

TOWN OF CLERMONT, NY
CONSERVATION
SUBDIVISION
REGULATIONS

Chapter 131 of the Town of Clermont Code

Adopted: May 5, 2025

ARTICLE I – PURPOSE & AUTHORITY

- A. **Purpose.** In conformance with the goals of the Town of Clermont Comprehensive Plan, the purposes of conservation subdivisions are as follows:
- (1) To conserve and set aside from development areas of important open and agricultural land, including those areas containing unique and sensitive natural features such as steep slopes, streams, floodplains, critical wildlife habitats, wetlands, and prime agricultural soils;
 - (2) To protect agricultural operations by conserving blocks of land large enough for continued agricultural functions;
 - (3) To conserve elements of the Town's rural character, and to minimize views of new development from existing roads;
 - (4) To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce the length of roads and the amount of paving required;
 - (5) To provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups.
- B. A conservation subdivision accomplishes the purposes above by reducing the minimum lot size and bulk requirements of the Town of Clermont Zoning Code for the subject property, allowing for a more flexible layout of residences which avoids disturbance and reduces impact on identified natural and community resources which the Town wishes to preserve.
- C. **Authority**
- (1) Pursuant to the powers granted under §278 of New York State Town Law and the Municipal Home Rule Law, the Town Board authorizes the Planning Board to vary the requirements set forth in the Town of Clermont Zoning Code with the approval of any proposed residential subdivision in order to create a conservation subdivision subject to the standards and procedures set forth in this chapter.
 - (2) This chapter shall be effective immediately upon filing with the Secretary of State.

ARTICLE II – DEFINITIONS

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

BUFFER AREA or BUFFER ZONE - Open space, landscape areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another use or property so as to visually shield or block noise, light, or other nuisances.

BUILDING ENVELOPE - The area within which a structure is permitted to be built on a lot and that is defined by minimum yard setbacks and includes all disturbances for building, driveways, well and septic systems.

BULK REQUIREMENTS - Those particular minimum zoning requirements in each respective zoning district relating to, among other things, setback requirements, building density and uses for each parcel located therein.

CONSERVATION SUBDIVISION - A residential subdivision where the dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible manner; where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed; and where a majority of the remaining land is left in its natural open space condition in perpetuity. Conservation development results in a flexibility of design and development to promote the most appropriate use of land, to facilitate the adequate and economical provisions of streets and utilities, and to preserve the natural and scenic qualities of open lands.

CRITICAL ENVIRONMENTAL AREA - A specific geographic area, designated by a state or local agency, having exceptional or unique environmental characteristics.

EASEMENT - Authorization by a property owner for the use of any designated part of his property by another and for a specified purpose.

OPEN SPACE - Land left in a natural state for conservation and agricultural purposes or land landscaped for scenic purposes, devoted to active or passive recreation, or devoted to the preservation of distinctive architectural, historic, geologic or botanic sites. The term shall not include land that is paved, used for the storage, parking or circulation of automobiles, or occupied by any structure. Open space may be included as a portion of one or more large lots or may be contained in a separate open space lot but shall not include private yards within 50 feet of a principal structure.

PRIMARY CONSERVATION AREA - Lands to be conserved in a clustered or conservation subdivision, including unbuildable areas of wetlands, water bodies, floodplains, and steep slopes.

SECONDARY CONSERVATION AREA - Lands included in a clustered or conservation subdivision, including mature woodlands, upland buffers around wetlands and water bodies, prime farmland, natural meadows, critical wildlife habitat, and sites of historic, cultural or archaeological significance.

SINGLE-LOADED STREET - A roadway or street with houses constructed on one side only.

ARTICLE III – APPLICABILITY

A. Applicability

- (1) In lieu of a conventional subdivision as specified in Chapter 130 Subdivision Regulations of the Town of Clermont Code, the conservation subdivision requirements of this chapter shall be utilized in cases where any subdivision applicant voluntarily chooses to utilize these provisions.
- (2) If, based upon the information required to be presented in the Existing Resources & Site Analysis Plan required by Article IV below, the Planning Board finds that a site cannot reasonably be designed as a conservation subdivision because of unusual site constraints, the applicant may apply to the Planning Board to design the site as a conventional subdivision pursuant to the Subdivision Regulations in Chapter 130 of the Town of Clermont Code, setting forth the reasons for the application and the good faith efforts of the applicant to evaluate the site for conservation subdivision. The Planning Board may request a meeting with the applicant and/or additional information from the applicant in considering the application and shall make a determination upon such request following a public hearing held in conformity with the procedures set forth in the Subdivision Regulations.

