

## **Chapter 104 SUBDIVISION OF LAND**

### **GENERAL REFERENCES**

**Farming — See Ch. 59.**

**Fire Protection District — See Ch. 65.**

**Flood damage prevention — See Ch. 68.**

**Lighting District — See Ch. 79.**

**Site plan review — See Ch. 91.**

**Zoning — See Ch. 138.**

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ARTICLE I  
**General Provisions**

**§ 104-1. Authority and enactment.**

By authority of the resolution adopted August 7, 1962, by the Town Board pursuant to the provisions of § 276 of the Town Law, the Planning Board of the Town of Ballston has the power and authority to approve, modify and disapprove plats for subdivision within the Town of Ballston. This power and authority shall be for all subdivisions within the Town of Ballston as such activity is defined by these regulations. In order that land may be subdivided in accordance with the following policy, these regulations are hereby adopted.

**§ 104-2. Policy.**

It is declared to be the policy of the Town Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the Town and to be consistent with the adopted Town of Ballston Comprehensive Plan and the Agricultural and Farmland Protection Plan. Further purposes are to encourage the conservation of farmland and open space, protect environmental and historic resources, maintain community character, and to focus growth in appropriate locations. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace. Proper provision shall be made for water, sewage and other needed improvements. The proposed streets shall compose a convenient system conforming to the Official Map of the Town (as it may be adopted) and to the Official Map of the county (as it may be adopted) and shall be properly related to the proposals shown on the Town Plan as it is adopted by the Planning Board. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection.

**§ 104-3. No subdivision without approval.**

Any subdivider who proposes to develop a subdivision in the Town of Ballston shall follow the procedures specified in this chapter. "Subdivider" shall be defined as any person, firm, corporation, partnership or association which shall lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, herself, itself or for others.<sup>1</sup>

**§ 104-4. Conflict with other provisions.**

Should any of these regulations conflict with or be inconsistent with any provision of state law or the New York State Codes, Rules and Regulations, such provision shall apply.

**§ 104-5. Fees.<sup>2</sup> [Added 11-9-1989]**

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1. Editor's Note: Former Section 104, regarding filing of final plats, which immediately followed this section, now appears as § 104-10A(3).
  2. Editor's Note: By resolution adopted 12-3-1991, the Town Board approved removal of specific fees from the Subdivision Regulations.

- A. Subsequent to a subdivider appearing before the Town of Ballston Planning Board for conceptual approval of any preliminary layout and prior to the final approval of such layout, the Planning Board shall require of the subdivider payment of any and all engineering costs which are incurred by the Town as a result of the subdivider's application for subdivision approval. These costs shall include the cost of engineering consultation made on behalf of the Town with respect to the subject project as well as the cost of on-site inspections, including but not limited to those for inspections of roads, water systems and similar inspections which are required to be made by those other than Town of Ballston employees. The subdivider shall be responsible for these costs throughout the term of the entire project, and payment shall be made a condition to any and all subdivision approvals by the Town of Ballston Planning Board.
- B. The aforementioned costs shall be paid by the subdivider based upon engineering estimates submitted to the Town of Ballston and its Planning Board by the engineering firm reviewing the particular project at hand. The Town of Ballston and/or the Town of Ballston Planning Board may require payment of the aforementioned fees in advance, and any unused portion of these estimated fees will be returned to the subdivider upon completion of the subdivision or alternatively, after rejection of the proposed subdivision by the Planning Board.
- C. Additionally, the above provisions with respect to fees shall apply to the site plan review process.<sup>3</sup>

ARTICLE II  
**Definitions**

**§ 104-6. Definitions.**

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

**ARTERIAL ROADS** — Those roads which carry high-speed and high-volume traffic from the Town to urban centers, usually divided highways and always with limited access.

**BOARD or PLANNING BOARD** — The duly constituted Board of the Town of Ballston.

**BOND** — A performance bond duly issued by a bonding or surety company approved by the Town Board with security acceptable to the Town Board or a performance bond duly issued by the owner-obligor accompanied by security in the form of cash, certified check or United States government bearer bonds deposited with the Town Board in the full amount of the obligation.

**CLUSTER DEVELOPMENT** — The subdivision of an area into lots which are smaller than would customarily be permitted by the Zoning Ordinance,<sup>4</sup> the density of development is no greater than would be permitted in the district by conventional development, and the residual land produced by the smaller lot size is used for common recreation and open space. **[Added 9-30-2003 by L.L. No. 4-2003]**

COMPREHENSIVE PLAN — The Town of Ballston Comprehensive Plan, dated December 2005, and adopted by the Town Board on June 12, 2006. **[Added 6-12-2006 by L.L. No. 5-2006]**

CONSERVATION SUBDIVISION — A subdivision that varies the dimensional zoning requirements in order to promote flexibility of lot design and layout for the purposes of conserving open space and enhancing rural character. This type of subdivision is also referred to as a "cluster development or subdivision" and is authorized pursuant to Town Law § 278. **[Added 6-12-2006 by L.L. No. 5-2006]**

EASEMENT — A property right giving the owner or holder thereof the right of access to land for a specified purpose.

ENGINEER — A duly designated engineer of the Town, or if there be no such official, the licensed professional engineer employed by or assigned to the Planning Board.

FINAL SUBDIVISION PLAT — The final map, drawing or chart upon which the owner's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

FRONTAGE (also ROAD FRONTAGE or STREET FRONTAGE) — The distance along which a lot adjoins a road or street at the right-of-way line. A road or street which provides frontage may be a state, county or Town road or a private road or street that has been approved by the Planning Board as part of a subdivision plat. **[Added 6-12-2006 by L.L. No. 5-2006]**

LOT LINE ADJUSTMENT — Relocation of a lot line for two or more lots and which does not create any new lots or result in the ability for lots to be subdivided. **[Added 9-30-2003 by L.L. No. 4-2003]**

LOTS: —

- A. DOUBLE-FRONTAGE LOTS — Lots with rear and front lot lines abutting an existing or proposed street right-of-way.
- B. REVERSE FRONTAGE LOTS — Lots with the rear lot line abutting an existing or proposed limited access highway or public reservation.
- C. FLAG LOT — A lot so shaped and designed that the main portion of the lot is set back from the street or road on which it fronts and is situated behind one or more lots and is connected to such frontage road or street only by means of a narrow strip of land. **[Added 9-30-2003 by L.L. No. 4-2003; amended 6-12-2006 by L.L. No. 5-2006]**

MAJOR SUBDIVISION — The division of a tract of land into five or more parcels and which does not otherwise qualify for a minor subdivision pursuant to the definitions in this chapter or any size subdivision requiring any new streets or construction of municipal utilities. A tract of land shall constitute a major subdivision upon the creation of the fifth lot or building plot therefrom within any consecutive five-year period, and at which time the provisions of § 1116 of the Public Health Law shall apply to all such parcels thereof, including the first four parcels, regardless of whether said parcels have been sold or offered for sale singularly or collectively. **[Amended 4-11-1989; 9-30-2003 by L.L. No. 4-2003;**

**6-12-2006 by L.L. No. 5-2006; 5-5-2009 by L.L. No. 9-2009]**

MASTER PLAN — A comprehensive plan for the development of the Town as authorized in § 272-a of the Town Law.**[Amended 9-5-2000 by L.L. No. 3-2000]**

MINOR SUBDIVISION**[Amended 4-11-1989; 6-12-2006 by L.L. No. 5-2006]** —

- A. Any division of a parcel of land into not more than four lots that also meets the following prerequisites:
- (1) Said parcel must not have been previously subdivided, or have been part of a subdivision, for a minimum of a five-year period prior to the submission of the application for a minor subdivision;
  - (2) Each of the proposed lots must have at least the minimum lot size as required by Chapter 138, Zoning;
  - (3) Each lot must front on an existing public street; and
  - (4) The proposed subdivision must not involve any new street or road or the extension of municipal facilities.
- B. The remaining portion of the original or parent parcel shall be considered as a lot and included as one of the four lots comprising the subdivision.

OFFICIAL MAP — The map established by the Town Board under § 270 of the Town Law, showing the streets, highways and parks theretofore laid out, adopted and established by law and all changes and additions thereto made under the provisions of the Town Law.

OPEN SPACE — Any land or area, the preservation of which in its present state or use would conserve and enhance natural or scenic resources; or protect streams or water supply; or promote conservation of soils, farmland, wetlands; or enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or enhance recreation opportunities.**[Added 6-12-2006 by L.L. No. 5-2006]**

OWNER — The owner of the land proposed to be subdivided or his or her agent.

PARCEL — Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk's office and for which a Tax Map parcel identification number has been assigned.**[Amended 6-12-2006 by L.L. No. 5-2006]**

PRELIMINARY LAYOUT — The preliminary drawings and supplementary material indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

RESIDENTIAL LOT — A parcel of land with or without buildings or structures, delineated by property lines. No more than one building dwelling may occupy a residential lot.**[Added 9-30-2003 by L.L. No. 4-2003]**

SKETCH PLAN — A sketch of what the subdivider intends, showing the parcel to be subdivided, to an approximate scale, so that the Board may informally discuss the subdivision.

STREETS — A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, cul-

de-sac, place or however otherwise designated and includes the area between the right-of-way lines.

- A. CUL-DE-SAC — A street or portion of a street with only one vehicular traffic outlet and a vehicular turnaround on the other end.
- B. LOCAL STREETS — Those which are used for access to abutting properties.
- C. MARGINAL ACCESS STREETS — Local streets which are parallel to and adjacent to arterial streets or highways which provide access to abutting properties but are protected from through traffic.
- D. MINOR COLLECTOR STREETS — Those streets which carry traffic from local streets to the major collector system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development. Existing minor collector streets include, but are not necessarily limited to: Ballston Avenue, Benedict Road, Brookline Road, Devils Lane, Diamond Road, Finley Road, Forest Road, Garrett Road, Jenkins Road, Lake Road, Larkin Drive, Mann Road, Outlet Road, Randall Road, Root Road, Saunders Road, Sweet Road, Wakeman Road.
- E. MAJOR COLLECTOR STREET — Those streets and highways which are used or destined to be used for high speed and heavy rush hour traffic. Existing major collector streets include, but are not necessarily limited to: Blue Barnes Road, Charlton Road, East Line Road, Goode Street, Hop City Road, Kingsley Road, Lake Hill Road, Middle Line Road, Round Lake Road, Route 50, Route 67, Route 146A, Scotch Bush Road and Shauber Road.

STREET TREES — Those trees within 20 feet of the right-of-way.

STREET WIDTH — The distance between property lines.

SUBDIVISION — The division of any parcel of land into two or more lots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. Divisions of land in excess of five acres shall not be excluded from this definition. The number of lots in the subdivision includes the original parcel.**[Amended 4-11-1989; 9-30-2003 by L.L. No. 4-2003]**

TRACT — Any land that is now or hereafter under the same ownership consisting of one or more adjoining parcels, any part of which is along one side of one or more existing public roads or one or more sides of a proposed street, highway easement or right-of-way.

