

For Public Hearing 11/30/2023

Local Law 12 of 2023
A Local Law amending Chapter 125, Subdivision of Land
of the Code of the Town of Rochester

Section 1. Chapter 125, Subdivision of Land Amendment

Chapter 125, Subdivision of Land, of the Code of the Town of Rochester shall be deleted in entirety and replaced as follows.

Article I
General Provisions

§ 125-1 Authority.

- A. This chapter is adopted under the authority provided to the Town of Rochester by the New York State Town Law, Municipal Home Rule Law, and the State Environmental Quality Review Act.
- B. The Town of Rochester Planning Board shall be authorized and empowered to approve preliminary and final plans of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Town of Rochester, pursuant to § 276 of the Town Law.
- C. The Planning Board shall be also authorized and empowered to approve the development of those plans, filed in the office of the County Clerk prior to August 21, 1962, where 20% or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- D. The Planning Board shall be further authorized and empowered, pursuant to § 278 of the Town Law pertaining to cluster development and simultaneously with the approval of a plan or plans, to modify applicable provisions of the Town of Rochester Zoning Law, subject to conditions set forth in § 278 and later herein.
- E. The regulations that follow have been adopted by the Town Board of the Town of Rochester as local law pursuant to the authority of the New York State Municipal Home Rule Law. They repeal Subdivision Regulations enacted by the Town Board on August 21, 1962. Section 276.5(a) of New York State Town Law is hereby specifically superseded so as to permit exemption of certain subdivisions from the requirement to file plans for Planning Board approval, pursuant to § **125-18** hereof. The definition of subdivision is also superseded to encompass divisions of lands for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development. Finally, the requirement for final plans to be submitted within six months of preliminary approval is superseded to provide for extensions of up to three years for this purpose for all phases.

§ 125-2 Purposes.

This chapter is adopted for the following purposes:

- A. Promoting the orderly growth and development of the Town in accordance with the Town of Rochester Comprehensive Plan.
- B. Affording adequate facilities for the housing, transportation, distribution, comfort, convenience, health, and safety of Town residents.
- C. Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.
- D. Conserving the Town's natural resources and protecting its attractive environment so as to maintain property values and otherwise provide for the general welfare of residents of the Town of Rochester.

§ 125-3 Jurisdiction.

- A. Regardless of whether or not any formal conveyance by metes and bounds shall be made, when any subdivision of land is proposed and before any offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the subdivider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this chapter.
- B. It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- C. The regulations of this chapter shall not apply to natural subdivisions or lot improvements as provided for herein (see § 125-18). The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying plan presented that "These plans are acknowledged by the Town of Rochester, and for recording purposes only, to represent an exempt lot improvement in accord with § 125-18 of the Town of Rochester Subdivision Regulations. No subdivision approval is required or given." No plan so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.
- D. All complete applications filed prior to the effective date of this chapter shall be reviewed pursuant to regulations in effect prior to amendment. An application shall be considered complete for these purposes when a public hearing on the same has been scheduled or completed.

§ 125-4 Interpretation, conflict, and separability.

- A. The provisions of this chapter, in their interpretation and application, shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare.
- B. This chapter is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This chapter, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board on August 21, 1962, including all amendments thereto preceding the enactment of this chapter as local law.
- C. If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

§ 125-5 Waivers and modifications.

- A. Applications for waivers or modifications of standards or procedures shall be submitted in writing by the subdivider at the time the preliminary plan is filed. The application shall state fully the grounds on which it is made, the specific waiver or modification requested, the suggested alternative standard and the reasons why this alternative standard will achieve comparable protection of health and safety to the standards contained herein.
- B. The Planning Board may, by resolution, authorize a waiver or modification of the regulations of this chapter when, in its opinion, unreasonable restriction will result from strict compliance, the requirements are clearly not applicable, or an alternative standard will achieve improved protection of health and safety compared to the standards herein. Such resolution shall articulate the specific reasons for such waiver or modification and demonstrate good cause.
- C. Any resolution by the Planning Board authorizing a waiver or modification of these regulations shall include the basis for its finding that unreasonable hardship will result from strict compliance with this chapter and that the waiver or modification is justified by benefits accruing to the community.
- D. In authorizing a waiver or modification, the Planning Board shall attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of these regulations. No waiver shall be granted which would substantially change the character of an area or compromise the purposes of these regulations.

§ 125-6 Appeals.

Any person or persons jointly or severally aggrieved by the decision of the Planning Board or Town in regard to the administration of this chapter may apply to the Supreme Court for review under Article 78 of the civil practice laws and rules.

§ 125-7 Penalties for offenses.

- A. Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a final plan has been prepared, approved and recorded in full compliance with the provisions of this chapter, shall be deemed to have committed a violation of this chapter and shall be liable for such violation.
- B. Any person found in violation of this chapter shall be subject to a fine not exceeding \$350 per lot, parcel, or dwelling. All fines collected for such violations shall be paid to the Town of Rochester.
- C. Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- D. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- E. The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.

§ 125-8 Amendments.

Amendments to this chapter shall be made pursuant to the New York State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those specified herein, the state requirements shall prevail.

§ 125-9 Reserved for Later Use

Article II Terminology

§ 125-10 General.

As used in this chapter, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this chapter are defined as mandatory.

A. For the purpose of this chapter, the following terms shall be considered interchangeable:

- (1) The terms "Town" and "Town of Rochester."
- (2) The terms "subdivider", **“applicant,”** and "developer"
- (3) The terms "subdivision" and "development."
- (4) The terms "State Environmental Quality Review Act" and "SEQRA."

B. Unless otherwise expressly stated, the following definitions shall, for the purpose of this chapter, have the meaning indicated herein. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.

C. Unless otherwise listed below, the numbers, abbreviations, terms, and words used herein shall have the meanings of common usage as set forth in the most recent version of Webster's Unabridged Dictionary.

§ 125-11 Glossary of terms.

The following is a list of specific terms, found elsewhere in the chapter, along with definitions of their intended meaning:

ACCESS

The place, means, or way by which pedestrians and/or vehicles shall have safe, adequate, and usable ingress and egress to a property, structure, or use.

AGRICULTURAL DATA STATEMENT

A state-required form identifying farm operations within a New York State certified agricultural district located within 500 feet of the boundary of property upon which an action requiring municipal review and approval by the Planning Board, Zoning Board of Appeals or Town Board pursuant to Article 16 of New York State Town Law.

ALL-WEATHER SURFACED

The surfacing of a street, parking area, access, or walkway to a mud-free or otherwise permanently passable condition during all seasons of the year and under adverse weather conditions. Macadam, gravel, crushed stone, and shale surfaces will all suffice to meet this test, but the depth and installation of the material shall be subject to the approval of the Town Highway Superintendent or Town Engineer, based on recognized industry standards.

ALLEY

A permanent service way providing a secondary means of access to abutting lands.

APPLICANT

The owner, or authorized agent of the owner, including, but not limited to, any individual, partnership or corporation that undertakes any of the activities covered by this chapter.

BERM or SHOULDER

That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

BLOCK

A tract of land or a lot or group of lots bounded by streets, public parks, railroad rights-of-way, watercourses, bodies of water, boundary lines of the Town, or by any combination of the above.

BUILDING

See "Structure"

BUILDING INSPECTOR

The person charged by the Town Board with responsibility for administration and enforcement of this chapter. Also known as Code Enforcement Officer.

CENTRAL SEWAGE OR WATER SUPPLY

A sewage system or water supply system designed to serve more than one dwelling unit or building; not including the use of a single well or disposal system for two dwellings on the same parcel of land. See "on-site sewage or water supply" for further information.

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street centerlines.

CODE ENFORCEMENT OFFICER

The person charged by the Town Board with responsibility for administration and enforcement of this chapter. Also known as Building Inspector.

COMMON IMPROVEMENTS

Roads, recreational amenities or other common facilities and utilities provided for the benefit of multiple lots in a subdivision, not including shared driveways.

COMMON OPEN SPACE

A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel, or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement, rights-of-way, or similar public facilities.

COMPLETED APPLICATION

An application for a permit that is in an approved form and is determined by the Town agency with approval authority to be complete for the purpose of commencing review of the application, but that may need to be supplemented during the course of review to enable the Town to make the findings and determinations required by law.

CONDITIONAL FINAL APPROVAL

Approval by the Planning Board of a final plat site plan or subdivision subject to the completion of specific criteria as set forth in a resolution conditionally approving the final plat. Such conditional approval does not qualify a final plat for recording nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and recording of the plat in the office of the County Clerk or register as herein provided.

CONSERVATION AREAS (PRIMARY)

Freshwater wetlands and ponds, steep slope areas of 25% or more, one-hundred-year floodplains, stream, biodiversity conservation areas, agricultural land, Prime Farmland soils, hydric soils, and historic sites or structures.

CONSERVATION AREAS (SECONDARY)

Viewpoints, stone walls, groves of large trees, rock ledges, roads and trails, structures including foundations, stone walls and hedgerows, vegetation types by community, isolated trees, views to and from the site, steep slopes of 15% to 25%, Farmland of Statewide Importance, and Ulster County septic density recommendations and other areas of value to a subdivision or as conservation features, as shall be determined by the Planning Board and subdivider.

CONSERVATION EASEMENT

A legally binding and recorded negative covenant or restriction that is deeded to a qualified third party to permanently limit certain development activities on real property, so as to protect conservation assets such as open space, water quality or wildlife habitat. The restriction stays with the property through successive owners.

CONSERVATION SUBDIVISION

A form of development for residential subdivisions that permits a reduction in lot area and other development standards, permanent open space.

COUNTY

The County of Ulster, State of New York, and its planning agency.

CUL-DE-SAC

A minor street providing a single access to a group of lots with a turnabout area at the end of such street.

DEC

The New York State Department of Environmental Conservation.

DEVELOPER

The owner, or authorized agent of the owner, including, but not limited to, any individual, partnership or corporation that undertakes a subdivision or any of the activities covered by this chapter, particularly the preparation of a subdivision plan showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of this project may vary.

DRIVEWAY

A private vehicular access from a public or private road to a single lot.

DRIVEWAY, SHARED

Private vehicular access from a public or private road which serves a maximum of two lots (three including the lot it has access over) and is granted by right-of-way.

DWELLING

A building arranged, intended, designed, or used as the living quarters including kitchen facilities for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include a hotel, motel, bungalow, rooming house, or tourist home, but shall include a bed-and-breakfast.

A. DWELLING, SINGLE-FAMILY

A building arranged, designed, and intended for, and occupied exclusively by, one family.

B. DWELLING, TWO-FAMILY

A building arranged, designed, and intended for and occupied by two families living independently.

C. DWELLING, MULTIFAMILY

A building arranged, designed, and intended for and occupied by three or more families living independently and having no cooking or sanitary facilities in common with any other dwelling unit, including apartment houses, apartment hotels, flats, and garden apartments.

D. DWELLING, ACCESSORY

A subordinate dwelling unit located either within a principal residential dwelling, (inclusive of garage if attached thereto), or within an approved detached accessory structure, having its own ingress and egress and providing independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation. All ADUs shall meet the requirements of habitable space as defined by the New York State Uniform Fire Prevention and Building Code.

DWELLING UNIT

The definition shall be the same as it appears in the Property Maintenance Code of New York State, as amended: “A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.”

EAF

The Environmental Assessment Form required pursuant to SEQRA.

EASEMENT

A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

ENVIRONMENTAL IMPACT STATEMENT (EIS)

A written draft or final document prepared in accordance with § 617.9 and § 617.10 of SEQRA. An EIS provides a means for agencies, project sponsors and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation. A draft EIS is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment. An EIS may also be generic in nature to accommodate an anticipated range of future activities.

EXISTING BUILDING OR STRUCTURE

A structure predating the adoption of zoning codes by the Town of Rochester, a structure legally erected prior to the adoption of this code, or one for which a building permit has been issued.

EXISTING WATER

Any year-round body of water.

FEMA

The Federal Emergency Management Agency: the federal agency which administers the National Flood Insurance Program.

FINAL PLAT APPROVAL

The signing of a plat in final form by a duly authorized officer of a planning board pursuant to a planning board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk or register in the county in which such plat is located.

FLAG LOT

A parcel of land shaped like a flag; a narrow strip of land providing vehicular and pedestrian access to a street, with the bulk of the property lying to the rear of another lot and the access serving both lots.

FLOOD HAZARD BOUNDARY MAP

Any map defining a FEMA flood zone (floodplain). Geographic areas that the FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map. Each zone reflects the severity or type of flooding in the area.

FLOODPLAIN

Any area designated by the Federal Emergency Management Agency (FEMA) in its FEMA mapping.

FLOODWAY

The channel of a waterbody and such portions of the floodplain as are required to carry and discharge the floodwater or flood flow as so classified by the Federal Emergency Management Agency.

FRONTAGE

The portion of a lot abutting on a street or way and ordinarily regarded as the front yard, but it shall not be considered as the ordinary side yard of a corner lot.

HOMEOWNERS' ASSOCIATION (HOA)

A legally established community association or trust organized in a development in which individual owners share common interests in open space or facilities.

ICC

The International Code Council

INVASIVE SPECIES

A nonnative species whose introduction does or is likely to cause economic or environmental harm or harm to human health as defined in Federal Executive Order 13112 signed in 1999, as amended or superseded by Federal Executive Order or by designation of the Town Board.

LAND DISTURBANCE

Land preparation, such as, but not limited to, tree removal, clearing, grading, and filling, or the building of structures, including driveways.

LOT

A **legally created** tract or parcel of land held in single or joint ownership, not necessarily shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures, and accessory buildings, including such open spaces as are arranged, designed, or required. The term "lot" shall also mean parcel, plot, site, **legal parcel of real property**, or any similar term.

A. CONFORMING

A legally created parcel of real property lot having not less than minimum area and dimensions required by this chapter for a lot in the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land.

B. CORNER LOT

A legally created parcel of real property located at the intersection of and abutting on two or more streets. One frontage on a corner lot may be designated as a side yard and one frontage as a front yard. Frontage shall be designated by the Code Enforcement Officer.

C. IMPROVED LOT

A legally created parcel of real property that has a substantially completed building or structure on it, and an associated substantially completed potable water supply and wastewater system that may or not be located on the lot.

D. NONCONFORMING

A parcel of land legally established prior to the adoption of L.L. No. 4-2009, owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total area and/or dimensions less than prescribed by this chapter for a lot in the district in which such land is situated.

E. UNIMPROVED LOT

A legally created parcel of real property on which no development (other than improvements that are not material and are temporary in nature) has occurred and as of any date of determination.

F. VACANT LOT

A legally created parcel of real property on which no building exists or on which a building exists, but any such building is no longer utilized for any business, commercial or residential purposes.

LOT, AREA

The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

LOT, COVERAGE

That portion of a lot covered by roads, walkways, pavement, structures, or other improved surfaces that are generally impervious in nature.

LOT, DEPTH

The average distance from the street line of a lot to the rear lot line of such lot, not to include the street or road right-of-way.

LOT, FRONTAGE

The width of a lot at the edge of the street right-of-way.

LOT, LINE

The edge of the street right-of-way in the case of the front of any lot; the property boundary generally opposite the street on which a parcel fronts in the case of the rear of any lot; and the property boundaries in the case of the sides of any lots.

