

**TOWN OF BROOKFIELD
ZONING REGULATIONS**

Conservation Subdivisions - § 242-310A&B

§ 242-310. Conservation subdivisions.

A. Purposes:

- (1) It is the objective of this section to encourage the conservation of existing undeveloped land in the Town within the current zoning density framework through the utilization of more flexible standards and requirements which permit a more creative, attractive and efficient use of land in such a way as to achieve the following purposes:
 - (a) The maximum preservation of natural open space within new residential developments so as to establish a more desirable living environment and help to assure the maintenance and/or enhancement of the appearance, character and natural beauty of an area.
 - (b) The protection of the local ecology and the underground water table, the minimization of flood hazards in downstream areas and the prevention of soil erosion, by preserving water bodies, wetlands, watercourses, a major stands of trees, steep slopes, ridge lines, significant geological features and other areas of environmental value.
- (2) And one (1) or more of the following additional purposes:
 - (a) To preserve the character and property values of existing residential development.
 - (b) To preserve land for scenic, park, recreational and educational purposes.
 - (c) To encourage the development of community water supply systems within new residential developments so as to promote greater safety and efficiency.

A. Eligibility:

The provisions of this subsection are applicable only to properties located within the Residence R-40, R-60, R-80, R-100 Districts and only if a subdivision plan for such a development is approved by the Planning Commission upon a determination that the purposes as set forth in Subsection A will be achieved.*[amended 6/6/77]*

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B. Permitted uses:

The permitted uses within a conservation subdivision shall be the same as those otherwise permitted in the zoning district in which it is located and shall be subject to the same procedures and restrictions as would otherwise be applicable thereto.

C. Development standards and controls:

Except as specified in this section, all development standards and controls applicable to other residential subdivisions shall be applicable to conservation subdivisions. The following standards are to be considered minimums which may be increased in specific instances where determined necessary or appropriate by the Planning Commission:

(1) **Density:**

The maximum permitted number of one-family building lots within a conservation subdivision shall be determined by dividing the land area of the subject property by the normal minimum required lot area for one-family dwellings for the district or districts in which the property is located, except that the Planning Commission may reduce the permitted number of lots so calculated if, in the Commission's opinion, such reduction is warranted, based upon the presence of substantial areas of poor soils and/or other severe topographic limitations of the subject property which would tend to inhibit development at such a density.

(2) **Minimum required lot area:**

The minimum required lot area for one-family dwellings in a conservation subdivision shall be twenty thousand (20,000) square feet, except that larger minimums may be required in specific instances where determined necessary or appropriate by the Planning Commission or by the Health Director of the Town of Brookfield.

(3) **Minimum required lot width:**

The minimum required lot width for a one-family building lot in a conservation subdivision shall be one hundred feet (100').

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(4) **Minimum required yards:**

The minimum required yards for a one-family building lot in a conservation subdivision shall be as follows, except that where such building lots adjoin private property not included within the conservation subdivision, the minimum yard requirements normally applicable to buildings within the zoning district in which the property is located shall apply to setbacks from such adjoining property lines:

- (a) **Front yard:**
fifty-five feet (55') from the center of the traveled portion of the road.
- (b) **Side yards:**
fifteen feet (15') minimum, the aggregate of both side yards shall not be less than forty-five feet (45').
- (c) **Rear yard:**
twenty-five feet (25').

E. Conserved land areas:

(1) All land within a conservation subdivision which is not included with a one-family building lot or designated to serve as roads or for other public purposes shall be designated "conserved land area(s)" on the final subdivision plan. The conserved land areas shall be in such location and or such size and shape and shall have such access as may be approved by the Planning Commission as being appropriate to satisfy the purposes set forth in this section.

(2) **Ownership of conserved land areas:**

- (a) The ownership of conserved land areas shall be divided equally among all owners of one-family buildings lots within the conservation subdivision, except where all or an appropriate portion of the conserved land areas are:
 - [1] Deeded to a recognized conservation organization dedicated to the preservation of open space and such dedication is acceptable to the conservation organization and to the Town Planning Commission; or
 - [2] Offered for dedication to the Town of Brookfield and the Town Meeting has voted to accept such offer.

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- (b) Except in those cases where the ownership of the conserved land areas is to be vested in the Town of Brookfield or an approved conservation organization, the subdividers shall execute and file with the Planning Commission such documents as, in the opinion of the Town Attorney, will be sufficient to create a property owner's association responsible for the continued ownership, use and maintenance of all conserved land areas in accordance with the following requirements:
- [1] Membership in the association must be mandatory for each property owner within the subdivision and for any successive lot owners.
 - [2] All restrictions on the ownership, use and maintenance of conserved land areas must be permanent.
 - [3] The association must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas, including any active recreation areas and related facilities.
 - [4] Each lot owner within the subdivision shall be made responsible for paying his proportionate share of the association costs, and the assessment levied by the association shall become a lien on the property if not paid.
 - [5] The association shall have the power to adjust assessments to meet changing needs.
 - [6] In the event that the maintenance, preservation and/or use of the conserved land area(s) ceases to be in compliance with any of the above requirements or any other requirements specified by the Planning Commission when approving the subdivision plan, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the association and/or each individual property owner within the subdivision all costs incurred by the Town for such purposes.
 - [7] The establishment of such an association shall be required prior to the sale of any lots within the subdivision.

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(3) **Permitted uses in conserved land areas:**

Except where otherwise approved by the Planning Commission, conserved land areas shall be preserved in their natural state, and the use of such areas shall be limited to appropriate conservation, open space and recreation purposes as determined by the Planning Commission. Suitable legal agreements, including conservation easements, in form and content approved by the Town Attorney, may be required by the Planning Commission to assure such continued preservation and use of conserved land areas. A portion of the conserved land area(s) may be designated "active recreation area" on the subdivision plan, in a location approved by the Planning Commission, provided that such designated area remains in the ownership of a homeowner's association. Within such area structures and facilities for active recreational purposes, including playground equipment, swimming pools, tennis courts and so forth, may be constructed and operated for the use of the property owners in the conservation subdivision and their guests. Such active recreation area shall not exceed ten percent (10%) of the total area of the proposed subdivision.

F. Application procedure:

Subject to compliance with any special standards, requirements and procedures as set forth in this section, the Planning Commission may approve conservation subdivisions in accordance with the approved procedures applicable to conventional subdivision containing three (3) or more lots.