TRADITIONAL NEIGHBORHOOD DESIGN (or TND) — A set of design standards applied to subdivisions and developments ~~in the Hamlet and Ballston Lake Residential Districts~~ for the purpose of promoting pedestrian friendly and compact residential neighborhoods.**[Added 6-12-2006 by L.L. No. 5-2006]**

ZONING (Also “Zoning Ordinance and Zoning Map”) — The duly adopted Zoning Ordinance and Zoning Map for the Town of Ballston, New York.<sup>5</sup>**[Amended 4-11-1989]**

ARTICLE III  
**Procedure for Filing Subdivision Applications**

**§ 104-7. General application procedures. [Amended 9-30-2003 by L.L. No. 4-2003; 1-4-2005 by L.L. No. 1-2005]**

Whenever any tract of land is proposed for subdivision, before any contract for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner or his or her authorized agent shall apply for approval of such a proposed subdivision by submitting to the Building Department at least 21 days prior to a regular meeting of the Board 14 copies of a sketch plan of the proposed subdivision.<sup>6</sup>

**§ 104-8. Preapplication procedure.**

- A. Discussion and requirements. The subdivider or his or her duly authorized agent may be required to attend a meeting of the Planning Board to discuss his or her proposals with regard to the requirements of the regulations which govern the proposed subdivision, including but not limited to street improvements, drainage, sewerage, water supply and fire protection.
- B. Compliance with either the Environmental Conservation Department or the State Health Department regulations. If a proposed subdivision meets the definition of a subdivision, the applicant must meet the standards of either the Environmental Conservation Department or the New York State Department of Health for water supply, sewage disposal, and stormwater management before the final subdivision plat is submitted to the Planning Board. Which agency is to review the plat depends upon the number of lots. **[Amended 9-30-2003 by L.L. No. 4-2003]**

**§ 104-9. Minor subdivisions.<sup>7</sup> [Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003]**

- A. Preliminary layout. The subdivider shall prepare a preliminary layout, consisting of a drawing made to scale of the subdivision showing or together with the following information:
  - (1) Tract boundary with bearings and distances, and tract area.
  - (2) Topographical data containing existing drainageways. USGS topographic mapping with five-foot contours is acceptable. Additional topography may be requested at the discretion of the Planning Board.
  - (3) Location of all natural features such as wooded areas, marshes and rock outcrops.
  - (4) Proposed lot lines and lot dimensions for residential lots.
  - (5) Names and right-of-way widths of streets within 100 feet of the tract boundary.

- (6) Location of existing utilities, septic systems and wells on and adjacent to the tract.
- (7) Location, dimensions and purpose of any easements on and adjacent to the tract.
- (8) Number to identify each lot; address to be indicated.
- (9) Purpose for which sites other than residential lots are dedicated or reserved and their location.
- (10) Minimum setback lines on all lots and other sites.
- (11) Names of owners of record of adjoining unplatted land.
- (12) Title of subdivision, scale of layout map, North arrow and date.
- (13) Site data summary, including number of residential lots, typical lot size.
- (14) Proposed water supply and sanitary wastewater disposal method. If on-site wastewater disposal is proposed, percolation rate and test pit information shall be provided.
- (15) If an on-site water supply is to be utilized, a note stating: "All lot sales shall be contingent upon a contract addendum for the location of water, flow capacity and potability in accordance with the New York State Health Department standards."
- (16) A stormwater management report may be required as determined by the Planning Board.
- (17) For site disturbance of greater than one acre, a SWPPP prepared in acceptance with NYSDEC requirements will need to be submitted for review of completeness. The Town of Ballston will require that a notice of intent (NOI) for construction activities be submitted to NYSDEC and a copy of the acknowledgement of permit coverage from the NYSDEC be submitted to the Town for its files prior to the start of any construction activities. All proposed erosion controls and water quality measures are to be shown on the subdivision plans.
- (18) All regulated wetlands, classified streams and one-hundred-year floodplain boundaries shall be included where appropriate.
- (19) The final plat shall contain the signature and seal of a land surveyor, or a professional engineer and a land surveyor, both registered in New York State, or a qualified land surveyor under § 7208, Paragraph (n), of the Education Law.
- (20) Nature of any deed restrictions or protective covenants whereby the owner proposes to regulate land use in the subdivision and otherwise protect the proposed development;
- (21) A statement of intent which enables the Planning Board to determine the adequacy of the trees to be retained and/or planted throughout the subdivision.



- (22) At the determination of the Planning Board, any remaining lands which can be further subdivided and qualify as a major subdivision, a sketch plan for this tract may be required.
- B. Application for preliminary plat approval. The subdivider shall file an application for conceptual approval of his or her preliminary layout. The application shall:
- (1) Be made on forms available at the office of the Building Department.
  - (2) Include all land which the applicant proposes to subdivide.
  - (3) Be accompanied by 14 copies of the preliminary layout as specified in Subsection A above. **[Amended 1-4-2005 by L.L. No. 1-2005]**
  - (4) Include a complete short environmental assessment form.
  - (5) Be submitted to the Planning Board not less than 21 days prior to a regularly scheduled meeting. **[Amended 1-4-2005 by L.L. No. 1-2005]**
  - (6) Be accompanied by a fee according to the most recent fee schedule which is established periodically by the Town Board.
  - (7) All items contained in the Town Review Checklist are to be completed by the applicant for a complete application. The project will be placed on the agenda if the application is considered complete by the Town Building Department.
- C. The Planning Board shall follow the procedures of Town Law § 276, Subdivision 5, to approve, approve with conditions or disapprove the preliminary plat.
- D. A final submission for a minor subdivision may be required at the discretion of the Planning Board.
- E. Consultant review. The Planning Board may consult with the Town Zoning Enforcement Officer, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

**§ 104-9.1. Major subdivisions.<sup>8</sup> [Added 9-30-2003 by L.L. No. 4-2003; amended 6-1-2004 by L.L. No. 3-2004; 1-4-2005 by L.L. No. 1-2005]**

- A. Whenever any subdivision of land is proposed to be made which is subject to review hereunder and before any part thereof is made and before any land is cleared or vegetation is removed, except vegetation removed in connection with required surveying, engineering test and inspections, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider shall make application for and receive final approval of such proposed subdivision

in accordance with the Town of Ballston Land Subdivision Regulations.

- B. Concept submission. The owner shall furnish 14 copies of a concept plan of the proposed subdivision and all adjacent land owned by the owner or under option to him at a scale of not less than 100 feet per inch.
- (1) The plan shall include:
- (a) Property boundaries.
  - (b) Existing topography at five-foot contour intervals to USGS datum.
  - (c) Soil analysis.
  - (d) Existing utilities.
  - (e) General street, lot and utility layout. [Amended 5-5-2009 by L.L. No. 9-2009]**
  - (f) Conceptual drainage plan.
  - (g) Wetlands, streams, surface waters, and other drainage corridors and flood hazard areas.
- (2) The plan shall also include a vicinity map to a scale of not smaller than 400 feet per inch showing lands and roads in this area.
- (3) In addition to the above-referenced information, the following paperwork shall be submitted:
- (a) Completed Town of Ballston submission form.
  - (b) Long environmental assessment form.
  - (c) Narrative description of the proposal, including:
    - [1] Project acreage.
    - [2] Description of existing site and use.
    - [3] Description of intended site development.
    - [4] Number of lots.
    - [5] Impacts on adjoining property.
    - [6] Impacts on services.
  - (d) A request for any zoning changes, zoning variances and special use permits proposed for the area to be subdivided.
- C. Procedure for approval of preliminary layout.
- (1) The subdivider shall prepare a preliminary layout, based on the approved concept plan consisting of a drawing made to scale of the subdivision showing or together with the following information:

- (a) Tract boundary with bearings and distances, tract area and street layout.
- (b) Topographical data shown with two-foot contour interval and all existing drainageways. Benchmark (NGVD 1929) to be indicated on plans.
- (c) Location of all natural features such as wooded areas, marshes and rock outcrops.
- (d) Proposed lot lines and lot dimensions.
- (e) Proposed location and name of streets with right-of-way widths.
- (f) Names and right-of-way widths of streets within 100 feet of the tract boundary.
- (g) Location of existing or proposed utilities on and adjacent to the tract.
- (h) Location, dimensions and purpose of any easements on and adjacent to the tract.
- (i) Number to identify each lot.
- (j) Purpose for which sites other than residential lots are dedicated or reserved and their location.
- (k) Minimum setback lines on all lots and other sites.
- (l) Names of owners of record of adjoining unplatted land.
- (m) Title of subdivision, scale of layout map, North arrow and date.
- (n) Site data summary, including number of residential lots, typical lot size, linear feet of streets, acres in parks, etc.
- (o) Proposed sanitary wastewater disposal method. If on-site wastewater disposal is proposed percolation information shall be provided at representative locations, minimum one test per three lots or as required by Planning Board on recommendation of the Town Engineer.
- (p) Proposed water supply distribution system. If an on-site water supply is to be utilized, a note stating: "All lot sales shall be contingent upon a contract addendum for the location of water, flow capacity and potability in accordance with the New York State Health Department standards."
- (q) All regulated wetlands, classified streams and one-hundred- year floodplain boundaries shall be included where applicable.
- (r) Street name signs.

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- (s) The final plat shall contain the signature and seal of a professional engineering and of a land surveyor, both registered in New York State.
  - (t) Nature of any deed restrictions or protective covenants whereby the owner proposed to regulate land use in the subdivision and otherwise protect the proposed development.
  - (u) A statement of intent which enables the Planning Board to determine the adequacy of the trees to be retained and/or planted throughout the subdivision.
- D. Application for preliminary plat approval. The subdivider shall file an application for conceptual approval of his or her preliminary layout. The application shall:
- (1) Be made on forms available at the office of the Building Department.
  - (2) Include all land which the applicant proposes to subdivide.
  - (3) Be accompanied by 14 copies of the preliminary layout as specified in Subsection B above.
  - (4) Be submitted to the Planning Board not less than 21 days prior to the regularly scheduled meeting.
  - (5) Be accompanied by a fee according to the most recent fee schedule which is established periodically by the Town Board.
  - (6) The final plat shall contain the signature and seal of a professional engineer and of a land surveyor, both registered in New York State.
- E. The Planning Board shall follow the procedures of Town Law § 276, Subdivision 5, to approve, approve with conditions or disapprove the preliminary plat.

**§ 104-10. Final subdivision plat procedure.**

- A. Subdivider procedure. Within six months after the approval of the preliminary layout by the Planning Board, the subdivider shall file with the Planning Board two Mylar and two paper drawings for approval of a final subdivision plat. **[Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003; 1-4-2005 by L.L. No. 1-2005]**
- (1) The application shall:
    - (a) Be made on forms available at the office of the Building Department.
    - (b) Be accompanied by the original drawing or one reproducible and five copies of the final subdivision plat, construction detail sheets and other information as described in Article VI, Plat Requirements, of these regulations.

