) Pedestrian Circulation - Sidewalks, walkways and pedestrian paths shall be determined and included in the subdivision design. The circulation patten will connect the site with off site pedestrian circulation systems and other significant features.

9) Parks, Playgrounds and Open Space

Upon a finding by the Planning Board that a proper case exists for requiring that a park or recreational space be suitably located on the plat for playgrounds or other recreation purposes, the Planning Board may require the developer satisfactorily develop any such area shown on the plat. Any such findings shall include an evaluation of existing studies of the present and anticipated future needs for park and recreational facilities in the City based on projected population growth to which the particular subdivision plat will contribute.

Upon such finding, the Planning Board shall require a maximum of ten (10) percent of the total area of the subdivision be allocated for park or recreational use; the selection of the park site will be a mutual agreement of the Planning Board and subdivider to ensure a proper site is chosen. Such area may be dedicated to the City of Dunkirk by the subdivider if the City Council approves such dedication. Alternatively, park or recreational space may be dedicated to the homeowners association for control and joint private ownership and maintenance.

In the event that an area to be used for a park or playground is required, the subdivider shall submit a site plan to the Planning Board, prior to final approval, in conformance with the City of Dunkirk Zoning Law. The plan shall include, but not be limited to:

- a) the survey and deed showing the boundaries of the area, giving lengths and bearings of all straight lines, radii, lengths, central angles and cord distances of all curves;
- b) existing and, if applicable, proposed changes in grade and contours of the said area and of areas immediately adjacent to the park or playground.

Should the Planning Board make a finding that the proposed subdivision plat presents a proper case for requiring a park or recreational area, but that a suitable area of adequate size to meet

the requirement cannot be properly located on such plat, the Planning Board may require a sum of money in lieu of the park land as outlined in the City's fee schedule.

In making a determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any moneys required by the Planning Board pursuant to this Section shall be deposited into a trust fund to be used by the City exclusively for park, playground or other recreational purposes, including the acquisition of property.

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

10) Street Trees

All subdivisions shall include a total of one street tree/lot and shall be installed by the subdivider. Street trees shall be selected from a "list" of approved trees and shall meet the specifications prepared by the City's Department of Public Works.

ARTICLE IV
Application and Plat Requirements

§ 67-4010 Minor Subdivision Application Requirements.

The following shall be submitted with all minor subdivision applications submitted to the City of Dunkirk:

- 1) application form
- 2) non-refundable application fee
- 3) a certificate issued by the authorized City, County and School official verifying that no unpaid taxes or special assessments are due and payable at the time of application approval on any of the lands included in the plat.
- 4) a copy of such covenants or deed restrictions as is intended to cover all or part of the tract
- 5) ten (10) copies of the minor subdivision plat that includes all information outlined in Article IV - Application and Plat Requirements. The Building Inspector shall distribute copies of the application to the following:
 - a) Department of Planning and Development;
 - b) Department of Public Works;
 - c) Fire Department;
 - d) Police Department;
 - e) Planning Board members;
 - f) Other Review Agencies, as required.
- 6) where applicable, a statement of the nature and extent of the interest of any State or City employee or officer in the applicant;
- 7) an environmental assessment form, when applicable.

§ 67-4020 Major Subdivision Application Requirements.

The following shall be submitted with all major subdivision applications submitted to the City of Dunkirk:

- 1) fifteen (15) copies of the application form
- 2) non-refundable application fee
- 3) certificate issued by the authorized City, County and School official verifying that no unpaid taxes or special assessments are due and payable at the time of application approval on any of the lands included in the plat.
- 4) a copy of covenants or deed restrictions as is intended to cover all or part of the tract
- 5) If the application is for a phased subdivision covering only a portion of the subdivider's entire holding, a map of the entire subdivision, drawn at an appropriate scale shall be submitted. The map shall include:
 - a) an outline of the platted area;
 - b) proposed streets and probable future streets system with grades and drainage indicated on the remaining portion of the subdivision;
 - c) the probable future drainage layout of the entire subdivision.

The phase submitted shall be considered in the context of the entire subdivision.

- 6) 15 copies of the preliminary subdivision plat that includes all information outlined Article IV - Application and Plat Requirements. The Building Inspector shall distribute copies of the application to the following:
 - a) Department of Planning and Development;
 - b) Department of Public Works;
 - c) Fire Department;
 - d) Police Department;
 - e) Planning Board members;
 - f) Other Review Agencies, as required.

- 7) Where applicable, a statement of the nature and extent of the interest of any State or City employee or officer in the applicant;
- 8) An environmental assessment form, when applicable.

§ 67-4030 Plat Requirements - Minor Subdivisions.

