

**INCORPORATED VILLAGE OF OLD BROOKVILLE  
LOCAL LAW NO. 5-2007  
“ADOPTION OF REGULATIONS FOR  
THE SUBDIVISION OF LAND”**

A Local Law to repeal both the “Rules of Procedure of Planning Board” and the “Rules and Regulations for Filing Plats for Approval” both adopted by the Board of Trustees on May 21, 1956 and to adopt new “Regulations for the Subdivision of Land” for the Incorporated Village of Old Brookville.

**BE IT ENACTED**, by the Board of Trustees of the Incorporated Village of Old Brookville as follows:

**SECTION 1.** Both the “Rules of Procedure of Planning Board” and the “Rules and Regulations for Filing Plats for Approval” both adopted by the Board of Trustees on May 21, 1956 are hereby repealed and new “Regulations for the Subdivision of Land” for the Incorporated Village of Old Brookville are hereby adopted as follows:

**ARTICLE I**

**Approval Required; Exceptions**

**§ 31.1 Planning Board approval required.**

No person, firm, corporation, partnership or association, as owner, lessee or contract vendee, shall divide any parcel of land in the village into two or more parcels, lots, plots or sites of land by sale, gift, devise, exchange, offer or unconditional contract unless such division of land has been finally approved by the village's Planning Board pursuant to the procedures outlined in these regulations.

**§ 31.2 Exceptions.**

The foregoing provisions of § 31.1 of this Article I shall not apply to, and there is no prohibition against, transfer of land between owners of contiguous property within the village, provided that:

- A. Such transfer is a transfer by sale, gift, devise, exchange, offer or contract by which the land so transferred becomes part of the identical ownership of land contiguous thereto; and
- B. No new lot is created by such transfer; and
- C. Such transfer does not create any lot sizes, setbacks or uses which do not conform to the requirements of Chapter 30, Zoning, of the Code of the Incorporated Village of

Old Brookville as it then exists, in all respects.

## ARTICLE II

### General Provisions

#### **§ 31.21 Authority.**

By authority of Article 7 of the Village Law, as amended, and the resolution adopted by the Village Board on August 20, 2007 pursuant thereto, the Planning Board and Board of Trustees have adopted these regulations for the subdivision of land within the village and, pursuant to section 1610 of the County Government Law of Nassau County, as amended, of land within 300 feet of the boundaries of the Village of Old Brookville.

#### **§ 31.22 Purpose.**

For the purpose of providing for the appropriate growth and development of the village and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population and to promote and preserve the natural character of the village, the Board of Trustees has authorized and empowered the Planning Board to approve plats and the development of plats entirely or partially undeveloped and which have been filed in the office of the Clerk of Nassau County prior to the appointment of the Planning Board and the grant to such Board of the power to approve plats.

#### **§ 31.23 Jurisdiction.**

No person, firm or corporation proposing to make or having made a subdivision, as defined herein, within the territorial limits of the Village of Old Brookville shall make any contract for the sale or shall offer to sell such subdivision or any part thereof or shall proceed with any development, as defined herein, until he or it has obtained from the Planning Board of the Village of Old Brookville approval of the proposed subdivision and/or development pursuant to the procedure outlined in these regulations.

#### **§ 31.24 Plats straddling municipal boundaries.**

Whenever access to the subdivision can be had only across land in another municipality, the Planning Board may request assurance from the Village Attorney that an access road has been legally established and shall ascertain that such access road is adequately improved or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines shall be laid out so as not to cross village boundary lines.

### **§ 31.25 Resubdivision.**

Resubdivision of a lot which has been created and approved under this Chapter shall not be subdivided further, and a covenant to such provision shall be required by all subdivision decisions of the Planning Board, except when the zoning of the lot so subdivided has changed to allow for smaller lots than was permitted at the time of the original subdivision under this Chapter.

### **§ 31.26 Word usage and definitions.**

A. Words in the singular include the plural, and words in the plural include the singular. The word "person" includes a corporation, association and a partnership as well as an individual. The word "building" includes "structure" and shall be construed as if followed by the words "or part thereof." The word "street" includes "road," "highway," "lane," "thoroughfare" and "way." The word "shall" is mandatory and not directive. The word "may" is permissive.