- (c) Comply in all respects with the preliminary layout as approved.
  - (d) Comply with the regulations of the State Health Department or Environmental Conservation Department and be stamped and endorsed by the responsible agency.
  - (e) Comply with any county or Town ordinances or laws deemed pertinent by the Planning Board.
  - (f) Be presented to the Chairman of the Planning Board at least three weeks prior to a regular meeting of the Board. However, the final subdivision plat shall be considered officially submitted as of the date of the regular meeting of the Board following completion of the above application procedure. The subdivider shall be represented at that meeting.
- (2) In the event that a final subdivision plat is not submitted to the Planning Board within six months of the approval of the preliminary layout, the application may be considered withdrawn and any previous approval or waivers of required improvements by the Planning Board may be revoked.
- (3) Filing.
- (a) Within 62 days next following the date of official approval action by the Planning Board or the date of issuance by the Town Clerk of a certificate of nonaction and after approval by the County Health Department, if applicable, the subdivider shall file the final plat with the County Clerk. Otherwise, such final approval shall expire as provided in § 276 of the Town Law.
  - (b) Five black and white prints of the final plat showing the recording date of the County Clerk thereon shall be submitted to the Planning Board after filing with the County Clerk.
  - (c) It shall be the duty of the County Clerk, in accordance with § 279 of the Town Law, to notify the Planning Board in writing within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number.
  - (d) No changes, erasures, modifications or revisions other than those requested by the State Health Department or other such agency, or to correct metes and bounds, shall be made on any subdivision plat after final approval has been given by the Planning Board and the plat has been duly filed with the County Clerk unless such plat has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void and the Board shall institute proceedings to have the plat stricken from the

- (4) GIS submission.
- (a) In addition to hard-copy maps, it is recommended that contractors provide digital data of the infrastructure features depicted on the map. Features must include, but are not limited to, roadway center lines, right-of-way boundaries, property line boundaries, water infrastructure (water mains, valves, manholes), sewer infrastructure (sanitary mains, storm sewer lines, cross-over lines, catch basins). Water mains, sanitary and stormwater sewer mains and sewer cross-over lines, and roadway center lines must be developed as line or polyline features. Water valves, water hydrants, manhole covers, and catch basins must be developed as point features. Parcel boundaries and right-of-way boundaries may be constructed as line, polyline, or polygons features.
  - (b) This data must be provided in one of the following digital formats: computer-automated drawing files - AutoCAD (.DWG) or Microdesk (.DGN); or geographic information system compatible file - ESRI Shapefile (.SHP). The data must be developed in the New York State Plane East (Zone 4801) coordinate system, North American Datum 1983 (NAD83), and units in feet. A metadata file in .TXT format should be included with the infrastructure feature data file(s) to state the name of the file(s), features represented, project name or reference, date the data was produced, name and address of the producer, and coordinate system. Data must be submitted on a 3.5-inch diskette or on CD-ROM with submission of the final, approved hard-copy subdivision map.
- (5) Preconstruction meeting. After final subdivision approval by the Planning Board and before and site disturbance takes place, a preconstruction meeting shall be held. The following individuals shall be present:
- (a) Applicant and/or representative.
  - (b) Highway Superintendent.
  - (c) Building Inspector.
  - (d) Town Engineer.
  - (e) Any other individuals as may be deemed necessary.
- B. Planning Board procedure.
- (1) Upon receipt of the final subdivision plat and if and when a County Official Map is established, the Chairman of the Planning Board shall notify the County Planning Board and the County Superintendent of Highways in accordance with § 239-k of the General Municipal Law.<sup>9</sup> Such notification shall be within one week after receiving advance copies of the final subdivision plat.

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- (2) The Town Planning Board shall issue a receipt of submission at a meeting of the Board within three weeks following presentation of the final subdivision plat to the Chairman in accordance with these regulations.
- (3) The Planning Board shall follow the procedures of Town Law § 276, Subdivision 6, to approve, approve with conditions or disapprove the final subdivision plat.<sup>10</sup> **[Amended 9-5-2000 by L.L. No. 3-2000]**
- (4) Consultant review. The Planning Board may consult with the Town Zoning Enforcement Officer, Fire Commissioners, Highway Superintendent, other local county officials and its designated private consultants and engineers, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation. **[Added 9-30-2003 by L.L. No. 4-2003]**

ARTICLE IV

**Subdivision Design Requirements**

**[Amended 8-4-1992; 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003; 9-7-2004 by L.L. No. 6-2004; 6-12-2006 by L.L. No. 5-2006]**

**§ 104-11. Introduction; compliance.**

This article sets forth general design requirements for all subdivisions no matter where they are located as well as specific design requirements for certain subdivisions depending on their type or Zoning District location. The subdivision applicant shall observe and design the proposed subdivision and the Planning Board shall review and make decisions on the proposed subdivision in accordance with the following requirements as applicable.

**§ 104-12. General design requirements.**

The requirements set forth in this section shall apply to all subdivisions located in any area of the Town.

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B. Conformity to Chapter 138, Zoning. Subdivisions shall conform to the Zoning Law. In case of a conflict between this chapter and Chapter 138, Zoning, Chapter 138, Zoning, shall control.
- C. Preservation of existing features and community character. The Planning Board shall, ~~wherever practical, require preservation~~ ensure that a new subdivision preserves and is consistent with of all existing features which are important to the natural, scenic, rural, ~~and~~ historic

and community character of the Town or which add value to residential development, such as large trees or groves, watercourses, waterfalls, beaches, scenic views, historic places, and similar irreplaceable assets. The Planning Board may impose restrictions designed to preserve such features, including the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited, as a condition of subdivision approval. Development shall be designed to minimize disturbance to the existing landscape.

D. Lots.

- (1) The size, width, depth, shape, orientation and yards of lots shall be not less than specified in Chapter 138, Zoning, of the Code of the Town of Ballston, for the district in which the lots are located and shall be appropriate for the type of development, the use contemplated and the economic feasibility of contemplated or future utilities.
- (2) Residential lot dimensions where not served by public sewers shall be such as to meet the requirements of the State Department of Health and/or the Environmental Conservation Department, whichever is required.
- (3) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets, logical further subdivisions and economy of establishing future utilities.
- (4) Corner lots for residential use shall have required width at front property line for both streets.
- (5) The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street or highway.
- (6) Double frontage and reverse frontage lots may be allowed by the Planning Board to maintain environmental, scenic view, or other elements of community character or should be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 20 feet wide, across which there shall be no right of access, shall be provided along the rear line of such lots abutting such a major traffic artery or other disadvantageous use.
- (7) Side lot lines shall be substantially at right angles or radial to street right-of-way lines, except where topographic conditions require deviation from this criterion.

E. Flag lots. **[Amended 2-9-2016 by L.L. No. 3-2016<sup>11</sup>]**

- (1) Flag lots may be used in rare instances when required due to unusual conditions of the area or lot configuration or, in the



opinion of the Planning Board, the character of the land precludes typical subdivision development, or a unique and desirable lot can be created. Flag lots shall not be created for any use other than a single-family dwelling. The purpose of creating the flag lot is not to circumvent typical subdivision with internal street development.

- (2) The Planning Board, in its sole discretion, may approve the inclusion of one or more flag lots within any proposed minor subdivision. Flag lots shall not be permitted in major subdivisions.
- (3) In making its determination of allowing the inclusion of flag lots, the Planning Board will review:
  - (a) The general design and configuration of the subdivision;
  - (b) The site topography and impact on adjoining properties along with those proposed in the subdivision in order to ensure that the flag lot is properly designed.
- (4) Flag lots shall have a minimum lot size of two acres with a minimum frontage access of 60 feet, taken at the highway line.
- (5) Where shared driveway access is proposed, the minimum frontage shall allow an aggregate minimum of 60 feet with no individual parcel having less than 20 feet.
- (6) For any minor subdivision that proposes to include a flag lot, all housing envelopes must be shown on the plat and the flag lot housing envelope must be at a minimum of 150 feet from any other proposed housing envelope or existing house and a minimum front yard setback of 100 feet, taken at the closest rear yard property line of the abutting parcel(s).
- (7) Flag lots may be approved with or without shared driveways.
- (8) All driveways to flag lots shall be constructed and maintained to meet the Town of Ballston driveway standards (§ 138-117).
- (9) Flag lots shall not prevent access to farm fields and shall not negatively impact the continuing use of farmland.

F. Easements.

- (1) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall not be less than 30 feet wide.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way which substantially follows the drainage course and shall be of such width or construction as will adequately confine a design storm as specified in the subdivision storm design standards, but in no case shall said right-of-way be less than 30 feet in width. It may also be necessary that parallel streets be provided in order to accommodate this drainage right-of-

way.

- (3) If a street is being dedicated in sections, a temporary turnaround easement of 150 feet in diameter must be granted at its end. Such easement will be terminated when the street is extended.

G. Streets.

- (1) The arrangement, character, extent, width and location of all streets shall conform to the Master Plan and to the Official Maps of the Town and county, if any, and shall be considered in their relation to other existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of land to be served and/or abutted by such streets.
- (2) Where such is not shown in the Master Plan, the arrangement of streets in a subdivision shall either:
  - (a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  - (b) Conform to a plan for the neighborhood approved or adopted by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable or undesirable.
- (3) Minor streets shall be so laid out that through-traffic patterns will be discouraged.
- (4) Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (5) Where a subdivision abuts or contains a railroad right-of-way or controlled access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way (marginal access street), at a distance suitable for the appropriate use of the intervening land, as for park purposes in Residential Districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (6) Reserve strips controlling access to streets, water or sewage treatment plants or to other land dedicated or to be dedicated to public use shall be prohibited, except where their control is definitely placed in the Town under conditions approved by the Planning Board.

- (7) Cross (four-cornered) streets shall be avoided insofar as practicable.
- (8) Street jogs shall be avoided and where no other system shall suffice, center-line offsets shall not be less than 150 feet.
- (9) When continuing street lines of collector streets deflect from each other at any one point by more than 10°, they shall be connected by a curve with a radius at the inner street right-of-way line of not less than 350 feet; where continuing street lines of arterial streets deflect from each other by more than 5°, they shall be connected by a curve of not less than 800 feet radius.
- (10) Streets shall be laid out so as to intersect as nearly as possible at right angles, and in no case shall any angle of intersection be less than 75°. Any change in street alignment to meet this requirement shall occur at least 100 feet from the intersection.
- (11) Street right-of-way lines at street intersections shall be rounded with a radius of 25 feet or with a greater radius where the Planning Board may deem it necessary. The Planning Board may permit comparable cutoffs or chords in place of rounded corners.
- (12) Right-of-way width.
  - (a) Street right-of-way widths shall be as shown on the Official Map, and where not shown thereon, shall not be less than as follows:

<b>Street Type</b>	<b>Right-of-Way Width (feet)</b>
Cul-de-sac	60
Local street	60
Marginal access street	60
Minor collector street	60
Major collector street	84
Arterial road	120

- (b) In exceptional circumstances, to permit optimum use of land, short streets of a minimum width of 50 feet may be permitted by the Planning Board.
- (13) Existing street rights-of-way within the subdivided property shall be widened as shown on the Official Map, if any, to achieve the width appropriate to the type of street.
- (14) Partial width streets shall be prohibited regardless of location within or along the boundary of a subdivision.
- (15) Permanent culs-de-sac shall not contain more than 21 lots and shall be provided with a turnaround at the closed end having a street right-of-way line diameter of at least 150 feet.
- (16) Street grades shall be a minimum of 1% and shall not exceed the following, with due allowance for vertical curves and with not less than 200 feet between changes of grade: **[Amended 8-7-2007 by L.L. No. 8-2007]**

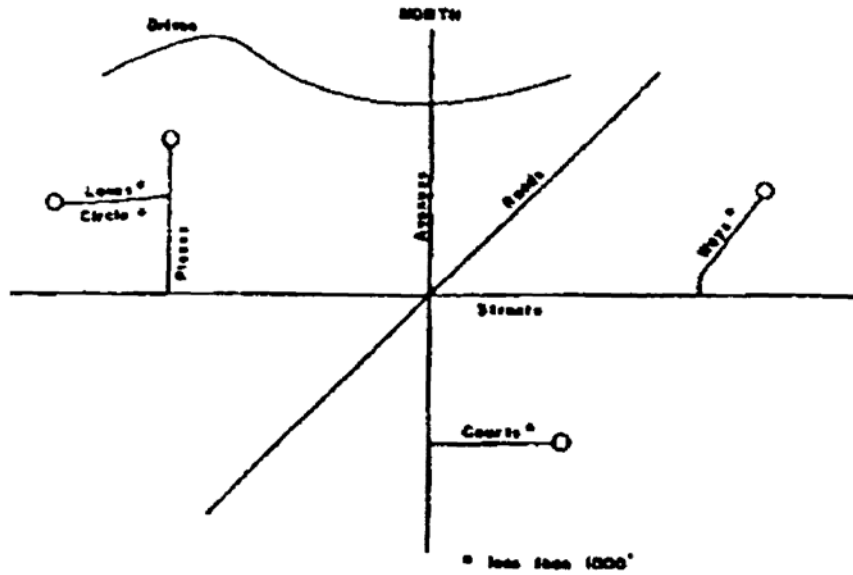
<b>Street Type</b>	<b>Maximum Grade (percent)</b>
Arterial	4%
Collector	6%
Local and marginal access	7% (except that grades up to 10% may be permitted on short runs)

(17) Sight distance over grades shall not be less than 200 feet. Sight distance around curves shall not be less than 200 feet.

