

Local Law 5 -Year 2024  
Adopted 8/5/2024  
Filed

A local law amending Chapter 138 of the Village Code, to provide for a new Article XVI, entitled “Conservation Zoning”, which article shall provide for authority for conservation subdivisions in accordance with Village Law §7-738 and providing a corresponding reference in Village Code Chapter 112.

**Section 1.** Chapter 138, entitled “Zoning”, shall be amended to include a new Article XVI, entitled “Conservation Zoning”, to read as follows:

**Article XVI. Conservation Zoning**

**“§138-1601. Legislative Intent.**

- A. In accordance with Village Law §7-738, for the purpose of enabling and encouraging flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to preserve the natural, ecological, environmental and scenic qualities of open lands, to preserve natural drainageways and existing natural topography, to preserve tree cover, to provide for sustainable development and protection of our natural resources, including Hempstead Harbor and the Long Island Sound, provide for watershed protection, reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential developments, to promote contiguous Open Space with adjacent jurisdictions and properties, to provide for residential development with flexibility of design to promote environmentally sensitive and efficient uses of land, and to permit conservation of dwellings and structures on less environmentally sensitive soils so as to reduce the amount of infrastructure, including paved surfaces, the Planning Board is hereby authorized, simultaneously with the approval of a plat containing not less than 10 acres, to modify the applicable provisions of §§ 138-604 through 138-612, 138-616, 138-619, 138-704 through 138-712, 138-716 and 138-719 hereof when, in the judgment of the Planning Board, such modification would benefit the Village.
- B. This authorization shall be deemed mandatory whenever the lot area exceeds 10 acres and shall apply to all land in the Village.

**§ 138-1602. Procedure/Applicability**

- A. Except as otherwise mandated in this Article, property owners with parcels exceeding the maximum lot area requirements in §138-604 or §138-704 may elect to pursue conservation development in accordance with this Article.
- B. For a conservation subdivision application, the owner shall make written application to the Planning Board for the use of this procedure. Except as otherwise provided herein, Chapters 112 and A145 shall apply to the application.

C. The application shall include, at a minimum:

1. A site plan depicting the proposed layout of the development, including the developable area, common Open Space, and location of all buildings and infrastructure.
2. An Open Space study identifying natural and scenic resources for preservation and recreational spaces.
3. An Open Space management plan for the development and long-term maintenance of the common Open Space, which plan shall outline responsibilities for the upkeep and maintenance of the common areas.
4. A site analysis map identifying:
  - a. Wetlands,
  - b. Steep Slopes,
  - c. Flood prone areas,
  - d. Coastal floodplains, as designated by FEMA, including all X, AE and VE zones,
  - e. Lakes, ponds or other watershed areas,
  - f. Lands contiguous to publicly owned or designated Open Space areas or privately owned and designated natural areas,
  - g. Areas with rare vegetation, significant habitats, or habitats of endangered, threatened or special concern species,
  - h. Areas with unique natural or geological formulations,
  - i. Natural and vegetative cover areas, including identification of such areas as cultivated lands, grass land, old field, meadow, hedgerow, woodland and wetland, and the actual canopy line of existing trees and woodlands, and
  - j. All easements, and any encumbrances of record with the Nassau County Clerk's office.
5. A density analysis demonstrating compliance with the maximum dwelling unit yield if not for the conservation, taking into account maximum lot area provisions, necessary infrastructure and site access, and other limitations established in Articles VI and VII herein.
6. Other documentation as required by the Building Department.

**§ 138-1603. Definitions.**

For the purposes of this Article, the following definitions shall apply:

**Conservation Development:** A development pattern that concentrates residential units on a designated portion of a parcel while preserving a designated portion of the parcel as common Open Space.

**Developable Area:** The portion of a parcel designated for the construction of residential units and associated infrastructure.

**Open Space:** The portion of a conservation development parcel that is undeveloped and permanently restricted from development and remains for the shared use and enjoyment of the Village and its residents.

**§ 138-1604. Dwelling Units Per Lot.**

The type of dwelling units permitted shall not exceed one dwelling on each lot.

**§ 138-1605. Developable Area**

- A. A designated portion of the parcel shall be established as the developable area. The remaining land shall be permanently preserved as common Open Space.
- B. The developable area shall be designed to accommodate the proposed dwelling units while complying with applicable development standards, including setbacks, building heights, and infrastructure requirements, subject to any determinations of the Planning Board as to lot sizes.
- C. Lot size. Lot size in a conservation subdivision shall be determined by the Planning Board as part of subdivision review. The Planning Board has the authority to waive all dimensional requirements, except for density requirements.