The following information shall be included on all minor subdivision plats prepared for the City of Dunkirk:

- 1) A title block containing the subdivision name, "final plat" title, name of the City and County, date, revision box, scale, surveyor's name/company, professional consultant.
- 2) A certification block with the following statement:

As owner, I hereby certify that I have caused the land described by this plat to be surveyed, divided, mapped, dedicated and access rights reserved as represented on the plat.

_____	_____
Owner Signature	Dated

- 3) The following statement for signature of the Planning Board Chairperson:

Plat Approved: _____

_____	_____
City of Dunkirk Planning Board Chairperson	Dated

- 4) Notes containing any covenant and deed restrictions .
- 5) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, the location and type of all monuments and including elevation contours at USGS intervals shall be prepared and certified by a licensed land surveyor - the corners of the tract shall be referenced and shown on the plat.
- 6) Proposed pattern of parcels and lots with boundaries, including parcel and lot widths, depths and areas within the subdivided area.
- 7) Zoning information including front, side and rear yards, zoning district lines and names of all applicable zones, floodplains and wetlands.

- 8) The plat should cover all land being subdivided including any residual land retained by the owner and shall meet the following:

Existing Conditions

- a) scale 1" = 20' (or as deemed appropriate) and north arrow
- b) names of all subdivisions and owners of record for lots immediately adjacent to the parcel being subdivided (location plan)
- c) zoning boundaries, municipal boundaries, flood hazard areas, wetlands, property boundaries, easements and right of ways as appropriate
- d) existing buildings, water courses, wells, water and sanitary sewer lines, storm water system, wooded areas and other significant features on the parcel, adjacent parcels and right of ways
- e) contour intervals of three feet or as deemed appropriate by the Planning Board
- f) width, location and names of existing and proposed streets and roads
- g) soils types and characteristics including soil profiles for the tract proposed for subdivision
- h) area map showing location of site

Proposed Conditions

- a) all lot lines of proposed lots including bearings, distances, corners and monuments (with descriptions)
- b) lot area of each proposed lot (excluding area inside public right of ways)
- c) all parcels to be dedicated to public use and conditions
- d) location of all proposed facilities to be included in subdivision
- e) proposed sanitary sewer lines indicating size, connections and direction of flow

Plat Approved: _____

City of Dunkirk Planning Board
Chairperson

Dated

- 5) Notes containing any covenant and deed restrictions
- 6) An actual field survey of the boundary lines of the tract, including a legal description, giving complete descriptive data by bearings and distances, the location and type of all monuments and including elevation contours at USGS intervals shall be prepared and certified by a licensed land surveyor - the corners of the tract shall be referenced and shown on the plat
- 7) Proposed pattern of parcels and lots with boundaries, including parcel and lot widths, depths and areas within the subdivided area
- 8) Zoning information including front, side and rear yards, zoning district lines and names of all applicable zones, floodplains and wetlands
- 9) The plat should cover all land being subdivided including any residual land retained by the owner and shall meet the following:

Existing Conditions

- a) scale 1" = 20' (or as deemed appropriate) and north arrow
- b) names of all subdivisions and owners of record for lots immediately adjacent to the parcel being subdivided (location plan)
- c) zoning boundaries, municipal boundaries, flood hazard areas, wetlands, property boundaries, easements and right of ways as appropriate
- d) existing buildings, water courses, wells, water and sanitary sewer lines, storm water system, wooded areas and other significant features on the parcel and adjacent parcels
- e) contour intervals of three feet or as deemed appropriate by the Planning Board
- f) width, location and names of existing and proposed streets and roads
- g) soils types and characteristics including soil profiles for the tract proposed for subdivision

Proposed Conditions

- a) all lot lines of proposed lots including distances, corners and monuments (with descriptions)
- b) lot area of each proposed lot (excluding area inside public right of ways)
- c) all parcels to be dedicated to public use and conditions
- d) location of all proposed facilities to be included in subdivision
- e) location of proposed sanitary sewer lines
- f) location of proposed storm drainage
- g) location of proposed water lines, valves and hydrants
- h) profiles of all roads and streets indicating width, location, grades, curbs, utilities, location of manholes and other details and cross sections as deemed necessary
- i) profiles of all walkways and sidewalks indicating width, location, grades, details and cross sections - also include street lighting standards, street trees
- j) preliminary design of any bridges or culverts that may be required

Final Application Plat Requirements

In addition to the information submitted with the preliminary application, the following shall be submitted with the final plat application:

- 1) sufficient data from an actual field survey to determine readily the location, bearing and length of each street line, lot line, boundary line and to reproduce such lines on site
- 2) Proposed Conditions including:
 - a) profiles of all proposed sanitary sewer lines indicating size, types, location, connections and direction of flow
 - b) profiles of all proposed storm drainage showing culverts, size, types, location, connections and direction of flow - include a

