

Town of Cossackie

Subdivision of Land

Add a new Article XII to Chapter 174, Subdivision of Land with the text below.

Article XII Conservation Subdivision

§ 174-78. Purpose.

A subdivision is considered a conservation subdivision in which lots and dwelling units are smaller and/or located closer together than otherwise allowed in a conventional subdivision, and where undeveloped space is preserved on the remainder of the property without increasing density for the tract as a whole. Conservation subdivisions are authorized under Section 278 of the New York State Town Law, are also referred to as cluster subdivisions or open space subdivisions, and are encouraged herein. In conformance with the Town's Comprehensive Plan, the purposes of a conservation subdivision are as follows:

- A. To provide greater economy, efficiency and convenience in the siting of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required;
- B. To conserve important open lands, including those areas containing unique and sensitive natural features, such as steep slopes, floodplains, stream corridors, and wetlands by permanently setting them aside from development;
- C. To protect areas of the Town with productive agricultural soils for continued or future agricultural use;
- D. To provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, tree lines, critical wildlife habitats, and historic buildings and sites;
- E. To implement policies to conserve a variety of irreplaceable and environmentally sensitive resource lands, encourage the future existence of abundant open spaces and maintain a rural aesthetic quality in connection with the development of lands within the Town;
- F. To conserve scenic views and elements of the Town's rural character, and to minimize perceived density, by limiting views of new development from existing roads;

- G. To promote development in harmony with the goals and objectives of the Town's Comprehensive Plan; and
- H. To mitigate identified environmental impacts under the State Environmental Quality Review Act (SEQRA).

§ 174-79. Authorization.

Authorization is hereby granted to the Town of Coxsackie Planning Board ("Planning Board") to modify applicable provisions of Chapter 201, Zoning, with respect to lot size, lot width, depth, yard, and other applicable requirements as well as type of residential use, subject to the purposes, standards, and provisions set forth herein, in order to accommodate and encourage conservation subdivisions in a situation where such subdivisions would be appropriate in accordance with the provisions herein. The Planning Board shall have the authority to require a pre-application conference seeking application information for a proposed conservation subdivision if same is authorized pursuant to these provisions. The applicant shall make a deposit, in accordance with the Town's Fee Schedule, sufficient to cover the pre-application expenses required for review by the Town's professional consultants. Neither the applicant nor the Planning Board shall be bound by the exchange of ideas during the pre-application conference.

§ 174-80. Applicability.

The provisions with respect to conservation subdivisions shall only apply in Residential Agricultural – 1 and - 2, Rural Residential, and Waterfront Residential Districts in the following cases:

- A. The request for subdivision involves a major subdivision, or
- B. The parcel involved is 15 or more acres, or
- C. The applicant requests consideration under the rules for conservation subdivision.

§ 174-81. Conservation subdivision criteria.

The Planning Board will require a conservation subdivision where it finds any one or more of the following elements present, as determined through review of an Existing Resources Map and Site Analysis as described herein, justifying conservation of natural, cultural or historic resources, scenic features, or preservation of neighborhood character. The Existing Resources Map and Site Analysis shall include:

- A. Slopes: slopes of 15% or greater which are 4,000 square feet or more and which are a contiguous sloped area. Topography, including contour lines, which shall be at two-foot intervals.

- B. Water resources: wetlands, aquifer and aquifer recharge areas, public water supply watershed areas, one hundred year floodplain areas, New York State classified streams, or a Town-designated water protection area.
- C. Agricultural lands: active farmland within or without a New York State certified agricultural district and/or other areas with prime farm soils.
- D. Community water and/or sewer: sites where community sewer, or community water are available or planned.
- E. Critical environmental areas: lands contiguous to or within a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law.
- F. Designated open space areas: lands contiguous to publicly owned or designated open space areas, privately owned lands or lands owned by a not-for-profit entity having designated conservation areas, or areas identified as open space in any approved conservation subdivision.
- G. Historic structures and sites: historic structures or areas of national, state or local importance.
- H. Scenic viewsheds and special features: sites bordering designated Federal, State, or Town scenic roads, or special features or viewsheds identified in the Town's Comprehensive Plan or adopted inventories.
- I. Significant natural areas and features: areas with special vegetation, significant habitats, or habitats of endangered or threatened species.
- J. Trails: existing and potential trails, bikeways, and pedestrian routes of local, State or Federal significance.
- K. Recreation: lakes, ponds or other significant recreational areas, or recreation sites designated in the Town's Comprehensive Plan.

§ 174-82. Permitted, accessory and special permit uses.

Permitted, accessory and special permit uses within a conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located. As an alternative to single family dwellings, two family dwellings or townhouse style development is also permitted within a conservation subdivision provided proper safe guards are created in connection with the preservation and maintenance of lands in common ownership.