ARTICLE IV – CONSERVATION SUBDIVISION DESIGN

- A. **Uses.** 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.
- B. **Density.** The permitted number of dwelling units shall not exceed the number of units that would be permitted if the land were subdivided into conventional lots conforming to the standard minimum lot size and density requirements of the Town of Clermont Zoning Code applicable to the district or districts in which such land is situated and conforming to all other requirements of the zoning.
 - (1) The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:

- (a) Land contained within public rights-of-way; and
- (b) Land contained within the rights-of-way of any existing or proposed streets; and
- (c) All areas occupied by public utility easements; and
- (d) All areas which are contained in or preserved in a conservation easement.

C. 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 subdivision or land development. The purpose of a sketch plan is to facilitate an expedient review of proposed new subdivisions in conformance with the Town Zoning Law and Comprehensive Plan, provide a full understanding of the site's potential, and to facilitate an effective exchange with the Planning Board. The sketch plan shall include the following:
 - (a) an Existing Resources & Site Analysis Plan, as described below;
 - (b) the completion of Step 1 of the design process described in subsection E(1) below.
- (2) The Existing Resources & Site Analysis Plan shall be prepared to provide the applicant and the Planning Board with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond the parcel boundaries may be generally described on the basis of existing published data available from governmental agencies or from aerial photographs. The Existing Resources & Site Analysis Plan shall include the following information:
 - (a) Slopes; slopes of 25% or greater.
 - (b) Water resources: wetlands; aquifer and aquifer recharge areas, if known; flood-prone areas as defined by the NYSDEC or as shown on Federal Emergency Management Agency maps; streams; and other water bodies.
 - (c) Agricultural lands: active farmland within a New York State certified agricultural district, lands within 500 feet of a New York State certified agricultural district, or soils classified in groups 1 to 4 of the New York State Soil Classification System.
 - (d) Critical environmental areas: lands within or contiguous to a critical environmental area designated pursuant to Article 8 of the Environmental Conservation Law, if any.
 - (e) Designated open space areas: lands contiguous to publicly owned or designated open space areas or privately owned, designated natural areas.
 - (f) Historic structures and sites: historic structures or areas having received national, state or local designation as such or for which evidence exists that the Planning Board may document has significant historic value, if any, on the subject matter tract of land or any adjoining tract thereto.
 - (g) Scenic viewsheds and special features: sites bordering or in known scenic locations identified in the Town's Comprehensive Plan.
 - (h) 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 natural or geological formations.
 - (i) Trails: existing and potential walking, hiking or equestrian trails, bikeways, and pedestrian routes of Town, county or state significance.

- (j) Recreation: lakes, ponds or other significant recreational areas or opportunities or sites.
- (k) Topography, the contour lines of which shall be at two-foot intervals.
- (l) General locations of vegetative cover conditions on the property according to general cover type, including cultivated land, grassland, old field, hedgerow, woodland and wetland, isolated trees with a caliper in excess of 12 inches, the actual canopy line of existing trees and woodlands.
- (m) Any ridgelines on the property shall be identified.
- (n) The location and dimensions of all existing streets, roads, buildings, utilities and other man-made improvements.
- (o) All easements and other encumbrances of property which are or have been filed of record with the Columbia County Clerk's office shall be shown on the plan.

D. Preliminary Plan Documents. A preliminary conservation subdivision plan shall consist of and be prepared in accordance with the following requirements, which are designed to supplement and, where appropriate, replace the requirements of the Town of Clermont Subdivision Regulations:

- (1) Preliminary plan. The submission requirements for a preliminary plan include the requirements for sketch plans listed above and the submission requirements of the Subdivision Regulations and the existing resources and site analysis plan. The Planning Board shall review the preliminary plan to assess its accuracy and thoroughness. Unless otherwise specified by the Planning Board, such plans shall generally 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 (24 inches by 36 inches).

E. Design Process. 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.

- (1) Step 1: delineation of open space lands. Proposed open space lands shall be designated using the existing resources and site analysis plan as a base map. Primary conservation areas shall be delineated comprising streams and other water bodies, floodplains, wetlands and slopes over 25%. In delineating secondary conservation areas, 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, 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 subdivision 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. The result is potential development areas.
- (2) 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. House sites should generally be located not closer than 100 feet from primary conservation areas and 50 feet from secondary conservation areas, taking into consideration the potential negative impacts of residential development on such areas as well as the positive benefits of such locations to provide attractive views and visual settings for residences.
- (3) Step 3: alignment of streets and trails. Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house, 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 25%. Existing and future street connections are encouraged to eliminate the number of new culs-de-

sac to be maintained by the Town and to facilitate access to and from homes in different parts of the tract and adjoining parcels. Culs-de-sac are appropriate when they support greater open space conservation or provide extensive pedestrian linkages.

- (4) Step 4: drawing in lot lines. Upon completion of the preceding three steps, lot lines are drawn as required to delineate the boundaries of individual residential lots.
- (5) Steps 2 through 4 should, if possible, be completed in parallel.