(18) Grades at street intersections shall be held to a maximum of 3% for a distance of 100 feet from the edge of pavement of the intersecting street. Vertical curves shall be introduced at changes of grade exceeding an algebraic difference of 2%. **[Amended 8-7-2007 by L.L. No. 8-2007]**

(19) Street names.

(a) Street names shall be cleared with the Town Planning Board and with the Town Board to avoid duplications or use of similarly sounding or spelled names. Street names shall conform to the following sketch. House and lot numbers shall be identical and shall follow the standard United States Postal Service practice of house numbering.



(b) Other designations such as terraces and boulevards will be accepted for consideration where the owner feels they may be more appropriate.

(20) Curb radii at intersections shall be a minimum of 35 feet. **[Added 8-**

**7-2007 by L.L. No. 8-2007]**

**(21)** Culs-de-sac shall have a minimum grade of 1.5% and a minimum cross slope of 2% (no crown). **[Added 8-7-2007 by L.L. No. 8-2007]**

**H. Public sites and open spaces.**

- (1) The owner shall dedicate to the Town land usable for recreation purposes equal in size to not less than 5%, of the owner's tract to be subdivided for residential usage. This land shall be used by the Town for parks, playgrounds or for other specific public recreational uses as deemed desirable by the Planning Board. However, if the Planning Board should consider an owner's tract too small or unsuitable for dedication of 5% of the total area as usable recreational land, the Town Board shall direct the owner to make a money payment to the Town in lieu of the land. This payment must be equal to a fee as established by the Town Board, and will be assessed on each commercial building placed on a building lot created through subdivision after September 30, 2004, and on each dwelling unit placed on a building lot created through subdivision after September 30, 2004. Where a commercial building has within it one or more dwelling units, the fee shall be one fee for each commercial building and an additional fee for each dwelling unit within each commercial building. The first dwelling unit shall be exempt from the parks and recreation fee for two-family and multiple dwellings placed on lots created through subdivision before September 30, 2004. The parks and recreational fee may be used by the Town for the purchase of land for such public recreational uses and/or for the purchase of materials, equipment or necessary services to create a recreational facility for public use. The fee schedule is on file in the Town Clerk's office.
- (2) Usable areas or areas bordering streams, lakes or other watercourses can be given special consideration by the Planning Board in excess of the minimum. The Planning Board may recommend that the Town Board accept these areas as a gift, or purchase them, should they be desirable for public open spaces.
- (3) Where such sites and open spaces are not shown on the Master Plan and where deemed essential by the Planning Board upon consideration of the particular type of development proposed in the subdivision and especially in large-scale, neighborhood-unit developments, the Planning Board may recommend that the Town Board require the dedication or reservation of areas in excess of the minimum. Under such conditions, a money payment at current market value prior to subdivision will be made to the owner to compensate his or her loss in excess of the contribution.
- (4) The owner of a parcel of land which shall be divided into a minor subdivision as set forth in the definitions in Article II of this chapter shall be liable for a fee as established by the Town Board in the fee

schedule, said fee to be used for public recreational uses serving the neighborhood in proximity of the land subdivision.

- I. Street trees.
  - (1) Existing trees within the subdivision shall be preserved insofar as is possible.
  - (2) No trees, hedges, shrubs, series of walls, etc., shall be placed within the street right-of-way or permitted outside a corner radius of 25 feet, which would obstruct a vision from motor cars, except in the case of specific examples such as a particularly large, beautiful tree or any other example deemed worth saving by the Planning Board.
- J. Specifications for required improvements. All required infrastructure improvements shall be constructed or installed to conform to applicable Town specifications established by the Town Board or obtained from the Town Engineer.
- K. Completion of improvements. No lot shall be conveyed and no building permit shall be issued for any lot within a subdivision in which a new road or street, or other infrastructure is proposed until such road, street or infrastructure is completed, inspected and approved by the Building Department.
- L. Character of the development. In making any determination regarding streets, parks, and other required improvements, the Planning Board shall take into consideration the character and intensity of the development as well as the lands surrounding the proposed subdivision.
- M. Reserve strips. Reserve strips of land that may prevent access from any portion of a subdivided property to streets or adjoining property shall not be permitted, unless the Planning Board finds such strips to be necessary for the protection of public health or safety. Reserve strips of land or easements for the purpose of future connections with other tracts of land or for future accommodation for blocks, roads, pedestrian or bike paths, may be required where appropriate.
- N. Open space system. Existing natural features and open space resources shall be identified and connected in a coherent open space system that maintains to the maximum extent practical the integrity of ecosystems, watersheds, wildlife corridors, and other environmental resources.
- O. Emergency service compliance. Compliance with 911 emergency requirements for posting lot or building 911 numbers shall be required for all driveways and lots. All shared driveways or private roads shall provide a minimum road width every 500 feet that is 20 feet wide by 40 feet long after review by the Town Engineer, for emergency vehicles.
- P. Stormwater management. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles 1 and 2 of Chapter 91 (entitled "Stormwater Management") of the Town Code shall be required prior to, or

as a condition of, final plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of Chapter 91. The layout and features of the plat must also be consistent with the provisions of Chapter 91.

**§ 104-13. Rural development guidelines.**

The following design guidelines apply to all subdivisions in the Rural Zoning Districts of the Town and ~~shall~~ be implemented by the applicant and recommended by the Planning Board ~~to the maximum extent, wherever feasible.~~ The purpose of these design guidelines is to maintain and enhance the rural features existent in the aforesaid districts.

- A. Existing stonewalls, hedgerows and mature tree lines ~~shall~~ be preserved, ~~identified on final plats,~~ and utilized, for establishment of lot lines and considered in the lot layout.
- B. The placement of buildings ~~shall~~ be located in such a manner as to avoid placement in the middle of open fields to the extent feasible. Building locations ~~shall~~ be ~~encouraged~~ at the edges of fields or in cleared areas next to fields wherever practical.
- C. Buildings ~~shall~~ be located where existing vegetation and/or topography provides a natural buffer and screening from roads and neighboring properties.
- D. Clearing of vegetation and trees along roads ~~shall~~ be minimized as much as possible so long as adequate site distances for driveways are maintained. The use of curves in driveways should be encouraged to screen buildings so long as right-angle intersections with roads are maintained.
- E. Buildings ~~shall~~ be sited so that existing vegetation and topography can be used as a background or integrated into the building design to reduce the prominence of the structure.

**§ 104-14. Traditional neighborhood design (TND) standards.**

- A. The following design standards apply to any subdivision in which a Traditional Neighborhood design is proposed. The design standards in this sub-section for a TND shall be applied to any major subdivision in the Hamlet District, and may be applied by the Planning Board for any PUDD, Senior Housing District, or major subdivision in other districts. ~~subdivisions in the Hamlet Residential and Ballston Lake Residential Zoning Districts of the Town. This development must utilize municipal sewer and water services. Extension of municipal sewer and water services are permitted. This section is divided into design standards that will be required of any subdivision in the aforesaid districts and shall be implemented by the applicant and/or required by the Planning Board wherever feasible; and design standards, density bonuses and other requirements for major subdivisions of 15 lots or more (or planned unit developments of 15 units or more) where the applicant wishes to create a traditional neighborhood and/or the Planning~~



~~Board determines that a traditional neighborhood is warranted. A planned unit development shall be required for any proposal of more than 100 residential units. An applicant has the option to apply for a planned unit development for any proposal of less than 100 residential units.~~

- B. Purpose. The purpose of these standards is to allow the optional development and redevelopment of land in the Hamlet Residential and Ballston Lake Residential Zoning Districts consistent with the design principles of traditional neighborhoods. A traditional neighborhood:
- (1) Is relatively compact.
  - (2) Is designed for the human scale.
  - (3) Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood.
  - (4) Provides a mix of housing styles, types, and sizes to accommodate households of all ages, sizes, and incomes.
  - (5) Incorporates a system of relatively narrow, interconnected streets with sidewalks or pedestrian paths, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments.
  - (6) Retains existing buildings with historical features or architectural features that enhance the visual character of the community.
  - (7) Incorporates significant environmental features into the design.
  - (8) Is consistent with the Town's Comprehensive Plan.
- C. General TND standards ~~for all subdivisions~~. These minimum standards shall apply to all major subdivisions, regardless of the number of lots proposed, in the Hamlet Residential and may apply to subdivisions elsewhere. Ballston Lake Residential District so as to accommodate future development in such districts consistent with the TND design concept.
- (1) Easements with a minimum width of 10 feet shall be required along front of lots for provision of off-street sidewalks or paths, lighting and utilities.
  - (2) Reserve strips of land or easements for provision of future streets and creation of blocks shall be required in locations that are consistent with traditional neighborhood design.
  - (3) The layout of lots shall accommodate future development consistent with traditional neighborhood design.
  - (4) In determining the layout of lots, the accommodation for future sidewalks, blocks and streets, the standards set forth in Subsection D below, should be utilized as guidance.

D. ~~TND standards for specific TND subdivisions. The Traditional Neighborhood Development Ordinance is an alternative set of standards for development within the Hamlet Residential and Ballston Lake Residential District for new development of 15 lots or more unless the development can be considered a continuation of an adjacent TND development.~~

~~(1) Incentive bonus. For those subdivisions which utilize the TND requirements set forth below, the allowable density as calculated pursuant to a conventional subdivision may be increased at the discretion of the Planning Board depending on the extent of design standards utilized in the subdivision. For purposes of increasing density, the Planning Board is hereby expressly authorized to increase density in such cases where furtherance of the traditional neighborhood design is accomplished.~~

~~(a) In areas devoted to mixed residential uses:~~

~~[1] The number of single family detached dwellings permitted shall be up to six dwellings per net acre.~~

~~[2] The number of multifamily units shall be up to 12 dwelling units per net acre.~~

~~[3] Secondary dwelling units shall not be permissible under this section.~~

~~[4] For each affordable housing unit (pursuant to the definition promulgated by the Department of Housing and Urban Development) provided under this section, one additional dwelling unit shall be permitted, up to a maximum increase of 15% in dwelling units.~~

~~[5] For each senior housing unit (a unit for persons 55 years and older) provided under this section, one additional dwelling unit shall be permitted, up to a maximum increase of 15% in dwelling units.~~

~~[6] Affordable and senior housing units shall be equally distributed throughout the TND.~~

~~(b) In mixed use areas:~~

~~[1] The number of single family and multifamily dwelling units permitted shall be calculated the same as above.~~

~~[2] All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 10%, whichever is greater.~~

~~[3] The total ground floor area of nonresidential development~~

~~uses, including off-street parking areas, shall not exceed 25% of the traditional neighborhood development.~~

~~(e)~~(a) Lot and block standards.

- [1] Introduction. Providing diversity in block and lot size can help to create an environment that is pedestrian friendly. Short blocks in traditional grids create multiple routes and more direct ones for pedestrians, bicyclists, and motorists. Lot and block design should promote development that is compatible with natural features, minimizes pedestrian and vehicular conflict, promotes street life and activity, reinforces public spaces, promotes public safety, and visually enhances development.
- [2] Block and lot size diversity. Street layouts should provide for perimeter blocks that are generally in the range of 200 to 600 feet deep by 400 to 1,200 feet long. A variety of block and lot sizes should be provided to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.
- [3] Lot widths. Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.
- [4] Setbacks.
  - [a] Building setback, front: areas of mixed residential uses. Single-family detached residences shall have a building setback in the front between 15 and 30 feet. Single-family attached residences and multifamily residences shall have a building setback in the front of 15 feet.
  - [b] Building setback, rear: areas of mixed residential uses. The principal building on lots devoted to single-family detached residences shall be set back no less than 30 feet from the rear lot line.
  - [c] Side setbacks. Provision for zero lot line single-family dwellings should be made, provided that a reciprocal access easement is recorded for both lots and townhouses or other attached dwellings; all dwellings have pedestrian access to the rear yard through means other than the principal structure; and Building Code requirements are complied with regarding firewalls between residential dwellings.

