

Chapter 240. Subdivision of Land

[HISTORY: Adopted by the Town Board of the Town of Southold 8-24-2004 by L.L. No. 18-2004.
Amendments noted where applicable.]

GENERAL REFERENCES

Community Preservation Fund — See Ch. **17**.
Agricultural lands preservation — See Ch. **70**.
Coastal erosion hazard areas — See Ch. **111**.
Environmental quality review — See Ch. **130**.
Flood damage prevention — See Ch. **148**.
Highway specifications — See Ch. **161**.
Landmark preservation — See Ch. **170**.
Open space preservation — See Ch. **185**.
Soil removal — See Ch. **228**.
Streets and sidewalks — See Ch. **237**.
Wetlands and shoreline — See Ch. **275**.
Zoning — See Ch. **280**.

Article I. General Provisions

§ 240-1. Statutory authority.

This chapter is enacted pursuant to authority conferred in Article 16 of the Town Law of the State of New York, the Statutes of Local Governments of the State of New York and the Municipal Home Rule Law of the State of New York.

§ 240-2. Purpose.

These regulations are promulgated to provide for the orderly growth and coordinated development of the Town, to protect the comfort, convenience, safety, health and welfare of its people and to insure that the review and approval of subdivisions is based on the following considerations:

- A. Preservation of certain lands, including farmland, open space and recreational landscapes.
- B. Preservation of the rural, cultural and historic character of the Town's hamlets and surrounding countryside.
- C. Preservation and protection of the Town's remaining natural environment.
- D. Encouragement of a range of housing and business opportunities to support socioeconomically diverse communities.
- E. Promotion of transportation efficiency, intermodal transportation hubs and attractive alternatives to automobile travel, while preserving the scenic and historic attributes of roadways in the Town.
- F. Creation of affordable housing opportunities for residents of the Town.

Article II. Definitions

§ 240-3. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURE

The production, keeping or maintenance, for sale or lease of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutation of hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; fruits of all kinds, including grapes, nuts and berries, herbs, vegetables; floral ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRICULTURE RESERVE AREA

A parcel of land which is set aside in a subdivision in perpetuity for conservation of agricultural lands and continued use for agriculture.

APPLICANT

Any person, firm, corporation, partnership or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for himself or others.

BUFFER AREA

Portions of a parcel where existing or man-made terrain is used and designed to protect sensitive, natural and cultural resources, including landforms, surface water, habitat, vegetation and aesthetic or scenic vistas.

BUILDABLE LANDS

The area of a lot or parcel, not including the square footage of tidal and freshwater wetlands, land seaward of the coastal erosion hazard area line, beaches, bluffs, primary dunes, secondary dunes, underwater lands, land subject to the transfer, sale or extinguishment of development rights and other restrictions that prevent the use of such land for construction of buildings or other development. The terms "wetlands," "beaches," "bluffs," and "underwater lands" shall have the meanings set forth in Chapter **275**, Wetlands and Shoreline, of the Town Code. The terms "coastal erosion hazard area line," "primary dunes" and "secondary dunes" shall have the meanings set forth in Chapter **111**, Coastal Erosion Hazard Area, of the Town Code.

CLEARING

Any activity that removes the vegetative ground cover and/or trees, including but not limited to, root mat removal and/or topsoil removal, or ground disturbance, including grading.

CLERK OF THE PLANNING BOARD

The individual appointed by the Planning Board to perform, among other things, the duties set forth in Article 16 of New York State Town Law.

CLUSTER

A subdivision designed in accordance with Article **XI**, Cluster Development of this chapter, pursuant to the provisions of New York State Town Law, § 278.

COMMON DRIVEWAY

A mutual ingress and egress shared by not more than two lots to a public street or highway, which complies with the Standard Details and Specifications set forth in this chapter.^[1]

COMPREHENSIVE PLAN

The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Town located outside the limits of any incorporated village.

CONSERVATION

The protection of natural and man-made features, resources or systems and cultural features in their natural or existing condition, but with allowance for human use or intervention in an environmentally sound and nondestructive manner, including the management of wetlands or the use of soils for agriculture.

CONSERVATION AREAS, PRIMARY

Shall be comprised of areas consisting of freshwater and saltwater wetlands, underwater lands, beaches, lands lying within a one-hundred-year floodplain, slopes equal to or exceeding 15%, areas located seaward of the coastal erosion hazard line and lands subject to easements or other restrictions preventing use of such land for construction of buildings or development.

CONSERVATION AREAS, SECONDARY

Shall be comprised of areas contributing to open space, recreation and environmental resources. Areas include all imposed (i.e., scenic) and jurisdictional buffers (i.e., 100 feet from wetland boundary), prime farmland, woodlands, aquifer recharge areas, natural floodplains and drainage patterns, areas containing protected species, significant wildlife habitat areas, historic, archeological or cultural features listed (or eligible to be listed) on national, state, County or local registers of inventories, trails and recreational areas, and scenic views into the property from adjacent properties and existing public roads.

CONSERVATION EASEMENT

A permanent restriction on the use of land for the purpose of preserving or conserving natural or man-made features, resources or systems, including agriculture, forest, recreational or open space uses.

CONSERVATION SUBDIVISION

A subdivision which meets either of the following two sets of requirements: (a) at least 75% of buildable lands will be permanently preserved and protected from all residential or commercial development by means of the sale, transfer, gift or extinguishment of development rights, and the inclusion of clustered open space of the permitted yield, and in which density is reduced by at least 75% of the permissible density of the subject parcel according to zoning (a "75/75 conservation subdivision"); or (b) at least 80% of buildable lands will be permanently preserved and protected from all residential or commercial development by means of the sale, transfer, gift or extinguishment of development rights, and the inclusion of clustered open space of the permitted yield, and in which density is reduced by at least 60% of the permissible density of the subject parcel according to zoning (an "80/60 conservation subdivision"). Those uses of preserved land permitted by the Town Board pursuant to legislation shall be permitted. For the purposes of this chapter, commercial development shall not be interpreted to mean land used in agricultural production as defined in Chapter **70**, Agricultural Lands Preservation, of this Code.

CROSSWALK

A right-of-way dedicated to public use, 10 feet or more in width, which facilitates pedestrian access to adjacent streets and properties.

CUL-DE-SAC (COURT)

The turnaround at the end of a dead-end street.

CULTURAL FEATURES

Paleontological and archaeological remains, historic buildings, structures or sites, trails, and agricultural fields.

DRAINAGE RIGHT-OF-WAY

The lands required for the installation of stormwater recharge basins or drainage ditches, or required along a natural stream or watercourse for preserving the existing channel and providing for the flow of rainwater into it in order to safeguard the public against damage by flooding.

EASEMENT

A permanent restriction on, or grant to permit, the passive or active use of the land for a specific purpose or purposes.

ENGINEER

The duly designated engineer or engineering inspector of the Town Engineering Office of the Town of Southold.

EXISTING RESOURCE AND SITE ANALYSIS PLAN (ERSAP)

An analysis conducted in accordance with § 240-10 of this chapter.

FINAL PLAT

A map to be filed with the Planning Board and County Clerk showing the final arrangement of lots, blocks, streets, drainage and other anticipated improvements, parks, open space or agriculture reserve areas shown on the subdivision, if any.

FINAL PLAT APPROVAL

The approval by Planning Board resolution and the signing of a final plat by a duly authorized officer of the Planning Board.

FLOODPLAIN OR FLOOD-PRONE AREA

Any area identified by Chapter 148, Flood Damage Prevention, of the Town Code.

GRADING

A redistribution of soil or rock to effect a change in topography, elevation or natural grade.

LOT

The unit or units into which land is divided, either as undeveloped or developed sites.

LOT LINE MODIFICATION

See definition of "resubdivision."

NATURAL BUFFER

A naturally vegetated area along the boundaries of a subdivision, lot or parcel.

NATURAL FEATURES, RESOURCES OR SYSTEMS

All components of the natural environment, including, without limitation, water bodies, drainage courses, freshwater and tidal wetlands, dunes, bluffs, beaches, woodlands, shrublands, grasslands, large trees, glacial erratics, unique or unusual plants and trees, wildlife habitat and scenic views or overlook areas, significant or prime agricultural soils and all combinations thereof.

OFFICIAL MAP

The map established by the Town Board pursuant to law, showing streets, highways, drainage rights-of-way, park areas, both existing and proposed.

OPEN DEVELOPMENT AREA

An area or areas established by the Town Board pursuant to § 280-a of the New York State Town Law.

PARK AND RECREATION FEE

Money paid in lieu of a park dedication to the Town of Southold Park and Recreation Fund for use in the acquisition or capital improvement of Town parks and recreation facilities.

PARK DEDICATION

A dedication or reservation of land in a subdivision for active or passive park purposes, exclusive of lands to be used for drainage recharge.

PERFORMANCE BOND

A bond executed by the owner with security acceptable to the Town Board to insure the completion of the required public improvements in accordance with an estimate approved by the Office of the Town Engineering Office.

PLANNING BOARD or BOARD

The Planning Board of the Town of Southold, Suffolk County, New York.

PRELIMINARY PLAT

The map prepared prior to the final plat for the guidance of the applicant and the Planning Board, in the manner prescribed by these regulations, showing the arrangement of lots, blocks, streets, drainage, and other anticipated improvements, parks, open space or agriculture reserve areas shown on the subdivision.

PRESERVATION

The protection of natural and man-made features, resources or systems and cultural features in their natural or existing condition for restrictive and nonconsumptive use.

RECREATION, ACTIVE

Recreational use of land requiring its substantial improvement, including but not limited to playing fields, tennis courts, swimming pools and the like.

RECREATION, PASSIVE

Recreational use of land requiring little or no improvement, including but not limited to a trail.

RESUBDIVISION

A subdivision of property which involves redrawing the original lot lines to combine lots for building purposes where no lot has been developed or the further division or alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the Suffolk County Clerk.

SEQRA

The New York State Environmental Quality Review Act and its implementing regulations.

STANDARD SUBDIVISION

Any subdivision of land which is not classified as a conservation subdivision.

STREET, ARTERIAL

A main street or highway carrying a high proportion of the traffic within the Town of Southold, and including State Route 25 and County Route 48.

STREET, COLLECTOR

A street or highway which serves or is intended to serve as a major collector road within the Town and which provides access to State Road 25 and County Route 48 from local streets.

STREET, LOCAL

A local street or road which serves or is intended to serve as the primary means within neighborhoods and subdivisions and which is the main means of access to a collector or arterial street.

STREET OR RIGHT-OF-WAY WIDTH

The distance between property lines, measured at right angles to the center line of the street used to provide vehicular access to a lot or parcel.

SUBDIVISION

The division of any tract or parcel of land into two or more lots, whether or not such division creates new streets or extends existing streets. Subdivision shall also include a resubdivision.

TRAIL

A path, walk or way which may be on the ground or elevated on a board or catwalk and may be used for hiking, walking, horseback riding or other similar recreational pursuit, but excluding motorized vehicles. This shall include existing trails as well as trails created pursuant to this chapter.

YIELD

The number of lots into which a tract, parcel or lot of land may be lawfully divided.

[1] *Editor's Note: See Art. XII, Design Standards.*

Article III. General Requirements; Classification

§ 240-4. General requirements.

Any subdivision within the Town of Southold must:

- A. Demonstrate conformance with the various parts of the Comprehensive Plan, adopted addendum, plans and studies, the Town Code and the Official Map.
- B. Achieve a desirable relationship to the general land form, its aesthetic character, topographic and geologic character, to natural drainage, to the recharge of the groundwater reservoir and to floodplain and ecological concerns, including provisions for the treatment and containment of surface water runoff.
- C. Demonstrate such character that it can be used safely for building purposes without danger to health or peril from fire or flood or other menace.
- D. Demonstrate such character that it is not a menace to neighboring properties or the public health, safety and welfare.
- E. Provide desirable standards of design for pedestrian and vehicular traffic, surface water runoff, utility services and building sites for the land use contemplated. All proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
- F. Include flexible design to promote the planning objectives of the Comprehensive Plan, to realize development and maintenance economies and to provide for a variety of housing types.
- G. Provide for facilities associated with the contemplated use, including, but not limited to, parks, recreation areas, school sites, firehouses, fire wells and off-street parking.
- H. Preserve and protect such natural resources and assets as lakes, ponds, streams, tidal waters, wetlands, beaches, dune lands, steep slopes, bluffs, prime agricultural soils, flora, fauna, general scenic beauty, archeological and historic features of the Town.
- I. Provide streets of sufficient width, grade and location to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection and to provide access of fire-fighting equipment to buildings, and to promote a pedestrian based transit system.
- J. Protect and preserve the ecologic function and health of creeks, the Peconic Bay Estuary, the Long Island Sound and all tributaries to them including all tidal and freshwater wetlands.

§ 240-5. Subdivision classifications.

- A. Applicants may submit the following types of applications for consideration by the Planning Board:
 - (1) Standard subdivision.
 - (2) Conservation subdivision.
- B. Each subdivision shall conform to the applicable provisions of Article 16 of the Town Law and this chapter.
- C. Applicants are encouraged to request a presubmission conference to review the requirements and proposed application.

Article IV. General Application Procedure; Submission Requirements; Fees

§ 240-6. General application procedure.