LOT, WIDTH

The average distance between side lot lines as measured at the street right-of-way line and the rear lot line.

LOT DEVELOPMENT

The physical extension and/or construction of land uses. Development activities include subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetative cover (except for agricultural activities). Routine repair and maintenance activities are exempted.

LOT IMPROVEMENT

A division or redivision of land wherein lot area is shifted from one parcel to another so to improve the shape or dimension of each. **Lot Improvements which do not create new lots shall not be considered subdivisions.** Also known as a "lot line adjustment." See § 125-18 for further clarification.

NATURAL SUBDIVISION

Parcels separated by an existing Town, county or state highway that is improved to passable condition for vehicular traffic.

ON-SITE SEWAGE OR WATER SUPPLY

Any sewage system designed to (1) treat sewage by subsurface means or (2) provide water from a drilled well or spring, within the boundaries of an individual lot. See "central sewage or water supply" for further information.

OPEN SPACE

A portion of a lot containing land exclusive of required front and side yard areas that is not covered by structures, parking areas, streets or other nonrecreational improvements (except as may be permitted by this chapter).

PARCEL

An area of land resulting from the division of a tract of land for the purposes of transfer of ownership, use or improvement.

PASSIVE RECREATION AREA

Outdoor recreational activities, such as nature observation, hiking, and canoeing or kayaking, which require a minimum of facilities or development and that have minimal environmental impact on the recreational site.

PAVEMENT

Improvement of the traveled portion of a roadway with a hard, solid surface material conforming to the standards of the Town of Rochester road specifications.

PERFORMANCE OR COMPLETION GUARANTEE

A surety bond, certified check, or other security meeting the requirements of § 277 of the Town Law, and the terms of which are satisfactory to the Town Attorney, guaranteeing the subdivider will install all required or planned improvements.

PERSON

Any individual, firm, trust, partnership, public or private association or corporation or other entity.

PLAN

A drawing, map, chart, plan, or plotting indicating the subdivision or re-subdivision of land, which in its various stages of preparation can include the following. Sometimes referred to as a "plat."

A. SKETCH PLAN

A general plan, identified as such with the title "sketch plan" on the map, indicating existing site features of a tract and its surroundings and the general layout of the proposed subdivision, to be used as a basis for conceptual consideration for site review and determining allowable density and to evaluate feasibility and design characteristics at an early stage in the planning process.

B. PRELIMINARY PLAN

A complete plan usually prepared by a registered professional engineer or licensed land surveyor, identified as such with the wording "preliminary plan" in the title, in a manner prescribed by local regulation showing the layout of a proposed subdivision including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, and such other information as required by this chapter at suitable scale and in such detail as local regulation may require.

C. FINAL PLAN

A complete and exact plan, identified as such with the wording "final plan" in the title, with a professional engineer's or registered surveyor's seal affixed, and prepared for official recording with modifications as required during the review and approval of the preliminary plan.

PLANNING BOARD

The Town of Rochester Planning Board.

PRE-APPLICATION CONFERENCE

A discussion at a public meeting which may be requested by an applicant between the applicant and the Planning Board or Zoning Board of Appeals prior to filing an official application with either Board to discuss a zoning permit referral from the Code Enforcement Officer.

PRELIMINARY PLAT APPROVAL

The approval of the layout of a proposed subdivision as set forth in a preliminary plat but subject to the approval of the plat in final form in accordance with New York State Town Law § 276.

PRIME FARMLAND SOILS

Those soils as mapped, defined, or designated by the United States Department of Agriculture as Prime Farmland soils.

PRIVATE ROAD

A mapped street built to Town standards which provides access to more than two lots and is owned by an individual(s), association, or other private entity who shares the use and maintains the road without help from a government agency.

PUBLIC WATER SUPPLY

A community or noncommunity water system which provides piped water to the public for human consumption if such system has at least five service connections or regularly serves an average of at least 25 individuals at least 60 days out of the year. Such term includes:

- A. Collection, treatment, storage, monitoring, testing, and distribution facilities under control of the supplier of water of such system and used with such system; and
- B. Collection or pretreatment storage facilities not under such control which are used with such a system.

RIGHT-OF-WAY (ROW)

Land reserved for use as a street, drainage facility, utility area, or other public or community use, or the land reserved for the access to such use.

ROAD

The entire right-of-way of a vehicular traveled way plus its necessary appurtenances, including bridge structures, drainage systems, retaining walls, traffic control devices, sidewalks, pedestrian facilities, and the airspace above them.

ROAD MAINTENANCE AGREEMENT (RMA)

A legally recorded agreement, approved by the Town Board with the advice of the Attorney for the Town, between all property owners that abut a private road to maintain road, drainage facility, or other lot improvements.

ROAD RIGHT-OF-WAY LINE

The right-of-way perimeter line or plan lines of any road or street which shall establish the starting measuring point of any yard setbacks of a lot.

ROADWAY

See Road.

ROADWAY, SCENIC AND HISTORIC

A roadway of locally or regionally outstanding scenic, natural, recreational, cultural, historic, or archeological significance, as designated by the State of NY .or federal government.

SECRETARY

The clerk or secretary designated to accept applications, plans, fees, and correspondence on behalf of the Town of Rochester **Building Department, Code Enforcement Officer**, Planning Board or Zoning Board of Appeals.

SEQRA

The New York State Environmental Quality Review Act and its requirements.

SETBACK

An open unoccupied space extending the full depth or width of a lot that may not be occupied except for specified accessory uses as provided hereunder. See "yard."

STORMWATER

That portion of precipitation that runs off the property and does not soak into the ground.

STORMWATER MAINTENANCE AGREEMENT

A legally recorded document acting as a deed restriction which provides for the long-term maintenance of stormwater management practices through a preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances). This may or may not be a part of the SWPPP.

STREET

A mapped public highway or road intended primarily for the purposes of vehicular traffic, including the following:

A. STREET, MINOR

A road, the primary purpose of which is to collect vehicular traffic from individual dwellings or places of business.

B. STREET, COLLECTOR

A road, the primary purpose of which is to collect vehicular traffic from minor streets and deliver it to major traffic streets.

C. STREET, MAJOR

A road, the primary purpose of which is to collect vehicular traffic from collector streets and deliver it to destination points or arterial highways such as Route 209.

SUBDIVIDER

Same as "developer."

SUBDIVISION

The division of any parcel of land into two or more lots, plots, sites, or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development, excepting lot improvements and natural subdivisions as defined in § 125-18 of this chapter.

A. MINOR SUBDIVISION

A subdivision **creating four (4) new lots or less** that does not involve **common** improvements such as roads, recreational amenities or other common facilities and utilities.

B. MAJOR SUBDIVISION

1. **A subdivision creating five (5) new lots or greater.**

OR

2. **A subdivision of any number of new lots where such common improvements such as roads, recreational amenities or other common facilities and utilities are to be provided, not including shared driveways,**

SUBDIVISION, RE-SUBDIVISION OF LANDS

The action of an applicant to replace a subdivision plat **previously approved by the Planning Board and filed in the office of the Ulster County Clerk** with a changed or improved one.

1. Such an application is to be treated in the same manner as an original plat **except if the changes to the filed subdivision will change the designation to a Major Subdivision.**
2. If the parcel(s) involved are owned by more than one party, or if rights have been given to others, all parties involved must be co-applicants or **provide written agreement** to the re-subdivision before it can be processed by the Planning Board.

SURVEYOR

A land surveyor licensed by the State of New York.

SWPPP

A stormwater pollution prevention plan as defined by the State of New York.

TERMINAL VISTA

A building or monument that stands at the end or in the middle of a road, so that when one is looking up at the street the view ends with the site.

THROUGH LOT

A lot extending from one street to another.

TOWN

Town of Rochester, Ulster County, New York.

TOWN BOARD

Governing council of the Town of Rochester.

TOWN ENGINEER AND PLANNER

The professionals employed by the Town of Rochester to provide engineering and planning services in connection with the review of applications and inspection of improvements, as the case may be.

TOWN LAW

The New York State Town Law that governs the operation of all towns within the state.

TOWN ROAD SPECIFICATIONS

Standards adopted by the Town Board of the Town of Rochester regarding the construction and/or dedication of roads in the Town of Rochester.

VACANT LAND

Parcel or combination of parcels of real property that are unoccupied and not being used. Usually but not exclusively parcels with no structures or improvements.

WATERCOURSE

A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations including intermittent streams but excepting drainage ditches, swales, or diversion terraces.

WETLAND

Swamps, marshes, and hydric soil areas defined as wetlands by the New York State Department of Environmental Conservation, the Army Corps of Engineers or the U.S. Fish and Wildlife Service, not including any required buffers.

WOODED

An area of land covered with many trees, as defined by the U.S. National Vegetation Classification

YIELD PLAN

A relatively detailed sketch plan used to determine the number of lots or dwelling units that would be permitted on a parcel if developed as a conventional single-family dwelling subdivision.

ZONING BOARD OF APPEALS

The Town of Rochester appeals board for adjudication of zoning matters as provided by New York State Town Law. Also known as the ZBA.

ZONING PERMIT

The required official determination by the Code Enforcement Officer as to how the laws of the Town of Rochester or New York State apply to a specific land activity, project, use, or structure application.

Article III

Plan Submission and Review Requirements

§ 125-12 General Subdivision Standards

The following standards are applicable to all minor, major and re-subdivisions regardless of the total number of lots involved, except applications made under the standards of §125-23, Conservation Subdivision. All subdivisions shall be designed according to the design and construction standards of these regulations and to meet the objectives for conservation and development as stated in the Town of Rochester Comprehensive Plan.

- A. No more than 20% of the proposed lot area in a subdivision, for any lot in all zoning districts, may be made up of land which.
 - (1) contains slopes of greater than 25%; or
 - (2) is included within a designated wetland (as delineated by the New York State Department of Environmental Conservation, regulated by the United States Army Corps of Engineers and/or identified by the Town of Rochester zoning Code §140-16; or
 - (3) which lies under water, or which is subject to periodic flooding under conditions of a one-hundred-year flood, as delineated by the FD Flood Plain Overlay District; or
 - (4) lies within a Town identified Critical Environmental Area.
- B. No more than 40% of the proposed lot area in a subdivision, for any lot in all zoning districts, may be made up of land which contains Prime Farmland soils, as mapped, and defined by the United States Department of Agriculture.
- C. Any distribution line, service line and appurtenant facilities necessary to furnish permanent electric service to one or more residential dwelling unit(s) shall be installed underground.
- D. Waivers from these standards may be requested by the applicant subject to the standards of §125-5 of this code.

§ 125-12A Subdivision Involving Land Designated as Prime Farmland

Any subdivision which contains 3 acres or more of connected areas of Prime Farmland, shall require review under §125-23, Conservation Subdivision standards.

§ 125-13 Procedures and requirements for minor subdivisions.

The following procedures and requirements shall apply to minor subdivisions only (see definitions).

- A. Sketch plan required. Submission of a sketch plan showing existing site features and a tentative layout of the subdivision shall be required as part of the plan approval process for all minor subdivisions. The Planning Board shall use the sketch plan for determining whether the **site meets Town of Rochester Zoning and Subdivision standards**. Metes and bounds descriptions of lots shall not be required. The Planning Board may also require the submission of such a sketch plan or alternate sketch plans depicting different development concepts for a property.
- B. Application. Any person proposing to create a minor subdivision shall submit, along with the plans required below, an application for minor subdivision approval. This application shall be accompanied by:
 - (1) The name, address, **email address**, and telephone number of the property owner of record and those of the subdivider, if different.

- (2) The name or number of the road where the proposed subdivision is to be located.
- (3) The name, address, **email address**, and telephone number of the surveyor or engineer preparing the subdivision plans.
- (4) **The locations of any proposed building structure(s), ingress and egress, and other areas of land disturbance.**
- (5) The type of water supply proposed.
- (6) The type of sewer system proposed.
- (7) The required fee or receipt for the same from the Planning Board Secretary.
- (8) A completed Environmental Assessment Form as required by SEQRA.
- (9) An agricultural data statement, if applicable.
- (10) A copy of the filed deed or easements for the parcel(s) **shall** be required by the Planning Board.
- (11) All rights-of-way, easements, accesses, and improvements, both existing and proposed, and any site features or known environmental constraints that could have a bearing on the project including the general topography, floodplain, wetlands, bodies of water, and existing ground cover. Aerial photography may also be required.

C. Final plan. The subdivider shall submit copies of a final plan and required supplementary data for the proposed subdivision **in a number as required by the Planning Board**. This plan shall be prepared by a professional engineer or surveyor and shall show all the lots proposed to be created.

The final plan shall meet the following requirements:

- (1) The subdivision plan shall, ordinarily, be not less than 24 inches by 36 inches nor more than 36 inches by 48 inches in size.
- (2) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.
- (3) The plan shall contain the following information:
 - (a) The name of the municipality, name of the owner of record, and parcel address.
 - (b) Zoning district and a chart illustrating the minimum development standards of that district from the Schedule of Use.
 - (c) North Point and graphic scale.
 - (d) Original plan date and any subsequent revision dates.
 - (e) Blank approval blocks for the Town Planning Board signatures shall appear on every sheet of the set of plans.

- (4) Soil types found on the site shall be shown unless the lots involved are lot improvements or contain existing sewage systems. Soil Conservation Service classifications shall be used. Topography may be required at the discretion of the Planning Board on smaller lots. Alternatively, the Planning Board may accept a Waste Disposal System permit from the Ulster County Board of Health or a written statement from a licensed engineer certifying the parcel will be able to support a sewage system.
 - (5) Existing public roads shall be identified by traffic route numbers and private roads by their posted names and numbers.
 - (6) Proposed lot or parcel lines shall be drawn to scale, and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The plan shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider, and show adjacent lots already taken from the parcel.
 - (7) Such other pertinent information as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.
- D. Soil tests. Documentation as may be required by the Ulster County Department of Health or the Town of Rochester Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted. The Town of Rochester Planning Board shall be authorized to require such information for any subdivision where the lot sizes proposed, published soil data or other information suggests testing is warranted as a matter of public health.
- E. Street encroachment permits. A completed application to the Rochester Highway Superintendent, the State Department of Transportation or County Department of Public Works, as the case may be, for a street encroachment permit, shall also be required.
- F. A recreational fee in lieu of land, as set forth in the Town's fee schedule, may be imposed to accommodate the foreseeable recreational needs of the proposed subdivision's residents. Such a fee shall be imposed only after the Planning Board has made a finding that a proper case exists for requiring that a park or recreational facilities are needed by the subdivision's residents for recreational purposes. The Planning Board, in making such findings, shall evaluate present and anticipated future needs for park and recreational facilities, based upon the cumulative demands of all recently approved and pending subdivision applications on Town recreational facilities and the resulting need to expand recreational facilities in the near future as a result of the proposed subdivision and other subdivisions.
- G. Public hearing. The Planning Board shall conduct an environmental review pursuant to SEQRA and decide with respect to environmental impacts upon receipt of a completed final plan. For the purposes of this code, a subdivision 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 the State Environmental Quality Review Act.
- (1) Should the Board determine a positive declaration and an environmental impact statement be required, it shall proceed in the manner provided by New York State Town Law § 276.
 - (2) Should the Board determine a negative declaration, within 62 days of the receipt of a complete final plan by the Planning Board Secretary, the Planning Board shall hold a public hearing.