~~(e)~~(b) Circulation standards. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood

development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off-street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development. Dead-end streets or culs-de-sac should be discouraged.

- [a] Pedestrian circulation. Convenient pedestrian circulation systems that minimize pedestrian-motor-vehicle conflicts shall be provided continuously throughout the subdivision with the alignment with existing or future pedestrian circulation systems. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks or paths on both sides of the street. The following provisions also apply:
  - [b] Sidewalks in residential areas. Clear sidewalks or walkways, three to five feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.
  - [c] Sidewalks in mixed use areas. Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of five feet in width.
  - [d] Disabled accessibility. Sidewalks shall comply with the requirements of the Americans with Disabilities Act.
  - [e] Crosswalks. Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be clearly marked with contrasting paving materials at the edges or with striping.
- [2] Bicycle circulation. Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other nonmotorized users) and separate, striped, four-foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet.
- [3] Public transit access. Where public transit service is available or planned or where senior housing is planned, convenient

access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security and shall be well-lighted. School bus stops may also be planned and accommodated for.

- [4] Motor vehicle circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as queuing streets, curb extensions, roundabouts, and medians may be used to encourage slow traffic speeds.
- [a] Street hierarchy. Each street within a traditional neighborhood development shall be classified according to the following [major collector (arterial) streets should not bisect a traditional neighborhood development.]:
    - [i] Local street. This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is 25 miles per hour.
    - [ii] Marginal access. This street provides primary access to individual residential properties but is protected from through traffic. Usually they are parallel to and adjacent to arterial streets or county or state highways. Traffic volumes are relatively low, with a design speed of 20 miles per hour.
    - [iii] Minor collector street. This street carries traffic from local streets to a major collector street, including the principal entrance streets of a residential development and streets for circulation within such development. Traffic volumes are higher with a design speed that varies by location and use (30 to 45 miles per hour).
    - [iv] Alley. These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.
  - [b] Street layout. The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:
    - [i] Intersections shall be at right angles whenever

possible, but in no case less than 75°. Low-volume streets may form three-way intersections creating an inherent right-of-way assignment where the through street receives precedence which significantly reduces accidents without the use of traffic controls.

- [ii] Corner radii. The roadway edge at street intersections shall be rounded by a tangential arc with a maximum radius of 15 feet for local streets and 20 feet for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet. The Town Engineer shall approve the selected curve radius dimension and shall recommend revisions as required.
  - [iii] Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at all intersections.
  - [iv] The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.
- [c] Parking requirements. Parking areas for shared or community use should be encouraged. In addition:
- [i] In an area of mixed residential and commercial use, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided.
  - [ii] A parking lot or garage may not be adjacent to or opposite a street intersection.
  - [iii] In the mixed use area, a commercial use must provide one parking space for every 500 square feet of gross building area.

- [iv] Commercial parking lots or garages must provide not less than one bicycle parking space for every 10 motor vehicle parking spaces.
- [v] Adjacent on-street parking may apply toward the minimum parking requirements.
- [vi] In the mixed residential/commercial areas, parking may be provided on-site. At least one off-street parking space with unrestricted ingress and egress shall be provided for each dwelling unit.

~~(e)~~(c) Architectural standards. A variety of architectural features, building materials and designs should be implemented to avoid uniformity of building design and to give each building or group of buildings a distinct character.

~~(f)~~(d) Guidelines for new structures.

- [1] Height. New structures within a Traditional Neighborhood Development shall be no more than two stories for single-family residential, or three stories for commercial, multifamily residential, or mixed use.

~~(g)~~(e) Open space guidelines. At least 10% to 20% of the gross acreage of the traditional neighborhood development must be open space. At least 50% of the open space must be common open space dedicated to the public for parkland and be useable land for such parkland use. Seventy-five percent of the lots within the areas devoted to mixed residential uses shall be within a 1/3 mile or a ten-minute walk from common open space.

~~(h)~~(f) Guidelines for lighting.

- [1] Streetlighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used and should be on a scale appropriate for a pedestrian environment. Streetlights shall be installed on both sides of the street at intervals of no greater than 100 feet.
- [2] Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.
- [3] A streetlighting and sidewalk district shall be created in order that the cost and maintenance be assessed against those properties in the district that are benefited by the lighting and sidewalks.

~~(i)~~(g) Landscaping and screening guidelines. Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed, contiguous planting areas shall be preferred to smaller,

disconnected areas. Where screening is required by this chapter, it shall be at least three feet in height, unless otherwise specified. Required screening shall be at least 50% opaque throughout the year. Required screening shall be satisfied by one or some combination of a decorative fence not less than 50% opaque behind a continuous landscaped area, a masonry wall, or a hedge.

- [1] Street trees. A minimum of one deciduous canopy tree per 50 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.
- [2] Parking area landscaping and screening.
  - [a] All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:
    - [i] A landscaped area at least five feet wide along the public street or sidewalk.
    - [ii] Screening at least five feet in height and not less than 50% opaque.
    - [iii] One tree for each 25 linear feet of parking lot frontage.
  - [b] Parking area interior landscaping. The corners of parking lots, islands, and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

(h) Stormwater management standards. The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained/protected to the maximum extent practicable. New development and redevelopment shall meet the following requirements in addition to applicable standards and requirements set forth in Chapter 91 (entitled "Stormwater Management") of the Town Code:



- [1] Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.
- [2] Postdevelopment peak discharge rates should not exceed predevelopment peakrates.
- [3] Erosion and sediment controls must be implemented to meet or exceed NYSDEC requirements for removal of total suspended solids.
- [4] Areas for snow storage shall be provided for commercial areas unless the applicant provides an acceptable snow removal plan.
- [5] Redevelopment stormwater management systems should improve existing conditions and meet standards to the extent practicable.
- [6] All treatment systems or BMPs must have operation and maintenance plans to ensure that systems function as designed.

**§ 104-15. (Reserved)**

**§ 104-16. (Reserved)**

**§ 104-17. (Reserved)**

#### ARTICLE V

#### **Minimum Required Improvements**

**§ 104-18. General requirements.**

The subdivider shall cause to be completed certain physical improvements within the proposed subdivision either at his or her own expense or through the formation of a special district pursuant to pertinent laws of the State of New York or, in lieu thereof, post a bond of performance. The final determination as to the need of any of the physical improvements listed in § 104-19, Specific physical improvements, within a residential subdivision shall be the prerogative of the Planning Board with the advice of the Engineer. When such needs have been determined as essential, this article applies. For nonresidential subdivisions, physical improvements shall be as determined by the Planning Board with the advice of the Engineer in accordance with Article VII, Special Requirements for Nonresidential Subdivisions.

**§ 104-19. Specific physical improvements.**

- A. Monuments shall be located in sufficient number to control the subdivision, but as a minimum they shall be located at every point of tangency, point of curvature, point of deflection and all intermediate points necessary to provide visibility between adjacent monuments along one right-of-way line of each street. All easements shall be similarly monumented.

- B. Lot corner markers as shown in the standards shall be placed at all lot corners after the lot is graded and shall be located as referenced to the monuments.
- C. Grading, center-line gradients, pavement base, wearing surface, curbing, gutters, sidewalks, storm sewers and other drainage shall be approved by the Engineer in accordance with the Town Subdivision Standards.<sup>12</sup>
- D. Street signs shall be approved by the Engineer and installed according to the Town Subdivision Standards.
- E. Streetlighting shall be approved by the Town Board.
- F. Street trees not fewer than two on the front of each lot shall be required in new subdivisions, unless exempted by the Planning Board. Type and size shall be approved by the Engineer and the Planning Board. **[Amended 9-30-2003 by L.L. No. 4-2003]**
- G. Water mains where public water supply is available, wells (including placement) and/or a private water supply system sufficient to make an adequate supply of potable water available for every lot shall be approved by the Engineer in accordance with standards approved by the Town Board.
- H. Sanitary sewers and/or individual septic systems shall be approved by the Engineer or governing authority in accordance with standards approved by the Town Board. All sanitary sewer mains or septic systems shall be designed and constructed in accordance with New York State standards and standards set by the Town Board. **[Amended 9-30-2003 by L.L. No. 4-2003]**

ARTICLE VI  
**Plat Requirements**

**§ 104-20. Final subdivision plat.**

- A. The final subdivision plat shall be submitted as two Mylar and two paper drawings for approval and subsequent recording. **[Amended 1-4-2005 by L.L. No. 1-2005]**
- B. The plat shall be clearly and legibly drawn. The scale shall not be greater than 100 feet to one inch. When more than one sheet is required, an index sheet shall be provided showing the entire subdivision at an appropriate scale. The final subdivision plat shall show the following:
  - (1) Proposed subdivision name or identifying title, which shall not too closely resemble that of any other development in the Town; date, North orientation and scale.
  - (2) Name, address and signature of the owner; name, license number and seal of the land surveyor and/or professional engineer. The surveyor and engineer holding an exemption under either Subdivision n or m of § 7208 of the Education Law shall so indicate.

- (3) The names or identifying titles of adjacent subdivisions and the names of owners of adjacent acreage.
- (4) Locations, names and widths of existing streets, highways and easements, building lines, parks and other public properties.
- (5) Locations, names and widths of all streets and sidewalks and location, dimensions and status of all easements proposed by the owner, described as appropriate by the length of all straight lines, radii and length of curves, tangent distances and tangent bearings in sufficient detail to be reproduced upon the ground.
- (6) Purpose for which sites other than residential lots are dedicated or reserved, their location and dimensions in sufficient detail to be reproduced upon the ground.
- (7) Dimensions and bearings of intersection for each lot line as necessary for the location of each lot line in the field, plus individual lot areas.
- (8) Number to identify each lot in keeping with the standard United States Postal Service practice of house numbering.
- (9) Suitable primary control points, or descriptions and ties to such control points, to which all dimensions, bearings and similar data given on that plat shall be referred.
- (10) The location and description of all existing or proposed permanent monuments.
- (11) The boundary lines of the subdivision with accurate distances and bearings as necessary in sufficient detail to be reproduced upon the ground.
- (12) Right to Farm Law. This property may border a farm, as defined in Town Law. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibration. **[Added 1-4-2005 by L.L. No. 1-2005]**

**§ 104-21. Construction detail sheets.**

Construction detail sheets shall show the following information, except that where requirements have been waived, applicable specifications may be omitted:

- A. Profiles showing existing and proposed elevations of all streets, with elevations referred to established United States government or approved local bench marks where they exist within 1/2 mile of the boundary of the subdivision.
- B. Plan views and profiles showing the location and a typical section of street pavements, including curbs and gutters, sidewalks, manholes and catch basins; the locations of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and

proposed sanitary sewers, stormwater drains and fire hydrants; and the exact location and size of all water, gas or other underground utilities or structures.

**§ 104-22. Other information.**

A. Additional information shall include:

- (1) Water supply and sewage disposal arrangements with details and certification of approval by the appropriate public health agency and/or other appropriate public agencies.
- (2) Certificate of a licensed land surveyor and/or professional engineer. Those surveyors and engineers holding an exemption under either Subdivision n or m of § 7208 of the Education Law shall so indicate.
- (3) A signed and notarized statement by the owner certifying that he or she will comply with one of the following alternatives before transfer of ownership of any portion of the subdivision.
  - (a) All improvements for that portion of the subdivision concerned will be installed in accordance with the requirements of these regulations and those of the Planning Board giving approval of the preliminary layout.
  - (b) A bond (satisfactory to the Town Board) or certified check will be posted available to the Town, and be of sufficient amount (as determined by the Engineer) to assure such completion of all required improvements for that portion of the subdivision concerned.
- (4) Certification of title showing that the applicant is the owner.
- (5) Protective covenants in form for recording, including covenants governing the maintenance of unceded public spaces or reservations.
- (6) Other data: such other certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in the enforcement of these regulations.