- A. Each application to the Southold Town Planning Board for approval of a subdivision of land shall be submitted and reviewed in the following stages, except as indicated:
 - (1) Sketch plat review.
 - (2) Preliminary plat review (standard subdivisions only).
 - (3) Final plat review.
- B. No application for a review or approval under this chapter shall be deemed to be complete unless all fees therefor have been remitted to the Planning Board and the application complies with the provisions of this chapter, the Town Code, and all other applicable requirements.
- C. No construction, improvement, grading or clearing of land or other disturbance of existing conditions shall be commenced or undertaken on land for which an application has been filed pursuant to this chapter until final approval of the application has been granted, except as expressly provided herein.
- D. Nothing herein shall prevent an applicant from preserving land or reducing density to a greater extent than set forth by the minimum requirements set forth in this chapter.

§ 240-7. Submission requirements.

Every application for subdivision shall include the following items during the review process indicated:

- A. Standard subdivision.
 - (1) Sketch plat review.
 - (a) Sketch plan application form;
 - (b) Fee;
 - (c) Long environmental assessment form;
 - (d) Existing resources and site analysis plan (ERSAP);
 - (e) Yield plan;
 - (f) Primary and secondary conservation area plan;
 - (g) Coastal assessment form (as applicable).

(2) Preliminary plat review.

- (a) Preliminary plat application form;
- (b) Fee;
- (c) Preliminary plat;
- (d) Draft road and drainage plan.

(3) Final plat review.

- (a) Final plat application form;
- (b) Fee;
- (c) Final plat;
- (d) Final road and drainage plan and performance bond estimate.

B. Conservation subdivision.

(1) Sketch plat review.

- (a) Sketch plat application form;
- (b) Fee;
- (c) Long environmental assessment form;
- (d) Existing resources and site analysis plan(s) (ERSAP);
- (e) Yield calculation;
- (f) Primary and secondary conservation area plan;
- (g) Coastal assessment form (as applicable).

(2) Final plat review or open development area (ODA).

- (a) Final application form;
- (b) Final plat (not applicable for an ODA);
- (c) Road and drainage plan and performance bond estimate (not applicable for an ODA);
- (d) ODA map (ODA only).

§ 240-8. Fees.

A. Fees may be charged for review of sketch, preliminary and final plats and related administrative activities. Such fees shall be paid upon submission of the application.

B. Fee schedule; applications. All fees are determined from time to time by resolution of the Town Board.

[Amended 1-16-2024 by L.L. No. 4-2024]

Subdivision Classification

Standard subdivision

Sketch plat

Preliminary plat

Final plat

Subdivision Classification

Conservation subdivision

Sketch and final plat

Sketch and open development map

Creation of lot within ODA map

Lot line application

- C. Environmental review fees. The Planning Board may charge the applicant appropriate fees to cover the cost of required environmental review, as permitted by the State Environmental Quality Review Act (SEQRA).

Article V. Sketch Plat Review

§ 240-9. Submission.

- A. The applicant shall submit to the Planning Board 12 copies of the sketch plat and other required materials, along with the required fee. The Planning Department staff shall conduct a site inspection upon receipt of an application.
- B. Upon request, the applicant shall meet with the Planning Department staff to discuss the objectives and applicability of these regulations inclusive of, but not limited to, the requirements for street improvements, drainage, sewerage, water supply, fire protection and other similar aspects as well as the availability of existing services and other pertinent information.

§ 240-10. Technical requirements.

A sketch plat shall be prepared at a scale of one inch equals 100 feet and shall include the following:

- A. Existing resources and site analysis plan(s) (ERSAP).
- (1) Purpose. The purpose of the existing resources and site analysis plan(s) (ERSAP) is to provide the applicant and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs.
 - (2) Review. The Planning Board shall review the ERSAP to determine its accuracy and completeness, and may request additional information necessary to comply with this section.
 - (3) Exceptions. The Planning Board reserves the right to waive one or more of the ERSAP information requirements set forth herein for conservation subdivisions.
 - (4) Preparation. The ERSAP must be prepared by a licensed New York State licensed surveyor, architect and/or engineer.
 - (5) Scale. Unless otherwise specified by the Planning Board, an ERSAP shall be prepared at the scale of one inch equals 100 feet, with a key explaining information and symbols on the plat.
 - (6) The following information shall be included on the ERSAP:
 - (a) All existing structures.
 - (b) Topography, the contour lines of which shall be at five-foot intervals, determined by photogrammetry (although ten-foot intervals are permissible beyond the parcel

boundaries, interpolated from published U.S. Geological Service USGS maps). Slopes equal to or greater than 15% shall be clearly indicated.

(c) Water resources:

[1] Wetlands pursuant to the Freshwater Wetlands Act, Environmental Conservation Law (ECL) § 24-0101, et seq., the Tidal Wetlands Act, ECL § 25-0101, et seq., and Chapter **275**, Wetlands and Shoreline, of the Code of the Town of Southold.

[2] Sole source aquifers and/or aquifer recharge areas.

[3] Municipal water supply watershed areas.

(d) Flood-prone areas as shown on Federal Emergency Management Agency (FEMA) maps and other information pursuant to Chapter **148** of the Town Code (Flood Damage Prevention).

(e) Areas legally protected by the County of Suffolk, the Town of Southold, private trusts, qualified conservation organizations or other entities or agencies as shown on the Town of Southold Protected Lands Map, including all abutting parcels.

(f) Vegetative types described by plant community, relative age and condition on the property according to:

[1] General cover type, including cultivated land, permanent grass land, old field, hedgerow, woodland and wetland.

[2] Isolated significant trees with a diameter breast height (DBH) in excess of 18 inches, the actual canopy line of existing trees and woodlands.

(g) Soil series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service in the Suffolk County Soil Survey, and accompanying data published for each soil relating to its suitability for agriculture and construction (and, in unsewered areas, for septic suitability).

(h) Top of bluff lines identified and delineated together with the coastal erosion hazard area line pursuant to Chapter **111** of the Town Code (Coastal Erosion Hazard Areas).

(i) Scenic viewsheds and special features:

[1] Sites bordering designated state, County or Town scenic byways and corridors special features identified in the Town's Comprehensive Plan and all subsequent updates.

[2] A viewshed analysis showing the location and extent of views into the property from public lands, roads and from public parks, public forests, and state game lands.

(j) Locations and dimensions of all existing public and private streets, roads, buildings, utilities and other man-made improvements.

(k) Locations of all archeological and historically significant sites or structures of national, state or local significance on the tract or on any abutting tract.

(l) Locations of trails in current use or of historic use (pedestrian, equestrian, bicycle, etc.) or those proposed on the Town of Southold Trail Map.

(m) All easements and other encumbrances affecting the parcel filed with the Suffolk County Clerk's Office.

(n) Agricultural lands.

[1] Location and delineation of any active agriculture operation, active farmland within a New York State certified Agricultural District, lands within 2,000 feet of a New York State certified Agricultural District, or soils classified and mapped as Suffolk County

and State Prime Farmland Mapping Units, of the New York State Soil Classification System or areas legally protected by the County of Suffolk, the Town of Southold, private trusts or other entities or agencies.

- [2] Areas identified in the Southold Town Farm and Farmland Protection Strategy 2000 and in the most current version of the Southold Town Farmland Inventory.
- (o) Location of community water and/or sewer; whether available or planned.
- (p) Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law.
- (q) Significant natural areas and features:
 - [1] Areas with endangered and threatened vegetation.
 - [2] Significant habitats, or habitats of endangered, threatened or special concern species as determined by the New York Department of Environmental Conservation (Natural Heritage Program);
 - [3] Mature forests over 100 years old;
 - [4] Locally important vegetation;
 - [5] Unique natural or geological formations based on available published information or more detailed data obtained by the applicant.
- (r) Recreation: lakes, ponds or other significant recreational areas, or opportunities or sites designated in the Town's Comprehensive Plan and updates to it.
- (s) If the application applies to real property within 500 feet of any of the following, the location of:
 - [1] The boundary of any city, village or Town;
 - [2] The boundary of any existing or proposed county or state park or other recreation area;
 - [3] The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 - [4] The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - [5] The existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
 - [6] Existing airport, airbase or airstrip.

B. Yield plan.

- (1) Purpose. The purpose of the yield plan is to determine the allowable density.
- (2) Standard subdivision. A yield plan shall be prepared for a standard subdivision in accordance with the requirements of this section and shall include a requirement to provide affordable housing.
 - (a) Density. The permitted number of dwelling units shall not exceed the number of units that, in the Planning Board's judgment, would be permitted if the land were subdivided into lots conforming to the minimum lot size and density requirements of this chapter applicable to the zoning district (or districts) in which such land is situated and conforming to all other requirements of the Town Code.

- (b) Total lot yield shall be determined on buildable lands only. Subdivision design shall exclude the following features, unless the applicant shall have obtained a permit from all relevant regulating authorities approving the applicant's right to place residential structures in the subject areas:

- [1] All underwater lands.
- [2] Tidal wetlands or freshwater wetlands, as defined in state and local regulations.
- [3] Bluffs, primary dunes and secondary dunes.
- [4] Beaches below mean high water, as defined by the United States Coast and Geodetic Survey or latest Tidal Wetlands Survey, and any beach or area lying between this line and the coastal erosion hazard line.
- [5] Areas required for park dedication pursuant to this chapter.
- [6] Areas required for recharge basins or for natural area recharge.
- [7] Areas required for public or private rights-of-way.
- [8] Areas required for utilities or public facilities, except that minor utility easements of direct service to the subdivision may be included.
- [9] Areas for which the development rights have been transferred, sold or extinguished.
- [10] Areas which the Planning Board shall determine to be of such character that they cannot be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare.

- (c) Affordable housing requirement. Every new standard residential subdivision involving the creation of five or more lots shall comply with the requirements herein to provide affordable housing.

[Amended 8-12-2008 by L.L. No. 9-2008; 3-26-2024 by L.L. No. 7-2024]

- [1] Twenty percent of the lot yield as determined pursuant to § **240-10B(2)(a)** and **(b)** shall be set aside as moderate-income family dwelling units (MIFDUs), as defined, created and administered under the provisions of the Affordable Housing District, §§ **280-24** through **280-33** of this Code. Each MIFDU shall be created subject to covenants and restrictions as set forth at § **280-30** or through another mechanism approved by the Town Board that will keep units perpetually affordable. The number of MIFDU units required in a subdivision shall be rounded up to the next whole number if the fractional requirement is 0.50 or greater, and shall be rounded down to the next whole number if the fractional requirement is less than 0.50.
- [2] Fee waiver. An applicant shall receive a waiver of all application fees, building permit fees, plan review fees, inspection fees, park and playground fees and such other development fees and costs attributable to the MIFDUs built in the subdivision. A waiver may not be granted for sanitary flow credits purchased pursuant to the provisions of Chapter **117**.
- [3] Phasing of construction. The applicant shall provide to the Planning Board a phasing plan that provides for the timely and integrated development of the affordable housing units as the subdivision is built out. The phasing plan shall provide for the development of the MIFDUs concurrently with the market rate units. Building permits shall be issued for dwelling units within the subdivision based on the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for different financing and funding environments, economies of scale, and infrastructure needs applicable to the development of the market rate and the

MIFDUs. The phasing plan shall also provide that the MIFDUs shall not be the last units to be developed in the applicable subdivision.

[4] Exterior appearance. The exterior appearance of the MIFDUs shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for MIFDUs and market rate units.

[5] Appeal. A developer of any project subject to the requirements of this chapter may appeal to the Town Board for a reduction, adjustment or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the inclusionary requirement.

(d) Yield must be further determined in consideration of the ERSAP.

(3) Conservation subdivision. For all conservation subdivisions, one of the following formulas shall be used to calculate yield.

(a) 75/75 conservation subdivision.

Buildable Lands ÷ Minimum Lot Area of Zoning District = Yield on Entire Parcel

Yield on Entire Parcel x 25% = Yield on Developable Area

Total Buildable Lands x Percentage of Buildable Lands not permanently preserved (up to 25%) = Developable Area

(b) 80/60 conservation subdivision.

Buildable Lands ÷ Minimum Lot Area of Zoning District = Yield on Entire Parcel

Yield on Entire Parcel x 40% = Yield on Developable Area

Total Buildable Lands x Percentage of Buildable Lands not permanently preserved (up to 20%) = Developable Area

C. Primary and secondary conservation area plan. All subdivisions shall be created in accordance with the primary and secondary conservation area design process described in this section. All sketch plans shall include the documentation set forth below.

(1) Primary and secondary conservation areas as defined in § **240-3** shall be identified using existing resources and site analysis plan(s) (ERSAP) as a base map.

(2) Location of house sites. Using the information from Subsection **C(1)** above, the yield as determined pursuant to this chapter, the base map and the ERSAP, potential house sites shall be located. House sites should generally be located not closer than 100 feet to primary conservation areas and 50 feet to secondary conservation areas, taking into consideration the potential negative impacts of residential development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

(3) Alignment of streets and trails.

(a) A street plan shall be designed to provide access to each house, complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts on proposed open space shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes equal to or exceeding 15%. Existing and future street connections may be required in order to eliminate the number of new culs-de-sac to be maintained by the Town and to facilitate access to and from homes in different parts of the tract and adjoining parcels.