(3) Notice of hearing. Such hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and providing such other notice using the same notice used in the public advertisement, to all property owners within 500 feet of the parcel boundaries as identified in the latest tax assessment records of the Town of Rochester, including those for properties on the opposite side of any public or private road. Such notice shall be given by the Town at the expense of the applicant by regular mail postmarked at least seven calendar days in advance of such hearing. Such notice shall explain the approval requested and the rights of all landowners to both subdivide land and offer public input on applications. The Planning Board shall be authorized to waive this requirement where it is determined by the Board that adjoiners have otherwise been afforded reasonable notice of such hearing as evidenced by their appearance at or knowledge of such hearing. No hearing shall be delayed where the Board determines the Town has made reasonable attempts to notify all interested parties as provided herein. The hearing shall be closed by motion of the Planning Board within 120 days after it is opened unless extended by mutual agreement of the Town and the applicant.

- H. Action on final plan. The Planning Board shall, by resolution, conditionally approved with or without modification, disapprove or grant final approval and authorize signing such plan within 62 days of the close of the public hearing.
- I. Certification, filing and signing of final plan. Within five business days of the adoption of the resolution granting conditional or final approval of the final plan, such plan shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plan shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plan, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements, the plan shall be signed by a duly authorized officer of the Planning Board and filed with the Secretary.
- J. Time limits on conditional approvals. A conditional approval of a final plan shall expire 180 days after such approval unless all conditions are satisfied and certified as completed. This period may be extended for periods of 90 days upon written request of the subdivider, where particular circumstances so warrant in the judgment of the Planning Board. No plan shall be signed by the Chair of the Planning Board until such time as all conditions are documented as satisfied, including approvals of other agencies as may be required.
- K. Approvals by default. In the event the Planning Board fails to act on a plan within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subdivider shall be entitled to an approval by default pursuant to New York State Town Law.
- L. Recording of final plans. All final plans shall be filed in the office of the County Clerk within 62 days of approval, subject to the provisions of § 276 of the Town Law. Three filed copies shall be returned to the Planning Board. Three copies of any filed deed agreements such as a road maintenance agreement shall also be returned to the Planning Board.
- M. County review. Applications for preliminary or final plan approval shall, where Ulster County has assumed such review authority, be subject to referral to the county pursuant to §§ 239-k and 239-n of the General Municipal Law, if located within 500 feet of:
 - (1) The Town boundaries; or
 - (2) The boundaries of any existing or proposed county or state park or other recreation area; or

- (3) The right-of-way of any county or state highway; or
 - (4) The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines; or
 - (5) The boundary of any existing or proposed county or state land on which a public building or institution is situated; or
 - (6) The boundary of a farm operation in a New York State certified agricultural district.
- N. Neighboring municipality notification. Notice shall, as required by § 239-nn of the General Municipal Law, be given to an adjacent municipality (town or village) whenever a public hearing is held by the Town of Rochester Planning Board regarding a subdivision review and approval on property that is within 500 feet of such adjacent municipality. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least 10 days prior to any such hearing. Such adjacent municipality may appear and be heard.

§ 125-13A Procedures for major subdivisions.

A. Sketch plan required.

- (1) Submission of a sketch plan as provided herein shall be required as part of the preliminary plan approval process for all major subdivisions. This plan shall be used to determine whether the subdivision will involve other agencies and make a preliminary classification of the subdivision as a Type I or Unlisted SEQRA action. The Planning Board shall also use the sketch plan for purposes of determining lead agency status, arranging, and conducting a site inspection of the property and establishing whether the subdivision is located in a New York State certified agricultural district. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan and such determinations as are made with respect to the plan shall be made within 62 days of said meeting.
- (2) The Planning Board may also require the submission of such a sketch plan or alternate sketch plans depicting different development concepts for a property.
- (3) The Planning Board shall have the discretion to require Conservation Subdivision development where upon review of a proposed subdivision the Planning Board determines that Conservation Subdivision will best meet the criteria of Article IV Site Design.
- (1) A recreational fee in lieu of land, as set forth in the Town's fee schedule, may be imposed to accommodate the foreseeable recreational needs of the proposed subdivision's residents. Such a fee shall be imposed only after the Planning Board has made a finding that a proper case exists for requiring that a park or recreational facilities are needed by the subdivision's residents for recreational purposes. The Planning Board, in making such findings, shall evaluate present and anticipated future needs for park and recreational facilities, based upon the cumulative demands of all recently approved and pending subdivision applications on Town recreational facilities and the resulting need to expand recreational facilities in the near future as a result of the proposed subdivision and other subdivisions.

- B.** When the Planning Board is not lead agency or determines an EIS is required. Should the Planning Board not assume lead agency responsibilities in the SEQRA review of the subdivision, or should an environmental impact statement be required, the provisions contained herein pertaining to public hearings, notices and decisions shall be modified as provided in § 276 of the Town Law.

- C. When the Planning Board is the lead agency, and no EIS is required. If the Planning Board acts as lead agency, it shall hold a public hearing within 62 days of determination of a complete preliminary plan. For the purposes of this code, a subdivision 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 the State Environmental Quality Review Act. Such a hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and such other notice shall be provided as the Board may deem appropriate. The hearing shall be closed on motion of the Planning Board within 120 days after it is opened.
- D. Notice to adjacent property owners. Notices of major subdivision hearings shall be provided, by the applicant, using the same notice used in the public advertisement, to all property owners within 500 feet of the parcel boundaries as identified in the latest tax assessment records of the Town of Rochester, including those for properties on the opposite side of any public or private road. Such notice shall be given by the Town at the expense of the applicant by regular mail postmarked at least seven calendar days in advance of such hearing. Such notice shall explain the approval requested and the rights of all landowners to both subdivide land and offer public input on applications. The Planning Board shall be authorized to waive this requirement where it is determined by the Board that adjoiners have otherwise been afforded reasonable notice of such hearing as evidenced by their appearance at or knowledge of such hearing. No hearing shall be delayed where the Board determines the Town has made reasonable attempts to notify all interested parties as provided herein.
- E. Action on preliminary plan. The Planning Board shall approve, with or without modifications, or disapprove the preliminary plan within 62 days of the close of the public hearing.
- F. Grounds for action. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When approving a preliminary plan, the Planning Board shall state in writing any modifications it deems necessary for submission of the final plan.
- G. Preliminary plan certification. Within five business days of the approval of any preliminary plan, such plan shall be certified by the Secretary as approved, and a copy of the plan and approval resolution shall be filed in the Secretary's office with a copy of the resolution provided to the subdivider and also filed in the office of the Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- H. Time to submit final plan. Except for phased plans as provided under New York State Town Law, the subdivider, within three years of the approval of the preliminary plan, shall install or, pursuant to § **125-16**, financially guarantee all subdivision improvements and submit the plan in final form as provided herein. Preliminary plan approval shall expire if a final plan is not submitted within three years, unless the Planning Board shall have granted an extension of the preliminary approval based upon a phasing plan set forth as provided for submission of final plans by section provided that no preliminary plan shall remain valid if a final plan(s) for all phases has not been submitted within three years.
- I. Action on final plan. When the final plan is in substantial agreement with the preliminary plan, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such plan within 62 days of its receipt by the Secretary. No additional public hearing shall be required. When the final plan is not in substantial agreement with the preliminary plan, the preliminary plan procedures shall apply to a final plan insofar as SEQRA review, public hearing, notices, and decision.

- J. Certification, filing and signing of final plans. Within five business days of the adoption of the resolution granting conditional or final approval of the final plan, such plan shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plan shall be filed in such Planning Board office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plan, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plan shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
- K. Final plans by section. The Planning Board may permit any subdivision for which preliminary plan approval has been granted to be submitted in sections for final plan approval. Phasing plans may be required for larger subdivisions.
- L. Time limits on conditional approvals. Except for phased plans as provided under New York State Town Law, conditional approval of a final plan shall expire 180 days after such approval unless all conditions are satisfied and certified as completed. This period may be extended for periods of 90 days upon written request of the subdivider, where particular circumstances so warrant in the judgment of the Planning Board. No plan shall be signed by the Chair of the Planning Board until such time as all conditions are documented as satisfied, including approvals of other agencies as may be required.
- M. Approvals by default. In the event the Planning Board fails to act on a plan within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subdivider shall be entitled to an approval by default pursuant to New York State Town Law.
- N. Recording of final plans. All final plans shall be filed in the office of the County Clerk within 62 days of approval, subject to the provisions of § 276 of the Town Law. Three filed copies shall be returned to the Planning Board. Three copies of any filed deed agreements such as a road maintenance agreement shall also be returned to the Planning Board.
- O. County review. Applications for preliminary or final plan approval shall, where Ulster County has assumed such review authority, be subject to referral to the County pursuant to §§ 239-k and 239-n of the General Municipal Law, if located within 500 feet of:
- (1) The Town boundaries; or
 - (2) The boundaries of any existing or proposed county or state park or other recreation area; or
 - (3) The right-of-way of any county or state highway; or
 - (4) The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines; or
 - (5) The boundary of any existing or proposed county or state land on which a public building or institution is situated; or
 - (6) The boundary of a farm operation in a New York State certified agricultural district.
- P. Neighboring municipality notification. Notice shall, as required by § 239-nn of the General Municipal Law, be given to an adjacent municipality (town or village) whenever a public hearing is held by the Town of Rochester Planning Board regarding a subdivision review and approval on property that is within 500 feet of such adjacent municipality. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least 10 days prior to any such hearing. Such adjacent municipality may appear and be heard.

§ 125-14 Sketch plans for major subdivisions.

The sketch plan should be at a scale sufficient to show the entire tract on one sheet, and should show or include the following:

- A. The location of that portion which is to be subdivided in relation to the entire tract.
- B. The locations of any proposed building structure(s), ingress and egress, and other areas of land disturbance.
- C. An existing and natural site features analysis which depicts all structures, wooded areas, streams, natural features, stone walls, wetlands, outstanding views, and other primary and secondary conservation areas around which a subdivision plan should be designed.
- D. The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.
- E. All streets or roads, streams, water, sewage and gas and power lines within 500 feet of the subdivision.
- F. The tentative layout of the remainder of the tract owned by the subdivider.
- G. North point, graphic scale, date, and name/address of subdivider and landowner.
- H. Zoning district and a chart illustrating the minimum development standards of that district from the Schedule of Use.
- I. A location map with sufficient information to enable the location of the property.
- J. Proposed open spaces.
- K. Plans for future use of any remainder parcels.
- L. Part 1 of the SEQRA Long Form Environmental Assessment (optional at this stage but, if not provided in conjunction with the sketch plan, must be submitted with the preliminary plan).
- M. All rights-of-way, easements, accesses, and improvements, both existing and proposed.
- N. Any site features or known environmental constraints that could have a bearing on the project including the general topography, floodplain, wetlands, bodies of water, and existing ground cover.
- O. Overhead imagery shall be required.
- P. A copy of the filed deed or easements for the parcel(s) may shall be required by the Planning Board.

§ 125-15 Preliminary plan requirements for major subdivisions.

- A. The preliminary plan shall be clearly and legibly drawn by a registered professional engineer or licensed land surveyor, identified as such with the wording "preliminary plan" in the title, and ordinarily shall be not less than 24 inches by 36 inches nor more than 36 inches by 48 inches in size and should, when possible, show the entire tract to be divided.
- B. The plan shall be based on the concepts presented in the sketch plan and contain the following information:
 - (1) Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within Ulster County. The name and address of the landowner and subdivider shall also be provided.

- (2) Location by Town, county, and state. The plan shall also include tax map numbers for affected and adjacent parcels and a one-inch equals 2,000 feet location map.
- (3) North point, date, and graphic scale.
- (4) Boundaries of total tract and acreage contained within it.
- (5) Location and, where appropriate, dimensions of parks and public grounds, permanent buildings in, or adjacent to, the subdivision, open space easements and other significant existing site features.
- (6) Location of historic or archaeological sites and principal wooded areas including the identification of wooded areas with trees that have a caliper of 30 inches or more at the base.
- (7) Location of ecological layers as derived from the NYS DEC Environmental Resource Mapper
- (8) Any ledge outcrops and existing stone walls and fences within the subdivision
- (9) Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.
- (10) Names of owners of abutting properties, and lines showing where they intersect.
- (11) Existing contours at intervals of two feet.
- (12) Proposed layout of streets, alleys, and other public rights-of-way, including widths and proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment Laws, including profiles, cross-sections, and preliminary designs for bridges and culverts.
- (13) For subdivisions where site lighting is required or proposed, lighting plans shall be submitted for review and approval with any preliminary subdivision application. Lighting plans shall include:
 - a) A site plan, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent uses that might be adversely impacted by the lighting, containing a layout of all proposed fixtures by location, mounting height, and type. The submission shall include, in addition to area lighting, exterior architectural, building-entrance, landscape lighting, etc.
 - b) A point-by-point illuminance-grid plot on 10' x 10' centers (or as necessary for suitable legibility) of footcandles overlaid on the site plan, plotted out to 0.0 maintained footcandles, which demonstrate compliance with the light trespass, illuminance and uniformity requirements as set forth in this Local law or as otherwise required by the Town of Rochester.
 - c) The lamp lumen ratings and types, color temperature, maintenance (light-loss) factors and IES file names used in calculating the illuminance levels.
 - d) Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole wind-loading conformance, foundation pole details and mounting methods.

- e) Landscaping plans shall contain lighting fixture locations and shall demonstrate that the site lighting and landscaping have been coordinated to minimize conflict between vegetation and intended light distribution, both initially and at vegetation maturity.
 - f) When requested by the Planning Board, applicant shall also submit a visual-impact plan that demonstrates appropriate steps have been taken to mitigate on-site and off-site glare and to retain the intended character of the area.
- (14) The proposed layout, numbering and approximate dimensions and acreage of lots.
 - (15) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such.
 - (16) Building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown.
 - (17) All drainage easements shall be shown and marked as such.
 - (18) Approximate final grades in areas of cut or fill shall be shown.
 - (19) Any lots designated for uses other than residential shall be indicated.
 - (20) Proposed covenants and restrictions and a management plan for the proposed homeowners' association (HOA), if any.
 - (21) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water sources. This evidence may be in the form of logs from existing wells established by professional well drillers. A hydrogeological study shall be submitted to document the supply and address impacts on aquifers in the case of all subdivisions of 25 lots or more.
 - (22) Where an application involves storm drainage improvements or construction within or contiguous to the 1% annual chance floodplain [aka 100-year floodplain] /FD and AP Overlay Districts, a hydrological report may be required at the Planning Board's discretion. This report shall be prepared by a civil engineer licensed in the State of New York. It shall meet the requirements herein and shall include at a minimum, a base map showing the drainage watershed, flood plain elevations and drainage patterns. It shall also show the methodology and computations used to calculate stormwater runoff and the recommended pipe sizes.
 - (23) Evidence from utility companies servicing the area indicating such utility companies are aware of and will provide service to the proposed subdivision.
 - (24) An erosion and sedimentation control plan indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments (see "New York State Standards and Specifications for Erosion and Sediment Control").
 - (25) A stormwater management plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "New York State Stormwater Design Manual").