§ 174-83. Density.

The permitted number of dwelling lots shall not exceed one dwelling unit per two per acre overall. Exceptions to lot size dimension can be made by the Planning Board in connection with incentives for open space preservation as well as for adequately documented community sewer systems provided for herein. Regardless of lot size, however, the subdivision must comply with the density formula set forth herein when determining the maximum number of allowable lots. The maximum density allowed for residential units is calculated by a formula based upon the acreage of “unconstrained land” on the property.

- A. To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of “constrained land.” Constrained land includes future road rights-of-way; existing utility rights-of-way; stormwater management features; land which is not contiguous or which is separated from the parcel by a road, railroad, wetlands, watercourses, one hundred year floodplains, and slopes of 15% or greater which are 4,000 square feet or more of contiguous sloped.
- B. To determine the “base” number of allowable residential units on the site, divide unconstrained acreage by the allowable number of acres per unit. Round down fractional units of 0.5 or less and round up fractional units greater than 0.5. The resulting number is the “base density” allowed on the site.

§ 174-84. Minimum lot size/dimensions.

In a conservation subdivision, there is no minimum lot size provided that the overall tract density does not exceed one dwelling unit per two acres. Exceptions to lot size dimension can be made by the Planning Board in connection with incentives for open space preservation as well as for adequately documented community sewer systems.

Further, in a conservation subdivision, there shall be no minimum lot width and no minimum front, rear, or side yard requirements. House lot standards shall be followed as described in § 174-89.

§ 174-85. Sketch plan review process.

Once the maximum permissible number of lots in a conservation subdivision has been established, the next step is to submit a sketch plan. The purpose of a sketch plan is to facilitate review of the proposed subdivision in conformance with the provisions for conservation subdivision and the Town’s Comprehensive Plan. Sketch plan submission is a way to help applicants and Planning Board members develop a better understanding of the property and to help establish an overall design approach that respects its special or noteworthy features, while providing for the density permitted under these regulations. A good reference for this good site design that will be used in review of conservation

subdivisions is *Better Site Design: A Handbook for Changing Development Rules in Your Community* (1998) by the Center for Watershed Protection.

There shall be a two-part sketch plan review process. Part one shall consist of the submittal of an Existing Resources and Site Analysis that will provide the Planning Board with information to allow it to determine whether a conservation subdivision will be required. If a conservation subdivision is required, part two of this Section applies and shall consist of a Conservation Subdivision Map to be prepared by the Applicant in accordance with the four-step design process set forth therein. This process shall include an identification of primary and secondary conservation lands and planned development areas within a parcel.

A. An Existing Resources and Site Analysis shall be prepared to provide the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs. The Existing Resources and Site Analysis shall consist of a Site Context Map and a Natural, Cultural and Historic Features Map as follows:

- (1) Site Context Map. A map showing the location of the proposed subdivision within its neighborhood context shall be submitted. This map shall also be provided in digital form in autoCAD or GIS format. For all sites, such map shall be at a scale not less than one-inch equals 500 feet, and shall show the relationship of the subject property to natural and man-made features existing within 500 feet of the site. The features that shall be shown on Site Context Map include existing structures, public roads, utilities, utility easements and rights of way and public land.
- (2) Natural, Cultural and Historic Features Map. The applicant shall identify those natural, cultural and historic features listed in § 174-81 subsections (A) through (K) of these regulations on a Map at scale of 1-inch equals 100 feet. As an alternative to the creation of this Map, the Applicant can elect to move on to Part B of this Section, and include the information required herein on the Conservation Subdivision Map to be created pursuant to Part B of this Section.

The Existing Resources and Site Analysis becomes the basis for the Planning Board's determination whether a conservation subdivision will be required (see §174-86, Exceptions). Where a conservation subdivision is determined to be required, this Analysis becomes the basis for the four-step design process, as referenced herein.

- B. Conservation Subdivision Map. There shall be a four-step design process for conservation subdivisions. A Conservation Subdivision Map shall be prepared and presented to the Planning Board, and shall include the information required in this four step process. The steps are as follows:
- (1) Step 1: Identify primary conservation areas. This shall include wetlands, lakes, ponds, steep slope areas of 15% or greater, which are 4,000 square feet or more and which are a contiguous sloped area, one hundred year floodplains, streams, and other developmentally-constrained areas as may be identified by the Planning Board.
 - (2) Step 2: Identify secondary conservation areas. Secondary conservation areas shall include scenic roads and viewsheds; trails; historic sites and structures, including foundations and stone walls; hedgerows, significant or threatened or endangered habitats, large isolated trees; critical environmental areas, active agricultural lands, prime farm soils, aquifers and such other important natural areas as shall be identified by the Planning Board.
 - (3) Step 3: Identify potential development areas. This should include potential house sites which shall be tentatively located using the proposed open space lands as a base map as well as other relevant data on the existing Resources and Site Analysis Plan, such as topography and soils. House sites should generally be located not closer than 100 feet from primary conservation areas and 50 feet from secondary conservation areas taking into consideration the potential negative impacts of residential development on such areas as well as the potential positive benefits of such locations to provide attractive use and visual settings for residences. Potential development areas shall also include preliminary location of a street plan showing vehicular access to each proposed residence and complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space land shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and slopes of 15% or more. The existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be maintained by the Town and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate when they support greater open space conservation or provide enhanced pedestrian linkage.