B. Unless otherwise expressly stated, the following terms shall, for the purpose of these regulations, have the meanings indicated:

**BOARD** — The Planning Board of the Village of Old Brookville, Nassau County, New York.

**BOND** -- A performance and payment bond or other security described in Subdivision 9 of § 7-730 of the Village Law.

**CONSTRUCTION PLAN** — The maps and engineering drawings, described in § 31.73 of these regulations, accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of these regulations.

**CONSTRUCTION STANDARDS** — The standards and specifications adopted by the Village Board for the construction of new streets and related improvements.

**DEVELOPMENT** (1) The act of building structures and/or installing site or street improvements and any grading in connection therewith; and  
(2) Such structures, improvements and grading.

**DRAINAGEWAY** — The lands required for the installation of storm areas, drainage ditches or drainage systems, including land required along a stream or watercourse for protecting the channel and providing for the flow of water therein, to safeguard the public against flood and/or to conserve the water supply.

**EASEMENT** — The authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**ENGINEER** — The Engineer of the Village of Old Brookville

**ESCROW DEPOSIT** — A deposit of funds by an applicant in advance of fees, costs, services, and work required for the completion of the subdivision plans, infrastructure, approvals, inspections, and the like.

**LANDSCAPE CONSULTANT** -- A landscape architect or designer who consults for the village on landscape matters.

**LOT** — A parcel of land intended for immediate or future transfer of ownership, improvement or building development.

**PARTITIONING** — A subdivision which is limited to the subdivision of a lot, tract or parcel, as it existed on the effective date of these regulations, into two lots, plots or sites only, which subdivision does not involve the layout of any new street nor the change in lines, drainage or grade of any existing street nor the installation of any street improvement.

**PLAN, SKETCH** — A sketch plan, described in § 31.71 of these regulations, of a preliminary layout to enable the subdivider to discuss informally with the Planning Board and village officials the form of the proposed subdivision as related to the objectives and requirements of these regulations.

**PLAT, SUBDIVISION** — The final map or drawing, described in §31.74 of these regulations, on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted by the subdivider to the Clerk of Nassau County for recording in accordance with law.

**PRELIMINARY LAYOUT** — The preliminary drawing or drawings, described in § 31.72 of these regulations, indicating the proposed manner and/or layout of the subdivision to be submitted to the Planning Board for its consideration.

**STREET** — A thoroughfare dedicated and accepted by a municipality for public use or legally existing on any map of a subdivision filed in the manner provided by law, including private roads..

**STREET, DEAD-END** — A street with only one outlet.

**STREET, LOCAL** — A minor street which serves or will serve primarily

for access to abutting properties.

**STREET, MAJOR** — A principal thoroughfare of considerable continuity which is or will be primarily a traffic artery for intercommunication between communities or large areas.

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

**STREET, SECONDARY** — A street supplementary to the major highway system and primarily a means of intercommunication between this system and smaller areas or among smaller areas.

**STREET WIDTH** — The street right-of-way or distance between property lines measured at right angles to the center line of the street.

**SUBDIVIDER** — Any person, firm, corporation, partnership or association who or which lays out or proposes to lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein.

**SUBDIVISION** — The division of any parcel of land into three or more lots, plots or sites or other division of land for immediate or future sale or for building development, or into two or more lots, plots or sites or other division of land in such a way as to create one or more new streets or extensions of existing streets or changes in existing street or lot lines. The division and transfer of property between adjacent property owners which does not create a new lot or reduce the size of any existing lot area, dimensions or building setbacks below the minimum requirements for the zoning district in which it is located shall not be considered a subdivision within the meaning of these regulations.

**ZONING** — Chapter 30, Zoning, of the Code of the Village of Old Brookville, together with any and all amendments thereto.