- grading plan where natural contours are to be changed more than two (2) feet
- c) profiles of all proposed water lines, valves and hydrants indicating size, types, location and connection points
 - d) profiles of all roads and streets indicating width, location, grades, curbs, utilities, depth of pavements and sub-base, location of manholes and other details and cross sections as deemed necessary
- 3) length and bearing of all straight lines, radii, length of curves and central angles of all curves and cord bearings for each street shall be indicated in feet and/or fractions of feet
 - 4) all dimensions and angles of the lines of each lot shall be submitted and indicated in feet and/or fractions of feet
 - 5) street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use
 - 6) public open spaces for which deeds are included and those areas reserved by the developer
 - 7) lots and blocks shall be numbered and lettered in alphabetical order
 - 8) permanent reference monuments shall be indicated
 - 9) the plat to be filed with the County Clerk shall be printed upon mylar or an acceptable equal with India ink and shall comply with the requirements of Real Property Law Section 334
 - 10) the plat shall be clearly titled "Final Plat"

A mylar copy of the approved subdivision will also be filed with the City of Dunkirk Department of Public Works.

The Planning Board may waive any of the application requirements listed in this Section where deemed the information is either not applicable or necessary for the specific review. The Planning Board may also require additional information deemed necessary to complete the review.

ARTICLE V
Variances and Waivers

§ 67-5010 Planning Board Authority

The Planning Board is authorized to modify certain provisions of the City of Dunkirk Zoning Law. The Planning Board may consider or require applications for subdivisions which include the following deviations from the Zoning Law as outlined below:

- 1) to eliminate side and rear yard requirements to allow for innovative attached housing types;
- 2) to reduce side and rear yard requirements for existing structures where, in unique and special circumstances, it will result in the more efficient use of land;
- 3) to reduce street frontages that will result in a more efficient use of land;
- 4) to allow for the transfer of the overall density of a subdivision by allowing some parcels of lots smaller than the minimum lot size requirements of the City of Dunkirk Zoning Law when all such reductions are compensated for by a corresponding increase in the lot size of one or more parcels or lots in the subdivision above the minimum lot size of the requirements of the Zoning Law.

§ 67-5020 Cluster Development

The standards and requirements of these regulations may be modified by the City Planning Board in the case of plans for Planned Unit Developments or Cluster Developments as may be permitted in the City of Dunkirk Zoning Law or other large scale developments that, in the judgment of the Planning Board, achieve substantially the objectives of the regulations contained in this Article and which are further protected by such covenants or other legal provisions as will assure conformity to and achievement of the plan.

§ 67-5030 Application for Variances

Applications for modifications and variances shall be submitted in writing by the subdivider at the time the preliminary plan or final plan is filed with the Planning Board. The application shall state fully the grounds and all facts relied upon by the applicant for the variance.

Article VI
Penalties and Severability

§ 67-6010 Violations

Subdividing Land in the City of Dunkirk - It shall be unlawful for any person to subdivide for the purpose of transferring, selling, conveying or assigning any tract or parcel of land which is located wholly or in part in the City of Dunkirk, except in compliance with this law.

It shall be unlawful for any person to sell or exchange or offer to sell or exchange any parcel of land which is part of a subdivision of a larger tract of land or record in the Office of the County Clerk any subdivision plat unless the subdivision has been approved by the City of Dunkirk Planning Board and meets the provisions of this ordinance.

It shall be unlawful for any person to receive a building permit until water and sewer utilities and adequate ingress and egress to the subdivision are installed. It shall be the responsibility of the subdivider to allow no occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable. It shall be unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy permits will not be issued until the improvements are completed.

Whenever a violation of this local law occurs, any person may file a complaint, in writing. All such complaints must be filed with the Building Inspector who shall properly record such complaint and immediately investigate and report to the City Council. The City Council may institute any appropriate action or proceedings to prevent unlawful division of land, to restrain, correct or abate any violation of this law or to prevent the use or occupancy of said land.

§ 67-6020 Penalties

Any person, who violates any provision of this local law, or any regulation adopted, is guilty of an offense punishable by a fine not exceeding One Hundred Dollars (\$100) for each violation. Each daily continued violation shall constitute a separate violation and shall be punishable as such. The Building Inspector of the City of Dunkirk shall issue notices of violation.

§ 67-6030 Severability

If any portion of this Chapter is for any reason held to be unconstitutional or otherwise unenforceable, such determination shall not affect the validity of the

remaining portions of this Chapter. The enacting body declares that it would have, and does approve and enact each subsection, subdivision, paragraph, sentence, clause and phrase, irrespective of the fact that any one or more portions be held unconstitutional or otherwise unenforceable.