- (26) Documentation as may be required by the Ulster County Department of Health or the Town of Rochester Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted. The Town of Rochester Planning Board shall be authorized to require such information for any subdivision where the lot sizes proposed, published soil data or other information suggests testing is warranted as a matter of public health.
- (27) All applicable zoning data and the minimum development standards from the Schedule of Use.
- (28) Completed applications to Town of Rochester, County of Ulster, or the New York Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.
- (29) Detailed landscaping plans, including planting schedules, for such common areas or improvements as may require new landscaping. Native plant species shall be preferred and be of sufficient size and quality to accomplish their intended purposes. Invasive species shall be prohibited.
- (30) Plans for future use of any remainder parcels.
- (31) Tentative sites for houses, driveways, and sewage systems, including, where required by the Planning Board, designated building envelopes. A professional engineer's certification that a given lot is buildable may also be accepted by the Planning Board for these purposes.
- (32) Part 1 of the SEQRA Long Form Environmental Assessment, if not previously provided in conjunction with the sketch plan or the preliminary plan differs materially from the sketch plan proposal.
- (33) An agricultural data statement, if applicable.
- (34) Copies of all proposed easements, declarations, and road maintenance agreements necessary for the subdivision plan shall be submitted to the Planning Board. including instrument(s) proposed to be executed or delivered after approval of the application.
- (35) Such other pertinent information as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.

§ 125-16 Requirements for installation or guarantee of improvements.

- A. After approval of the preliminary plan, the subdivider, in a manner consistent with the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to provide usable and desirable lots). Before requesting final plan approval, the subdivider must:
 - (1) Install all the improvements approved on the preliminary plan or required by these standards; or
 - (2) File with the Town Board a performance guarantee to ensure installation and construction of those improvements to the standards required. Such a guarantee shall meet with the approval of the Town Attorney as to form and procedure.
- B. The subdivider shall meet with the Town Engineer and/or Town Highway Superintendent to develop a schedule, so that at the time each improvement is to be installed and upon its completion, adequate inspections can be made.
- C. This section is designed to be consistent with § 277 of the New York State Town Law and the Town of Rochester hereby incorporates all authorities and requirements contained therein as part of this chapter.

- (1) Posting. The performance guarantee must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
 - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Attorney and meets Town Law § 277 requirements.
 - (b) Be payable to the Town of Rochester.
- (2) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee. Costs shall be assumed to escalate a minimum of 10% per year for the purposes of determining the amount of a guarantee.
- (3) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Rochester.
- (4) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the subdivider and the Planning Board, be not more than three years from the date of the final plan approval. Should an extension be granted, the amount of the guarantee shall be increased as may be required to cover further cost increases as provided in Subsection C(2) above. Provisions may also be made, pursuant to the aforementioned Town Law § 277, for completion of improvements in phases.
 - (a) Return. When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements may be released and returned.
 - (b) Default. In the event of default, the obligor and surety shall be liable thereon to the Town of Rochester for the cost of the improvements or parts not installed thereof. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.
- (5) Prior to the certification of any improvements or release of any guarantee, the subdivider shall pay all inspection and related costs (for professional services, meetings, advertisements, and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this chapter. Said payment shall be made to the Town of Rochester.

D. Where improvements are being dedicated to the Town, the subdivider shall comply with the applicable requirements of any other Town laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to guarantee maintenance and repair of those improvements for 18 months from the date of dedication. The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board. Similar maintenance agreements may be required for private roads, and nothing herein shall be deemed to require acceptance of dedication by the Town under any circumstances.

§ 125-17 Final plan requirements for major subdivisions.

The final plan shall be prepared on one or more sheets of uniform size coinciding with requirements of the Ulster County Clerk's office. Final plan attachments and exhibits shall be numbered and labeled in accordance with the requirements of this section and a "subdivision checklist" to be developed by the Town. The final plan shall include, in addition to the information required for the preliminary plan submission, the following:

- A. Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- B. Complete curve data for all curves included in the plan.
- C. Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- D. Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation, or drainage easements.
- E. Front building lines, shown graphically with dimensions.
- F. A final version of all restrictions and covenants, if any, the subdivider intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included. A final management plan for the HOA shall also be submitted, setting forth all relevant details of its proposed operation, as determined by the Planning Board.
- G. The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field; provided, however, that the boundary(s) of additional un-platted land of the subdivider are not required to be based upon field survey and may be calculated. The location of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify the placement of the monuments.
- H. The final plan shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guarantee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.
- I. Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes, unless on-site sewage disposal systems are to be used.
- J. Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations of valves and fire hydrants, if any, unless private wells are to be used.
- K. Documentation of ability to comply with the requirements of utility companies or agencies for supplying each lot in the subdivision and for granting the necessary easements or other releases for installation of required public utilities.

L. The following notes shall appear on the subdivision plat, if applicable:

- (1) Post-approval alterations to lighting plans or intended substitutions for specified lighting equipment on the approved plan shall be submitted to the Code Enforcement Officer for review and approval prior to installation. Requests for substitutions shall be accompanied by catalog cuts of the proposed equipment that demonstrate the proposed substitution is equal to or exceeds the optical quality and maintainability of the specified luminaires; and accompanied by a lighting plan, including a point-by-point plot, which demonstrates that proposed substitutions will result in a lighting design that equals or exceeds the quality of the lighting on the approved plan.
- (2) The Town of Rochester reserves the right to conduct post-installation nighttime inspections to verify compliance with the requirements of this code and if appropriate, to require remedial action.
- (3) Installer shall notify Code Enforcement Officer to arrange for inspection and approval of all exterior lighting equipment, including building-mounted lighting, prior to its installation.
- (4) All exterior lighting, including building-mounted lighting, shall meet IESNA full-cutoff or fully-shielded criteria unless otherwise specifically approved by the Planning Board

- M. A key map for the purpose of locating the site to be subdivided, at a scale of not less than 600 feet to one inch, showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 2,000 feet or any part of the property proposed to be subdivided. U.S.G.S. quadrangle maps may suffice as a base for such a key map.
- N. Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- O. Copies of street encroachment or highway occupancy permits and complete final construction plans, including agreements as may be required to ensure maintenance of private roads.
- P. New submissions of preliminary plan data in any instance where there has been a change in the plans or the circumstances surrounding them.
- Q. Such other pertinent information, as may be required on a checklist to be developed and adopted by the Planning Board and updated from time to time by resolution.

§ 125-18 Lot improvements and natural subdivisions.

Lot improvements and natural subdivisions shall be exempt from the requirements contained herein (including public hearings) provided a plan prepared by a licensed land surveyor or professional engineer has been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below. Such matters shall also be considered Type II actions under SEQRA.

A. Parcels shall, to qualify as lot improvements:

- (1) Involve the addition of land to an existing parcel or lot line adjustment so as to:
 - (a) Improve ability of that parcel to comply with setback or other building standards; or
 - (b) Increase suitability of the parcel for building development; or
 - (c) Add to the availability of open space; or
 - (d) Adjust a boundary line location or produce a corrected deed if a map reflecting the same is desired for recording purposes.

- (2) Not reduce the ability of the lot, from which the lot improvement parcel is taken or reconfigured, to comply with the applicable development standards of this chapter.
 - (3) Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added.
- B. Parcels shall, to qualify as a natural subdivision, be separated by an existing Town, county or state highway that is improved to passable condition for vehicular traffic.
 - C. The Planning Board shall, within 62 days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should the Planning Board fail to act in the provided time, such plans shall be deemed accepted as a lot improvement. If the Planning Board finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Rochester, and for recording purposes only, to represent an exempt lot improvement in accordance with § **125-18** of the Town of Rochester Subdivision Regulations. No subdivision approval is required or given."
 - D. Recording of final plans. No person shall record plans with the County Clerk for any lot improvement without so first obtaining the Planning Board's clearance. Three filed copies shall be returned to the Planning Board.

§ 125-18A Re-subdivision of Lands

The action of an applicant to replace a subdivision plat previously approved by the Planning Board and filed in the office of the Ulster County Clerk with a changed or improved one.

1. Such an application is to be treated in the same manner as an original plat except if the changes to the filed subdivision will change the designation to a Major Subdivision.
2. If the parcel(s) involved are owned by more than one party, or if rights have been given to others, all parties involved must be co-applicants or provide written agreement to the re-subdivision before it can be processed by the Planning Board.

§ 125-19 Fees.

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; such fee to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees **held in escrow** may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance, as well as the expenses connected with notices and hearings. See § **140-63** for authorization and procedures for these fees.

Article IV Design Standards

§ 125-20 Application.

The design standards and requirements set forth in this article shall be observed as minimums by the subdivider in the design of **all** subdivisions within the Town of Rochester. The Planning Board shall require more restrictive standards where necessary to protect health, safety, and welfare of the public, and where circumstances unique to the property so dictate. The Planning Board shall review all applications for subdivision with regard to the standards and regulations of this Code and any applicable local, county, state, or federal standards or regulations.

§ 125-21 General site requirements.

- A. Those areas which are subject to such hazards of life, health or property as may arise from fire, flood, or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.
- B. In addition, the Town may rely upon information contained in its Comprehensive Plan and, in determining and evaluating potential hazards use historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies or in professional practice, and federal, state, or local policies.
- C. All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations.
- D. **Any distribution line, service line and appurtenant facilities necessary to furnish permanent electric service to one or more multiple occupancy buildings (including four or more dwelling units) shall be installed underground and any such facilities necessary to furnish permanent electric service within a residential subdivision in which it is planned to build five or more new residential buildings shall be installed underground per Title 16 of NYCRR. part 100 or its successors.**
- E. In all subdivisions, care shall be taken to preserve natural features such as trees, watercourses, views, **contiguous agricultural lands**, and historical features which will add attractiveness and value to the remainder of the land.
- F. Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with the approval of the Planning Board and, where appropriate, DEC.
- G. Wherever possible, lot lines shall follow Town boundary lines rather than cross them, and reserve strips controlling access to lots, public rights-of-way, public lands, or adjacent private lands are prohibited.

- H. Subdivision of land located in the FEMA mapped 100-year floodplain or containing federal or New York State designated wetlands shall be required to adhere to any federal, state, or local regulations of those areas. The Planning Board shall require plat and deed notations and restrictions illustrating such regulations. Each lot fronting on a named stream depicted on United States Geological Survey maps shall include **a stream and wetland setback and lot restrictions as detailed in § 140-12 Yard (Setback) Regulations Waterfront Yards or 140-16 Wetlands and Stream Buffer Requirements, with a minimum** of 100 feet in depth from the high-water mark of such stream and include a plat notation indicating such setback. No principal structure shall be located within such setback. The Planning Board shall, however, be authorized to modify this requirement where necessary or to accommodate reasonable use of properties outside the floodplain, provided other mitigating measures such as deed covenants limiting clearing near the stream are employed to protect stream quality.
- I. The subdivision shall avoid adverse impacts to existing groundwater users and/or surface waters. Elements related to wellhead protection areas, water uses, potential contaminant sources and related matters shall be included with the preliminary subdivision submission.
- J. The Planning Board may appropriately modify the standards herein to accommodate solar and other energy efficient systems. No homeowner or property owner association shall prohibit solar energy systems. Covenants and restrictions connected with projects requiring subdivision approval shall be reviewed for purposes of ensuring there are no such prohibitions.

§ 125-22 Subdivision design.

- A. Design criteria. The following planning and design standards shall apply to all subdivisions.
 - (1) The proposed subdivision shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through planning of vegetation and land disturbance activities and avoiding the placement of impervious surfaces in locations having the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater.
 - (2) No clearing or earth disturbance (except for access for soil analysis for proposed sewage disposal systems and similar testing) shall be permitted on a site before the securing of preliminary subdivision approval.
 - (3) Stream valleys, swales, and other **low-lying** areas may require adjoining buffer lands to be included in conservation areas **or setbacks. The Planning Board shall have the discretion to require ecological landscaping to protect and restore stream beds to their natural state if disturbed in the subdivision construction.**
 - (4) **The Planning Board may, at its discretion, request a wetland boundary delineation on properties proposed for development.**
 - (5) Because of their resource values, all woodlands exceeding one acre on any tract proposed for subdivision shall be evaluated and shall be preserved and designated as conservation areas, to the maximum extent possible. Proposed site improvements shall be located, designed, and constructed to minimize the loss or degradation of woodland areas. Nothing herein shall prevent development of woodlands as a general principle if an entire site is wooded.

- (6) Subdivisions shall be designed to preserve woodlands along roadways, property lines, streams, swales, stone fences, and hedgerows. Such lines and the existing vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. **These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.** Preservation shall include ground, shrubs, understory, and canopy vegetation.
- (7) **Subdivisions on lands containing agriculturally valuable lands (prime soils, soils of statewide importance, New York State certified Ulster County Agricultural District lands, lands actively farmed/assessed as farmlands) shall be designed so as to leave the maximal amount of prime farmland undisturbed and contiguous so as to facilitate and promote existing and future farming.**
- (8) **Minimize land disturbance generally. Whenever development is undertaken, removal of vegetation, grading, and operation and storage of heavy equipment should only occur where necessary for the proposed development. Special attention should be given to preserving the root systems of existing trees by avoiding soil compaction within their drip lines.**
- (9) Areas comprising fields, pastures and meadows with fences, stone walls, tree copses, hedgerows, and visually prominent places such as knolls and hilltops shall be maintained where practicable by employing compact clustered residential designs in locations such as at the far edge of open fields.
- (10) **Steep Slopes.** All grading and earthmoving on slopes exceeding 15% grade shall be minimized. **On Slopes between 15% and 25%, no more than 15% of the slope area shall be disturbed.** No site disturbance shall be allowed on slopes exceeding 25% grade, except grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing that avoids slopes exceeding 25% is feasible. Exceptions may also be granted where structures are built into the slope to minimize total disturbance. When building on slopes, applicants should take advantage of topography by building multilevel structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading entire sites flat.
- (11) **Driveway access slopes and sight lines shall be indicated on the plans**
- (12) Applicants shall, to the maximum extent practicable, protect significant natural areas **identified in official government records** to contain rare or endangered plants and animals, as well as other features of natural significance identified by the Town's Comprehensive Plan or by the applicant's existing resources and site analysis by incorporating them into proposed conservation areas. **Applicants shall protect large, contiguous, unaltered tracts wherever possible and preserve links between natural habitats and links between agriculturally valuable lands (prime soils, soils of statewide importance, New York State certified Ulster County Agricultural District lands, lands actively farmed/assessed as farmlands) on adjacent properties.**
- (13) Where a plan will have an impact on an historic resource referenced in the Town Comprehensive Plan or identified by the Town Historic Preservation Commission, the developer may be required to mitigate that impact, to the maximum extent practicable, by modifying the design, relocating proposed lot lines, providing landscape buffers, or using other approved means.
- (14) When trails are intended for public or private use, they shall be protected by a permanent conservation easement on the properties on which they are located. The width of the protected area in which the trail is located should be a minimum of 10 feet. The land area permanently designated for trails for public use may be credited toward any open space requirement.