(b) The potential location of recreational and off-road walking trails shall also be noted.

(4) Location of lots. Bubble lines shall denote the proposed locations.

- D. Cluster design. The design of a cluster subdivision plat shall be pursuant to the requirements of Article **XI**, Cluster Development, herein, if applicable.
- E. Site context map. A map showing the location of the proposed subdivision within its neighborhood context shall be submitted. For all sites, such maps shall be at a scale of one inch equals 100 feet, and shall show the relationship of the subject property to natural and man-made features existing within 500 feet of the site. The features that shall be shown on site context maps include topography (from USGS maps), state and/or federal wetlands, woodlands over one-half acre in area (from aerial photographs), public roads and trails, utility easements and rights-of-way, public land, and protected lands.
- F. Field survey. A field survey of the boundary lines of the parcel with descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineering Office, and shall be referenced and shown on the sketch plat pursuant to § **240-10I**.
- G. Proposed name of the subdivision. The proposed name shall not duplicate any plat previously filed.
- H. Ownership and licensed professional information.
 - (1) Name and address of legal owner of the property.
 - (2) Name and address, including telephone number of the design professional, architect or engineer responsible for subdivision design, and the design of public improvements.
 - (3) Name and address, including telephone number of the surveyor responsible for mapping and laying out the site.
- I. Description.
 - (1) North arrow showing true north.
 - (2) Tax map section, block and lot numbers.
 - (3) Distance to the nearest existing, or platted streets, street intersections, or other public ways within or immediately adjacent to the tract.
 - (4) All utilities available and/or proposed, including easements therefor, and all streets which are either existing, proposed, or shown on the Official Map, if any.
 - (5) Zoning district, including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the Chapter **280** requirements applicable to the subdivision.
 - (6) Name of any subdivisions immediately adjacent to the parcel and the name of the owners of record of all adjacent property.
- J. Existing easements, covenants and/or restrictions: Liber and page number and text(s) for all existing easements and a copy of the proposed restrictions on the use of the land, including easements and/or covenants.
- K. Existing improvements.
 - (1) Location of any existing drainage systems, sewer lines, septic systems, water mains and lines, wells, culverts and drains on the property, with pipe sizes, grades and direction of flow.
 - (2) Width and location of any streets or public ways or places shown on the Official Map or Master Plan, and any updates to it, if such exist, within the proposed subdivision, and the width, location, grades and street profiles of all proposed streets or public ways.
 - (3) Location and size of any existing fire control structures, fire hydrants and wells.

- L. Calculations. The area of the parcel to be set aside for cluster and/or preservation purposes and the area to be developed shall be calculated and set forth in a table format.

§ 240-11. Review of sketch plat.

The Planning Board shall study the practicability of the sketch plat, considering the requirements of this chapter, including identified primary and secondary conservation areas. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, stormwater drainage, erosion and sediment control, lot sizes and arrangement, the future development of adjoining lands not yet subdivided, current zoning regulations, and the comprehensive plan.

§ 240-12. Coordination with other agencies.

[Amended 5-8-1973]

- A. Prior to granting sketch plat approval, the Planning Board may seek comment from any Town Board appointed Committee or outside agency, including the Suffolk County Planning Commission, on any active application. Committee input must be received by the Planning Board no more than 30 days from the date of receipt by the reviewing Committee, except in the case of input from the Suffolk County Planning Commission, which may be received no more than 45 days from the day of receipt by the reviewing committee.
- B. Referrals to the Suffolk County Planning Commission shall be done in accordance with Article 12-B of the General Municipal Law, and the agreement between Suffolk County and the Town of Southold, on the form entitled "County Zoning Referral."

§ 240-13. Action on sketch plat; decision.

- A. The Planning Board shall take action on the sketch plat application at a scheduled meeting of the Planning Board. The applicant and the public in attendance shall have the opportunity to be heard.
- B. A public hearing pursuant to Chapter **55**, Notice of Public Hearings, of this Code shall be held for sketch plat approval of an open development area subdivision.
- C. The Planning Board shall determine the following:
 - (1) Whether the submission complies with applicable standards, policies, regulations and laws;
 - (2) Whether there are any recommendations by the Board which should be incorporated into a preliminary plat application (standard subdivision); or either a final plat application or an open development area application (conservation subdivision);
 - (3) Any other relevant comment relating to the proposed subdivision.
- D. The Planning Board shall, by resolution, approve or conditionally approve, with or without modifications, or disapprove the proposed sketch plat.
- E. Nothing shall preclude or bind the Planning Board from issuing or changing its recommendations if new information or a change in circumstances arises at or prior to the next formal application stage. No further Planning Board action will be taken after such expiration until a new sketch plan application has been submitted.

§ 240-14. Expiration.

The determination by the Planning Board shall be valid for a period of six months from the date of issuance, unless extended by resolution of the Planning Board.

Article VI. Preliminary Plat Review

§ 240-15. Waiver of requirements.

If an applicant submits a conservation subdivision application, the preliminary plat approval requirement is waived and the applicant shall proceed directly to final approval process described in Article **VII**, Final Plat Review, of this chapter.

§ 240-16. Submission.

- A. The preliminary plat and the supporting documents for a proposed subdivision constitute materials to be submitted to the Planning Board for preliminary approval. The preliminary layout shall show the general design of the subdivision so that the Planning Board can indicate its approval or disapproval prior to the time that any work toward the final design submission is started. Approval of the preliminary layout does not constitute an approval of the final plat, nor shall it be considered a valid basis for the construction of the required improvements or for other commitments which depend upon its design characteristics.
- B. Within six months after the sketch plan approval, or any extension thereof, the applicant shall submit 12 copies of the preliminary plat review application, preliminary plat and other required materials, along with the required fee.

§ 240-17. Technical requirements.

A preliminary plat shall be prepared by a licensed land surveyor or engineer, at a scale of one inch equals 100 feet and shall include information shown on the approved sketch plat including:

- A. Proposed layout.
- B. Name of the subdivision.
- C. Name of the property owner.
- D. Name, address and telephone number of the New York State licensed engineer or surveyor preparing the preliminary plat.
- E. Description.
 - (1) North arrow showing true north.
 - (2) Tax map section, block and lot numbers.
 - (3) Distance to the nearest existing or platted streets, street intersections, or other public ways within or immediately adjacent to the tract.
 - (4) All utilities, available and/or proposed, including easements therefor, and all streets which are either existing, proposed, or shown on the Official Map, if any.
 - (5) Zoning district, including exact boundary lines of the district, if more than one district, and any proposed changes in the zoning district lines and/or the requirements of Chapter **280**, Zoning, applicable to the subdivision.

- (6) Name of any subdivisions immediately adjacent to the parcel and the name of the owners of record of all adjacent property.
 - (7) Land areas proposed to be dedicated to public use and the conditions of such dedication.
 - (8) Key map.
- F. Existing easements, covenants and/or restrictions, including liber and page number.
- G. Existing and proposed improvements.
- (1) Location of any existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
 - (2) Width and location of any streets or public ways or places shown on the Official Map or Master Plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or public ways proposed by the applicant.
 - (3) Approximate location and size of any proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes; connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law or Environmental Conservation Law; profiles of all proposed water and sewer lines.
 - (4) Storm drainage plan showing the approximate location and size of proposed lines and their profiles; connection to existing lines or alternate means of disposal.
 - (5) Plans and cross sections showing the proposed location and type of any sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof; the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.
 - (6) Preliminary designs of any bridges or culverts which may be required.
- H. Preliminary road and drainage plan. The developer shall submit six copies of the road and drainage plans showing all typical plans, sections, profiles, details and design calculations as needed or required to indicate the proposed construction and/or development.
- (1) Road and drainage plans shall show all metes and bounds descriptions indicating street and drainage areas as well as the size and type of road systems pursuant to Chapter **161**, Highway Specifications, of the Code.
 - (2) Where indicated or required, road and drainage plans shall include but not be limited to the following:
 - (a) Metes and bounds descriptions of all building lots indicating lot areas, proposed building envelopes and scenic buffer areas.
 - (b) Utilities: indicate size and location of all below-grade utilities, including proposed water mains, electrical conduit and transformer pads.
 - (c) Fire wells or fire hydrants.
 - (d) The limits of all tidal and freshwater wetlands within 100 feet of the proposed development.
 - (e) Topographical contours at an interval that will accurately depict the slope and contour of the site.
 - (f) Road profiles and typical cross-sections.
 - (g) Drainage calculations and design indicating all drainage structures and piping.
 - (h) Test hole and boring data.

- (i) All existing and proposed easements indicating width, area and purpose.
 - (j) Concrete survey monuments.
 - (k) Curbing.
 - (l) Sidewalks.
 - (m) Streetlights.
 - (n) Street trees, including size, type and specifications for placement.
 - (o) Street signs, indicating type and location.
- (3) A stormwater management control plan consistent with the requirements of Chapter **236**, Stormwater Management, of this Code. The stormwater management control plan shall meet the performance and design criteria and standards in Chapter **236**, Stormwater Management.
[Added 2-14-2012 by L.L. No. 3-2012]

§ 240-18. Environmental review.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA) and its implementing regulations. A preliminary plat application shall not be considered complete until a negative declaration has been filed or until a notice of completion of the draft environmental impact statement has been filed in accordance with the provisions of SEQRA. The time periods for review of a preliminary plat shall begin upon filing of such negative declaration or such notice of completion.

§ 240-19. Action on preliminary plat.

- A. The Planning Board shall study the practicability of the preliminary plat, considering the requirements of this chapter, including identified primary and secondary conservation areas. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, stormwater drainage, erosion and sediment control, lot sizes and arrangement, the future development of adjoining lands not yet subdivided, current zoning regulations, and the comprehensive plan.
- B. The Town Superintendent of Highways and the Town Engineering Office will review all aspects of the proposed subdivision, perform a field check, and submit reports to the Planning Board with their recommendations prior to the close of the environmental review period, if any.
- C. Planning Board as lead agency under the State Environmental Quality Review Act; public hearing; notice; decision.
 - (1) Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act as follows:
 - (a) If such Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after receipt of a complete preliminary plat by the Clerk of the Planning Board; or
 - (b) If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, a

public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

- (2) Public hearing; notice, length. The hearing on the preliminary plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five days before such hearing if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. Notice shall be provided pursuant to Chapter **55**, Notice of Public Hearings. The applicant shall notify all adjoining property owners at least 10 days prior to the public hearing by certified mail and shall file with the Board an affidavit showing the names and addresses of those so notified, the Tax Map numbers and their respective properties and the date of mailing of the required notices. The applicant shall erect a sign provided by the Planning Board, which shall be prominently displayed on the premises facing each public or private street which the property involved in the application abuts, giving notice of the application, the nature of the approval sought thereby and the time and place of the public hearing thereon. The sign shall be set back not more than 10 feet from the property line, shall not be less than two feet nor more than six feet above the grade at the street line. The sign shall be displayed for a period of not less than 10 days immediately preceding the date of the public hearing date or any date to which the hearing may be adjourned. The applicant shall file an affidavit that he has complied with this provision. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
 - (3) Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:
 - (a) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing; or
 - (b) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
 - (4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.
- D. Planning Board not as lead agency under the State Environmental Quality Review Act; public hearing; decision.
- (1) Public hearing on preliminary plats. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with their lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the preliminary plat within 62 days after receipt of a complete preliminary plat by the Clerk of the Planning Board.
 - (2) Public hearing; notice, length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. Notice shall be provided pursuant to Chapter **55**, Notice of Public Hearings, and as set forth above in § **240-19C(2)**. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full

- public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
- (3) Decision. The Planning Board shall by resolution approve with or without modification or disapprove the preliminary plat within 62 days after the close of the public hearing on such preliminary plat.
 - (a) If the preparation of an environmental impact statement on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the preliminary plat.
 - (b) If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on such preliminary plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.
 - (4) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the Planning Board shall state in writing any modifications it deems necessary for submission of the plat in final form.
- E. Extension of time. Notwithstanding the foregoing provisions, the time in which the Planning Board must take action on the preliminary plat may be extended by mutual agreement between the applicant and the Planning Board.
- F. Filing and certification.
- (1) Filing of decision. Within five business days of the adoption of the Planning Board resolution stating the decision on the preliminary plat, the Clerk of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
 - (2) Certification of decision. Within five business days of the adoption of the resolution granting approval of the preliminary plat, such plat shall be certified as having been granted preliminary approval by the Clerk of the Planning Board, and a copy of the plat and resolution shall be filed in the Planning Board office and a certified copy of the resolution mailed to the owner.
- G. Expiration of preliminary approval; revocation.
- (1) Preliminary plat approval shall expire six months from the date the Planning Board shall have adopted its resolution of approval, unless extended by further resolution of the Planning Board, such extension not to exceed a total of 180 days. Such extension shall be granted only if the presubmission fully conforms to the zoning regulations in effect at the time such extension is applied for.
 - (2) In the event that the applicant shall fail to apply for approval of a final subdivision plat prior to expiration of the preliminary approval, all documents required by this section shall be resubmitted and a second preliminary filing fee shall be paid before any application for final plat approval shall be accepted or processed.