ARTICLE V – DESIGN STANDARDS

A. **Dimensional standards.** Within the framework of limitations set forth in this section of the chapter, the Planning Board shall establish, on a case by case basis, the appropriate modifications of lots and bulk and other requirements which it has determined are necessary or appropriate to properly accomplish the purposes of this chapter. Lots shall be arranged in a way that preserves open space as conservation as described in this section.

- (1) Minimum required open space. A conservation subdivision must preserve at least 50% of the tract's total acreage as open space land. Parking areas and roads shall not be included in the calculation of the minimum required open space. At least 50% of the minimum required open space shall be usable for active recreational or agricultural activities and not include wetlands or slopes exceeding 25%.
- (2) Minimum street frontage: 20 feet.
- (3) Yard regulations. The builder or applicant is urged to consider variations in the principal building position and orientation but shall have a minimum separation of 30 feet for principal buildings, with no side yard less than 10 feet.
- (4) Maximum impervious coverage. No more than 35% of any given acre shall be covered with impervious surface in the form of access drives, parking areas or structures, except that the Planning Board, in its discretion, may waive this requirement in appropriate situations to permit denser clustering of buildings to facilitate a greater allocation of open space.
- (5) Minimum lot size. The minimum lot size for developments in fee simple ownership shall be equal to that required by the Columbia County Department of Health to meet standards for water and septic system approvals.
- (6) Building envelopes shall be required for all lots.

B. Open Space Standards

- (1) The required open space land consists of a combination of primary conservation areas and secondary conservation areas. The proposed subdivision design shall strictly minimize disturbance of these environmentally sensitive areas. Primary conservation areas shall be included in the required open space area to the greatest extent practical. The applicant shall also demonstrate that such features will be protected by the proposed subdivision plan. 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, hedgerows, meadows, historic structures and sites, historic rural corridors, scenic viewsheds, 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. A deep no-build, no-plant buffer is recommended along the road where those views or vistas are prominent or locally significant.
- (2) Open space lands shall be laid out to enable, wherever possible, an interconnected network of open space.
- (3) Active agricultural land with farm buildings may be used to meet the minimum required open space land. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent

interference with agricultural operations. Land used for agricultural purposes shall be buffered from residential uses, either bordering or within the tract, by a setback at least 200 feet deep, if practicable. No clearing of trees or understory growth shall be permitted in this setback (except as may be necessary for street or trail construction). 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 alien plant and tree species.

- (4) Open space land should generally remain undivided. No individual parcel of common open space shall be less than one acre except as to 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.
- (5) No portion of any house lot may be used for meeting the minimum required open space land unless encumbered with a restriction.
- (6) The required open space may be used, without restriction, for underground drainage fields or for individual or community septic systems.
- (7) Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground utilities. However, land within the rights-of-way of high-tension power lines shall not be included as comprising part of the minimum required open space.

C. House Lots

- (1) House lots shall not encroach upon primary conservation areas, and their layout shall respect secondary conservation areas.
- (2) 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 as required by the Planning Board.
- (3) House lots shall generally be accessed from interior streets, rather than from roads bordering the tract. New intersections with existing public roads shall be minimized. Although two accessways into and out of subdivisions containing 20 or more dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow or unduly impact the environment.
- (4) At least 3/4 of the lots shall directly abut or face conserved open space, if practical.

D. Streets, Driveways and Sidewalks

- (1) Common driveway access may be provided. A pedestrian circulation and/or trail system may be designated and installed sufficient for the needs of residents and may be required by the Planning Board in appropriate circumstances.
- (2) In general, conservation subdivision streets shall meet the Town road specifications. However, where appropriate, the Planning Board shall work with the Highway Department to ensure that the Town of Clermont road specifications, normally applicable to conventional subdivisions, do not impact or detract from the rural and environmental character of a conservation subdivision. Any private roads may not be deeded to the Town unless the roads are constructed or improved in full accordance with the Town road specifications at the sole cost of the subdivider or the homeowners' association (HOA). The HOA shall also be responsible for maintenance of private roads not accepted by the Town. In the event that ownership is privately held without an HOA, then a road maintenance agreement shall be required between the individual owners and shall be recorded in the Columbia County Clerk's office.
- (3) From an aesthetic and speed control perspective, curving roads are preferred in an informal rural cluster to avoid

long straight segments. Shorter straight segments connected by bends of 90° and 135° are preferred in a more formal or traditional arrangement.

- (4) Whenever appropriate, street systems should produce terminal vistas of open space in accordance with the conservation emphasis of the subdivision design and to positively contribute to the Town's open space goals.
- (5) The use of reverse curves should be considered for local access streets in conservation subdivisions in conjunction with long horizontal curve radii (at least 250 feet) and where traffic speeds will not exceed 30 mph.
- (6) Single-loaded streets are encouraged alongside conservation areas to provide views of the conservation lands for residents and visitors.
- (7) Landscaping of common areas and both sides of new streets should be with native species of shade trees.