- (15) Wherever feasible, the subdivider shall retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. Stone walls and hedgerows shall be employed in the development design where practicable.
 - (16) The subdivider should also avoid placing buildings in the middle of open fields **and endeavor to place them either at the edges of fields or wooded areas**. However, septic systems and leach fields should generally be located in open fields, when possible.
 - (17) Existing vegetation and topography should be used to buffer and screen new buildings, if possible, unless they are designed and located close to the road in the manner historically found in the Town. Buildings should be sited in groups or tucked behind tree lines or knolls rather than spreading them out across the landscape in a "sprawl" pattern. Clearing of vegetation at the edge of the road should be minimized, clearing only as much as is necessary to create a driveway entrance with adequate sight distance.
 - (18) Curves should be created in driveways to increase the screening of buildings. Buildings should be sited so they do not protrude above treetops and crestlines of hills as seen from public places and roads. Vegetation should be used as a backdrop to reduce the prominence of the structure. Wherever possible, views should be opened up by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
- B. Each new lot outside a conservation subdivision (see § **125-23**) shall meet the minimum area, width, depth, and setback requirements set out in Chapter **140**, Zoning, or shall have received approval from the Zoning Board of Appeals for an area variance.
 - C. Pedestrian interior walks or trails may be required, where necessary to assist circulation or provide access to community facilities and open space. Such walks or trails shall have a right-of-way width of not less than 10 feet and be all-weather-surfaced for not less than three feet in width.
 - D. Blocks shall not exceed 1,200 feet in length. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier or other unsubdivided area.
 - E. Where a subdivision adjoins a major highway (one which is designated and marked for two lanes or more and carries at least 1,000 vehicles per day), the greater dimension of the block shall front along said highway, and interior streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five lots or more with frontages averaging less than 300 feet along the highway shall be subject to this requirement, if the Planning Board determines, after inspection, that safety demands restricting access.

- F. No dead-end roads without proper turnarounds shall be permitted. Cul-de-sac streets shall not exceed 2,000 feet in length or six times the minimum lot width of the lots along said road, whichever is greater, measured from the center line of the continuous road providing the only access to the cul-de-sac or turnaround. Roads which terminate without connection to another roadway must be designed as culs-de-sac as further described herein. Cul-de-sac streets, permanently designed as such, shall not furnish access to more than 25 dwelling units. Cul-de-sac streets shall have at the closed end, a turnaround with the right-of-way having an outside diameter of not less than 100 feet and shall be surfaced to a diameter of not less than 90 feet. An inside landscaped area of not more than 60 feet in diameter shall be encouraged. Drainage of culs-de-sac shall preferably be toward the open end. The Planning Board shall have authority to require the use of loop streets and other alternatives to culs-de-sac where such alternatives are available and preferable as a means of providing safe access to lots, making street connections, or limiting environmental impacts. The Planning Board may also require turn-around or pull-off areas along the way for safety purposes in the case of long culs-de-sac.
- G. No shared driveways shall be permitted off of cul-de-sacs.
- H. All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout.
- I. If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area or dedicated to open space.
- J. Either of the two sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated.
- K. All lots shall front on the edge of a public or private road right-of-way (existing or proposed)
- L. The right-of-way of the principal access to any subdivision shall be as specified within §140- 10 Lot Development Standards, of the Town of Rochester Zoning code.
- (1) Insufficient frontage with access via shared driveway. The Planning Board may grant a waiver from required lot frontage and other street requirements of this chapter upon written request and application by the developer to the Planning Board to permit a subdivision which would result in access to no more than two single-family dwellings or lots which do not have the required minimum lot frontage and are proposed to gain access from a shared driveway through the establishment of a right-of-way. The shared driveway shall be utilized by no more than a total of three single-family residential lots including the lot it has access over. No shared driveways shall be permitted to originate from a private road cul-de sac. The Planning Board shall review such application in the manner as prescribed under the Town of Rochester Code section § 140-10E(5) and no approval shall be granted unless a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and the lot in question is not capable of being subdivided further or is so restricted. Evidence of satisfactory shared arrangements for ownership and maintenance of the drive shall also be provided in the form of deed covenants and a road maintenance agreement. See also § 125-29R hereof.

- (2) Private road frontage application review. The Planning Board, in the review of a subdivision which has or proposes lot frontage on or has access by a private road, shall refer such application to the Town Highway Superintendent for determination as to the condition of the private road and determination if such private road meets Town standards for private roadways. The Planning Board may impose conditions of approval stating the lot in question is not capable of being subdivided further or is so restricted, may impose restrictions on the issuance of building permits, may restrict the use of such parcels to single-family residential use, may require improvements be made to an existing private road, or any other conditions determined to be in the interest of health, safety, and welfare.
- (3) At the discretion of the Town Superintendent of Highways, any residential use parcel which has frontage on two or more Town roads may be required to access the public road via the lesser-traveled roadway; similarly, any residential use parcel which has frontage on a private road and a Town road may be required to access the private road.
- M. Monuments shall be placed at perimeter corners and the corner of each street, and markers set at the corner of each lot, consistent with surveyors' professional practice, to define the metes and bounds of the block and lots created permanently and accurately.
- N. Where any portion of subdivision roadways or infrastructure is to be located in an adjoining municipality, the final subdivision plats cannot be signed until such infrastructure is complete and approved by the adjoining municipality.

§ 125-23 Conservation Subdivision *[Section Moved to Article V]*

§ 125-24 Common open space.

- A. In the case of subdivisions of 10 or more lots, not less than 10% of the gross area of the entire tract, exclusive of wetlands, streams, lakes, or ponds, shall be reserved for common open space directly accessible from the lots to be created. Such open space shall be suitable for recreational use of the residents of the subdivision or the general community. The following and similar facilities shall meet this requirement: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas. Such areas as are designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape, and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. No portion of the 10% requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise undevelopable areas.
- B. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same.
- C. Any excavation, filling, re-grading, or other alteration of common open space; any construction or expansion of any building, structure, or other improvements thereon; or any paving or surfacing of open space subsequent to the date of approval of the subdivision, other than work required by the subdivision plans as approved, shall require an amendment to the subdivision approval granted in accordance with the applicable section of these regulations. Alterations to the common open space which are permitted but not required by the terms of the common open space deed or easement shall be permitted without amendment to the subdivision approval.

§ 125-25 Water supply.

- A. Where a central water supply is available within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, construct a system of water mains tied to such system and provide a connection for each lot.
- B. Plans and specifications for central water systems (i.e., extension of an existing system or a proposed new facility) shall be prepared by a professional engineer and shall conform to requirements of the Ulster County Department of Health and the local fire district(s). Suitable agreements shall also be established for the ownership and maintenance of such a distribution system.

§ 125-26 Sewage disposal.

- A. All residential lots shall contain suitable areas for on-site sewage disposal systems or be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Environmental Conservation ("DEC"), shall be submitted with all preliminary subdivision plans and design standards shall meet DEC requirements. Formal approval of DEC shall be required prior to final plan approval.
- B. When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivisions and land developments shall be provided with an adequate sewage disposal system(s). Central sewage disposal systems shall also be required for all residential lots and nonresidential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- C. Where connection to a central sewage disposal system is not required, on-site systems shall be provided in accordance with criteria set forth by the Ulster County Department of Health. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for on-site subsurface sewage disposal, where the Ulster County Department of Health does not control.
- D. Sanitary sewers shall not be used to carry stormwater.

§ 125-27 Erosion and sedimentation.

Should any subdivider intend, through road construction or installation of other subdivision improvements, to make land changes by grading, filling, excavating or the removal of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include but are not limited to hay bales, silt fences or other provisions or combinations thereof.

§ 125-28 Storm drainage.

- A. Stormwater management. No **final approval** for a major subdivision shall be **granted** until the Town of Rochester Planning Board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications of this local law and as required by New York State. All SWPPPs, except as noted above, shall provide for the following:
- (1) A map depicting the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s).
 - (2) Description of the soil(s) present at the site and the source of this data.
 - (3) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance.
 - (4) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.
 - (5) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.
 - (6) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
 - (7) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the sighting and sizing of any temporary sediment basins.
 - (8) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.
 - (9) A stormwater maintenance agreement to ensure continuous and effective operation of the erosion and sediment control practice.
 - (10) A delineation of SWPPP implementation responsibilities for each part of the site.
 - (11) A description and site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (12) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
 - (13) Comparison of post-development stormwater runoff conditions with pre-development conditions.
 - (14) Dimensions, material specifications and installation details for each post-construction stormwater management practice.

- (15) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and in a declaration of covenants and restrictions recorded in the Ulster County Clerk's office and shall remain in effect with transfer of title to the property.
- (16) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices fully meets the requirements of this chapter and § **140-22** of the Town of Rochester Zoning Law.
- (17) The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- (18) Stormwater management practices shall be designed and constructed in accordance with the New York State Stormwater Management Design Manual, New York Standards and Specifications for Erosion and Sediment Control and § **140-22** of the Town of Rochester Zoning Law, provided that such practices shall maximize use of natural stormwater management methods (e.g., grass swales) and minimize use of dry above-ground stormwater detention facilities. Generally, applicants shall employ low-impact development techniques as provided for in the New York State Stormwater Management Design Manual. Infiltration practices shall be used whenever acceptable under DEC guidelines. Applicants shall provide deep test pits and percolation tests in support of this or demonstrate infiltration is not a viable practice for the site in question.
- (19) No land development activity in conjunction with any subdivision shall cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.
- (20) GPS (global positioning system) reference data for stormwater outfalls and permanent structures built in accordance with New York State Stormwater Management Design Manual shall be required on all subdivision plans.

B. Stormwater management system maintenance.

- (1) The stormwater maintenance agreement and management plan for any major subdivision shall contain an operation and maintenance plan prepared by the applicant and approved by the Town Engineer, which shall include the estimate of annual maintenance costs. The operation and maintenance plan shall establish responsibilities for the continued operation and maintenance of all common stormwater management improvements, which shall include all stormwater management improvements designed to serve more than a single lot or dwelling. All such facilities associated with the approved subdivision plan shall be owned and maintained by a homeowners' association (HOA) or such other entity as may be approved by the Town Board with the advice of the Attorney for the Town. The developer shall be responsible until no less than 90% of lots are sold. The HOA or other approved entity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the requirements of this chapter. Sediment shall, at a minimum, be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- (2) Prior to approval of any subdivision plan where common stormwater management improvements are required, the property owner, HOA or other approved entity shall sign and record a maintenance agreement covering all common stormwater management facilities. Such maintenance agreement shall be subject to the review and approval of the Planning Board and Town Attorney.

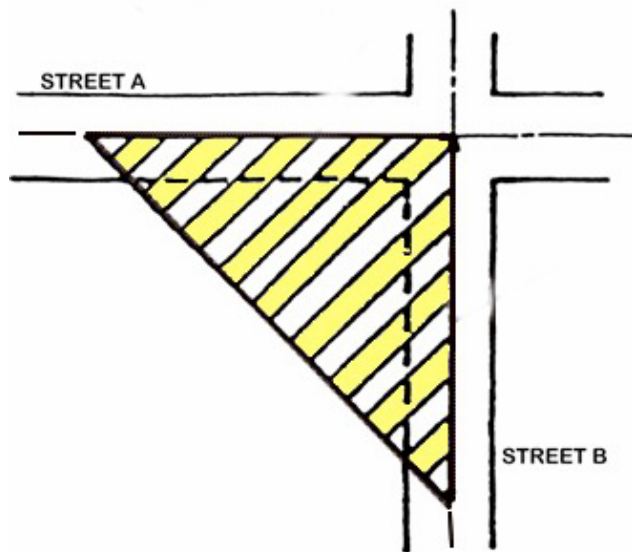
(3) Inspections.

- (a) Stormwater detention and retention basins or facilities owned or managed by an HOA/developer shall be inspected by a registered professional engineer licensed in the State of New York on behalf of the applicant or responsible entity on the following basis:
 - [1] Annually for the first five years.
 - [2] Once every three years thereafter.
 - [3] During or immediately after the cessation of a 100-year or greater storm event.
 - (b) The professional engineer conducting the inspection shall be required to submit a written report to the HOA or other approved entity, with a copy to the Town of Rochester Building Department, within one month following completion of the inspection. The report will present documentation and include pictures regarding the condition of the facility and recommend necessary repairs, if needed. Any needed repairs shall be implemented by the HOA or other approved entity within three months of the report issuance date.
- (4) No person shall allow, or cause to allow, stormwater discharges into the Town's separate storm sewer system that are not composed entirely of stormwater, discharges from firefighting, water from foundation drains, flows from natural sources and flows from other similar uncontaminated sources. The following connections are prohibited:
- (a) Any drain or conveyance, whether on the surface or subsurface, which allows any non-stormwater discharge including sewage, process wastewater or wash water, to enter the separate storm sewer system and any connections to the storm drain system from indoor drains and sinks.
 - (b) Any drain or conveyance connected from commercial or industrial land use, except as may be approved by the Planning Board as part of a mixed-use development plan.
- (5) The Planning Board may require that a major subdivision plan include a set of best management practices (BMPs) from which the owner of any individual lot must choose in implementing stormwater management measures in conjunction with property development. Such BMPs shall be fully specified in the subdivision plans and imposed by restrictive deed covenant referring to such plans. No person shall modify, remove, fill, landscape or alter any such on-lot stormwater management improvements or drainage easement, unless it is part of an approved maintenance program, without the written approval of the HOA or other approved entity.
- (6) All requirements of the State of New York for stormwater pollution prevention plans (SWPPPs) and the Town of Rochester Zoning Law are incorporated herein by reference and shall apply in addition to the above standards.

§ 125-29 Street requirements.

- A. The arrangement, character, extent, width, grade, and location of all streets shall conform to the provisions found herein. Every subdivision shall have access to a public right-of-way. All streets and driveways shall conform to New York State Fire Code access requirements.
- (1) In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to ensure circulation of vehicular and pedestrian traffic.
 - (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this chapter.

- (3) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as culs-de-sac.
- (4) The arrangement of streets in new subdivisions shall make provision for the extension of streets to adjoining property, including the grant of rights-of-way for these purposes.
- (5) Streets shall be laid out to intersect at ninety-degree angles. Where not possible, the minimum adjustment required may be approved provided that in no event shall any street intersect another at less than 75° . Intersections of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs, and other devices as may be required. Streets entering opposite sides of another street shall be offset a minimum of 125 feet. Where impossible to create such offsets, such streets shall be laid out directly opposite one another utilizing stop signs or signals.
- (6) Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
- (7) Clear sight triangles (see illustration) shall be provided at all street intersections. No structure or vision-obstructing object other than utility poles, streetlights, street signs, or traffic signs shall be permitted that obscures vision in these triangles above the height of 36 inches and below 10 feet measured from the centerline grade of intersecting streets. Such triangles shall be established at 75 feet from the point of intersection of the centerlines.



- (8) Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than 10 tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider shall so indicate in writing on the final plans to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Planning Board as to form.
- (9) Lots located on an existing street or right-of-way not meeting these street standards may be further subdivided only if such existing street or right-of-way is improved to the maximum extent practicable to meet current standards, as shall be determined by the Town of Rochester Highway Superintendent. Lots located on streets or rights-of-way that cannot be improved to meet current standards shall be limited to a maximum of 10 lots or one lot per five acres, whichever shall be less. Such lots may also be subdivided under § 125-29S hereof.

B. Alleys may be permitted, but in no case shall an alley provide the only means of access to a lot. Alleys are required at the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking. Alleys shall be limited in length to 800 feet per block.