Article VII. Final Plat Review

§ 240-20. Submission.

- A. In order to obtain final plat approval the following applies; however, a conservation subdivision may follow instead the requirements for an open development area as set forth in Article **VIII** of this chapter.
- B. Application for final plat approval shall be made prior to the expiration of sketch plan approval for a conservation subdivision and or preliminary plat approval for a standard subdivision.

- C. Required documents. The final plat shall show the layout and other aspects approved by the Planning Board in its sketch plat or preliminary plat approval, and any other conditions imposed by the Planning Board in those approvals.
- D. The application for final plat review shall include:
 - (1) Twelve paper copies and four Mylar copies of the final plat.
 - (2) Five copies of the final road and drainage plan.
 - (3) Two copies of cost estimate of public improvements required under Articles IX, Bonds and Other Security and X, Required Public Improvements; Inspections; Fees, of this chapter.
 - (4) Fee.
 - (5) Any other documents required by the Planning Board as a condition of its sketch plat or preliminary plat approval.

§ 240-21. Technical requirements.

- A. The final plat shall be printed upon Mylar or other base material acceptable to the County Clerk. The size of the sheets shall be 18 inches by 20 inches or 20 inches by 36 inches, including a margin for binding of two inches, outside of the border, along the left side and a margin of one inch outside of the border along the remaining sides. The final plat shall be drawn at a scale of no more than one inch equals 100 feet and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block number clearly legible.
- B. The final plat shall show:
 - (1) Proposed subdivision name or identifying title and the name of the hamlet, Town and county in which the subdivision is located, the name and address of the record owner and applicant, name, license number and seal of the professional engineer or licensed land surveyor.
 - (2) Street lines, pedestrianways, lots, reservations, easements and areas to be dedicated to public use.
 - (3) Sufficient data acceptable to the Town Engineering Office to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates and in any event should be tied to reference points previously established by a public authority.
 - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The final plat shall show the boundaries of the property, location, graphic scale and true North point.
 - (5) The final plat shall also show by proper designation all public open spaces for which deeds or easements are included and those spaces title to which is reserved by the applicant. For the latter, there shall be submitted with the final plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
 - (6) All offers of dedication and covenants governing the maintenance of reserved open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
 - (7) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with prevailing Town practice.

- (8) Permanent reference monuments shall be both shown and constructed in accordance with specification(s) of the Town Engineering Office. When referenced to the State system of plane coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Engineering Office and their location noted and referenced on the plat.
 - (9) Reference to any self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Planning Board in accordance with these regulations.
 - (10) Endorsement of the Suffolk County Department of Health and/or the Suffolk County Water Authority.
 - (11) A statement that a declaration of covenants and restrictions has been filed in the County Clerk's Office and that such covenants and restrictions affect the subdivision and properties within it.
 - (12) MIFDU lots must be designated on the final plat.
 - (13) The title shall identify if the subdivision is a conservation subdivision.
 - (14) The final plat shall state that the subdivision has been adopted pursuant to the terms of the amended Chapter **240**, Subdivision of Land, and shall state the effective date of the amendment.
- C. The developer shall submit six copies of the road and drainage plans showing all typical plans, sections, profiles, details and design calculations as needed or required to indicate the proposed construction and/or development.
- (1) Road and drainage plans shall show all meets and bounds descriptions indicating street and drainage areas as well as the size and type of road systems pursuant to Chapter **161**, Highway Specifications of the Town Code.
 - (2) Where indicated or required, road and drainage plans shall include but not be limited to the following:
 - (a) Metes and bounds descriptions of all building lots indicating lot areas, proposed building envelopes and scenic buffer areas.
 - (b) Utilities: indicate size and location of all below-grade utilities, including proposed water mains, electrical conduit and transformer pads.
 - (c) Fire wells or fire hydrants.
 - (d) The limits of all tidal and freshwater wetlands within 100 feet of the proposed development.
 - (e) Topographical contours at an interval that will accurately depict the slope and contour of the site.
 - (f) Road profiles and typical cross sections.
 - (g) Drainage calculations and design indicating all drainage structures and piping.
 - (h) Test hole and boring data.
 - (i) All existing and proposed easements indicating width, area and purpose.
 - (j) Concrete survey monuments.
 - (k) Curbing.
 - (l) Sidewalks.

- (m) Streetlights.
- (n) Street trees, including size, type and specifications for placement.
- (o) Street signs, indicating type and location.
- (p) Proposed curb-cut detail.

§ 240-22. Environmental review.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act (SEQRA), and its implementing regulations. When no preliminary plat is required to be submitted, an application for final plat approval shall not be considered complete until a negative declaration has been filed or until a notice of completion of the final environmental impact statement has been filed in accordance with the provisions of SEQRA. The time periods for review of such plat shall begin upon filing of such negative declaration or such notice of completion.

§ 240-23. Coordination of review of performance bond estimate.

[Amended 5-8-1973]

Upon receipt of the complete application for final plat approval, a copy of the cost estimate required under Article **IX**, Bonds and Other Security, of this chapter and the road and drainage plan required under § **240-21C** shall be forwarded to the Town Engineering Office for review and compliance with Chapter **161**, Highway Specifications, and other relevant provisions of the Town Code. The Planning Board shall accept, reject or modify the recommendations of the Town Engineering Office at a public meeting and shall notify the applicant of its decision.

§ 240-24. Action on final plats which are in substantial agreement with approved preliminary plats.

When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this chapter, the Planning Board shall, by resolution, approve or conditionally approve, with or without modifications, grant final approval and authorize the signing of such plat or disapprove the plat, within 62 days of its receipt by the Planning Board. Notwithstanding the foregoing provisions hereof, the time in which the Planning Board must take action on such plat may be extended by mutual consent of the applicant and the Planning Board.

§ 240-25. Final plats not in substantial agreement with approved preliminary plats or when no preliminary plat is required.

A. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this chapter, or when no preliminary plat is required to be submitted and a final plat clearly marked "final plat" is submitted conforming to the definition provided by this chapter the following shall apply:

(1) Planning Board as lead agency; public hearing; notice; decision.

(a) Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

[1] If the Planning Board determines that the preparation of an environmental impact statement is not required, the public hearing on a final plat not in substantial

agreement with a preliminary plat, or on a final plat when no preliminary plat is required to be submitted, shall be held within 62 days after the receipt of a complete final plat by the Clerk of the Planning Board; or

- [2] If the Planning Board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the final plat and the draft environmental impact statement shall be held jointly within 62 days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.
- (b) Public hearing; notice length. The hearing on the final plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five days before such hearing if no hearing is held on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. Notice shall be provided pursuant to Chapter **55**, Notice of Public Hearings, and as set forth above in § **240-19C(2)**. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.
- (c) Decision. The Planning Board shall make its decision on the final plat as follows:
 - [1] If such Board determines that the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or
 - [2] If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such final environmental impact statement and shall, by resolution, conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of the such plat.
- (d) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
- (2) Planning Board not as lead agency; public hearing; notice; decision.
 - (a) Public hearing on final plat. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the draft environmental impact statement. Failing such agreement, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by the Clerk of the Planning Board.
 - (b) Public hearing; notice; length. The hearing on the final plat shall be advertised at least once in the official newspaper so designated by the Town Board at least five days before such hearing is held independently of the hearing on the draft environmental impact statement, or 14 days before a hearing held jointly therewith. Notice shall be provided pursuant to Chapter **55**, Notice of Public Hearings, and as set forth above in § **240-19C(2)**. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on

the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

- (c) Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the close of the public hearing on such final plat. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
 - [1] If the preparation of an environmental impact statement on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.
 - [2] If an environmental impact statement is required, the Planning Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.
- B. Final approval. Prior to obtaining the Planning Board Chair's or Vice Chair's signature of the final plat, the developer shall have provided the following:
 - (1) Performance bond.
 - (2) Approval of final road and drainage plans from the Town Engineering Office.
 - (3) Schedule of construction dates.
 - (4) Copies of required permits.
 - (5) Proof that funds owed in accordance with the affordable housing requirement have been paid.
 - (6) In a conservation subdivision, an executed contract or other legal instrument perpetually preserving and protecting the land shall be submitted.
- C. Conditional approval of final plat. Conditional approval does not qualify the final plat for recording or authorize issuance of building permits prior to the recording of the plat in the County Clerk's office. The applicant shall have 180 days from the adoption of a resolution of conditional approval to meet the conditions. The Planning Board may extend this time for no more than two additional periods of 90 days each. The conditionally approved final plat shall not be filed until all conditions have been met.
- D. Filing of decision on final plat. Within five business days from the date of the adoption of the resolution approving the final plat, the Chair or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Town Clerk.
- E. Final approval; filing; expiration. The approved final plat shall then be signed by the Chairperson or other duly authorized officer of the Planning Board, and forwarded to the applicant for filing at the Suffolk County Clerk's Office. The final plat shall be filed by the applicant within 62 days of the date of final approval, or such approval shall expire. Final approval shall be determined in accordance with § 276 of the New York State Town Law.
- F. Final plat void if revised after approval. No changes, erasures, modification(s), or revisions shall be made to any final plat after it has been approved by the Planning Board, and such approval has been endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and the Planning Board approves any modifications. In the event that any such final plat is filed without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the final plat stricken from the records of the Suffolk County Clerk.
- G. Default under previous final plat. The Planning Board shall not approve a final plat if the applicant is in default on a previously approved final plat.

- H. This chapter is intended to supersede and amend inconsistent provisions of Town Law § 276(8) by eliminating the provisions for default approval resulting from the Planning Board's failure to take any action or hold any hearing on a preliminary or final plat within the statutory time periods.

Article VIII. Open Development Area

§ 240-26. Establishment.

- A. An applicant who has received sketch plat approval for a conservation subdivision pursuant to this chapter may apply to the Town Board for establishment of an open development area (ODA) pursuant to § 280-a(4) of the New York State Town Law.
- B. The Town Board may grant the applicant the right to seek future approval of the creation of lots and the issuance of permits for the erection of structures to which access is given by right-of-way or easement. Such right shall be in accordance with the designated zoning district and the density and minimum lot size for the property in effect at the time of the establishment of the open development area.
- C. This provision supersedes and amends New York State Town Law § 265-a insofar as that section places a limited exemption on the time within which an adoption, change or amendment to the zoning regulations shall be applicable to a filed plat.

§ 240-27. General requirements.

An open development area must meet the following general criteria:

- A. It shall be located within the A-C, R-400, R-200, R-120, R-80 or R-40 Zoning Districts.
- B. It shall provide for the perpetual preservation of a minimum of 75% of the buildable land on the parcel.
- C. Access to the ODA shall be provided by a right-of-way or easement.
- D. The area where the proposed lots will be located shall be in accordance with that shown on the approved sketch plat.

§ 240-28. Submission requirements.

The applicant shall submit the following items to the Town Clerk's Office:

- A. A completed petition to establish an open development area;
- B. Three Mylar and 12 paper copies of a map prepared to a scale of one inch equals 100 feet; and including all information required in Article V, Sketch Plat Review, and the size and notation requirements set forth in Article VII, Final Plat Review, of this chapter.
- C. An executed easement (permanently preserving a minimum of 75% of the property from residential or commercial development) between the property owner and one of the following entities: the Town of Southold, the County of Suffolk, another governmental entity, or a private conservation corporation or land trust as approved by the Town Board.

§ 240-29. Procedure.

- A. Upon receipt of the items required under § **240-28**, the Town Clerk shall refer the petition to the Planning Board for its review and specific recommendations within 14 days of receipt of referral.
- B. The Town Board shall provide notice pursuant to Chapter **55**, Notice of Public Hearings, of the Town Code and shall hold a public hearing.
- C. The Town Board shall comply with the requirements of SEQRA.
- D. Following receipt of the Planning Board's recommendation and the public hearing, the Town Board may establish an open development area consisting of a certain number of acres within a specified portion of the proposed conservation subdivision. The Town Board may incorporate such further conditions and limitations as may be prescribed by the Planning Board by general or special rule. Such approval shall be by resolution.
- E. The approved map shall be signed by the Town Supervisor within 10 days of the adoption of the approving resolution.
- F. The following filing procedures shall be implemented for an approved ODA:
 - (1) The Mylar maps shall be filed by the applicant with the County Clerk's Office as a miscellaneous map within 62 days of the date of approval.
 - (2) Three paper copies shall be filed with the Town Clerk's Office, of which one copy will be returned to the applicant and one copy shall be sent to the Planning Board office for its records.
 - (3) Failure to file the approved map within 62 days of the date of approval shall result in an expiration of such approval.

§ 240-30. Creation of lots.

- A. In order to create any lot(s) within a filed ODA subdivision, the property owner shall submit the following items to the Planning Board office:
 - (1) Petition to implement the ODA.
 - (2) Twelve paper copies of the ODA showing the location and dimensions of the proposed lot(s), in accordance with the approved ODA map.
 - (3) Five paper copies of preliminary road and drainage plans.
 - (4) Fee.
- B. Upon receipt of an application, the Planning Board office shall refer the road and drainage plans to the Town Engineering Office for an estimate of the required improvements.
- C. Upon receipt of the performance bond estimate, the Planning Board shall accept or modify said estimate.
- D. The Planning Board shall comply with applicable provisions of the State Environmental Quality Review Act (SEQRA).
- E. The Planning Board shall hold a public hearing on the petition. Notice shall be provided pursuant to Chapter **55**, Notice of Public Hearings, of the Town Code.
- F. If approved, the revised map shall be signed and dated and filed by the applicant in the Office of the County Clerk, the Town Clerk and the Planning Board office within 62 days after approval.