### **ARTICLE III**

#### **Review and Approval of Plats**

##### **§ 31.31 Approval required.**

Whenever any subdivision of land is proposed within the territorial jurisdiction of the Board and before any permit for the development of such land or for the erection of a

structure thereon will be granted, the subdividing owner or his authorized agent shall apply for and secure approval of the proposed subdivision in accordance with these regulations. Three principal steps are involved, namely:

- A. Preapplication procedure.
- B. Procedure for conditional approval of preliminary layout.
- C. Procedure for approval of subdivision plat.

### **§ 31.32 Pre-application procedure.**

A. Previous to the filing of an application for conditional approval of the preliminary layout, the subdivider shall meet with the authorized representative of the Board to discuss his sketch plan, which shall comply with the requirements of § 31.71 and the requirements for improvements and public facilities and services. This step does not require formal application, fee or filing of the plat with the Board.

B. The purpose of the pre-application procedure is to afford the subdivider an opportunity to consult early and informally with the Board's representative before preparation of the preliminary layout and before formal application for its approval, in order to save time and unnecessary expense.

C. Before preparing a sketch plan or attending the initial conference, the subdivider should familiarize himself with the regulations, standards and requirements contained herein. It is recommended that the subdivider discuss with the village's authorized representative the requirements as to general layout of streets, lots and reservations and similar matters and, with the Engineer of the village, street improvements, drainage, sewerage, water and like matters, as well as the availability of existing services. In the case of land within 300 feet of village boundaries, the subdivider should also consult with such other planning boards as have jurisdiction under Section 1610 of the County Government Law of Nassau County.

D. The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development with a view to reaching, at this initial stage, firm conclusions regarding the market demand, the suitability of the location of the proposed subdivision, the most advantageous subdivision plan and the arrangement of streets, lots and other features of the proposed development.

### **§ 31.33 Preliminary layout procedure.**

A. Application and fee. If the subdivider shall request the consideration of the Board of a preliminary layout, ten (10) copies of the preliminary layout, which shall in all

respects comply with these regulations, shall be presented to the Village Clerk at least 10 days prior to the meeting of the Board at which it is requested to be considered. The preliminary layout shall be accompanied by a fee, payable to the Village of Old Brookville, in the amount appearing in the fee schedule established by the Village Board. Upon receipt of the preliminary layout and payment of the fee, the Village Clerk shall forthwith deliver the preliminary layout to the Board.

B. Study of preliminary layout. It is recommended that the subdivider or his representative attend the Board meeting when the preliminary layout is considered. The Board will study the practicability of the preliminary layout, taking into consideration the requirements of Article III.

C. Staking of proposed streets and field trip. To facilitate study of the preliminary layout in the field, the Board may require the subdivider to stake certain roads at intervals of 50 feet along their center lines. Each stake shall be marked for ready identification on the preliminary layout and shall show approximate height of proposed cut and fill at that point. The Board may schedule a field trip to the site of the proposed subdivision, which the subdivider should attend.

D. Action on preliminary layout. The Board shall follow the procedures of Village Law § 7-728, subdivision 5, as may be amended from time to time, to approve, approve with conditions or disapprove the preliminary layout.

E. Notation of action. The action of the Board shall be noted on two copies of the preliminary layout, referenced and attached to any changes or conditions required. One copy shall be returned to the subdivider and the other copy retained by the Board.

F. Effect of authorization. Authorization shall be deemed a tentative approval of the design submitted on the preliminary layout as a guide to the subdivider in the preparation of the subdivision plat.

#### **§ 31.34 Subdivision plat procedure.**

A. Subdivision plat requirements. The subdivision plat shall conform substantially to the preliminary layout as tentatively approved by the Board and to the requirements of § 31.74. If desired by the subdivider, the subdivision plat may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations and provided, further, that such portion abuts at least one street, which street shall be improved to the satisfaction of the Board.

B. Number of copies and time for submitting application. Ten (10) copies of the subdivision plat, together with 10 copies of the construction plans and all other items required by these regulations, shall be prepared as specified in § 31.74 and shall be submitted to the Board within six months after the date of authorization of preparation of

the subdivision plat. Otherwise such authorization shall expire, unless an extension of time is applied for and granted, in writing, by the Board.