C. Profiles.

(1) No street grade shall be less than 1% or exceed the following, with due allowances for reasonable vertical curves:

Type of Street or Way	Maximum Grade
Major traffic streets	8% (10% for up to 250 feet*)
Collector streets	10% (12% for up to 250 feet*)
Minor streets	12% (14% for up to 250 feet*)

* With approval of Town Highway Superintendent

(2) Streets shall have a grade not to exceed 2% for a distance within 50 feet of the street right-of-way line of any intersecting street.

D. Cross section: The cross-section gradients of streets shall be not less than 2%.

E. Vertical and horizontal visibility (measured 3.5 feet eye level to taillights 1.5 feet above ground level) shall be no less than the following:

Type of Street or Way	Minimum Visibility Distance (feet)
Major highways	500
Collector streets	300
Minor streets	250
Streets shorter than 500 feet	150

F. The minimum right-of-way widths for streets are as follows:

Type of Street or Way	Minimum Right-of-Way Width
	(feet)
Major streets	60
Collector streets	50
Minor streets	50
Alleys	25 (also maximum of 25)

- G. Culs-de-sac shall have a right-of-way with an outside diameter of not less than 100 feet and shall be surfaced to a diameter of not less than 90 feet (see also § **125-22F**). A hammerhead alternate design may be utilized with the approval of the Town Highway Superintendent.
- H. The entire width of the travel way of each street in a proposed subdivision shall be graded and suitably prepared for installation of paving and drainage structures, in accordance with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to the minimum standards of the Town road specifications.
- I. Width of pavement.
- (1) The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

Type of Street	Minimum		
	Minimum Shoulder Width	Clearance Beyond Shoulder	Minimum Pavement Width
	(feet)	(feet)	(feet)
Major streets	4	2	24
Collector streets	3	2	20
Minor streets	3	2	18

- (2) The Planning Board may modify these standards as may be required to accommodate sidewalks and bike paths in densely populated areas or projects where connections to existing sidewalks, bike paths or trails are practical.

- J. Unless otherwise specified herein, pavement construction shall be in accordance with specifications and standards contained in the Town road specifications, except that private roads not intended for dedication to the Town of Rochester do not require macadam pavement.
- (1) Street shoulders shall be constructed with materials as specified by the Town road specifications. The entire shoulder area shall be uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.
 - (2) Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of three feet horizontally to one foot vertically in a cut or fill section. In special cases, the Town Engineer may require more rigid standards.
- K. In commercial or multifamily subdivisions or any other case where, other similar intensive uses exist or are anticipated, curbs may be required, if such construction is deemed necessary for public safety by the Planning Board, based on consultation with the Town Engineer and shall be constructed according to good engineering practice.
- L. Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Planning Board and shall be sufficient to support the street or the adjacent land, as the case may be. Where the grade of the street is three feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.
- M. All streets, including culs-de-sac and alleys, shall be constructed as shown on the preliminary and final plan approved by the Planning Board and in conformity with the Town road specifications, except as provided herein. Approval of the Town Highway Superintendent shall also be required for all road plans, regardless of whether they are proposed for dedication or not. Where such chapter does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation for local streets.
- N. Two-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the subdivider at his own expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not be repeated within the Town and shall be subject to Planning Board and Ulster County approval.
- O. Street lighting is the responsibility of the applicant to provide, and the lot owners to maintain and operate. The Planning Board may determine when and if street lighting is necessary, evaluating the need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not streetlights are initially installed, the developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.
- P. Shade trees and other natural buffers along any proposed street right-of-way shall be retained to the maximum extent possible and cuts and fills which would necessitate removing such cover shall be minimized. Wide swath cuts or removal of natural vegetation shall not be permitted without compelling safety reasons.

Q. No driveway, street or drainage facility or structure shall be constructed or altered within a state right-of-way, and no drainage facility of the New York State Department of Transportation or County of Ulster shall be altered or connected onto without first obtaining a permit from the New York State Department of Transportation or County of Ulster. No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Rochester shall be altered or connected onto without first obtaining a permit from the Town of Rochester Highway Superintendent.

R. Driveways.

- (1) Individual driveways serving only one single family each shall not be subject to street improvement requirements of this chapter or to Town road specification; however, they shall be subject to the New York State Fire Code access requirements.
- (2) Shared driveways shall be permitted provided the shared driveway shall be utilized by no more than a total of three single-family residential lots including the lot it has access over and meet the specific standards of § 125-22J hereof, and further provided that the Town of Rochester is given satisfactory evidence, in the form of deed covenants and a road maintenance agreement, that the private status of said road is permanent and that the following construction standards are met:

Minimum Right-of-Way Width	
Type of Street or Way	(feet)
Minimum right-of-way	50
Minimum pavement width	16
Minimum shoulder width	2

- (3) Pavement may consist of any all-weather surface satisfactory to the Town Engineer (if one shall be appointed) and Town Highway Superintendent. All drainage plans shall also be subject to approval of the Town Engineer (if one shall be appointed) and Town Highway Superintendent.

S. Private roads may be permitted pursuant to the following standards:

- (1) The design and location shall be approved by the Town Engineer (if one shall be appointed) and Town Highway Superintendent.
- (2) They shall meet town road specifications for minor streets except road surface may consist of any all-weather surface satisfactory to the Town Engineer (if one shall be appointed) and Town Highway Superintendent.
- (3) They shall meet all provisions of the New York State Uniform Fire Prevention and Building Code and provide for safe access for emergency personnel. The Fire District Chief shall be referred the plans to make recommendations to the Planning Board.
- (4) Should the private road be a dead-end street, a cul-de-sac shall be required.

(5) No shared driveways shall be allowed access from a private road cul-de-sac.

- (6) All drainage plans shall also be subject to approval of the Town Engineer (if one shall be appointed) and Town Highway Superintendent and/or the New York State DEC. The Planning Board may require a stormwater maintenance agreement.
 - (7) Utility access shall be provided, and easements established for the maintenance of these utilities.
 - (8) A road maintenance agreement (RMA) approved by the Town Board, with advice of the Attorney for the Town, shall be required to make clear that the Town is exempted from all responsibility for the maintenance of the same. Evidence of satisfactory shared arrangements for ownership and maintenance of the drive shall also be provided. The Planning Board may require the creation of a homeowners' association. Plat notations indicating the RMA shall be included on the final plan.
 - (9) Nothing contained herein shall be construed in any way to require the Town of Rochester to accept dedication of any street. These regulations are intended, rather, to set standards of construction for private roads and a proposed dedication of any such streets shall be subject to the specific dedication requirements of the Town road specifications.
- T. Subdivisions, or expansions of subdivision, which result in total of ~~25~~ 15 or more dwelling units shall provide off-street school and transit bus stopping and parking areas, including areas for student waiting and parent parking, sufficient to accommodate the needs of the subdivision, unless the Planning Board shall determine existing facilities suffice for this purpose. The applicant shall provide an evaluation of such needs, together with a site plan and proposed design standards to be applied, for review and approval by the Planning Board. Such area shall also be used to locate all mailboxes associated with such subdivisions. Location and design shall be subject to U.S. Postal Service standards, as well as review and approval by the Planning Board. No individual on-lot mailboxes shall be permitted in these circumstances. The Planning Board may require such provisions in the case of smaller subdivisions upon determining through findings such a need will exist.

§ 125-30 Lighting requirements.

A. Street Lighting for Residential Applications

- 1. For residential developments where lot sizes are or average less than 21,780 square feet (0.5 acres), street lighting the Planning Board may require as follows:
 - a. At the intersection of public roads with entrance roads to the development
 - b. At the intersection of roads within the development
 - c. At cul-de-sac bulb radii
 - d. At defined pedestrian crossings located within the development
 - e. At other locations along the street as deemed necessary by the Planning Board but in no case shall lighting fixtures be spaced more than five hundred (500) feet apart.
 - f. In multi-family developments, common parking areas shall be illuminated.

Article V
Conservation subdivision
[complete rewrite of subsection]

§ 125-31 Conservation subdivision option.

- A. Intent. The Town of Rochester finds that conservation subdivisions are a principal means of maintaining rural character and environmental quality through preservation of large tracts of open space land. Conservation subdivision is a more flexible approach to land development than conventional subdivision. It is intended as an alternative to conventional subdivision's rigid and sprawling pattern of suburban development that occurs when lots and dwelling units are laid out in a uniform pattern over the landscape, generally with little regard for valued natural, cultural, and scenic resources.
- A. Purposes. In conformance with the Town's Comprehensive Plan, the purposes of conservation subdivision are as follows:
- (1) To conserve important open lands, including those areas containing unique and sensitive natural features such as steep slopes, floodplains, stream corridors, and wetlands, by permanently setting them aside from development.
 - (2) To protect areas of the Town with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 - (3) To provide multiple options for landowners to minimize impacts on environmental resources and natural or cultural features such as mature woodlands, hedgerows and tree lines, significant wildlife habitats, historic buildings and sites, and fieldstone walls.
 - (4) To provide greater economy, efficiency, and convenience in the siting of new development and infrastructure, including the opportunity to reduce regrading of the land, road lengths, utility runs, and the amount of paving required.
 - (5) To implement policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Town's Comprehensive Plan, including provisions to create a greenway trail system and other areas for active or passive recreational use for the benefit of present and future residents.
 - (6) To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, with a strong neighborhood identity.
 - (7) To provide for a balanced range of lot areas, widths, and frontages, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that Rochester's population diversity may be maintained.
 - (8) To provide a reasonable setback for new development adjacent to lands in active farming or forestry use due to potential incompatibility with such uses.
 - (9) To conserve scenic views and elements of the Town's rural character, and to minimize perceived density, by limiting views of new development from existing roads.
 - (10) To promote development in harmony with the goals and objectives of the Town's Comprehensive Plan.
 - (11) To protect gateways to the Town from other towns, and

(12) To mitigate potential environmental impacts of new development under the State Environmental Quality Review Act (SEQRA).

B. Conservation subdivision as permitted use.

- (1) Conservation subdivision creates protected open space without increasing density for the tract as a whole. In a conservation subdivision, the only limiting factor for lot area, width and frontage is the availability of water and sewer infrastructure. Lots can vary in size, from large farm or conservancy lots to small hamlet-sized lots, and density can be averaged across the parcel as a whole. Conservation subdivision is appropriate throughout the Town.
- (2) The Town of Rochester has classified conservation subdivision as a permitted use in all applicable zoning districts, except the Industrial (I) zoning district.
- (3) A preapplication conference for application information is recommended to be scheduled with the Planning Board. At this time, applicants are also encouraged to meet simultaneously with a land trust to discuss design concepts and the donation of conservation easements. The applicant shall make a deposit, in accordance with the Town's fee schedule, sufficient to cover the preapplication expenses required for review by the Town's professional engineer, professional planner and attorney.

C. Authorization.

- (1) Conservation subdivisions are authorized under § 278 of the New York State Town Law and this chapter. Density is determined based upon the density requirements as shown in the Schedule of District Regulations of §140, Zoning, of the Code of the Town of Rochester. Authorization is hereby granted to the Planning Board to modify lot area, width and frontage, depth, yard, access and other requirements of Zoning Regulations, Subdivision Regulations and Highway Specifications (in consultation with the Superintendent of Highways), subject to the purposes, standards and procedures contained herein, so as to create conservation subdivisions. A conservation subdivision may be approved and is considered a permitted use in all applicable zoning districts.
- (2) The Planning Board shall apply conservation design criteria to preserve vital open spaces identified in the Town Comprehensive Plan and related documents, while, at a minimum, maintaining the density allowed under the Town Zoning Law.
- (3) Any subdivision which contains 3 acres or more of connected areas of Prime Farmland, shall require review under §125-23, Conservation Subdivision standards.
- (4) The Planning Board may **require** a conservation subdivision approach as a form of development, in those instances where conventional subdivisions or residential developments would cause significant loss of open space or otherwise result in significant negative environmental impacts, where it finds any one of the following elements present, as determined through review of an existing resources map and site analysis plan as described herein, justifying conservation of natural, cultural or historic resources, open space, scenic features, or preservation of neighborhood character:
 - a. Slopes: slopes of 15% or greater on 20% or more of the property; or

- b. Water resources: wetlands, wetland buffers, municipal water supply watershed areas, New York State protected streams and aquifer and aquifer recharge areas, stream corridors and flood-prone areas located in the Town of Rochester Floodplain Development Overlay (FD) zoning district; or
- c. Agricultural lands: farmland within a New York State certified Ulster County agricultural district, lands, or soils classified as Prime Farmland, as defined herein; or
- d. Forest management: sites where active growing, harvesting, or processing of timber is conducted in a manner generally consistent with § 480-a of the New York State Real Property Tax Law; or
- e. Community water and/or sewer: sites where community sewer, community water, or community water and sewer are available or planned; or
- f. Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law; or
- g. Important open space areas: lands contiguous to publicly owned or designated open space areas, privately owned designated natural areas, or other areas of important open space identified by a conservation organization, a local land trust or government agency; or
- h. Historic structures and sites: historic and prehistoric structures or areas of national, state, or local importance such as lands, structure, or site listed on the National Register of Historic Places, a multiple resource district, local waterfront revitalization area, and local landmarks; or
- i. Scenic viewsheds and special features: sites bordering designated state, county, or Town scenic roads, "special features" identified in the Town's Comprehensive Plan, and any other significant feature of community importance identified in a Town planning document; or
- j. 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 State Department of Environmental Conservation (Natural Heritage Program), mature forests over 100 years old, locally important vegetation (such as trees over 24 inches in diameter at breast height or unique species), or unique natural or geological formations; or
- k. Trails: O&W Rail Trail, state or county owned trails, private land trust owned trails, bikeways, and pedestrian routes of Town, state, or county significance; or
- l. Recreation: lakes, ponds or other significant recreational areas or opportunities or sites designated in the Town's Comprehensive Plan.

E. Permitted and accessory uses.

- 1) Open space uses shall be considered permitted and/or accessory uses in a conservation subdivision. Other permitted, accessory, and special permit uses within a conservation subdivision shall be the same as those otherwise allowed in the zoning district in which the development is located.

- 2) As an alternative to detached dwelling units, single-family attached dwelling units. Two-family dwelling units, and multifamily dwelling units are also permitted and encouraged in conservation subdivisions, provided common areas are in condominium or cooperative ownership for single-family attached dwellings or unified ownership for multifamily dwellings and such dwellings are designed to resemble a single-family dwelling in keeping with the rural character and traditional agricultural groupings of dwellings found in the Town.
- 3) In no case shall an individual structure contain more than four attached dwelling units in the NR, PL-10, A-10, AR-3, and R-5 zoning districts, nor more than six attached dwelling units in the AB-3, R-2, R-1, H, and B zoning districts.
- 4) Site plan approval, in accordance with §140, Zoning, of the Code of the Town of Rochester is required for all multifamily dwelling unit developments.