- (4) Step 4: Locate potential house sites. This shall include drawing in the lot lines to delineate the boundaries of individual residential lots plus septic and water lines, wells, and proposed utility lines.

§ 174-86. Exceptions.

- A. Notwithstanding anything set forth herein to the contrary, a conservation subdivision shall not be required where each of the lots of the subdivision exceeds 10 acres. In such event, it shall be noted on the approved subdivision map that no parcel may be further subdivided so as to create a lot which is less than 10 acres, and the applicant shall also note this restriction on the Deed of conveyance.
- B. If, based upon the analysis above, the Planning Board determines that there is no reasonable basis for requiring a conservation subdivision; the Board may approve a conventional development of the site. In order for the Planning Board to make such a determination, the applicant must demonstrate at least one of the following:
 - (1) The land contains no substantial resources with conservation value;
 - (2) The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value.
 - (3) That there are extraordinary circumstances unique to the parcel that demonstrates that conventional subdivision is in the best interest of adjacent neighborhoods.

An approval of a conventional subdivision shall refer to the conservation analysis findings and may be conditioned upon the protection by conservation easement of portions of the site identified in the conservation analysis and findings as having conservation value.

§ 174-87. Preliminary plan documents.

A preliminary conservation subdivision plan shall include all of the requirements set forth in Article IV of this Chapter, Preliminary Plat for a Major Subdivision, except where such requirements are modified by the provisions set forth in this Conservation Subdivision Regulation. The provisions of this regulation are designated to supplement and, where appropriate, replace Article IV, which shall otherwise continue to apply.

The Planning Board shall review the plan to assess its accuracy and thoroughness. Unless otherwise specified by the Planning Board, such plans shall be prepared at the scale of one inch equals 100 feet. All inventory information identified as part of the sketch plan process in § 174-85 shall also be identified on the preliminary plat map, but

at the scale specified above. In addition, the following information shall be included in this plan:

- (1) Topography, including contour lines, which shall be at two-foot intervals. However, the Planning Board may specify greater or lesser intervals on exceptionally steep or flat sites. Topography for major subdivisions shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from aerial photographs and shall be coordinated with official USGS benchmarks.
 - (2) The location of natural drainage swales and wetlands and required 100 foot buffer zones for wetlands and 75 feet for watercourses.
 - (3) Vegetation cover conditions on the property according to general cover type, including cultivated land, permanent grass land, fields, hedgerows, woodlands and wetlands, isolated trees with a caliper in excess of 12 inches, and the actual canopy line of existing trees and woodlands. Vegetation types shall be described by plant community, relative age, and condition.
 - (4) Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service and Greene County Soil Survey, and accompanying data published for each soil relating to its suitability for construction and septic suitability.
 - (5) A viewshed analysis showing the location and extent of views into the property from public roads.
 - (6) Geologic formations on the proposed development parcel, based on available published information or more detailed data obtained by the applicant.
 - (7) All easements, restrictions or other encumbrances of property which are proposed for the parcel, as well as all current easements, restrictions and current encumbrances relating to the parcel, which have been filed of record with the Greene County Clerk's Office shall be shown on the plan.
- B. The Planning Board shall schedule site visit(s) in connection with review of the preliminary plan.

§ 174-88. Open space standards.

- A. A conservation subdivision must preserve at least 60% of the tract's acreage as open space land. Parking areas, roads, house sites, other impervious surfaces, and

their improvements shall not be included in the calculation to determine the amount of available open space. However, the entire tract, apart from these exceptions shall be considered in determining the required amount of open space. The following facilities or improvements may be located on open space land: common septic systems, water systems, stormwater systems, bike paths, walking trails, and other common community facilities that do not involve buildings, such as tennis courts, swimming pools, and playgrounds. Farm buildings on an active farm may also be located in the open space area used to meet the open space requirements.