Article IX. Bonds and Other Security

§ 240-31. Purpose of performance bond.

A performance bond is posted by the applicant to guarantee to the Town that he/she will faithfully construct or cause to be constructed the required public improvements which were an integral part of the approved final plat and, further, that the construction shall be completed within a reasonable period of time.

§ 240-32. Performance bond.

- A. Performance bond estimate. The amount of the undertaking, secured by cash or certified check or other acceptable surety, will be based upon the Town Engineering Office's estimate of the total cost of the required capital improvements, including but not limited to road clearing, trail clearing, landscaping and drainage, plus a reasonable estimate of anticipated increased construction cost during the period of the life of the bond.
- B. The Planning Board shall pass a resolution either approving or modifying the performance bond estimate as recommended by the Superintendent of Highways.
- C. The Town Board shall approve or disapprove the performance bond, subject to the review and approval of the Town Attorney. If the performance bond is approved, it shall be filed with the Town Clerk, and the Town Clerk shall notify the Planning Board, in writing, of the Town Board's action.
- D. The Chair of the Planning Board shall not sign a final plat until notification by the Town Clerk of the Town Board's approval of the performance bond.
- E. After construction of the public improvements covered by the performance bond and prior to the release of the bond, the developer shall prepare a set of the approved drainage plans and street profiles amended to indicate as-constructed information. The developer then may apply to the Town Engineering Office and/or Superintendent of Highways for a final inspection of the work. When the work has been completed to the satisfaction of the Town Engineering Office and/or Superintendent of Highways, they shall recommend to the Planning Board that the performance bond be released. If the Planning Board is in agreement with the recommendation, the Planning Board shall recommend to the Town Board that the performance bond be released.

§ 240-33. Maintenance bond.

[Amended 5-8-1973]

- A. At the time of the release of the performance bond, a maintenance bond shall be furnished by the developer to guarantee upkeep and the workmanship and materials of all required improvements for a period of one year from the date of release of the performance bond by the Town. This bond shall be in an amount which is one-third of the performance bond estimate. If the improvements are not taken over by the Town, an annual maintenance bond shall be required, annually updated and running until the improvements are dedicated to the Town. The amount of this bond shall be determined by the Superintendent of Highways, and the form shall be in accordance with § **240-34**.
- B. Where dedication of required improvements has not been accepted by the Town Board, maintenance inspection shall be made annually by the Town Engineering Office and/or Superintendent of Highways. In the event that such required improvements are not maintained according to the Department of Highway specifications, the Town Engineering Office and/or Superintendent of Highways shall recommend to the Town Board that such maintenance bond be declared in default and the offer of dedication shall be accepted by the Town Board.

§ 240-34. Forms of security; expiration and terms of bonds; default.

- A. Form of security. Any security to a bond must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency and manner of execution, and shall be limited to:
- (1) The deposit of funds in a savings passbook or a certificate of deposit (CD) issued by a bank or trust company located and authorized to do business in the State of New York and maintaining an office for the transaction of its business in the Town of Southold. The Town Board may require that the savings passbook or CD be accompanied by an executed withdrawal slip made payable to the Town of Southold and/or an assignment of the right to the funds upon a default. Each passbook or CD shall also be accompanied by a letter from the bank acknowledging the use of the passbook or CD as security to a bond and that no funds will be released unless authorized by a resolution of the Town Board.
 - (2) An unconditional and irrevocable letter of credit from a bank or a corresponding bank located and authorized to do business in the State of New York. The letter of credit shall certify the following:
 - (a) That the creditor does guarantee funds in an amount equal to the performance bond estimate.
 - (b) That, in the case of failure on the part of the applicant to complete the specified improvements within the required time period, the creditor shall pay to the Town Board immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - (c) That the letter of credit may not be withdrawn, or reduced in amount, until released by the Town Board.
 - (d) That the term of the letter of credit shall extend at least six months past the term of the bond.
 - (3) Obligations of the United States of America.
 - (4) Any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full amount of the security required.
 - (5) Upon the recommendation of the Planning Board, the Town Board may accept a deed, transferring the fee title of real property, free and clear of any mortgage or lien, having a value established by the Town Tax Assessor of at least 150% of the amount of the security required, such title to be held by the Town in escrow only for the purpose of securing the performance or maintenance required. The Town Board shall retain the right to reject the use of a property escrow where there is no benefit to the Town or it may reject the use of any property when the value of such property is sufficiently unstable, when it believes that the property will be unusually difficult to sell or for other reasons such as will inhibit the Town from exchanging the property for a sufficient amount of money to complete the required improvements. Said deed shall be accompanied by the following:
 - (a) All documents necessary for recording of the deed in the Suffolk County Clerk's Office.
 - (b) An agreement with the Town Board, to be filed in the Office of the Suffolk County Clerk, stating the following:
 - [1] That, in the event of default in performance or maintenance for which the undertaking shall be given, the Town Board may accept the property on behalf of the Town of Southold. In such a case, the Town may record the deed in the office of the Suffolk County Clerk, sell such real property and apply the net proceeds of the sale in the

same manner as if the funds had been held in a deposit or certificate described in Subsection **A(1)** above.

- [2] That the grantor shall pay all real property taxes on the property held in trust during the term of the bond.
 - [3] That the property to be placed in trust as an improvement guarantee will not be used for any other purpose, or pledged as a security in any other matter, unless and until released by the Town Board.
 - [4] That upon the completion of the work or maintenance period or when the benefit to the Town shall have been received or the purpose of accepting this form of security is deemed unnecessary by the Town Board, the deed and/or title to the subject property shall be released or conveyed to the grantor or such other person as may be entitled to the same, free and clear of any liens or defects, except those in existence at the time of the delivery of the deed to the Town and which continue in existence or which may have thereafter been placed thereon with the knowledge and consent of the owner.
 - [5] Affidavit of title or title certification affirming that the property to be used as a guaranty is free and clear of any encumbrances or liens at the time it is to be put into trust.
 - [6] Notwithstanding the aforementioned provisions, the Town Board may, in its discretion, accept such other security as may be allowed by law, where there is a benefit to the Town.
 - [7] If the term of the performance bond will expire prior to the completion of the public improvements, the Town Engineering Office and/or Superintendent of Highways shall recommend to the Planning Board either that the term of the bond be extended to permit completion of the work by the applicant or that the bond be declared in default. The Planning Board shall advise the Town Board, by resolution, if its recommendation is for the extension or default of the bond. The Town Board shall act on the extension or declaration of default on the performance bond.
 - [8] The performance bond shall have a term of two years. The term and requirements of a performance bond may be extended or modified by the Planning Board, in consultation with the Town Engineering Office and the Superintendent of Highways, with the approval of the Town Board.
- B. Default. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the Town Board may thereupon declare the said performance or maintenance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

Article X. Required Public Improvements; Inspections; Fees

§ 240-35. Required improvements and utilities.

- A. All public improvements shown on the final plat and final road and drainage plans will be required and must be bonded.
- B. The following public utilities will be required, but bonding is not required. Assurance of construction from the appropriate private company or public agency must be supplied to the Planning Board by the applicant.

- (1) Fire hydrants as specified by the Fire Commissioners (only when water mains are to be installed).
 - (2) Sewage disposal facilities when specified by appropriate agencies.
 - (3) Utilities, including but not limited to electric, gas, telephone and television, all of which must be located underground. The applicant shall provide a letter from each public utility company stating that the company will make the necessary installations for its service. These letters shall be submitted with the performance bond provided pursuant to § 240-32.
- C. Public improvements subject to the bonding requirements of this chapter shall be constructed in accordance with Chapter 161, Highway Specifications.
- D. Fire wells shall be installed according to the specifications of the respective fire district. Upon completion of the installations, the applicant shall arrange for appropriate testing of the wells to the satisfaction of the respective fire district prior to release of the performance bond.
- E. Site preparation. Site preparation and construction of the required public improvements shall not begin until:
- (1) The final plat has been signed by the Chair or the Vice Chair of the Planning Board and the final plat has been duly recorded in the Office of the Suffolk County Clerk; or
 - (2) If such work is to be performed without posting a performance bond, such work shall not begin until a resolution conditionally approving the final plat has been adopted by the Planning Board, and any conditions set forth therein required to be met prior to beginning such work shall have been complied with.

§ 240-36. Inspection of improvements.

- A. All bonded improvements shall be inspected by the Town Engineering Office and Superintendent of Highways to ensure satisfactory completion.
- B. At least 48 hours' notice shall be given to the Town Engineering Office and Superintendent of Highways prior to any major construction or installation so that a representative of the Town may be present when the work is performed.
- (1) The developer shall supply the Town Engineering Office and Superintendent of Highways with a schedule of construction indicating the beginning and completion dates of each of the following phases of work:
 - (a) Cleaning and grubbing.
 - (b) Drainage pipe installed with other drainage structures before backfilling and recharge basin excavation.
 - (c) Road subbase analysis.
 - (d) Curbing and sidewalk.
 - (e) Placement of road base course materials.
 - (f) Finished roadway pavement materials.
 - (g) Landscaping and fencing.
 - (h) Sidewalks.
 - (2) No work on any item in this subsection shall begin on a weekend or legal holiday.
- C. The developer shall notify the Town Engineering Office and Superintendent of Highways, in writing, at least five days prior to the completion of each of the above phases of construction.

- D. Construction testing of roadway pavement materials shall be performed in accordance with the requirements of the road and drainage standards for the Town of Southold.
- E. The Town Engineering Office shall coordinate the placement of the following improvements, with the developer and the utility company:
 - (1) Water mains and hydrant connections, prior to backfilling.
 - (2) Fire well.
 - (3) Placement of underground electric, telephone or television cables.
 - (4) Placement of underground lines/mains.
 - (5) Installation of all underground drainage structures prior to backfilling.
- F. A final inspection of all improvements shall be made by the Town Engineering Office and/or Superintendent of Highways to determine whether the work is satisfactory and in substantial agreement with the approved final plat drawings, design standards of these regulations and the construction specifications for subdivisions. The general condition of the site shall also be considered. If it appears likely that hazardous conditions exist or may arise, the Town Engineering Office and/or Superintendent of Highways may require that special measures be taken by the developer.
- G. All development greater than a cumulative area of one acre shall require Phase II stormwater/erosion control mitigation requirements as set forth by federal and state regulations, including SPDES General Permit for Stormwater Discharges from Construction Activity (GP-02-01).

§ 240-37. Administration fee.

- A. Administration fees shall be required for subdivision map review, project coordination and field inspections by the Town Engineering Office.
[Amended 5-8-1973]
- B. This fee shall be equal to an amount or percentage as determined by resolution of the Town Board of the adopted final total cost of capital improvements (performance bond estimate), including but not limited to roads, clearing and drainage.
[Amended 1-16-2024 by L.L. No. 4-2024]
- C. When new road construction is not part of the subdivision (subdivision on an improved road), the applicant shall pay a review fee equivalent to an amount as determined by resolution of the Town Board per lot or a percentage, as determined by resolution of the Town Board, of the bond estimate, whichever is greater.
[Amended 1-16-2024 by L.L. No. 4-2024]
- D. All checks shall be made payable to the Town of Southold.
- E. If a subdivision is abandoned, no part of the administration fees already paid to the Town will be returned to the applicant.

§ 240-38. Waiver.

With the approval of the Town Engineering Office and the Highway Superintendent, the Planning Board may waive the provision of any or all required improvements which in its judgment and considering the special circumstances of a particular plat or plats, are not required in the interests of the public health, safety and general welfare. For each waiver granted, the Planning Board shall enter upon the records its reasons why the particular improvement is not necessary and it shall attach appropriate conditions or require such guaranties as may be necessary to protect the public interest.

§ 240-39. Safeguards during construction.

In order to prevent flooding, erosion or any other dangerous or hazardous condition from occurring during the progress and completion of required improvements, the Planning Board may require the developer or his agents to take any action, including the construction and/or installation of temporary facilities, as the Town Engineering Office may recommend. Such recommendations may not supersede state requirements under SPDES permit GP-02-01.

§ 240-40. Modification of design of improvements.

If at any time before or during the construction of the required improvements, the Town Engineering Office, the Highway Superintendent and the Planning Board determine that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvements, the Town Engineering Office may, upon approval of the Planning Board and with the concurrence of the Highway Superintendent, authorize such modifications, provided they are within the spirit and intent of the Planning Board's prior approval and do not extend any waiver or constitute a substantial alteration of the function of any improvements required by the Planning Board. The Town Engineering Office shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board prior to its next regular meeting.

§ 240-41. Mapping of completed improvements; monuments.