ARTICLE VI – STANDARDS FOR PROTECTION AND MAINTENANCE OF OPEN SPACE

A. Permanent Protection of Open Space

- (1) All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through one of the following:
 - (a) A conservation easement, in a form acceptable to the Town and recorded at the County Clerk's office.
 - (b) A deed restriction, in a form acceptable to the Town and recorded in the County Clerk's office where a conservation easement has been shown not to be practicable.
- (2) The conservation easement or deed restriction shall restrict development of the open space and allow the use of such space only for agriculture, forestry, recreation or similar purposes. The Planning Board, with the advice of Town Attorney, shall approve the form and content of any easement, declaration, or restriction. The restriction shall be made a condition of the final plat approval. A conservation easement will be acceptable if:
 - (a) The conservation organization is acceptable to the Town and is a bona fide conservation organization as defined in Article 49 of the New York State Environmental Conservation Law.
 - (b) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the conservation organization or the Town of Clermont becomes unwilling or unable to continue carrying out its functions.
 - (c) A maintenance agreement acceptable to the Town is established between the owner and the conservation organization or the Town of Clermont to insure perpetual maintenance of the open space.
 - (d) The conservation easement or other legally binding instrument shall permanently restrict the open space from future subdivision, shall define the range of permitted activities, and, if held by a conservation organization, shall give the Town the ability to enforce these restrictions.
- (3) Open space land may be held in any form of ownership that protects its conservation values, such as where the open space is owned in common by an HOA. Open space may also be dedicated to the Town, county or state government, transferred to a nonprofit organization, or held in private ownership. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation or agricultural value of such open space land.
 - (a) If the open space is to be owned by an HOA, the HOA must be incorporated before the final subdivision plat is signed. The applicant shall provide the Town with a description of the organization of the proposed association, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for common facilities.

- (b) The open space restrictions must be in perpetuity.
- (c) If land is held in common ownership by a homeowners' association, such ownership shall be arranged in a manner that real property tax claims may be satisfied against the open space lands by proceeding against individual owners and the residences they own. The HOA must be responsible for liability insurance, local taxes and the maintenance of the conserved land areas. The HOA shall have the power to adjust assessments to meet changing needs.
- (d) The Planning Board shall find that the HOA documents satisfy the conditions above.
- (e) Membership in the HOA must be mandatory for each property owner within the subdivision and for any successive property 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.
- (f) 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.
- (g) The association shall be responsible for liability insurance, local taxes and maintenance of open space land, recreational facilities and other commonly held facilities.
- (h) Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance for common facilities must be given to all members of the association and to the Town no less than 30 days prior to such event.
- (i) The association shall have adequate resources to administer, maintain, and operate such common facilities.

B. Maintenance of Open Space

- (1) The owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues or special assessments.
- (2) Failure to adequately maintain the undivided open space in reasonable condition as approved by the Planning Board is a violation of the Subdivision Law. Upon appropriate authority or process, the Town may enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property.
- (3) Standards regarding sewage treatment systems. Sanitary sewage disposal systems of either an individual or community nature may be located within or extend into required open space areas, provided that subsurface sewage disposal methods are employed, all required separation distances are observed and the ownership and maintenance responsibilities associated therewith are clearly defined in agreements submitted for approval as part of the subdivision application. No application shall be approved that does not provide 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.

ARTICLE VII – EVALUATION CRITERIA

- A. The Planning Board shall evaluate conservation subdivision proposals to determine whether they meet the standards set forth above and whether the proposed layout:
 - (1) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling or construction.
 - (2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates

sufficient buffer areas to minimize conflicts between residential and agricultural uses.

- (3) Sites dwellings on the least prime agricultural soils or in locations at the edge of a field, as seen from existing roads if development is on open fields.
- (4) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares.
- (5) Maintains or creates a buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs and ponds.
- (6) Designs around existing hedgerows and tree lines between fields or meadows, and minimizes impacts on large woodlands greater than five acres.
- (7) Designs around and preserves sites of historic, archeological or cultural value insofar as needed to safeguard the character of the feature.
- (8) Provides open space that is reasonably contiguous.
- (9) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the New York State Department of Environmental Conservation.

ARTICLE VIII – COST OF REVIEW

- A. All reasonable engineering and legal costs for Town review of the environmental impacts, regardless of whether a full EIS is required, road designs, conservation easements and homeowners' association or other plans or documents shall be paid by the subdivider.

ARTICLE IX – SEVERABILITY

- A. In the event any section or provision of the laws contained herein or as amended hereafter shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the laws as a whole or any part thereof other than the part so declared to be invalid.