- B. The proposed subdivision design shall strictly minimize disturbance of environmentally sensitive areas. Primary and secondary conservation areas shall be included in the required open space areas to the greatest extent practical. The Planning Board shall encourage areas of open space to be connected, where appropriate. Where important open space areas exist contiguous to the subject parcel, every effort shall be made to locate the on-site protected open space adjacent to these open space areas.
- C. The Planning Board shall encourage areas of open space along the State, County, and Town roadways located in the Town, where appropriate, to conserve scenic views and elements of the Town's rural character.
- D. The Planning Board, based upon the criteria set forth in these regulations, shall make the final determination of which land has the most conservation value and should be permanently protected from development.
- E. A recreational fee in lieu of land, as set forth in the Town's Fee Schedule, may be imposed to accommodate the foreseeable recreational needs of the residents of the proposed subdivision, should the Planning Board determine that the open space lands set aside as part of the conservation subdivision will not provide adequately for these recreational needs.

§ 174-89. House lot standards.

Development areas for the location of house lots include the necessary building envelope for each dwelling unit, constituting the remaining lands of the tract outside of the designated open space areas. House lots shall be designed in accordance with the following standards:

- A. House lots shall not encroach upon primary conservation areas and also, unless not practical, upon secondary conservation areas. To the extent possible, house lots shall be grouped together to maximize protection of contiguous areas of open space.

- B. All new dwellings shall meet the following setback requirements to the greatest extent practicable:
- (1) From all external road ultimate right of ways: 100 feet.
 - (2) From all other tract boundaries: 50 feet.
 - (3) From agricultural lands either bordering or within the tract: 200 feet.
 - (4) From buildings or barnyards housing livestock: 300 feet.
 - (5) From active recreation areas, such as tennis courts or playing fields: 150 feet.
 - (6) From primary conservation areas: 50 feet.
- C. Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of these provisions.
- D. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two accessways into and out of subdivisions containing 20 or more dwellings are generally preferable, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or negatively impact the environment.

§ 174-90. Streets and driveways.

- A. Conservation subdivision streets shall meet the Town Roadway Specifications. Regardless of the street design employed, the applicant shall demonstrate and the Planning Board shall find that emergency services access is adequate for the number of dwellings proposed.
- B. Whenever appropriate, street systems should produce vistas of open space in accordance with the conservation emphasis of the conservation subdivision design and to positively contribute to the Town's open space goals.
- C. Street trees may be required, depending upon the open or wooded character of the parcel.
- D. Roadways shall be designed so as to minimize traffic speeds.
- E. The Planning Board shall consider the potential fiscal impacts on the Town's resources for all streets, including required drainage facilities, landscaping and other access related features. If the Planning Board identifies a potential fiscal

impact, as a condition of subdivision approval the Planning Board may require the formation or extension of a special improvement district(s) pursuant to Articles 12 and 12-a of New York State Town Law or other mechanism acceptable to the Planning Board, such as formation of a homeowners' association.

§ 174-91. Permanent protection of open space.

The preferred way of protecting open space is for the applicant to provide deed covenants and restrictions acceptable to the Town Attorney. Conservation easements will also be considered in a case where they are transferred to a conservation organization or to a homeowners association acceptable to the Town

However, regardless of how open space is permanently preserved, it is required that the Town be granted third party enforcement rights to enforce the terms of all restrictions, easements or other legally binding instruments providing for open space. Such provisions shall include that the Town shall be entitled to reimbursement for all costs, expenses and attorneys fees incurred in connection with such enforcement, to be collected from the party against whom enforcement is sought.

§ 174-92. Maintenance.

Unless otherwise agreed to by the Planning Board, the cost and responsibility of maintaining common open space and facilities shall be borne by the homeowners' association, conservation organization or private owner(s). The Planning Board shall have the authority to require a bond or other security measure to ensure proper maintenance of open space and the facilities located on the subject parcel.

§ 174-93. Sewage Treatment Systems.

The Town of Coxsackie encourages shared or community sanitary sewage disposal systems for conservation subdivisions. Such systems may be located in the required open space lands such as on conservation meadows, village greens, and active or passive recreation areas, provided such areas are not paved or covered with other impervious surfaces. Sanitary sewage disposal systems of an individual nature may also be located within or extend into required open space areas. Regardless of the type of subsurface sewage disposal methods employed, all required separation distances shall be observed and the ownership and maintenance responsibilities associated therewith shall be clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-a of New York State Town Law.

§ 174-94. Requirements for Subdivision Map and for Covenants.

The Planning Board shall require the applicant to set forth on the approved subdivision map, a note or notes setting forth all covenants, conditions and restrictions relating to the subdivision, including but not limited to all provisions required for the protection and maintenance of the open space areas. All such covenants, conditions and restrictions shall also be set forth in a document which shall be recorded in the Greene County Clerk's Office at the same time that the approved subdivision map is filed, and this shall be a requirement for approval of the subdivision.