- A. The required improvements shall not be considered to be completed until their installation has been approved by the Town Engineering Office and a map satisfactory to the Planning Board has been submitted indicating the location of monuments marking all underground drainage utilities as actually installed and the corners of all new lots created by the developer.
- B. Where field conditions necessitate modifications to the approved road and drainage maps, the Town Engineering Office shall have the right to require amended maps for the public record.
- C. Monuments.
 - (1) Property boundary monuments shall be required for each subdivision. Monuments shall be set on the inside corners of outside boundaries of the land subdivided at each point where there is a change of alignment. Except where the boundary is a watercourse, the monuments shall be offset in the line of the adjacent traverse.
 - (2) Property boundary (survey) monuments shall be of concrete. Monuments shall not be less than six inches in diameter, thickness or width. Concrete monuments shall be reinforced with metal. All monuments shall be not less than 42 inches in length and set vertically with the top of the monument flush with the top of the improved ground. The final monuments shall not be installed prior to completion of final grading.
 - (3) Two street boundary monuments shall be set at diagonally opposite corners of each street intersection, also on one side of a curve in a street at the point of tangency and at the point of curvature.
 - (4) Each lot in the subdivision shall be referenced by two markers located at the intersection of the side boundary line of the lot and the front property line. Lot boundary line markers shall be of metal rod or pipe not less than three-quarters inch in diameter and 24 inches in length and driven so that the top of the marker is flush with the level of the improved ground.
 - (5) A letter from a NYS licensed land surveyor shall be provided by the applicant to the Planning Board certifying that all monuments are installed as shown on the approved final plat.

- (6) Location of all proposed survey monuments shall be shown on preliminary maps for review and approval by the Town Engineering Office prior to Planning Board approval of the final plat.

Article XI. Cluster Development

§ 240-42. Authority and purpose.

- A. Authority is hereby granted to the Planning Board pursuant to New York State Town Law § 278 to modify applicable provisions of Chapter **280**, Zoning, of this Code, as to layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping, to enable and encourage flexibility of design and development of land in such manner as to preserve the natural and scenic qualities of open space lands. Any subdivision designed under this article shall indicate on the final plat that it is a cluster subdivision.
- B. The Planning Board shall require cluster development of parcels seven acres or greater in size and not classified as a conservation subdivision. The Planning Board, at its discretion, may allow cluster development on any subdivision classified as a conservation subdivision, and may modify any provisions of this article in consideration of the ERSAP.
- C. The Planning Board, at its discretion, may mandate cluster development of a parcel of seven acres or less in size in order to preserve the natural and scenic qualities of open lands. The Planning Board shall consider the ERSAP in making such a determination, and may require cluster development upon a finding that natural and scenic qualities of the parcel, including, but not limited to, the following should be preserved:
- (1) Slopes: slopes of 15% or greater on 25% or more of the property.
 - (2) Land seaward of the coastal erosion hazard area line.
 - (3) Water resources: wetlands, aquifer and aquifer recharge areas, municipal water supply watershed areas, flood-prone areas as shown on Federal Emergency Management Agency maps, New York State protected areas, or areas legally protected by the County of Suffolk, the Town of Southold, private trusts or other entities or agencies.
 - (4) Agricultural lands: active farmland within a New York State certified Agricultural District, lands within 2,000 feet of a New York State certified Agricultural District, or soils classified in Groups 1 to 4 of the New York State Soil Classification System or areas legally protected by the County of Suffolk, the Town of Southold, private trusts or other entities or agencies.
 - (5) Community water and/or sewer: sites where community sewer, community water, or community water and sewer are available or planned.
 - (6) Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law.
 - (7) Designated open space areas: lands contiguous to publicly owned or designated open space areas, privately owned designated natural areas, or areas identified in the Southold Town Farm and Farmland Protection Strategy.
 - (8) Historic structures and sites: historic structures or areas of national, state or local importance.
 - (9) Scenic view sheds and special features: sites bordering designated state, county or Town scenic roads, or special features identified in the Town's Comprehensive Plan.
 - (10) Significant natural areas and features: areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species as determined by the New York Department of Environmental Conservation (Natural Heritage Program) or the Town Conservation Board, mature forests over 100 years old, locally important vegetation or unique natural or geological formations.

- (11) Trails: existing and potential trails, bikeways, and pedestrian routes of Town, state or county significance.
 - (12) Recreation: lakes, ponds or other significant recreational areas, or opportunities or sites designated in the Town's Comprehensive Plan.
 - (13) Applicant request: on lands where the applicant has requested approval of a cluster development subdivision.
- D. The Planning Board, at its discretion, may mandate cluster development in the AHD, RR, RO, LB, HB and B Zoning Districts for residential uses as permitted by this Code.
[Amended 1-20-2009 by L.L. No. 3-2009]
 - E. The Planning Board shall not increase the density permitted on the subject parcel as determined pursuant to § **240-10** of this chapter.
 - F. Where two or more properties are held in common ownership by the applicant(s) and the properties are adjacent or contiguous to one another, whether separated by a public or private street, utility easement or other such easement, the Planning Board may require clustering of the cumulative permissible yield onto one or more of the parcels.
 - G. Where two or more properties are held in common ownership by the applicant(s) and the properties are not adjacent or contiguous to one another, the Planning Board may require clustering of the cumulative permissible yield onto one or more of the parcels, subject to an approving resolution by the Town Board.
 - H. Design requirements for cluster development subdivisions. In addition to the other requirements of this chapter, the following shall apply:
[Amended 1-20-2009 by L.L. No. 3-2009]
 - (1) In the R-400, R-200, R-120, R-80 and R-40 and A-C Zoning Districts, a cluster development design must set aside a minimum of 60% of the buildable lands as open space lands.
 - (2) In the HD Zoning District, a cluster subdivision development must set aside a minimum percentage of buildable lands as shown in the column entitled "Open Space Set Aside" in the Schedule for Open Space, Buffers and Setbacks for Residential Site Plans at the end of Chapter **280**.
 - (3) Utility and open space easements may be included in the calculation of the minimum required open space.
 - (4) Roads, streets and rights-of-way may not be included in the calculation of the minimum required open space.

§ 240-43. Determination of location of open spaces created by cluster development using primary and secondary conservation areas.

- A. The required open space land shall consist of a combination of primary conservation areas and secondary conservation areas as defined in § **240-3** and described in § **240-10C**. The proposed design shall strictly minimize disturbance of these environmentally sensitive areas. The applicant shall demonstrate that such features will be protected by the proposed subdivision plan.
- B. The location of open space lands shall be determined in general accordance with the goals of the Town's Comprehensive Plan and in particular with the Southold Town Farm and Farmland Protection Strategy to provide an interconnected network of open space and farmland.
- C. Active agricultural land with farm/agricultural support buildings may be used to meet the minimum required open space land.

- D. Open space land should generally remain undivided, except for roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways, historic sites or unique natural features requiring common ownership protection.
- E. No portion of any house lot as described in an existing or future deed may be used for meeting the minimum required open space land unless encumbered with a perpetual restriction preventing the development of such area in any way.
- F. House lot standards. Development areas for the location of house lots include the necessary building envelope for each dwelling unit, constituting the remaining lands of the tract outside of the designated open space areas. House lots shall not encroach upon primary conservation areas, and their layout shall, where practical, respect secondary conservation areas. House lots shall be designed in accordance with the following standards:
 - (1) The buildable area of all proposed lots all shall meet the following setback requirements to the greatest extent practicable:
 - (a) From all external road rights-of-way, including New York State designated scenic byways (S.R. 25 and C.R. 48): 100 feet.
 - (b) From all other tract boundaries: 50 feet.
 - (c) From agricultural lands, either bordering or within the tract: 50 feet.
 - (d) From active recreation areas, such as courts or playing fields (not including small playgrounds for young children): 100 feet.
- G. Views of house lots from exterior roads and abutting properties shall be minimized by the use of natural or landscaped buffers, changes in topography, existing vegetation, or additional landscaping in accordance with this chapter or other provisions of the Code.
- H. House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Two accessways into and out of subdivisions containing 10 or more dwellings are generally required for safety. Proposals for more than two entrances onto an arterial road, as defined herein, shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- I. To the extent practical, the lots shall directly abut or face open space created under this chapter.

§ 240-44. Protection and use of open space lands created by cluster development.

- A. Ownership. As a condition of approval of a standard subdivision plat pursuant to this chapter and in order to further the Town's goals of permanent preservation, the Planning Board shall require that fee title to parcels of open space shown on the plat be conveyed to one or more of the following:
 - (1) The Town of Southold or other governmental unit or authority. The Town may, but shall not be required to, accept any portion of the open space land and common facilities, provided that:
 - (a) There is no substantial cost of acquisition to the Town; and
 - (b) The Town agrees to and has access to maintain such facilities; and
 - (c) Such facilities for public use shall be accessible to residents of the Town.
 - (2) Homeowners' association. Open space land and common facilities may only be conveyed to a homeowners' association if the following regulations are met:
 - (a) The applicant shall provide the Town with a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance,

and use restrictions for common facilities.

- (b) The proposed association shall be established by the owner or applicant, and instruments which satisfy the requirements of this section must be recorded no later than the date on which the subdivision map is filed with the Suffolk County Clerk.
 - (c) Membership in the association shall be mandatory for each property owner within the subdivision and the owner's successors in interest, and each such owner must be required to pay a proportion of the annual cost of maintaining the open space or common areas.
 - (d) The association must have the power to levy assessments against each lot owner and which become a lien on the real property of any member who falls delinquent in his or her assessments.
 - (e) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Town no less than 30 days prior to such event.
- (3) Noncommon private ownership. The required open space land may be included within one or more large agricultural reserve lots, provided the open space is permanently restricted from future development, except for those uses listed in § **240-44C**. This option may be preferable for open space land that is intended for agricultural, horticultural, or silvicultural use.
- (4) A private conservation corporation or land trust approved by the Planning Board, which is required under its charter to own and manage the open space in perpetuity for one or more of the purposes set forth in this chapter and which has the capacity to do so.
- B. As a condition of approval of a conservation subdivision plat pursuant to this chapter and in order to further the Town's goals of permanent preservation, the Planning Board shall require that any required open space land resulting from clustering design shall be held in the same ownership of the other permanently preserved lands in the conservation subdivision.
- C. Grant of restrictive easements required. Where fee title to open space created by cluster development as provided in this section will be conveyed, the Planning Board shall ensure that the open space is used in perpetuity only for the uses approved by the Board and shall ensure that public and record notice is given of the nature of the restrictions on the open space. To this end, the Planning Board shall:
- (1) Require the grant of conservation easements, either to the Town of Southold or to an approved private conservation corporation or land trust, and require the filing of such other instruments as will permanently impose the open space restriction required by this chapter and give record notice of the same.
 - (2) Impose such other conditions and restrictions as will, in the discretion of the Board, ensure that the use of the open space is permanently restricted to those uses approved by the Board.
 - (3) All conservation easements required or agreed to by the Planning Board pursuant to this chapter shall be approved as to their form, content and manner of execution by counsel to the Planning Board or by the Town Attorney. Such easements shall be perpetual.
 - (4) All conservation easements, declarations or other instruments imposing or giving notice of restrictions on open space or other real property and required or agreed to by the Planning Board pursuant to this chapter shall be recorded in the office of the Suffolk County Clerk simultaneously with the filing of the subdivision map or development plat.
 - (5) No provision of this chapter shall be construed to supersede or modify any provision of a conservation easement previously granted to the Town of Southold so that the protection of open space which the easement affords is in any way diminished.
 - (6) Any person, firm, corporation or other entity shall have committed a violation of this chapter if said person, firm or corporation violates any provision of a conservation easement granted to

or accepted by the Town pursuant to this chapter.

- D. Restrictions on use. Use of open space shall be restricted and defined in a conservation easement, and shall be limited to the following:
- (1) Conservation of open land in its natural state, including woodland, fallow field, or managed meadow. The clearing of woodland shall generally be prohibited, except as necessary to clear trails and active recreation facilities, remove invasive species, and to install subsurface sewage disposal systems. Fallow fields may be returned to agricultural production without penalty. The determination of necessity shall lie with the Planning Board and the Land Preservation Department.
 - (2) Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings, that are specifically needed to support an active, viable agricultural or horticultural operation, subject to applicable lot coverage requirements in Chapter **280**, Zoning, of this Code. Specifically excluded are concentrated animal feeding operations (CAFOs) as defined by the US Environmental Protection Agency, or commercial livestock operations involving swine, poultry, mink, ratites, and other animals likely to produce highly offensive odors. Such easement and a notation of the Town of Southold Farmland Bill of Rights shall be on the referenced final plat.
 - (3) Game preserve, wildlife sanctuary, or other similar conservation use.
 - (4) Woodlots, arboreta, and silviculture in keeping with established standards for selective harvesting and sustained yield forestry.
 - (5) Neighborhood open space uses, such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Board.
 - (6) Active noncommercial recreation areas, such as playing fields, playgrounds, and courts, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 150 feet of abutting properties nor shall such facilities be equipped with lighting. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than 10 parking spaces. Such recreation uses may be a public park or recreation area owned and operated by a public or private nonprofit agency, but shall not include storage of materials, trucking or repair facilities, or private or municipal sanitary landfills.
 - (7) Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the open space area.
 - (a) Sanitary sewage disposal systems of either an individual or community nature 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 associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide property owners 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.
 - (b) Conservation of water. It is the requirement of the Planning Board to return stormwater to the ground within subdivisions. This is to be done through the use of natural recharge basins and/or leaching basins and/or lots specifically designated as drainage lots to be used for no other purpose. In addition, applicants shall be required to covenant that buildings and structures shall be equipped with leaders, gutters and dry wells to return stormwater runoff to the ground.