- B. Prior to formal dedication of the road, the owner shall supply to the Town a surveyor's certificate stating that the control monuments are set accurately. The certificate shall be signed by a professional land surveyor or a professional engineer with an exemption under § 7208, Subdivision m, of the Education Law.

ARTICLE VII

**Special Requirements for Nonresidential Subdivisions**

**§ 104-23. General procedural requirements.**

It is recognized that the owner, in creating nonresidential subdivisions, faces unique problems of lot design not normally encountered in residential

subdivisions. For this reason, the initial emphasis of the Planning Board shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the owner to follow the regular procedure outlined in Article III, Procedure for Filing Subdivision Applications, and to show the entire tract to be subdivided with necessary improvements and as many parcels as he or she cares to show, but at least two. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications and following informal discussions with the Planning Board, if the owner so requests, the owner may submit directly at a regular meeting of the Planning Board an amendment to the approved final subdivision plat for consideration. Regular procedural requirements of the Planning Board following receipt of a final subdivision plat shall then apply. A fee, the amount of which to be established from time to time by the Planning Board to defray advertising and other expenses, shall accompany this application.

**§ 104-24. Street layout; curbs; blocks and parcels.**

In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Planning Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- A. Proposed nonresidential street layout, blocks and parcels shall be suitable in area and dimensions to the types of development anticipated.
- B. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to arterial or collector streets in such a way that the number of intersections with such arterials or collectors shall be minimized.
- C. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at intersections shall be at least 50 feet. Curb radii at driveway intersections shall be at least 25 feet, or appropriate alternate approved by the Engineer.
- D. The owner shall ensure that the nonresidential subdivision, as a whole, shall be self-sufficient with regard to providing necessary off-street parking. The owner, at his or her discretion, may make parking self-sufficiency a requirement of individual lots.
- E. With respect to physical improvements, special requirements may be imposed by the Planning Board with the advice of the Engineer within the nonresidential subdivision.
- F. Every effort shall be made to protect adjacent residential areas from potential nuisance from the nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential

residential development and provisions for a permanently landscaped buffer strip when necessary.

#### ARTICLE VIII

#### Variance and Modifications

##### § 104-25. Procedure.

- A. ~~Where the Planning Board finds that because of unusual circumstances of shape, topography or other physical features of the proposed subdivision or because of the nature of adjacent developments, extraordinary hardship may result from strict compliance with these regulations, it may grant a variance from the regulations so that substantial justice may be done and the public interest secured, provided that no such change shall be granted which will have the effect of nullifying the Official Map (as it may be adopted), Chapter 138, Zoning, of the Code of the Town of Ballston or any other pertinent rules, regulations or ordinances of the Town. In granting such a variance, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so changed or modified. Where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to the Town of Ballston Zoning Law, without the necessity of a decision or determination by the Code Enforcement Officer charged with the enforcement of the zoning law. In reviewing such application, the Zoning Board of Appeals shall request the Planning Board to provide a written recommendation concerning the proposed variance.~~
- B. ~~The standards and requirements of these regulations may be modified by the Planning Board in the case of a plan and program for a complete community or other planned development, which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the community when fully developed and populated and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan. Waiver of Requirements. The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.~~

ARTICLE IX  
**Lot Line Adjustment**  
**[Added 9-30-2003 by L.L. No. 4-2003<sup>13</sup>]**

**§ 104-26. Procedure. [Amended 1-4-2005 by L.L. No. 1-2005]**

Whenever any adjacent lots are proposed for lot line adjustments, before any deeds are filed with the County Clerk, the owner or his or her authorized agent shall apply for approval of such lot line adjustment by submitting to the Building Department, at least 21 days prior to a regular meeting of the Planning Board, 14 copies of a sketch plan of the proposed lot line adjustments.

**§ 104-27. Procedure for approval**

- A. The applicant shall file with the Building Department an application for approval of the lot line adjustment.
- (1) The application shall:
- (a) Be made on forms available at the office of the Building Department.
  - (b) Be accompanied by a sketch plan that shall contain the following:
    - [1] Boundary information of the parcels to be adjusted, and the location of the proposed lot line adjustments.
    - [2] The revised areas of the lots.
    - [3] A map to be to scale at a minimum of one inch equals 50 feet and containing a North arrow.
    - [4] Names of the property owners and adjoining property owners.
    - [5] Existing building and structure locations, site improvements, and setback dimensions.
  - (c) Comply with any county or Town ordinances or laws deemed pertinent by the Building Department or the Planning Board.
- (2) The Building Department shall review the application for lot line adjustment for conformance to applicable zoning requirements.<sup>14</sup> If the lot line adjustments are in conformance with zoning regulations, the application will appear before the Planning Board.

- (3) The proposal will be presented to the Planning Board by the Building Inspector with his or her recommendation for approval or disapproval.
- (4) In the event that a lot line adjustment plan is not submitted to the Planning Board within six months of the approval of the preliminary layout, the application may be considered withdrawn and any previous approval or waivers of required improvements by the Planning Board may be revoked.
- (5) Filing.
  - (a) Within 62 days next following the date of official approval action by the Planning Board or the date of issuance by the Town Clerk of a certificate of nonaction and after approval by the County Health Department, if applicable, the applicant shall file the final lot line adjustment plan with the County Clerk. Otherwise, such final approval shall expire as provided in § 276 of the Town Law.
  - (b) Five black-and-white prints of the final lot line adjustment plan showing the recording date of the County Clerk thereon shall be submitted to the Planning Board after filing with the County Clerk.
  - (c) It shall be the duty of the County Clerk, in accordance with § 279 of the Town Law, to notify the Planning Board in writing within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number.
  - (d) No changes, erasures, modifications or revisions other than those requested by the State Health Department or other such agency, or to correct metes and bounds, shall be made on any subdivision lot line adjustment plan after final approval has been given by the Planning Board and the lot line adjustment plan has been duly filed with the County Clerk unless such lot line adjustment plan has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any lot line adjustment plan so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void and the Board shall institute proceedings to have the lot line adjustment plan stricken from the records of the County Clerk.



## ARTICLE X

**Residential Cluster/Conservation  
Conservation Subdivision Open Development**

**[Added 9-30-2003 by L.L. No. 4-2003; amended 6-1-2004 by L.L. No. 3-2004; 6-12-2006 by L.L. No. 5-2006]**

**§ 104-28. Purpose and intent.**

The purpose of this article is to provide the ability for development of residential subdivisions to be flexible in design, lot size and layout, to preserve natural site features and provide for ~~opengreen~~ space (with or without community recreational areas) in conjunction with residential development. It is intended that this type of development will result in less impact to natural features, reduce developed area, road construction and impacts to storm drainage and allow for maintenance of agricultural lands. The overall intent is to maintain the prevalent rural character in the Rural District as identified in Section 3 of the Comprehensive Plan<sup>15</sup> by incorporating a subdivision design that conserves certain portions of the land that is to be developed that will add to or maintain the rural character.

**§ 104-29. Authority of Planning Board.**

- A. Pursuant to the powers granted under § 278 of the Town Law and the Municipal Home Rule Law, the Town Board authorizes the Planning Board to vary the zoning requirements set forth in Chapter 138 of the Town Code simultaneously with the approval of any proposed residential subdivision in order to cluster or to create a conservation design development in furtherance of the purposes and objectives set forth herein subject to the standards and procedures set forth in this article. Any major subdivision in the Rural District and Ballston Lake Residential District shall be designed as a conservation subdivision (See 138-10.3 (H)).
- B. An applicant for any subdivision approval may propose or the Planning Board, in its discretion, shall require the submission of a conservation subdivision plat where the Planning Board finds that a clustered or conservation design subdivision is appropriate.
- C. In addition to its authority to vary zoning requirements for purposes of clustering residential lots and conserving open space, natural features and rural character, ~~the Planning Board is hereby authorized to provide additional density bonuses of up to 20% of the number of lots or residential units that would normally be allowed in order to encourage the use of cluster/conservation subdivisions. Additional residential units shall be added if affordable housing units are provided pursuant to § 104-30B below a density bonus may be given pursuant to 138-120 (Transfer of Development Rights). Density bonuses shall only be offered through participation in the TDR procedure.~~

**§ 104-30. Applicability; density; area and dimensional requirements; fees.**

~~A.~~ This article shall apply to major subdivisions in the Rural and Ballston Lake Residential Zoning Districts. The Planning Board may waive the requirement for a conservation subdivision design only when a conceptual layout plan for both a conservation subdivision and a conventional subdivision is submitted for consideration by the Planning Board. Each layout shall be based upon a detailed site analysis as per subsections (3) (a) and (b) below, and upon information about stream course buffers, soils information, depth to water, watershed, habitats, or other environmental features. The Planning Board may choose the conventional subdivision layout only when it is determined that such design offers more benefits to the Town than a conservation subdivision pursuant to 104-30 (1) (g), below. Municipal water and sanitary sewer is not required but the Town engineer and the County Department of Health shall review and approve all water and wastewater treatment plans proposed. At the discretion of the Planning Board, conservation development shall be required only in areas within the Rural Zoning District currently serviced by municipal water and sanitary sewer service (areas where the municipal services are located at the property line of the parcel or parcels involved in the proposed subdivision). Conservation development shall not be required in areas not serviced by municipal water and sanitary sewer service if the soil conditions cannot support this form of development. The Planning Board shall have the authority to require conservation development if it is the Town Engineer's opinion that the site soil conditions would support this form of development. No privately owned or operated community water or sanitary sewer systems shall be allowed. Due to the condition of soils and concerns about the availability of potable water in much of the Rural District, the Planning Board may require third party review of water supply and suitability of soils for placement of septic systems.

~~(1)~~ For a subdivision of land for which existing municipal water and sanitary sewer service is available, the applicant should submit a subdivision plan that conforms to this section unless the applicant can demonstrate through a conservation analysis (described below) that compliance with this section would be inappropriate given site conditions and/or would not result in any additional land conservation than would be provided under a conventional subdivision.

~~(2)A.~~ For a subdivision of land for which existing municipal water and sanitary sewer is not available in the Rural Zoning District, the applicant is encouraged but is not required to submit a subdivision plan that conforms to this section.

~~(3)~~ B. Conservation analysis.

~~(a)~~ As part of its preliminary plat submission for all major subdivisions in the Rural District requiring compliance with this section as outlined above (See § 104-9.1C for additional information.), an applicant shall prepare a conservation

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~~analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value, including but not limited to the following:~~

- ~~[1] Constrained land as defined in Subsection B(1)(a) below.~~
- ~~[2] Buffer areas necessary for screening from active agricultural parcels.~~
- ~~[3] Land exhibiting present or potential recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.~~

- (a) Site Analysis. The following site analysis shall be submitted. A site analysis shall include an identification of conservation lands within a parcel(s). The site analysis shall include a Site Analysis Map that includes the information listed below. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies, or from aerial photographs. The applicant may obtain advice and assistance from an accredited land trust or environmental organization when preparing the site analysis. The site analysis is not intended to be a highly engineered or exact document, but a general sketch illustrating the location and type of environmental features that are present on the site including:

- 1) Areas having slopes of fifteen percent (15%) or greater.
- 2) Wetlands, vernal pools, areas of hydrological sensitivity including but not limited to aquifer and aquifer recharge areas, municipal water supply recharge areas, flood-prone areas as shown on Federal Emergency Management Agency maps, lakes, and streams, if any. The Site Analysis Map shall delineate any required stream buffer as per the Town of Ballston Zoning Law.
- 3) Agricultural lands including farmland within, and adjacent to, a New York State certified Agricultural District, soils classified as being prime farmland or soils of statewide significance, if any.
- 4) Sites where community sewer, community water, or community water and sewer are available or planned, if any.
- 5) Lands within, or contiguous to, a Critical Environmental Area designated pursuant to Article 8 of the New York State Environmental Conservation Law, if any.
- 6) Lands contiguous to publicly owned or designated open space areas, or privately preserved open spaces, if any.