Article VII Definitions

§ 67-7010 General

Except where specifically defined, all words used in this Chapter shall carry their customary meanings. The following rules shall apply to the text of this Chapter:

- 1) words in the present tense include the future;
- 2) words in the singular include the plural and the plural the singular;
- 3) the word "shall" is intended to be mandatory;
- 4) the word "lot" shall include the word "plot" or "parcel";
- 5) the word "person" shall include an individual, firm or corporation;
- 6) the words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied";
- 7) a building or structure includes any part;
- 8) the word "and" indicates that all connected items, conditions, provisions or events shall apply;
- 9) the word "or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination;
- 10) the words "either...or" indicates that the connected items, conditions, provisions or events may apply singly but not in any combination.

For the purpose of the subdivision regulations in the City of Dunkirk, certain words and phrases used herein are defined as follows:

BLOCK - The property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting streets and railroad right of way, park, river channel or un-subdivided acreage.

CLUSTER DEVELOPMENT - Development of subdivisions that permits a reduction in lot area requirements for some or all lots in a tract, provided there is no increase in the number of lots permitted under a conventional subdivision and where the resultant land is:

- a) designated as permanent open space; or
- b) permanently combined with the remainder of the lots where only some of the lots are reduced in area.

DEAD END STREET or CUL-DE-SAC - A short street having one end open to traffic and being terminated at the other end which may have a vehicular turn around.

EASEMENT - The right of a person, government agency or public utility company to use public or private land owned by another for a specific purpose.

IMPROVEMENTS - Street grading, street surfacing and paving, curb and gutter, sidewalks, landscaping, cross-walks, water mains and lines, sanitary sewers, storm sewers, drainage facilities, culverts, bridges, utilities, etc.

LOT - A designated parcel or tract of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

CORNER LOT - A parcel of land at the junction of and fronting on two or more intersecting streets.

INTERIOR LOT - A lot other than a corner lot.

THROUGH LOT - An interior lot having frontage on two parallel or approximately parallel streets.

LOT DEPTH - The mean horizontal distance between the front and rear lot lines.

LOT FRONTAGE - The length of the front lot line measured at the street line.

LOT FRONTAGE ON CIRCULAR STREETS - The length of the line measured by a line 15 feet back from and parallel to the chord of the lot frontage; the chord of the lot frontage is the straight line joining the two (2) points where the side lot lines intersect the front lot line.

LOT LINE - A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT OF RECORD - A lot for which a valid conveyance has been recorded in the Office of the County Clerk prior to the effective date of the City of Dunkirk Subdivision Law or is either part of a subdivision plat approved by the Planning Board and filed in the County Clerk's office, or was exempt from the City of Dunkirk Subdivision Regulations at the time of recording with the County Clerk.

LOT AREA - The total area within the lot lines of a lot, excluding any street rights of way.

PARCEL - Any area of land established by plat, subdivision or as otherwise permitted by law, regardless of whether it is defined as a "lot" or whether it is to be developed or built upon as a unit.

PLANTING STRIP - A strip of land between the roadway and the sidewalk or street right of way.

PLAT - A map of a subdivision.

PLOT PLAN - A surveyors plat constructed from deed descriptions and actual physical building or improvement measurements.

PUBLIC STREET - Any vehicular way including the land between the street lines which is:

- a) an existing state, county or City roadway;
- b) shown upon a plat approved pursuant to law as a public street;
- c) approved by other official action or;
- d) shown on a plat duly filed and recorded in the office of the County and City Assessor prior to the grant of plat approval authority to the planning board.

STREET PAVEMENT - The wearing or exposed surface of the roadway used by vehicular traffic.

SIDEWALK - The portion of a street or cross-walk intended for pedestrian use only.

STREET - A term used to describe a right of way serving as a means of vehicular and pedestrian travel also furnishing space for sewers, public utilities and landscaping. Streets include avenues, boulevards, streets, lands and other ways. The streets are classified by function as follows:

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

COLLECTOR STREETS - Streets which carry traffic from minor streets to the major street system or arterial streets and highways including principal entrance streets of a residential development and streets for circulation within such a development.

RESIDENTIAL and MINOR STREETS - Streets intended primarily for access to abutting properties.

MARGINAL ACCESS STREETS - Minor streets which are parallel with, and adjacent to, arterial streets and highways, which provide access to abutting properties and protection from through traffic.

SUBDIVIDER - Any person, firm, corporation, partnership or association, or their agent who shall cause a parcel of land to be divided.

SUBDIVISION - The division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development and includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or area being subdivided and further includes the dedication of public use of a street or other specified area through or in a tract of land regardless of area.

SUBDIVISION, MAJOR - A subdivision not classified as a minor subdivision.

SUBDIVISION, MINOR - A subdivision containing three (3) lots or parcels and not involving:

- a) the creation of any new public street;
- b) the dedication of public lands;
- c) the extension of municipal facilities or other structural public improvements other than minor drainage facilities, or;
- d) the dedication of public open space through cluster development.

SUBSTANDARD LOT/PARCEL - Any lot or parcel of land which does not meet the lot size or frontage requirements of the zoning law.