- (8) Easements for drainage, access, sewer or water lines, or other public purposes.

Article XII. Design Standards

§ 240-45. Lots; streets; common driveways; flag lot design.

A. Lots.

- (1) All building lots shall at least comply with the requirements of the Zoning Regulations of the Town, except for lots in open space subdivisions.
- (2) Each lot shall, where possible, abut a secondary street or an existing dedicated street.
- (3) Corner lots shall be of sufficient size to meet the minimum building line, lot width and yard setbacks of the Zoning Regulations for each street, except for lots in a cluster subdivision.
- (4) Where extra width has been provided to widen existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- (5) Side lines of lots shall be at right angles to straight streets, and radial to curved streets.
- (6) Where factors such as rock formations, flood conditions or similar circumstances affect the suitability of a lot or lots for their intended use, the Planning Board may deny approval of such lots.
- (7) Block length and width, or acreage within boundary roads, shall be sufficient to meet the lot area requirements of the Zoning Regulations and to provide for convenient access, circulation control and safety of street traffic.
- (8) Lots intended for commercial or industrial use shall be designed specifically for such purposes with adequate space set aside for off-street parking and delivery facilities.
- (9) Lots shall be designated to avoid regulated areas under the jurisdiction of the Town Board of Trustees, the New York State Department of Environmental Conservation and the Town Zoning Board of Appeals.

B. Streets. Streets shall meet Town Highway Specifications. Where appropriate, the Planning Board shall work with the Highway Superintendent and Town Engineering Office to ensure that the Town of Southold's Highway Specifications do not impact or detract from the rural and environmental character of a standard, conservation or cluster subdivision. The Highway Superintendent and the Town Engineering Office may provide an interpretation of any part of the Highway Specifications and modify such requirements under § **161-47** of the Town Code.

- (1) The design of the street pattern shall be based upon consideration of factors such as topography, design of proximate streets, ease of access to intermodal transportation hubs, access to existing sidewalks, trails, bicycle paths and public transit, traffic calming measures, and other traffic safety considerations.
- (2) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas, or their proper extension where adjoining land is not subdivided, as may be deemed necessary for public requirements.
- (3) Public right-of-way street widths shall be measured at right angles or radial to the center line of the street and shall be 50 feet in width. Actual roadway widths shall be determined by Chapter **161**, Highway Specifications. Roadways shall have a minimum of two lanes.
- (4) Whenever possible, streets should intersect at right angles, but in any event not at angles of less than 60°.
- (5) Cul-de-sac streets:

- (a) Unless there is the expectation of extending the street through to the adjoining property, a cul-de-sac street shall not be placed so that it ends on the property line of the subdivision.
 - (b) A cul-de-sac should not exceed 800 in length, as measured from the center line of the street at the open end to the radius point of the turnaround.
 - (c) All residential culs-de-sac shall have a turnaround at the end of the street which shall have a right-of-way radius of 50 feet. The curb at the turn shall have a minimum radius of 44 feet.
 - (d) In a commercial or industrial subdivision, a cul-de-sac should be avoided whenever possible unless the right-of-way radius is designed at a minimum of 75 feet and the curb radius is designed at 65 feet.
- (6) If a dead-end street is of a temporary nature, a turnaround shall be provided and provision made for future extension of the street and the reversion of the excess right-of-way of such temporary turnaround to the adjoining properties.
 - (7) Streets and rights-of-way less than the required minimum of 50 feet shall not be permitted, except that wherever a proposed subdivision borders an existing street or right-of-way less than the required minimum width, the Planning Board shall require that the other part of the street or right-of-way be platted in the proposed tract if it is found that such a requirement would increase the effectiveness of the circulation system in the area.
 - (8) Multiple intersections involving a junction of more than two streets shall be prohibited.
 - (9) Arterial streets shall not intersect with local residential streets and residential collector streets less than 800 feet apart, measured from center line to center line.
 - (10) To avoid confusion, no street shall have a name which will duplicate or nearly duplicate the names of existing streets within the Town. The continuation of an existing street shall have the same name. All proposed street names are subject to approval of the Town Engineering Office and/or the Highway Superintendent.
 - (11) The minimum radius of horizontal curve, minimum length of vertical curves, and minimum length of tangents between reverse curves shall be in accordance with specifications established by the Town Highway Superintendent and/or Town Engineering Office, and shall be approved prior to final approval of the final plat by the Planning Board.
 - (12) New streets shall be located to provide adequate sight distance on any adjacent public road in both directions from the interior road in accordance with the current edition of the American Association of State Highway and Transportation Officials (AASHTO).
 - (13) New streets shall not be placed so as to intersect another street directly opposite an existing or proposed residence.
 - (14) Any crossing of the Long Island Rail Road right-of-way within a subdivision will not be permitted.
 - (15) Except in a conservation subdivision or open development area, subdivisions where more than 300 feet of land fronts on a public street shall provide access to proposed lots by way of a new street. Multiple building lots and fronting of more than two building lots on a existing street shall be prohibited. 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 and one-hundred-thirty-five-degree bends are preferred in a more formal or traditional arrangement.
 - (16) Whenever appropriate, street systems should produce vistas of open space.
 - (17) The use of reverse curves should be considered for local access streets in cluster development subdivisions in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 miles per hour.

C. Common driveways.

- (1) Common driveway access may be provided and shall be required where street safety and traffic management goals would be served.
- (2) The maximum number of lots using a proposed common driveway shall be two if the common driveway has one entrance on a public road. Each lot shall have their access on the common driveway, regardless of the potential for access onto an existing Town, county or state road.
- (3) The boundary of each lot served by a common driveway shall extend to the center line of the common driveway with the right-of-way for ingress and egress across the common driveway granted to each lot served by such common driveway.
- (4) In the case of a conservation subdivision, the Planning Board may, in its discretion, require professional engineer's drawings showing the exact location, dimensions and grade of the common driveway and specifications for its composition. The Planning Board may refer these drawings to the Town Engineering Office for review and comment.
- (5) The subdivision plat shall show the road clearly labeled as "common driveway."
- (6) The common driveway may not be offered for dedication to the Town of Southold.
- (7) The Planning Board shall require a recorded maintenance agreement executed by the applicant as a condition of subdivision approval.

D. Flag lots. The Planning Board may permit a limited number of flag lots in a residential subdivision plat, provided that they are well shaped, they are generally larger than usual lots, their accessway is essentially straight and not excessive in length and their arrangement will not create traffic difficulties on the street system and would not be a means to circumvent a standard lot and street arrangement which might otherwise result in a generally better platting of the subdivision and adjacent lands.

- (1) To assure that the flag lot is of adequate size and shape, a flag lot located within the residential zones shall contain at least the minimum lot area of the applicable zoning district in which it is situated, within the bulk of the lot, exclusive of the area contained in the flagpole access strip.
- (2) In allowing flag lot arrangements in subdivision, the Planning Board may require either a formal private lane or common access driveway to service such lots and may require that such lanes or common access driveways be made part of the improvements to be undertaken and made part of a performance bond.
- (3) The Planning Board may adopt further policies or regulations to assure compliance with these requirements, including design and legal specifications for the creation of lanes and common access driveways over such flag lot arrangements.

§ 240-46. Lighting.

Streetlighting shall be provided along all streets in the subdivision and along all streets upon which the subdivision abuts, as required by the Town Engineering Office and/or the Highway Superintendent. Public safety, power conservation and preservation of the night sky shall be of primary consideration in choosing the design, location and number of lighting fixtures. Fixtures must be designed to hide the source of illumination from the side and must direct the light downward.

§ 240-47. Wastewater treatment systems.

All wastewater treatment systems shall be installed in accordance with plans approved by the Suffolk County Health Department. Such systems shall provide each residence and other structures containing plumbing fixtures with an adequate and safe method of sewage treatment. Where a public sewage

treatment system is not available, an adequate private wastewater treatment system, approved by the Suffolk County Health Department, shall be provided.

§ 240-48. Water supply systems.

All water supply systems shall be installed pursuant to plans approved by the Suffolk County Health Department. Such systems shall be designed to provide a sufficient supply of potable water, under adequate pressure, to all outlets, including, but not limited to, residences, other structures, drinking fountains, hose connections, hydrants. Where a public water supply system is not available, an adequate private water supply system, approved by the Suffolk County Health Department, shall be provided.

Article XIII. Preservation of Natural Features

§ 240-49. Clearing.

- A. Clearing of vegetation and/or grading is permitted only within the areas designated by the Planning Board and as shown on a final clearing and/or grading plan or plat approved by the Planning Board.
- B. Clearing of vegetation within the individual residential lots on a subdivision plat approved pursuant to this chapter shall be in accordance with Subsection **C** of this section.
- C. Lot size and permissible limits of clearing. Existing native and/or nonnative vegetation shall be preserved subject to the following limits of clearing schedule.

Lot Size (square feet)	Percentage of Site Permitted to be Cleared
1 to 15,000	75%
15,001 to 30,000	60%
30,001 to 60,000	50%
60,001 to 90,000	35%
90,001 to 140,000	25%
140,001 to 200,000	20%
200,001 or greater	15%

- D. Clearing limits shall be clearly staked and approved by a New York State licensed engineer or surveyor prior to any clearing or grading.
- E. Clearing of vegetation within open space areas not in agricultural use is prohibited unless according to an approved final clearing and/or grading plan or approved plat.
- F. Clearing of vegetation shall be permitted on residential lots within a subdivision as approved in accordance with this chapter upon the issuance of a certificate of occupancy from the Building Department.
- G. Properties located on the Town of Southold Farm or Farmland Inventory are exempt from these provisions.
- H. Clearing of slopes equal to greater than 15%. The Planning Board may permit the clearing of slopes equal to or greater than 15% with the approval of an erosion and sediment control plan prepared by a New York State Licensed Engineer.
- I. Landscaping and ground cover.

- (1) All lots which are not covered by structures or paving shall be properly seeded or landscaped by the developer pursuant to an approved plan. These lots are to be maintained by the landowner, or as otherwise provided by this chapter.
- (2) Each lot shall be provided and/or planted with trees that are acceptable to the Planning Board. This requirement may be waived by the Planning Board in wooded areas where the developer intends to maintain existing trees or in areas where the developer meets the limit of clearing requirements.
- (3) When a proposed subdivision borders upon an existing commercial or industrial establishment, or any other use which, in the opinion of the Planning Board, may be visually detrimental to the tranquility of the future residents of the subdivision, the Planning Board may require a landscape screen/buffer to protect the subdivision from the visually incompatible use.
- (4) Tree fee.
[Added 12-16-2014 by L.L. No. 3-2014]
 - (a) Upon the request of an applicant, if the Planning Board makes a finding pursuant to this chapter that the proposed subdivision presents a proper case for requiring trees to be planted for screening or landscaping purposes, but that a suitable location for said plantings does not exist, or it is otherwise impracticable, the Planning Board may permit the applicant to pay a sum of money in lieu thereof. The fee shall be as follows:
 - [1] Not less than an amount as determined by resolution of the Town Board, nor more than an amount as determined by resolution of the Town Board, per tree, based on caliper, that would have been required for screening or landscaping purposes.
[Amended 1-16-2024 by L.L. No. 4-2024]
 - (b) Timing of fee payment. The fee shall be paid prior to any subdivision approval.
 - (c) The fee shall be deposited into the Fiduciary Fund and used by the Southold Town Tree Committee exclusively for the planting of new street trees and/or the replacement of damaged or removed trees on Town property.

§ 240-50. Floodplains.

- A. Land that lies within a floodplain or zone or directly contributes to the watershed of that plain or zone by way of a swale shall be left in its natural state.
- B. Whenever possible, the ability of the land to naturally channel, retain and drain stormwater shall be maintained and enhanced in ways that augment the existing natural system.
- C. No subdivision design will be permitted that would create a flood or flooding hazard to adjoining or nearby properties including public roads and property.

§ 240-51. Stormwater, drainage and erosion control.

- A. All stormwater runoff resulting from the development or improvement of a subdivision or any of its lots should be retained on-site by adequate on-site drainage structures so that the stormwater runoff will not flow into the right-of-way of a Town, county or state road, upon any neighboring properties under separate ownership, or in any body of water.
- B. All historic drainage patterns shall be preserved. Where existing grade is altered, the applicant shall submit a grading and drainage plan to the Planning Board. Dewatering, altering, or causing adverse existing drainage patterns and/or conditions on adjacent properties or parcels is prohibited.
- C. Erosion and sediment control measures as defined by the Planning Board will be required during and immediately after construction on site to help prevent stormwater from carrying soil and other

deleterious material onto adjacent properties and highways and into wetland areas and adjoining bodies of water.