- 7) Historic structures or areas of national, state or local importance, if any, and specifically identifying those structures which are listed on either the federal or New York State Register of Historic Places.
- 8) Sites in, or bordering on, known scenic locations identified in the Town's Comprehensive Plan, if any.
- 9) Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species, or unique natural or geological formations, if any.
- 10) General description and locations of the vegetative cover on the property according to general cover type including cultivated land, grass land, old field, hedgerow, woodland and wetland, and showing the actual line of existing trees and woodlands.
- 11) Lakes, ponds or other significant recreational areas, or sites designated as such in the Town's Comprehensive Plan, if any.
- 12) Existing trails, inactive railroad beds, bikeways, and pedestrian routes of Town, State or County significance or those indicated in any Town, County or State plan for future trail development, if any.
- 13) Location of all existing streets, roads, buildings, utilities and other man-made improvements.
- 14) All easements and other encumbrances of property which are or have been filed of record with the Columbia County Clerk's Office.

C. In addition to compliance with the requirements of this law, all other procedures and requirements of the Town of Ballston Land Subdivision Regulations related to Preliminary and Final Plat Approvals shall be followed.

~~(b)~~1) The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site. In the course of its initial preliminary plat review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.

~~(c)~~2) The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved preliminary plat showing land to be permanently preserved by a conservation easement. The preliminary plat shall also show preferred locations for intensive development

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~~(d)3~~ The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board. Whenever the Planning Board approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land (the conservation findings). In determining conservation value, the Planning Board shall make such determination which is consistent with the purpose of the conservation subdivision technique as set forth in § 104-28 above and in the Comprehensive Plan.

~~(e)4~~ The Planning Board shall deny an application for subdivisions requiring compliance with this section that does not include a complete conservation analysis sufficient for the Board to make its conservation findings. The Planning Board may seek assistance to review any conservation analysis from professionals including but not limited to engineers, biologists, herpetologists, planners, wetland specialists, and similar professionals. Such assistance shall be funded by an appropriate escrow to cover such costs.

~~(f)5~~ The preliminary plan for a conservation subdivision shall show the boundaries of the land to be preserved and shall identify whether such land is to be preserved by conservation easement, further development restrictions or some other method.

~~(g) Determination for conventional subdivision:~~

~~[1] If, based upon the conservation analysis, the Planning Board determines in its conservation findings 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:~~

~~[a] The land contains no substantial resources with conservation value;~~

~~[b] The set aside of open space will not significantly enhance or maintain rural character;~~

~~[c] The acreage is too small to preserve a substantial amount of land with conservation value and there is no opportunity to link other areas of land in future subdivisions of the same parent parcel or adjacent parcels; or~~

~~[d] The lot configuration is unique and precludes~~

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~~preservation of a substantial amount of land with conservation value.~~

~~{2}1. In order to make the required conservation analysis under Subsection A(2)(g)[1][b] or [c] above, the applicant must also demonstrate that the parcel does not adjoin other land that, when combined with open space on the parcel, would result in the preservation of a substantial amount of land with conservation value (including any portion of a designated trail corridor), regardless of whether or not the adjoining parcels have been protected as open space.~~

~~{3}2. An approval of a conventional subdivision shall refer to the conservation findings and may be conditioned upon the protection of portions of the site identified in the conservation analysis and findings as having conservation value by no build or no further development restrictions.~~

**B.D. Density calculation.**

~~{4}a. The maximum number of residential units allowed on a site (base density) is calculated by a formula based upon the acreage of unconstrained land on the property pursuant to Zoning 138-119.~~

~~(a) To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of constrained land. "Constrained land" includes wetlands, both state and federal, one hundred year floodplain, lands covered by water, steep slopes greater than 25%, and stream corridors of NYSDEC classified streams (fifty-foot setback from the center line of the stream).~~

~~(b) To determine the base number of allowable residential units on the site, divide the unconstrained acreage by the allowable number of acres per unit required within the zoning district. 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.~~

~~{2} As an alternative to the formula based approach described above, the maximum number of residential units allowed on a site (base density) may be calculated using a yield plan. The applicant may choose to utilize this alternative, rather than the formula based approach described above, at his/her sole discretion. Yield plans shall meet the following requirements:~~

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~~(a) A yield plan must be prepared as a sketch plan in accordance with the requirements of the Town zoning regulation containing proposed lots, streets, rights of way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of NYSDEC and federally jurisdictional wetlands, NYSDEC classified and named streams measured along the natural channel, and steep slopes greater than 25%, existing easements or encumbrances and, if not served by public sanitary sewer system, the suitability of soils for subsurface sewage disposal.~~

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~~(b) The Planning Board, at its sole discretion, must determine whether the layout shown on the yield plan is realistic, reflecting a development pattern that could reasonably be expected to be implemented under conventional subdivision review. The number of housing lots identified on the yield plan then becomes the total number of housing lots allowed.~~

~~C.E.~~ Lot size. There shall be no minimum or maximum lot size. The Planning Board shall determine appropriate lot sizes pursuant to its review taking into consideration the availability of ~~public~~-water and sanitary sewer service or, if not available, the suitability of soils for community alternate or individual on-site septic systems and the capacity for on-site individual wells. Third-party review may be required to confirm suitability at the discretion of the Planning Board or the Town Engineer.

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~~D.F.~~ Other area and dimensional requirements. There shall be no required area, bulk, or dimensional standards in a conservation subdivision, except building height and, where such subdivision abuts an existing residence in a residentially zoned area, a suitable buffer area shall be required by the Planning Board. This buffer shall be at least the same distance as the minimum rear or side yard setback in the district in which the abutting land is located.

~~E.G.~~ New York State Building Codes must be adhered to.

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~~F.H.~~ The applicant shall specify dimensional requirements for a proposed conservation subdivision by identifying setbacks and other lot dimensions to be incorporated into the final plat.

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~~G.I.~~ Types of residential units. Only single-family and two-family residential dwellings shall be allowed.

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~~H.J.~~ Fees will be required per lot in accordance with the requirements set forth by the Planning Board for noncluster subdivisions.

**§ 104-31. Design guidelines and additional requirements.**

A. Subsequent to the Sketch Plan meeting and submission of the site

analysis, a preliminary plat shall be developed pursuant to these Subdivision Regulations.

B. All preliminary plans in a major subdivision shall include documentation of the following four-step design process in determining the layout of proposed conserved lands, house sites, roads, and lot lines. Applicants may be required to submit four separate sketch maps indicating the findings of each step of the design process if so required by the Planning Board:

C. Step 1. Delineate Open Space Areas. Proposed open space areas shall be designated as follows:

(1) Primary Conservation Areas shall be delineated and designated on a map. House lots shall not encroach upon Primary Conservation areas.

(2) Secondary Conservation Areas shall be delineated and designated on a map. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the parcel in terms of their highest to least suitability for inclusion in the proposed open space in consultation with the Planning Board. Secondary Conservation Areas shall be delineated on the basis of those priorities and practical considerations given to the parcel's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives. These features shall be clearly noted, as well as the types of resources included within them, on the map. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the parcel.

(3) The primary and secondary conservation areas, together, constitute the total open space areas to be preserved, and the remaining land is the potential development area.

D. Step 2. Specify Location of House Sites. Building envelopes shall be tentatively located within the potential development areas. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas.

E. Step 3. Align Streets and Trails. After designating the building envelopes, a street plan shall be designed to provide vehicular access to each house, complying with the standards identified in this Zoning Ordinance and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, traversing steep slopes, and fragmenting agricultural lands. Existing and future street connections are encouraged to eliminate the number of new cul-de-sacs to be developed and maintained, and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Cul-de-sacs are appropriate only when they support greater open space conservation or provide extensive pedestrian



linkages. All applicable requirements of the Town of Ballston Highway Law shall be met.

F. Step 4. Draw Lot Lines. Upon completion of the preceding steps, lot lines are then drawn as required to delineate the boundaries of individual residential lots.

G. Alternate Design Process. The Planning Board is authorized to require use of traditional neighborhood design (TND) if such layout is appropriate for the parcel proposed to be developed and if it will result in a more effective open space design. For those subdivisions designed to be a TND, the design process shall be a variation on a conservation subdivision outlined in this section and the developable portion of the parcel shall follow design standards of 104-14 (D) (2). Just as with non-TND developments, the first step is to identify open space lands, including both Primary and Secondary Conservation Areas. However, in TND's, where traditional streetscape is of greater importance, steps 2 and 3 above may be reversed, so that streets and squares are located before house sites specified.

#### **H. SITE DESIGN CRITERIA**

a. Residential structures in a major subdivision should be located according to the following guidelines, which are listed in order of significance. If any of the guidelines below conflict with each other on a particular site, the Planning Board may use its discretion to resolve such conflicts. The lots, house sites, roads and other infrastructure in a proposed subdivision shall avoid or minimize adverse impacts by being designed:

- (1) On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use.
- (2) Away from the boundaries of any farm preserved with a conservation easement or other permanent protection, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm.
- (3) So that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses.
- (4) To cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table by avoiding placement of impervious surfaces where water is most likely to infiltrate and recharge the groundwater.
- (5) To avoid disturbance to streams and drainage swales, floodplains, vernal pools, wetlands, and their buffers. Native vegetation shall be maintained to create a buffer of at least 25' and no other disturbance shall take place within 100' of wetlands and surface waters, including creeks, streams, vernal pools, springs and ponds.

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- (6) All grading and earthmoving on slopes greater than fifteen percent (15%) shall be minimized and shall only be to create a house site, driveway and area for a septic system. Such grading shall not result in cut and fills whose highest vertical dimension exceeds eight (8) feet. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill.
- (7) To avoid disturbing existing cultural and scenic features. 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. The layout shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. Where these scenic views or vistas exist, a deep non-vegetated buffer is recommended along the road where those views or vistas are prominent or locally significant.
- (8) To be as visually inconspicuous as practicable when seen from state, county and local roads, and in particular, from designated scenic routes. The subdivision shall preserve woodlands along roadways, property lines, and lines occurring within a site such as along streams, swales, stone fences, and hedgerows to create buffers with adjacent properties. Preservation shall include ground, shrub, understory and canopy vegetation.
- (9) To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads. House lots shall generally be accessed from interior streets, rather than from roads bordering the parcel. New intersections with existing public roads shall be minimized. Although two (2) access ways into and out of subdivisions containing twenty (20) or more dwellings are generally required for safety, proposals for more than two (2) entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- (10) On suitable soils for subsurface sewage disposal (where applicable).
- (11) Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to enable new residential development to be visually absorbed by the natural landscape.
- (12) Around and so as to preserve sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
- (13) Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by either the United States Department of the Interior or the New York State Department of Environmental Conservation.

b. Open space standards:

- (1) The required open space land consists of a combination of Primary Conservation Areas and Secondary Conservation Areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. The lot layout shall show how those sensitive areas will be protected by the proposed subdivision plan. Secondary Conservation Areas shall be included in the required open space area to the greatest extent practicable such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section.
- (2) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan to better enable an interconnected network of open space and wildlife corridors. Open space lands shall also be laid out in such a manner that preserves ecological systems that may be present on the site including, but not limited to, preserving wetlands, vernal pools, and their associated upland habitats.
- (3) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the parcel.
- (4) Open space land shall, to the maximum extent practicable, be contiguous to avoid fragmentation and to create a critical mass of land either available for agriculture or left in a natural state.
- (5) Open space lands shall be designated as one or more individual conservation lots owned in common, or designated and included as part of one or more house lots. A portion of any house lot five (5) acres or more in size may be used for meeting the minimum required open space land provided that there is a permanent restriction enforceable by the Town that states the future use shall be restricted to open space such as undisturbed wildlife habitat, managed agricultural field, or managed forest, and that prevents development of, or use as, a mowed lawn on that portion of the parcel, and that is contiguous to other lands to form unfragmented open spaces. Any house lot less than five (5) acres does not qualify as contributing to open space.
- (6) Walkways, trails, play areas, drainage ways leading directly to streams, historic sites or unique natural features requiring common ownership protection may be included in the preserved open space lands.
- (7) The required open space may be used for community septic systems.
- (8) Stormwater management ponds or basins and lands within the rights-of-way for underground utilities may be included as part of the minimum required open space.