**§138-1606. Use of Open Space.**

Uses of Open Space exclude impervious surfaces and may include the following:

- A. Conservation of natural, ecological, archaeological or historical resources;
- B. Meadows, woodlands, wetlands, native plantings, wildlife corridors, game preserves, or similar conservation-oriented areas;
- C. Walking or bicycle trails, provided that they are constructed of pervious paving materials, including their base;
- D. Passive recreation areas;
- E. Active recreation areas, provided that they are not more than ten percent (10%) of the total Open Space. Any recreation area in excess of this limit must be located outside of the protected Open Space area;

- F. Agriculture, horticulture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- G. Other conservation-oriented uses compatible with the purposes of this Article.

**§138-1607. Dwelling Unit Density**

1. The total number of dwelling units permitted within a conservation development shall be established based on the entire parcel lot area less any areas necessary for infrastructure.
2. The maximum density for a conservation development shall be determined by the Planning Board during the subdivision process and may be established through a point system or other density calculation method. Any such point system or density calculation method shall be subject to review and approval by the Board of Trustees, by resolution from time to time.

**§ 138-1608. Development Standards**

Residential structures in a conservation subdivision shall be located according to the following development standards and guidelines, subject to the Planning Board's discretion to incorporate such specific standards and guidelines that may be applicable to a particular development:

- A. A minimum of fifty percent (50%) of the Setbacks from property lines and common Open Space in such a manner that the boundaries between the dwelling lots and existing residential properties are well buffered by vegetation, topography, and other visual barriers;
- B. Building heights and architectural design guidelines;
- C. Shared infrastructure, such as access roads, parking, and utilities;
- D. Provisions for stormwater management and landscaping;
- E. Avoidance of disturbance to the existing environmental, cultural and scenic features;
- F. Minimize the perimeter of the built area by encouraging compact development, and discouraging development along perimeter roads;
- G. Designed to enable residential development to be visually absorbed within the natural landscape;
- H. Dwelling lots shall be accessed from interior streets, rather than from roads bordering the site;
- I. Open space shall be directly accessible or viewable from as many dwelling lots as possible;
- J. The layout shall leave scenic views and vistas unblocked or unimpeded;
- K. Protect wildlife habitat areas of species listed as endangered, threatened or of special concern by the New York State Department of Environmental Conservation;
- L. Use of common driveways is acceptable;
- M. Curved access roads are preferred to avoid long straight segments;
- N. Landscape common areas with native plantings, including shade trees, on both sides of any new roadways;
- O. Buildings with landmark status may be retained onsite, and any such building that has historically been used for residential purposes shall not count for density calculations; and
- P. Proposed new access roads located in the Village must comply with applicable roadway

construction standards in Chapter A147.

**§ 138-1609. Maintenance of Open Space**

1. Ownership of Open Space. The applicant must identify the owner of the Open Space who will be responsible for maintaining the Open Space and facilities located thereon. Options for such ownership include: (a) a homeowners' association, (b) ownership by one owner, partners or a corporation, (c) Village of Sea Cliff, if the Village agrees to accept ownership. If a homeowners' association will be the owner, membership in the association shall be mandatory for all homeowners within the conservation development and shall automatically convey to their successors. The owner of the Open Space shall have full responsibility to maintain the Open Space and facilities located thereon.
2. The Open Space management plan shall detail the responsibilities for maintenance activities, funding mechanisms, and dispute resolution procedures.
3. Applicant will be required to file with the Nassau County Clerk's office an instrument of permanent protection of the Open Space area, which shall provide for the protection of the Open Space in perpetuity, which instrument shall be filed concurrently with the subdivision map. The instrument shall be one of the following:
  - a. A permanent conservation easement in favor of (i) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be a bona fide entity and in perpetual existence, and the conveyance instruments shall contain an appropriate provision for retransfer, to the Village of Sea Cliff, which shall have the ability to enforce the terms of the Conservation Easement if the organization becomes unable to carry out its functions, or (ii) the Village of Sea Cliff, or
  - b. A permanent restrictive covenant for conservation purposes in favor of the Village of Sea Cliff, or
  - c. Any other equivalent legal instrument that provides permanent protection, if approved by the Village of Sea Cliff.
4. Any such instrument shall include clear restrictions on the use of the Open Space, including all restrictions contained in this Article, as well as any other restrictions imposed by the Planning Board or chosen by the applicant where such choices are not in conflict with this Article."

**Section 2.** Chapter 112 is hereby amended to provide for conservation subdivisions, to read as follows:

**“§112-13. Conservation Subdivisions.** The Planning Board is authorized to grant subdivision approval in accordance with Village Law §7-738 and Village Code Chapter 138, Article XVI.”

**Section 3.** Any local law or provision of the Code of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

**Section 4.** If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section 5.** This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.