C. Application and submission date. Application for approval of the subdivision plat shall be submitted by the owner or by his duly authorized agent, in writing, to the Board at least ten (10) days prior to the meeting at which it is to be considered. The subdivision plat shall be deemed to be officially submitted on the date of the meeting of the Board at which the subdivider shall have submitted the required application, together with the subdivision plat, construction plans and all other items required by these regulations, including formal offers of cession in form as required by § 31.64(B).

D. Endorsement of State Department of Health and public districts. Proposed water supply and sewerage service facilities in the subdivision shall be approved by the New York State Department of Health, pursuant to § 1116 of the Public Health Law, and by any water, water supply, drainage, improvement or sewer district having jurisdiction. Application for approval of plans for water supply and sewerage facilities may be filed with the Nassau County Department of Health. Endorsement of approval shall be obtained by the subdivider and submitted to the Board with the application for approval of the subdivision plat.

E. Endorsement of Commissioner of Public Works. Pursuant to § 334-a of the Real Property Law, the Board will not consider approval of a subdivision plat unless the Commissioner of Public Works of Nassau County has endorsed on the plat a statement that he has approved the plans for grades of the streets shown on such map and the drainage thereof. In the event that separate and distinct plans for grading and drainage are required by said Commissioner, a copy of such plans shall be submitted to the Board with the application for approval of the subdivision plat.

F. Approval by other planning authorities. Pursuant to Section 1610 of the County Government Law of Nassau County, the planning authority of each incorporated village adjacent to the Village of Old Brookville and the Nassau County Planning Commission, where adjacent territory is unincorporated, have the power and authority to approve plats within the village and within 300 feet of the boundary thereof. When a proposed subdivision lies wholly or partially within 300 feet of the village boundaries, the subdivider shall obtain the approval of the planning authority of the adjacent incorporated village and/or of the unincorporated territory, as the case may be, before the Board approves the subdivision plat.

G. Action on subdivision plat. The Board shall follow the procedures of Village Law § 7-728, subdivision 6, as may be amended from time to time, to approve, approve with conditions or disapprove the subdivision plat.

H. Revision of subdivision plat. The subdivider will be given a copy of the Board's resolution, and, in the event that modifications are required, he shall revise the subdivision plat and construction plans to conform thereto.

**§ 31.35 Performance bond; signing and filing of subdivision plat.**

A. Performance bond. See §31.54

B. Signing of subdivision plat. After completion of the final subdivision plat for recording and of construction plans in accordance with the Board's resolution, the original tracing and two prints of each shall be submitted to the Board for final review within the time specified in said resolution. Approval of the subdivision plat shall be endorsed thereon as follows:

- (1) When a bond is filed. Approval of the plat shall be endorsed thereon after the bond has been approved and filed and all of the conditions of the Board's resolution pertaining to the plat have been satisfied.
- (2) When no bond is filed. Approval of the plat shall be endorsed thereon after all conditions of the Board's resolution have been satisfied and all required improvements completed to the satisfaction of the Board.

C. Number of copies to be signed. Approval of the Board will be noted on the plat, and the Chairman or, in the absence of the Chairman, the Vice Chairman will sign the tracing cloth original of the subdivision plat, which will be returned to the subdivider, and one print of the plat, which will be retained by the Board.

D. Filing plat with County Clerk. In accordance with the Village Law, the approved subdivision plat shall be filed by the subdivider with the Nassau County Clerk, Division of Land Records, within 62 days of the date of signing. The approval of any plat not so filed shall expire 62 days from the date of signing by the Board.

E. Submission of copies of filed maps. The subdivider shall submit two copies of the subdivision plat, containing the endorsement of the Nassau County Clerk, to the Secretary of the Board within 30 days of the date of filing.

F. Plat void if revised after signature. No changes, erasures, modifications or revisions shall be made in any subdivision plat after approval has been granted by the Board and endorsed, in writing, on the plat. In the event that any subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk. Any erasures made on a plat prior to its signing shall be initialed by the Chairman or Vice Chairman of the Board at the time of signing.

G. Escrow Deposit. The Planning Board may require an escrow deposit in lieu of, or in addition to, a bond.

**§ 31.36 Partitioning.**