(9) Recreation lands such as ball fields, golf courses, parks, pool areas, etc. shall not be considered part of the required open space unless such land is open to the public on the same terms and conditions as these lands are available to residents of the subdivision. Such recreational lands with access only to residents shall not be counted towards the open space requirements, but shall be counted towards any recreation land requirement as per the Town of Ballston Land Subdivision Regulations.

(10) Open space shall be directly accessible or viewable from as many home sites as possible.

**I. STREETS, DRIVEWAYS AND TRAILS**

a. Common driveway access may be provided. A pedestrian circulation and/or trail system shall be sufficient for the needs of residents, unless waived by the Planning Board.

b. New streets shall meet the Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of Ballston Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision.

c. From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid long straight segments. Shorter straight segments connected by ninety degree (90°) and one hundred thirty five degree (135° ) bends are preferred in a more formal or traditional arrangement.

d. Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.

e. Use of reverse curves should be considered for local access streets in cluster subdivisions in conjunction with long horizontal curve radii [at least two hundred fifty (250) feet] and where traffic speeds will not exceed thirty (30) mph. Further, use of single-loaded streets is encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.

f. Bike paths and other pedestrian trails are encouraged.

**J. PROTECTION OF OPEN SPACE**

a. All required open space shall be depicted and noted on the site plan as protected open space and restricted from further subdivision through one of the following methods to be proposed by the applicant and approved by the Planning Board:

(1) A permanent conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office. Due to the

enforcement responsibilities carried out by easement grantees. this is the preferred method of ensuring permanent protection.

(2) A declaration of covenants or deed restriction, in a form acceptable to the Town, and recorded in the County Clerk's Office. This method should only be used where the applicant has demonstrated that a conservation easement is not practicable.

(3) A fixed-term conservation easement, in a form acceptable to the Town and recorded at the County Clerk's Office.

b. Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by a homeowner's association (HOA).

(1) Open space may also be dedicated to the Town, County or State governments, transferred to a qualified non-profit organization including a land trust, or held by single or multiple private owners. The applicant shall provide proof that the receiving body agrees to accept the dedication.

(2) The Town seeks to ensure long-term maintenance of privately-owned lots dedicated to open space. When open space lands are proposed to be privately owned on a lot dedicated for open space use, and such lands are not subject to a conservation easement or are not to be transferred to a qualified non-profit organization or municipality, such lands shall be owned by an HOA, or shall be designated as a house lot allowing only one residence. This house lot shall be considered part of, and not in addition to, the allowed density the parent parcel is eligible for. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.

(3) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

(a) If land is held in common ownership by a homeowners association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs. The Planning Board shall find that the HOA documents satisfy the conditions above.

(b) The homeowners association shall be operating before the sale of any dwelling units in the development. The proposed

homeowners association shall be established by the applicant and shall comply with the requirements of Section 352-e of the New York State General Business Law, and have an offering plan for the sale of lots in the subdivision approved by the New York State Department of Law, if required. In the event that the NYS Department of Law grants an exemption from the requirement of an offering plan, the applicant shall have in place a maintenance agreement acceptable to the Town that ensures perpetual maintenance of the open space.

(c) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property owners in title.

(d) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.

(e) The association shall have adequate resources to administer, maintain, and operate such common facilities.

c. The conservation easement, declaration of covenants or deed restriction or approved subdivision plan shall permanently restrict development of the open space and shall specify the use of such space only for agriculture, forestry, open space recreation or similar purposes. The Planning Board shall approve the form and content of any easement, declaration, or restriction or subdivision plan. Regardless of which method of protecting the required or designated open space is selected, the restriction shall be made a condition of the final plat approval.

A conservation easement will be acceptable if:

(1) The conservation organization is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.

(2) The conveyance contains appropriate provisions for proper reverting or re-transfer in the event that the conservation organization becomes unwilling or unable to continue carrying out its functions.

(3) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization to insure perpetual maintenance of the open space.

(4) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.

#### K. MAINTENANCE STANDARDS

- a. The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space.
- b. Failure to adequately maintain any improvements located on the undivided open space and keep them in reasonable operating condition is a violation of the Zoning Ordinance. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance/restoration, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or in the case of an HOA, the owners of properties within the development, and if unpaid, shall become a tax lien on such property.

#### L. SEWAGE TREATMENT SYSTEMS

Sanitary sewage disposal systems, whether individual or community systems, may be located within, or extend into, required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities for those systems are clearly defined in agreements submitted for approval as part of the subdivision application. Applications shall be approved that 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.

#### M. FUTURE SUBDIVISIONS

When an applicant includes only a portion of landowner's entire parcel, a sketch layout according to this section shall be included showing future potential subdivision of all the contiguous lands belonging to the landowner to ensure that subdivision may be accomplished in accordance with this section and to allow the Planning Board to adequately assess segmentation under the State Environmental Quality Review Act. Subdivision and review of the sketch plan of those locations at this stage shall not constitute approval of the future subdivision shown thereon.

~~Introduction. The layout of residential lots and the establishment of open space areas in conservation subdivisions shall conform to the following standards and requirements:~~

~~A. Lot layout. The intent of this section is to allow flexibility of design that allows for enhancement of rural character and conservation of open space. Lots need not be uniform in size or shape but should utilize existing land features in arrangement.~~

~~B. Open space:~~

- ~~(1) Amount of open space required. The size of the open space area shall be determined on a case-by-case basis with the final determination to be made by the Planning Board in its discretion upon review of the subdivision application. The portion of the subdivision tract to be set aside for open space conservation shall be of such minimum dimensions and size as to be functional for its~~

~~intended purpose taking into consideration environmental, density and other site specific factors. Areas unsuitable or of little or no value for open space preservation shall be excluded in the calculation of the size of the open space area.~~

- ~~(2) Location: Open space areas shall be convenient to the dwelling units they are intended to serve and shall be sited with sensitivity to surrounding land features and development. Open space areas shall be integrated wherever possible into a connected open space system within the development as well as outside the development. Open space areas should form a contiguous system with other open space areas in the vicinity of the subdivision development to the maximum extent practicable.~~
- ~~(3) Use of open space areas: Open space areas may include features and improvements for active and/or passive recreation, provided that such features do not materially detract from the purpose for preservation of the open space. As a general principal, open space areas should be left in its natural state. Accepted conservation management techniques may be employed to maintain its natural state and allow for passive recreational opportunities, such as, but not limited to, hiking trails, cross-country skiing or snowshoeing trails, picnic areas, etc. Where appropriate, active recreational facilities may be included in the open space areas upon approval of the Planning Board taking into consideration the character of the open space land, the amount of area such recreational facilities would require; the nature of the recreational facilities and activities proposed, and the compatibility of such activities and facilities with the development and the intended purpose of the open space area. In addition, farming activities are allowed to continue on open space areas.~~
- ~~(4) Deed restrictions: Any lands set aside for open space purposes shall contain appropriate easements, deed covenants, conditions and restrictions approved by the Planning Board and/or the Town Attorney ensuring that:~~
- ~~(a) The open space area or areas will not be further subdivided or developed in the future.~~
  - ~~(b) The use of the open space will continue in perpetuity for the purposes specified.~~
  - ~~(c) Appropriate provisions are made for the continual maintenance, management and use of the open space with the purpose in preserving the open space.~~
  - ~~(d) The delegation of authority for management of the open space area is appropriately placed in an association of property owners or other established entity or governmental body that will exist in perpetuity.~~
  - ~~(e) The open space area will not be able to be converted or used~~



~~for a for-profit commercial enterprise except for agricultural uses.~~

- ~~(f) The covenants and restrictions are enforceable by the Town.~~
- ~~(5) Open space ownership: The type of ownership of the land set aside for open space shall be selected by the subdivider subject to the approval of the Town Board. An acceptable type of ownership may include, but is not necessarily limited to, the following:~~
- ~~(a) Land preservation or conservation organizations or trusts.~~
  - ~~(b) Public agencies or governmental bodies.~~
  - ~~(c) The Town, subject to acceptance by the Town Board.~~
  - ~~(d) The owner or owners of an individual lot.~~
  - ~~(e) Homeowners' associations with the following requirements:~~
    - ~~[1] The homeowners' association must be established prior to the conveyance of any lot or parcel within the proposed subdivision.~~
    - ~~[2] Membership must be mandatory for each lot owner, and each lot owner must have an equal voting right within the association.~~
    - ~~[3] The association organizational documents must be submitted to and approved by the Planning Board and/or its attorney as part of the subdivision approval process and must also be approved by the Office of the Attorney General of New York State if required by applicable laws, rules or regulations.~~
    - ~~[4] An estimate of the association annual budget must take into account insurance, property taxes, and maintenance of the open space areas as well as other shared common areas or facilities such as access roads, recreational areas.~~
    - ~~[5] The association must be able to adjust the homeowners' fees or assessments on an annual basis and be able to collect and enforce the payment of annual fees or assessments.~~
    - ~~[6] The association cannot be dissolved without a vote of the association membership and without the conveyance of the open space and common facilities to an entity acceptable by the Town Board.~~
    - ~~[7] The deed conveying title to each individual lot in the subdivision must include reference to the fact that conveyance is subject to and includes membership in a homeowners' association pursuant to deed covenants either set forth in each deed or recorded against the entire subdivision. Both grantors and grantees should sign deeds~~

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~~of conveyance to ensure purchasers or grantees are aware of the homeowners' association requirements, obligations and fees, if any.~~

~~(6) Exception to or waiver of requirements or standards. The Planning Board may permit minor deviations to, or waive, certain open space requirements or standards when it determines that the objectives underlying the open space standards and requirements can still be met with such deviations or waivers; and/or because of peculiarities in the tract of land proposed for subdivision or the development proposed, it would be unreasonable to require strict adherence to such requirements or standards.~~

~~C. Rural design standards. To the maximum extent practicable, the rural design standards set forth in § 104-13 shall be adhered to in designing the layout of the subdivision.~~

**§ 104-32. (Reserved)**

ARTICLE XI  
**Enforcement and Penalties**

**§ 104-33. Court Review.**

Any person aggrieved by any decision of the Planning Board relative to a subdivision may have such decision reviewed by a special term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules, providing the proceeding is commenced within thirty (30) days after the filing of the decision in the office of the Town Clerk's office, all as set forth in Section 282 of New York State Town Law.

**§ 104-34~~3~~. Penalties for offenses. [Amended 9-5-2000 by L.L. No. 3-2000; 9-30-2003 by L.L. No. 4-2003]**

For any and every violation of the provisions of these regulations, the owner, general agent or contractor of a building or a premises where such violation has been committed or shall exist, and the lessee or tenant of any entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits or takes part or assists in any violation or who maintains any building or premises in which such violations shall exist, shall, upon conviction thereof, be liable to a fine of not more than \$350 or imprisonment for not more than 15 days, or both. Each week's continued violation shall constitute a separate and additional violation.