F. Density.

- 1) The maximum permitted number of lots or dwelling units within a conservation subdivision shall not exceed the number of units that, in the Planning Board's judgment, would be permitted if the land were subdivided into conventional lots fully conforming to the minimum lot area, width and frontage and density requirements of Chapter 140 of the Town of Rochester Code applicable to the district or districts in which such land is situated and conforming to all other requirements of the Town of Rochester Code. The Planning Board remains responsible for the determination of whether a conservation subdivision is appropriate for the land.
- 2) To determine density, the applicant shall submit a yield subdivision plan, designed so that no variances or waivers from any provision of the Town of Rochester Code shall be necessary and meeting the following requirements:
 - a. A yield subdivision plan shall be prepared as a conceptual sketch plan, in accordance with the density and other development standards for the applicable zoning district(s) as Schedule of District Regulations of §140, Zoning, and other requirements of the Code of the Town of Rochester. The Planning Board shall reach a consensus on the maximum number of lots permissible in the conventional subdivision layout prior to initiation of the four-step conservation subdivision design process.
 - b. Yield subdivision plans shall show conventional lots, streets, rights-of-way, and other pertinent features specified by this code.



Yield Plan - Identifies the number of dwelling units that would be permitted in a conventional subdivision

- c. Yield subdivision plans shall be realistic and must not show potential house sites or streets in areas that would not ordinarily be legally permitted in a conventional subdivision. If appropriate, the Planning Board may require the applicant to provide an analysis of potential compatibility or incompatibility of the yield plan with the Standards for Issuance of Permits and Letters of Permission found in 6 NYCRR 663.5 when sites involve freshwater wetlands or other significant natural resources for which discretionary permits would be required. Any lands which are subject to flooding, comprised of wetlands and a one-hundred-foot upland buffer area, ponds, streams and/or slopes in excess of 25% shall not be considered suitable for building development for purposes of this analysis.
- d. Partial conservation subdivision. No lot in a conservation subdivision may be further subdivided except under the following conditions:
 - i. The total number of lots which would result on the parcel does not exceed the number determined in accordance with the yield subdivision plan procedures set forth herein at the time of the original subdivision. The Planning Board may waive submission of documentation of the full lot count where, in the Planning Board's judgment, the number of lots proposed is substantially less than the total allowable lot count.
 - ii. The applicant executes a conservation easement that sets aside conservation land on a pro-rata basis in connection with the land being subdivided rather than the entire parcel. For example, if a parcel is large enough to accommodate 10 lots, but the applicant is proposing only five, the applicant may do a conservation subdivision on 1/2 of the property, preserving the amount of open space required for the portion to be developed rather than the amount required if the entire property were developed.
 - iii. The open space land must be in a configuration that will preserve buildable land of conservation value based upon a conservation analysis and must allow for subsequent extension of the conservation subdivision unless the applicant elects to preserve the remainder of the parcel as open space land. In this case, the preserved open space does not need to be contiguous with the building lots.
 - iv. This provision may not be used to circumvent the restrictions on segmentation under SEQRA.

(3) The Planning Board shall be authorized to modify development standards as provided below and

- a. grant a density bonus of 25% where 50% - 74% of the tract is preserved as open space and conservation subdivision is proposed. In no case shall the density bonus be less than 1 additional lot.
- b. grant a density bonus of 40% where 75% or greater of the tract is preserved as open space and conservation subdivision is proposed. In no case shall the density bonus be less than 2 additional lots.

G. Conservation subdivision design process. Once the maximum permissible number of lots in a conservation subdivision has been established, the next step is to create a conservation subdivision design layout. Lot areas, widths and frontages and other dimensional requirements are flexible, provided the average density of the subdivision does not exceed the yield subdivision plan's density determination and provided the dwelling units are sited on those portions of the parcel most suitable for development while protecting significant contiguous open space. In a conservation subdivision, the layout shall include an identification of primary and secondary conservation lands (as defined herein) within a parcel(s), which includes those elements most highly valued by the community. Illustrations of the conservation subdivision design process are provided herein to assist applicants and landowners.

H. Sketch plan.

- 1) A sketch plan shall be submitted by the applicant as a diagrammatic basis for informal discussions with the Planning Board regarding the design of a proposed conservation subdivision. Applicants are encouraged to forward the proposed sketch plan to the selected land trust to inform such trust of the proposed plans.
- 2) The purpose of the sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Town Zoning Code, Subdivision Code, and Comprehensive Plan. Sketch plan submission is a way to help applicants and Planning Board members develop a better understanding of the property and to help establish an overall design approach that respects its special or noteworthy features, while providing for the density permitted under the Zoning Law. To provide a full understanding of the site's potential and to facilitate the most effective exchange with the Planning Board, the sketch plan shall include the information listed below. Many of these items can be taken from the existing resources and site analysis plan, a document that must in any case be prepared and submitted no later than the date of the site inspection, which precedes the preliminary plan.
 - a. The information required by §125-15 of this code.
 - b. One-hundred-year floodplain limits, and approximate location of wetlands and wetland buffers, if any.
 - c. Topographical and physical features, including existing structures, wooded areas, hedgerows, and other significant vegetation, steep slopes (over 15% and 25% identified separately), stonewalls, historic structures, archaeological sites, soil types (prime, statewide significant and hydric soils identified as such), ponds, streams within 200 feet of the tract, and existing rights-of-way and easements.
 - d. Schematic layout indicating a general concept for land conservation and development ("bubble" format is acceptable for this delineation of conservation areas).
 - e. In the case of land development plans, proposed general layout, including building locations, parking lots, and open spaces.

- f. 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 not less than one-inch equals 1,000 feet and shall show the relationship of the subject property to natural and man-made features existing within 2,000 feet of the site. The features that shall be shown on site context maps include topography and streams (from USGS maps), state and/or federal wetlands, woodlands over 1/2 acre in area (from aerial photographs), ridgelines, public roads and trails, utility easements and rights-of-way, public land, land protected under conservation easements, and land included as open space in a conservation subdivision.
- g. Step 1 of the four-step design process for conservation subdivisions outlined in Subsection H(4)(a) below.

3) The following information shall be included in this plan:

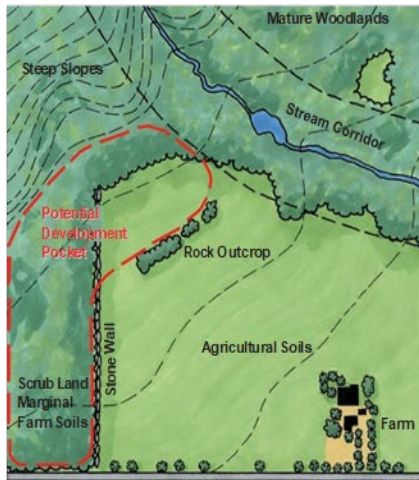
- a. The requirements for sketch plans listed in Subsection H(1) above; and
- b. The submission requirements of §125-15 of this code; and
- c. Existing resources and site analysis plan. For all conservation subdivisions, the applicant shall prepare an existing resources and site analysis plan to provide the developer and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. The existing resources and site analysis plan becomes the basis for the four-step design process. Conditions beyond the parcel boundaries may be described on the basis of existing published data available from governmental agencies and from aerial photographs. The Planning Board shall review the plan to assess its accuracy and thoroughness. The following information shall be included in this plan:
 - i. Unless otherwise specified by the Planning Board, such plans shall be prepared at the scale of one-inch equals 100 feet or one-inch equals 200 feet, whichever would fit best on a single standard-size sheet not exceeding 36 inches by 42 inches.
 - ii. Topography, the contour lines of which should be at two-foot intervals, determined by photogrammetry (although ten-foot intervals are permissible beyond the parcel boundaries, interpolated from published USGS maps). The determination of appropriate contour intervals shall be made by the Planning Board, which may specify greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15% and 25% and exceeding 25% shall be clearly indicated. Topography shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official USGS benchmarks.
 - iii. The location and delineation of ponds, streams, and natural drainage swales as well as the one-hundred-year floodplains and wetlands, as defined by the Town of Rochester, State of New York, and the United States Army Corps of Engineers.
 - iv. Vegetative cover conditions on the property according to general cover type, including cultivated land, permanent grass land, old field, hedgerow, woodland and wetland, isolated trees with a caliper in excess of six inches or trees of significance by virtue of their species, stands of unique trees, and the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, relative age, condition, and value for biodiversity.

- v. Soil series, types, and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Service, in the Ulster County Soil Survey, and accompanying data published for each soil relating to its suitability for construction and for septic suitability.
 - vi. Ridgelines and watershed boundaries shall be identified.
 - vii. A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, public forests, and designated scenic roads.
 - viii. Geologic formations on the proposed development parcel, including rock outcrops, based on available published information and/or field survey obtained by the applicant.
 - ix. The location and dimensions of all existing streets, roads, buildings, utilities, and other man-made improvements.
 - x. Locations of all historically significant sites or structures on the parcel and on any abutting parcel whether identified in the Town of Rochester Comprehensive Plan or listed on the National Register of Historic Places.
 - xi. Locations of existing and proposed trails that have been in public use (pedestrian, equestrian, bicycle, etc.) or proposed in the Town of Rochester Comprehensive Plan, or by Ulster County, the State of New York, or the Hudson River Valley Greenway.
 - xii. All easements and other encumbrances of property which are or have been filed of record with the Ulster County Clerk's office shall be shown on the plan.
- 4) Four-step design process for conservation subdivisions. All sketch plans shall include Step 1 of the four-step design process. All preliminary plans shall include documentation of the four-step design process in determining the layout of proposed open space lands, house sites, streets, and lot lines, as described below:

[SEE NEXT PAGE]

Figure 8.8: Conservation Subdivision Design -- Four Step Process

Illustrations courtesy of Dutchess County Department of Planning and Development



Step 1: Identify primary and secondary conservation areas (development pocket shown in "bubble format")



Step 2: Locate streets and trails



Step 3: Locate house sites



Step 4: Draw in lot lines



Yield Plan

Identifies the number of dwelling units that would be permitted in a conventional subdivision

- a) Step 1: delineation of open space lands. Proposed open space lands shall be derived from the existing resources and site analysis plan as a base map and complying with Subsection G(2)(c) and the Subdivision Regulations, dealing with resource conservation and Greenway delineation standards. The Town's Comprehensive Plan, Ulster County Open Space Plan, and significant habitat mapping shall also be utilized. Primary conservation areas shall be delineated comprising floodplains, wetlands and their buffers, significant habitat and biodiversity conservation areas, slopes over 25% and other features. Secondary conservation areas shall be delineated comprising the resources or such other natural and cultural features that have been identified on the property. The applicant shall prioritize natural and cultural resources on the tract in terms of their highest to least suitability for inclusion in the proposed open space, in consultation with the Planning Board and Environmental Conservation Commission, after a site inspection, to create a prioritized list of resources to be conserved. On the basis of those priorities and practical considerations given to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's development objectives, secondary conservation areas shall be delineated to meet at least the minimum area percentage requirements for open space lands and in a manner clearly indicating their boundaries as well as the types of resources included within them. Calculations shall be provided indicating the applicant's compliance with the acreage requirements for open space areas on the tract. If the secondary conservation areas include active agricultural lands or contain soils classified as Prime Farmland, the siting guidelines found in Subsection J(6) shall be followed in the design process.

*Conservation areas (Primary) and Conservation areas (Secondary) shall be defined as in the definitions subsection of this chapter.

- b) Step 2: location of house sites. Potential house sites shall be tentatively located, using the proposed open space lands as a base map, as well as other relevant data on the existing resources and site analysis plan, such as topography and soils. House sites should 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.
- c) Step 3: alignment of streets and trails. Upon designating the house sites, a street and trail plan shall be designed to provide vehicular access to each house and pedestrian access to the open space (if appropriate), complying with the standards identified herein and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed open space lands shall be minimized, particularly with respect to crossing environmentally sensitive areas, such as wetlands and traversing slopes exceeding 15%. Except in cases involving proposed private roads or shared driveways, existing and future street and trail connections are encouraged to eliminate the number of new culs-de-sac to be maintained by the Town, to facilitate access to and from homes in different parts of the tract and adjoining parcels and, if possible, to assist in the creation of a nonmotorized trails system in the Town. Culs-de-sac are appropriate when they support greater open space conservation or provide extensive pedestrian linkages.
- d) Step 4: drawing in the lot lines. Upon completion of the preceding three steps, lot lines are drawn, as required, to delineate the boundaries of individual residential lots and the open space.
- e) Note on the four-step site design process for hamlets. The design process for developing conservation subdivisions in or adjacent to hamlets shall be a variation on the four-step process for conservation subdivisions, as described herein. In hamlets and near the village, where traditional streetscape and "terminal vistas" are of greater importance, Steps 2 and 3 may be reversed, so that streets and squares are located during the second step, and house sites are located immediately thereafter. The first step is to identify open space lands, including both primary and secondary conservation areas.

I. Dimensional standards. Except as specified herein, all dimensional standards normally applicable to other subdivisions and uses shall also be applicable to conservation subdivision.

- 1) Development standards for streets, lot size, lot width, lot coverage and lot depth may be reduced, provided no dwelling structure is located on less than:
 - (a) 32,670 square feet (0.75 acres) of land without both central sewer and central water facilities.
 - (b) 21,780 square feet (0.50 acres) of land where both central sewer and central water facilities are to be provided.
- (5) Conservation subdivisions shall ordinarily include at least five lots and 10 acres of contiguous land, but the Planning Board may require conservation subdivision design practices to protect particularly valuable open spaces. The Planning Board shall have the authority to require the submission of an alternative sketch plan, for any subdivision of 10 lots or more, or any major subdivision, depicting how the property might be developed using this technique.
- (6) Minimum required open space. In all zoning districts, a conservation subdivision shall preserve, in perpetuity, open space land. No less than 40% of the gross acreage of any conservation subdivision shall be composed of open space. Parking areas and roads shall not be included in the calculation of the minimum required open space. Except for open space lands that are to be used for agricultural purposes, at least 25% of the minimum required open space shall consist of lands suitable for use as a passive recreation area, as defined herein.
- (7) Minimum street or private road frontage: 40 feet. The Planning Board may waive the Town flag lot specifications for conservation subdivisions, based upon a review of the conservation analysis, the character of the development and surrounding area. Flag lots are a means for development to occur within interior portions of a parcel at relatively low density, thereby preserving roadside open space and avoiding the expense of new Town roads in conservation subdivisions.
- (8) Yard setback regulations. The builder or developer is urged to consider variations in the principal building position and orientation, but no front, side, or rear yard setback shall be less than 10 feet in any case. The Planning Board may set maximum yards where the character of development is more appropriate for compact development with walkable neighborhoods.
- (9) Maximum impervious coverage. No more than 10% (or 4,356 square feet) of any given acre should be covered with impervious surface in the form of access drives and parking areas.
- (10) Minimum lot area, width, and frontage. The minimum lot area, width, and frontage for developments with individual sanitary sewage disposal systems shall be 12,000 square feet per single-family unit or as recommended in the Ulster County aquifer recharge rates and sustainable septic system density recommendations. When community water and/or sewerage systems are involved, Ulster County Health Department guidelines shall be utilized. Attached single-family dwelling units shall be in condominium, cooperative, or other acceptable ownership options. In accordance with § 125-12, no more than 20% of the required minimum lot area may be fulfilled by land which is included within a designated wetland or one-hundred-year floodplain.