- D. The Planning Board may refer all residential subdivision proposals to the Suffolk County Soil and Water Conservation District (SWCD) and/or the Town Engineering Office, for their review as to the acceptability of proposed drainage, erosion and sediment control measures both during construction phases and after completion. All easements deemed necessary to maintain either natural or man-made stormwater drainage, erosion and/or sediment control measures shall be provided and plotted accordingly on the final plat.
- E. All subdivisions on parcels greater than 10 acres in size and located within designated watersheds may be required to provide a soil and water conservation plan and/or site development and/or construction best management practices to the Planning Board.
- F. All construction activity greater than one acre in area is required to comply with federal and state regulations as set forth in the SPDES general permit for stormwater discharge from construction activity (GP-02-01).

Article XIV. Additional Requirements

§ 240-52. Standards and procedures for acceptance of streets; recreation and park areas.

- A. Acceptance of streets. The approval by the Planning Board and subsequent filing of the final plat at the Suffolk County Clerk's office shall not constitute acceptance by the Town of any street or right-of-way shown on such final plat. The applicant shall comply with all Town rules and regulations regarding the dedication of highways, as set forth in Chapter **161**, Highway Specifications, Article **IV**, Final Dedication of Roads. Any street or right-of-way shall be deemed private until it has been formally accepted by a resolution of the Town Board.
- B. Acceptance of parks. When a park, playground, or other recreation area is shown on a final plat, the approval of said final plat shall not constitute acceptance by the Town of such area, and the final plat shall be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a covenant providing for future dedication or other transfer of title, development of the site, and maintenance of it.
- C. Acceptance of streets and parks and subsequent expiration of final plat. Acceptance of formal offers of dedication of streets and parks shall rest with the Town Board. If the plat is not filed or recorded in the office of the County Clerk, then such offer of dedication shall be deemed to be void.

§ 240-53. Reservation of parkland on subdivision plats containing residential units.

- A. Land reservation determination. Where the Planning Board determines that suitable land for a public park, playground or other recreational purpose exists within the boundaries of a proposed residential subdivision, the Board may require that a portion of the subdivision lands be reserved for such purpose. Such determination shall be based on an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular subdivision plat will contribute. In determining whether or not to require the reservation of land for public park, playground or other recreational purpose, the Planning Board shall consider by the criteria and procedures outlined in § **240-53C** below.
- B. Amount of land to be reserved. The amount of land area to be reserved for public park, playground or other recreational purpose shall be determined by the number of new residential building lots

within the proposed subdivision. Upon the recommendation of the Planning Board and where the Town Board deems it appropriate, up to 5% of the total acreage may be subject to dedication.

- C. Criteria for land reservation. In determining whether or not to require the reservation of land for public park, playground or recreational purposes, the Planning Board shall consider the following factors:
- (1) Whether suitable land exists within the proposed subdivision in terms of its size, shape, and dimensions to reasonably accommodate a public park, playground or other recreation use;
 - (2) Whether the characteristics of the land in terms of topography, soils, vegetative cover, hydrology and/or other natural features readily lend themselves to development of the site for active recreation use;
 - (3) Whether there are state or federal regulatory restrictions that would limit the usefulness of the site for active recreation development;
 - (4) Whether the site in terms of its physical characteristics would provide an attractive and safe area for recreational use;
 - (5) Whether the site is located such that reasonable and safe pedestrian, bicycle and vehicular access can be provided between the site and surrounding residential areas;
 - (6) Whether the character of the proposed subdivision and that of the surrounding area are compatible with a public park and/or recreational use;
 - (7) Whether the anticipated population of the proposed subdivision, together with the population density of surrounding neighborhoods, is sufficient to justify development and long-term maintenance of a public park, playground or other recreation facility at the location;
 - (8) Whether the site is located near or duplicates recreation facilities already provided in the area, particularly those providing the same type of recreation opportunities, including facilities located on public school grounds;
 - (9) Whether development and long-term maintenance of the site would place an undue burden on Town departments;
 - (10) Whether the site contains any unique and significant physical, aesthetic or ecological features that would make it particularly suited for environmental education, trail development, a nature preserve, or other passive recreation use;
 - (11) Whether reservation of the land is consistent with recommendations contained in the Comprehensive Plan for the Town of Southold and/or the Plan for Parks and Recreation in the Town of Southold, if any, in effect at the time the subdivision application is made; and
 - (12) Whether reservation of the land is consistent with the general goals and objectives of the Town with respect to the development of parks and recreation facility development.
- D. Preliminary determination and referral required. Prior to making a final determination that land will be reserved for public park, playground or other recreational purpose, the Planning Board shall first make a preliminary determination that such land reservation will be required, and shall refer the proposal to the Town Board, Land Preservation Committee and the Public Works Department for its input on the matter. Said referral shall occur as early as possible in the subdivision review process and prior to the public hearing on the preliminary plat application. A referral is not necessary where the Planning Board makes a preliminary determination that it will not require the reservation of land.
- E. Reservation prior to signing of final plat. The reservation of public park, playground or recreation land shall occur prior to the signing of the final plat by the authorized officer of the Planning Board, or in the case of a final plat filed in sections, prior to the signing of the approved final plat of the first section thereof. In cases where a final plat is filed in sections, the total land area that is proposed to be reserved for public park, playground or recreation purposes shall be shown upon, and included within, the final plat of the first section.

- F. Satisfaction of parkland reservation requirement. The park land reservation requirement of this section shall be deemed satisfied upon the presentation to and acceptance by the Town Board of a metes and bounds description of the parcel which is proposed to be reserved for park, playground or recreation purposes, and by the placing of a notation upon the final plat indicating that the land is so reserved and cannot be further subdivided or built upon except for public park, playground or recreational purposes.
- G. Park and recreation fee.
- (1) If the Planning Board makes a finding pursuant to this chapter that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks cannot be properly located on such subdivision plat, the Planning Board may require a sum of money in lieu thereof. The fees shall be as follows:
[Amended 1-16-2024 by L.L. No. 4-2024]
 - (a) Standard subdivision: an amount as determined by resolution of the Town Board per lot.
 - (b) Conservation subdivision: an amount as determined by resolution of the Town Board per lot.
 - (c) Affordable housing district: none.
 - (2) Timing of fee payment. Fees must be paid prior to any final approval except in the case of an open development area where the fee shall be paid upon implementation of the ODA [e.g., when the lot(s) is (are) created].
 - (3) Fees to constitute separate trust fund. All fees collected pursuant to this section shall be placed in a separate trust fund(s) to be established and used by the Town exclusively for the acquisition of public park, playground or recreation land, and/or for the improvement of public park and recreation facilities.

§ 240-54. Reservation of lands for pedestrian trails.

Pursuant to New York State Town Law § 278 and to foster the goals of trail creation and preservation, the Planning Board may require the reservation of nonagricultural open space lands for park purposes and it may require some or all of that land be designated as pedestrian trails, in accordance with the following considerations:

- A. To the extent it is consistent with proper overall land use principles, existing trails shall be preserved in their natural state within reserved areas in the proposed subdivision.
- B. Where a subdivision layout cannot preserve existing trails because of adherence to legitimate land use policies and principles, the Planning Board may require relocation of trails within the proposed reserved areas to maintain the necessary linkage to preserve the integrity of the system. The position of any relocation shall be established by the Planning Board and shall be performed in such a manner as to minimize disturbance to natural features deemed sensitive
- C. In order to provide notice to the public, all trails shall be shown on the final map of the proposed subdivision. Existing and relocated trails shall be distinguished on the map. Said trails and all property rights, both private and public, relating to the trails shall be delineated by declaration or other proper legal instrument filed in connection with the subdivision. The resolution of conditional final approval shall also delineate any conditions of approval relating to trail preservation, use and maintenance.
- D. All trails which are preserved as a condition of Planning Board approval shall be improved in accordance with the Board's rules and regulations relating to clearing and marking of trails.
- E. All trails shall be buffered to the maximum extent practicable from proposed development through location within proposed reserved areas.

- F. Except as provided herein, all trails subject to this policy statement shall be limited to recreational uses as outlined in Chapter **193**, Parks and Recreation Areas, of the Town Code and shall not be utilized by motorized vehicles.
- G. The Planning Board shall encourage applicants to grant rights to the public to utilize trails preserved pursuant to this section.
- H. Dedication, access easements or covenants shall be acceptable means of creating public rights to use the trail system.
- I. Landowners' liability shall be governed by the applicable New York State law.
- J. Where the developer has granted rights to the public to utilize trails within his control, the Town shall be responsible for maintenance of the trails, absent an agreement with the developer or a third party to the contrary.
- K. Where rights have been granted to the Town in the form of dedications, easements or covenants to utilize lands as trails but trails were not required to be constructed by the applicant, future trail construction shall be the responsibility of the Town. Cooperation with owners of the property shall be encouraged.

§ 240-55. Time limitations.

The time limitations set forth in this chapter and in New York State Town Law may be varied when required for the purpose of complying with the provisions of SEQRA and its implementing regulations.

§ 240-56. Waivers of certain provisions.

The Planning Board shall have the authority to modify or waive, subject to appropriate conditions, any provision of these subdivision regulations, if in its judgment they are not requisite in the interest of the public health, safety and general welfare, except where such authority would be contrary to other ordinances or state law.

§ 240-57. Waiver, adjustment of property lines.

- A. The following divisions of property shall be eligible for a waiver from subdivision review by the Planning Board.
 - (1) A resubdivision of nonconforming lots shown on a subdivision map approved by the Planning Board after April 9, 1957, and filed in the office of the Suffolk County Clerk or the Town Clerk, but not held in single-and-separate ownership. However, the reestablishment of the right to build on said lots shall require variance relief from the Zoning Board of Appeals.
 - (2) A resubdivision which involves redrawing original lot lines for the purpose of combining said lots to create conforming parcels shown on a subdivision map approved by the Planning Board after April 9, 1957, and filed in the Office of the Suffolk County Clerk or the Town Clerk.
- B. The proposed division shall be reviewed by the Town Planning Department, and the office shall inform the Planning Board in writing that the division will have not significant environmental effect, will not make future planning of the affected parcels more difficult or impossible and poses no other immediate or potential problem which would justify more thorough review by this Board.
- C. Where all the requirements of this section can be met, such a division may be authorized by the Planning Board by resolution.
- D. Each parcel created by resubdivision shall be shown on a survey prepared by a licensed surveyor and filed in the office of the Planning Board. Any land being transferred by such resubdivision shall

be deeded to the owner of the property in identical name so the new area merges with the existing parcel and shares therewith a common identification number on a Suffolk County Tax Map. The deed and legal description for any resubdivided parcel shall be recorded in the Office of the Suffolk County Clerk.

§ 240-58. When effective; effect on existing plats.

These subdivision regulations shall take effect immediately upon approval by the Town Board. However, any subdivision which has received conditional approval of the preliminary plat by the Planning Board prior to the approval or future modification of these regulations may, at the discretion of the Planning Board, be permitted to be completed under the provisions of the subdivision regulations existing at the time of the approval.

Article XV. Enforcement

§ 240-59. Violations.

- A. Where a violation of the provisions of this chapter, as adopted and as may be amended, has been committed or exists, the owner of the real property where such violation has been committed or exists, any contract vendee and any grantee of such owner who knowingly participates in such violation, and any agent who has executed an application to the Planning Board on behalf of the owner or contract vendee with respect to such real property and who knowingly participates in such violation shall be guilty of a violation of this chapter.
- B. Any owner of real property who creates a subdivision or who subdivides real property into lots within that part of the Town of Southold outside the limits of any incorporated village without first obtaining approval of the Planning Board of a subdivision map or plat showing the land to be subdivided shall be guilty of a violation of this chapter. Any contract vendee and any grantee of such owner who knowingly participates in such violation shall also be guilty of a violation of this chapter. As used herein the term "subdivision" shall mean a subdivision as defined in this chapter.
- C. Where a violation of any provision or condition of any resolution or approval of the Planning Board or of filed covenants and restrictions relating to a subdivision, adopted or granted under the authority of this chapter or Article 16 of the New York State Town Law, has been committed or exists, the owner of the real property where such violation has been committed or exists, any contract vendee and any grantee of such owner who knowingly participates in such violation and any agent who has executed an application to such Planning Board on behalf of the owner or contract vendee with respect to such real property and who knowingly participates in such violation shall be guilty of a violation of this chapter.
- D. Any person who performs physical work on real property, including but not limited to clearing of land, other site preparation and construction of improvements in violation of this chapter or in violation of any provision or condition of any resolution or approval of the Planning Board relating to subdivision, adopted or granted under the authority of this chapter or Article 16 of the New York State Town Law, shall be guilty of a violation of this chapter.

§ 240-60. Penalties for offenses.

[Amended 1-16-2007 by L.L. No. 3-2007]

- A. Any person in violation of any provision of this chapter shall be guilty of a violation punishable by a fine not to exceed \$1,000 or a period of incarceration not to exceed 15 days, or both such fine and imprisonment.

- B. This section shall supersede and suspend those provisions of Town Law § 268(1) of the State of New York which pertain to the amount of the fines assessed and/or the terms of imprisonment imposed for a violation of this chapter or subsequent violations of this chapter.

§ 240-61. Methods of enforcement.

The provision of this chapter may be enforced by any method or remedy provided by law. In addition to other remedies provided by law, any appropriate action or proceeding may be instituted to prevent, restrain, correct or abate any violation of this chapter.