J. Standards for protected open space.

- (2) The required open space land consists of a combination of primary conservation areas and secondary conservation areas. Primary conservation areas include freshwater wetlands and other water bodies with a one-hundred-foot adjacent area acting as a surrounding buffer, streams, lands within the one-hundred-year floodplain, prime farmland and hydric soils, and lands having slopes of 25% or more. The proposed subdivision design shall minimize disturbance to these environmentally sensitive areas. Primary conservation areas shall be included in the required open space area to the greatest extent practical. Secondary conservation areas include special features of the property that would ordinarily be overlooked or ignored during the design process such as agricultural lands, woodlands, significant natural areas and features, stone walls, rock outcrops, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, scenic roads and trails. Secondary conservation areas shall be included in the required open space area to the greatest extent practical such that protecting these resources will, in the judgment of the Planning Board, achieve the purposes of this section. The applicant shall demonstrate that primary and secondary conservation areas will be protected by identifying and delineating building envelopes and home sites on the proposed subdivision plan.
- (3) Open space lands shall be laid out in general accordance with the Town's Comprehensive Plan and Ulster County Open Space Plan to protect large blocks of open space and to protect biodiversity and other environmental resources as set forth in the Comprehensive Plan.
- (4) A recreational fee in lieu of land, as set forth in the Town's fee schedule, may be imposed to accommodate the foreseeable recreational needs of the proposed subdivision's residents. Such a fee shall be imposed only after the Planning Board has made a finding that a proper case exists for requiring that a park or recreational facilities are needed by the subdivision's residents for recreational purposes. The Planning Board, in making such findings, shall evaluate present and anticipated future needs for park and recreational facilities, based upon the cumulative demands of all recently approved and pending subdivision applications on Town recreational facilities and the resulting need to expand recreational facilities in the near future as a result of the proposed subdivision and other subdivisions.
- (5) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations on nonagricultural lands. To minimize land use conflicts, land used for agricultural purposes shall be buffered from residential uses by a setback, on the lands used for residential purposes, to be determined by the Planning Board, however no mandated setback shall exceed 200 feet. The developer may propose setbacks in excess of 200 feet. Where this buffer is unwooded, the Planning Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive plant and tree species.
- (6) Open space land should generally remain contiguous and should be designed to connect with adjacent open space areas, if any. No individual parcel of common open space should be less than one acre except for roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection.
- (7) No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a conservation easement.

K. 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. Building envelopes shall be designed in accordance with the following standards:

- (1) Building envelopes shall not encroach upon primary conservation areas, and their layout shall respect secondary conservation areas.
- (2) Yard setback regulations. The builder or developer is urged to consider variations in the principal building position and orientation, but no front, side, or rear yard setback shall be less than 10 feet in any case. The Planning Board may set maximum yards where the character of development is more appropriate for compact development with walkable neighborhoods.
- (3) Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Zoning Law and Subdivision Regulations.
- (4) House lots should generally be accessed from interior roads or common driveways, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Two accessways into and out of subdivisions, where the average daily traffic (ADT) will exceed 200 trips, is required for safety; however, proposals for more than two entrances onto public roads are discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment. Consultation with emergency services providers should be initiated for all subdivisions that would cause exceedance of the threshold of 200 trips per day.

L. For conservation subdivision of lands with agricultural or forestry activities or with the potential for such activities, including lands within New York State Certified Ulster County Agricultural District No. 3, lands within 500 feet of Ulster County Agricultural District No. 3, and/or lands subject to § 480-a of the New York State Real Property Tax Law or within 500 feet of a parcel subject to § 480-a of the New York State Real Property Tax Law, house lots shall be designed in accordance with the following guidelines:

- (1) All surficial soils classified as Prime Farmland soils shall be avoided by subdivision development. Soils of statewide significance should be avoided by subdivision development to the greatest extent practical. Other existing features, the preservation of which would benefit the Town and the subdivision, should be avoided through sensitive design of the conservation subdivision. Such features include, but are not limited to:
 - a. Groves of mature trees and large individual trees.
 - b. Hedgerows and woodlands along roadways, property lines, and streams.
 - c. Scenic vistas.
 - d. Water features such as streams, ponds, floodplains, lakes, and wetlands.
 - e. Stone walls and rock outcrops.
 - f. Steep slopes in excess of 15%.
 - g. Visually prominent agricultural landscape features such as fields, pastures and meadows on knolls, hilltops, and ridgelines.
 - h. Historic structures or sites.
 - i. Similar irreplaceable assets.

(2) Residential structures should be located according to the following guidelines, which are listed in order of significance. Note that some of the guidelines may conflict with each other on a particular site, in which case the Planning Board may use its discretion to resolve such conflicts:

- a. On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use.
- b. Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm.
- c. In such a manner that the boundaries between house lots and active farmland or active forest management land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential and agricultural/forestry uses.
- d. To avoid disturbance to the existing environmental, cultural, and scenic features noted in Subsection J(6)(a) above.
- e. To be as visually inconspicuous as practical when seen from state, county, and local roads, and particularly from designated scenic routes.
- f. Next to other residences or building lots on adjacent properties.
- g. To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads.
- h. On suitable soils for subsurface sewage disposal (where applicable).
- i. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by the natural landscape.
- j. In locations where the greatest number of dwelling units could be designed to take advantage of solar heating, solar electric and wind generating opportunities; and
- k. Any other mitigation measure imposed under SEQRA.

M. Streets, driveways, and trails.

- (1) Common driveway access for conservation subdivisions may be provided to serve up to six dwellings. Common driveways shall be a minimum of eight feet in width and a maximum of 16 feet in width. Common driveways that are less than 16 feet in width shall provide for regularly spaced vehicle pull-offs that are 16 feet in width. A pedestrian circulation and/or trail system shall be designated and installed sufficiently for the needs of residents, as deemed practical by the Planning Board. The use of gates or other access control measures on common driveways is prohibited.
- (2) Private roads are encouraged in conservation subdivision. However, access arrangements for private roads must be made in accordance with § 280-a of the New York State Town Law. In cases where public roads are proposed, the Planning Board shall collaborate with the Superintendent of Highways to ensure that the Town of Rochester's Highway Specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision. The Superintendent of Highways has the ability to make a recommendation as to the interpretation of any part of the highway specification requirements and

to modify such requirements under Town Highway Specifications, as detailed in §125-29 of this code. Conservation subdivisions containing 20 lots or more shall have at least two connections with existing roads, roads on an approved subdivision plat for which a bond has been filed, or access to an existing private road. Regardless of the road design employed, the applicant shall demonstrate, and the Planning Board shall find that emergency services access is adequate for the number of dwellings proposed. The use of gates or other access control measures on private roads is prohibited.

- (3) From an aesthetic and speed-control perspective, curving roads are preferred in an informal rural setting to avoid long, straight segments. Shorter straight segments connected by ninety-degree bends should be avoided except in a more formal or traditional arrangement of lots, in hamlet areas or where lots surround a common green or traditional square.
- (4) Roads should be designed to conform with the topography of the land to minimize cuts and fills.
- (5) Single-loaded roads are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- (6) Street trees may be required, depending upon the open or wooded character of the parcel, in accordance with the Subdivision Regulations and survivability shall be assured.
- (7) The Planning Board should consider the potential fiscal impacts on the Town's resources for all new public roads, including required stormwater management facilities, landscaping, and other access-related features. If the Planning Board identifies a potential fiscal impact, as a condition of subdivision approval the Planning Board may require the formation or extension of a special improvement district(s) pursuant to Articles 12 and 12-A of the New York State Town Law or other mechanism acceptable to the Town Attorney, such as formation of a homeowners' association.

N. Permanent protection of open space. Open space set aside in a conservation subdivision, shall be permanently preserved by a conservation easement. The conservation easement shall be perpetual and shall restrict the open space land to the purposes identified in Subsection N(2) below, pursuant to § 247 of the General Municipal Law and/or Title 3 of Article 49 of the Environmental Conservation Law. The conservation easement shall be granted to a not-for-profit conservation organization, as defined in § 49-0303 of the Environmental Conservation Law, qualified under the Internal Revenue Code Section 107(h) and acceptable to the Planning Board. Only if there is no interest on the part of a qualified not-for-profit conservation organization to accept such conservation easement, the Town Board shall have the option of holding such easement. In this case, the Town Board shall commit to annual monitoring, stewardship, and enforcement of such conservation easement. Further, the Town may at any time transfer such an easement to a qualified not-for-profit conservation organization. The conservation easement document shall be approved by the Planning Board and shall be required as a condition of approval. The Planning Board may require that third-party enforcement rights be granted in a conservation easement, which empowers the Town or a not-for-profit conservation organization, which is not a holder of the easement, to enforce any terms of the easement.

- (1) Conservation easements deeded to a qualified not-for-profit conservation organization shall include but not be limited to the following:
 - a. The conservation organization is acceptable to the Planning Board and Town Attorney and is a bona fide "not-for-profit conservation organization," as defined in Article 49 of the New York State Environmental Conservation Law.

- b. The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization becomes unwilling or unable to continue conducting its functions; and
- (2) The conservation easement shall permanently restrict the open space from future subdivision, shall define the range of permitted activities and shall be reviewed and approved by the Planning Board and Town Attorney prior to the granting of final plat or other approval. Under no circumstances shall any development be permitted in the open space at any time, except for the following uses:
 - a. Conservation of open land (for example, woodland, fallow field, or managed meadow).
 - b. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, and associated buildings, which are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are concentrated animal feeding operations (CAFOs) as defined by the United States Environmental Protection Agency, or commercial livestock operations involving swine, poultry, mink, ratites, and other animals likely to produce highly offensive odors.
 - c. Game preserve, wildlife sanctuary, or other similar conservation use.
 - d. Woodlots, arboreta, and silviculture in keeping with established standards for selective harvesting, sustained-yield forestry and generally consistent with the New York State best management practices and Timber Harvesting Guidelines.
 - e. Neighborhood open space uses such as 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.
 - f. 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.
 - g. Easements for drainage, sewer or water lines, or other public purposes.
 - h. Underground utility rights-of-way. Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.

(3) Acquisition by Town.

- a. The Town of Rochester may acquire conservation easements over real property in accordance with § 247 of the General Municipal Law and Article 49, Title 3, of the Environmental Conservation Law. This subsection establishes guidelines and criteria for the evaluation of such easements in order to clearly establish the public benefit associated with acceptance of such easements. The proposed easement shall have a definite public purpose which benefits the Town and the community as a whole. The terms of any conservation easement offered to the Town shall be perpetual. The Town has the option to subcontract with a qualified not-for-profit conservation organization for the technical and legal aspects of a conservation easement, including baseline documentation, legal easement documents, and ongoing monitoring and stewardship responsibilities.

b. Prior to acquisition of a conservation easement by the Town of Rochester, such easement shall be evaluated in accordance with the following criteria:

- i. The proposed conservation easement shall be found to conserve, preserve and protect an area which is significant because of its value as agricultural or forest land, unique scenic or natural beauty; its value as a watercourse, water body, freshwater wetland or aquifer recharge area; its unique geological or ecological character; its historical, archaeological, architectural or cultural amenities; its value as a public community recreational area; Greenway corridor, or its relationship to an adjacent recreational area; its value as a wildlife habitat or its relationship to an adjacent wildlife preserve or wildlife corridor; its intrinsic value as open space necessary to preserve scenic vistas or otherwise enhance community character and attractiveness; or because of its intrinsic value as open space in determining future land use development patterns within the Town. The Town Board may request advisory opinions from the Environmental Conservation Commission, the Town Planning Board, and other appropriate agencies prior to acquisition of such an easement.
- ii. Responsibility for enforcement of the terms of the conservation easement shall reside with the Town. The easement shall contain the necessary terms and restrictions to ensure that the original character of the area is maintained and to provide sufficient detail that the Town can effectively enforce all the terms and conditions of the easement. It shall be clearly stated that the owner of the property is responsible for the maintenance of the area.
- iii. The Town Board may request a fee for costs relating to acceptance and ongoing monitoring and stewardship of the conservation easement.
- iv. The Town is responsible for an annual review of each protected property to verify the continued integrity of the easement.
- v. The approved conservation easement shall be recorded with the Town Clerk, Town Tax Assessor, and the Ulster County Clerk.

O. Ownership of open space land and common facilities. Open space is protected in perpetuity by conservation easements, and the following methods may be used, either individually or in combination, for ownership of open space land and common facilities. Open space (including trails whether part of an on-site trail or part of a larger Townwide trail system) may be offered for dedication to the Town where it would provide needed recreational facilities, riverfront access or access to other water features. Open space land and common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section. Ownership methods shall conform to the following:

(1) Fee-simple dedication to the Town. 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 all residents of the Town.

(2) Homeowners' association. Open space land and common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in New York State Business Law. In addition, the following regulations shall be 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 shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
- c. Membership in the association shall be mandatory for each property owner within the subdivision and successive owners in title with voting of one vote per lot or unit, and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units.
- d. The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- e. The bylaws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his or her dues. Such dues shall be paid with the accrued interest before the lien may be lifted.
- f. 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 an event.
- g. The applicant shall demonstrate that the association will have adequate resources to administer, maintain, and operate such common facilities.
- h. The common open space land shall be protected by conservation easement from future subdivision and development.
- i. The Planning Board remains responsible for assuring that proper provision has been made for ownership and maintenance of the open space land.
- j. Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against all individual owners in the homeowners' association and the dwelling units they each own.
- k. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to assure that the open space land does not detract from the character of the neighborhood.
- l. The applicant shall make a conditional offer of dedication to the Town, binding upon the homeowners' association, for all open space conveyed to the homeowners' association. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the following:
 - i. Failure of the homeowners' association to take title to the open space from the applicant or other current owner.

- ii. Upon dissolution of the homeowners' association at any future time.
- iii. Upon failure of the homeowners' association to fulfill its maintenance obligations hereunder.
- iv. Upon failure of the homeowners' association to pay its real property taxes.

m. The Town Attorney shall find that the HOA documents presented satisfy the conditions in Subsection O(2)(a) through (l) above and such other reasonable conditions as the Planning Board shall deem necessary.

(3) Non-common private ownership. The required open space land may be included within one or more large "conservancy lots," provided the open space is permanently restricted from future development by a conservation easement as required by Subsection N(1) to (3). This option may be preferable for open space land that is intended for agricultural, horticultural, or silvicultural use.

- P. Maintenance of open space. The cost and responsibility of maintaining the open space and facilities shall be borne by the homeowners' association or by the private owner(s). In the case of open space and facilities deeded to the Town for public use, the municipality shall be responsible for maintenance, unless special arrangements are made.
- Q. Sewage treatment systems. The Town of Rochester may require shared or community sanitary sewage disposal systems for conservation subdivisions where single-family attached dwellings or small hamlet-sized lots are proposed. Shared or community sanitary sewage disposal systems are encouraged for all other conservation subdivisions except for large farms or conservancy lots. Such systems may be located in the required open space lands such as on conservation meadows, green space, and passive recreations areas, provided such areas are not paved or covered with other impervious surfaces. Regardless of the type of subsurface sewage disposal method employed, all required separation distances shall be observed, and the ownership and maintenance responsibilities associated therewith shall be clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide lot buyers with both the legal authority and the responsibility, individually or collectively, to maintain all sewer facilities on a continuing basis. This may include the creation of a special district under Articles 12 and 12-A of New York State Town Law.

Section 2. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 3. Effective Date

This local law shall become **effective concurrently with Chapter 140, Zoning upon the filing of both amended local laws in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law**