

**ARTICLE VI**  
**CONSERVATION SUBDIVISIONS**

**SECTIONS**

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**6-101 PURPOSES AND APPLICABILITY**

**6-101.1 Purpose**

These standards are intended to conserve significant Conservation Lands (see definition), both upland and lowland, consistent with the preservation goals and policies contained in the Town's Development Plan, and in a manner that respects the equity of landowners and the ability of developers to subdivide land at the density normally permitted in the underlying zoning district. It accomplishes this objective through the application of conservation design principles in new subdivisions.

In conformance with the Town Development Plan and with state enabling legislation, the purposes of this section also include:

1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, site grading, and the amount of paving required for residential development;
3. To reduce erosion and sedimentation by retention of existing vegetation, and minimization of development on steep slopes;
4. To promote the infiltration of stormwater on-site, thereby helping to recharge groundwater supplies.
5. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained;

6. To implement adopted Town policies to conserve a variety of irreplaceable and environmentally sensitive resource lands, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents;
7. To minimize impacts on environmental resources (sensitive lands such as wetlands, floodplain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls); as well as to provide opportunities to enhance or restore existing resources that have been diminished or degraded through past land management practices;
8. To protect areas of the Town and planning region with productive agricultural soils for continued or future agricultural use;
9. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity;
10. To provide for the conservation and maintenance of open land within the Town to achieve the above-mentioned goals and for active or passive recreational use by residents;
11. To conserve scenic views and elements of the Town's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

**6-101.2 Application**

Conservation Subdivisions are subject to the requirements of Section 6-300, entitled, "Conservation Design Overlay District" (CDOD) of the Zoning Ordinance.

**6-102 APPROVAL PROCEDURES**

**6-102.1 General**

Approval of Conservation Subdivisions shall follow the approval procedures set out in Article II, of these regulations.

**6-102.2 Additional Requirements and Review for the Conceptual Plan**

In addition to standard subdivision review, review of the Conceptual Plan for a Conservation Subdivision shall include:

1. Location of the boundaries of the areas to be included as Conservation Lands as described in Subsections 6-107.1, Primary Conservation Areas, and 6-107.2, Secondary Conservation Areas.
2. Location of all areas proposed for grading and other land disturbance with respect to notable features of natural, historical, or cultural significance identified by the applicant as part of the "Existing Resources and Site Analysis" required by Subsection 5-102.202.

3. Proposal for minimization of development impacts on resources to be conserved.
4. Evaluation of the proposed areas to provide additions to the existing open space network and greenway systems and to provide parks, green spaces and other open spaces.

### **6-102.3 Additional Requirements and Review for the Development Plan**

In addition to standard subdivision review, review of the Development Plan for a Conservation Subdivision shall include:

1. A description of the measures to be taken to minimize and control adverse impacts on the Conservation Lands during and following the period of site disturbance and construction.
2. Evaluation of the Preliminary Conservation Ownership and Management Plan outlining the entities proposed to be responsible for maintaining various elements of the property and describing proposed management objectives and techniques.

### **6-102.4 Additional Requirements and Review for the Final Subdivision Plan**

In addition to the Final Plan requirements listed in Article V, a Final Conservation Ownership and Management Plan, detailing the precise boundaries and exact acreage of all proposed Conservation Lands and the entities to be responsible for maintaining various elements of the property and describing proposed management objectives and techniques shall be required. Conservation Lands shall be shown as open space on the final plat. The location of all operating parts of any individual sewage disposal systems situated on lands held in common and any easements shall be shown on the final subdivision plat.

## **6-103 LOT REQUIREMENTS**

### **6-103.1 Lot Yield**

To determine the maximum density of the Conservation Subdivision see Subsection 6-305, Density Determination, of Section 6-300, of the Zoning Ordinance.

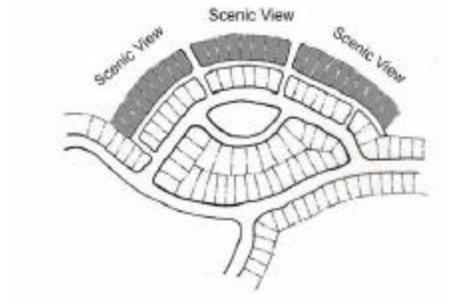
### **6-103.2 Lot Dimensions**

The lot dimensions shall be as described in Subsection 6-304, Dimensional Standards, of Section 6-300, of the Zoning Ordinance.

### **6-103.3 Lot Frontage**

Each lot shall have frontage on a street or onto Conservation Lands. The street frontage on the Conservation Lands shall be of sufficient width to allow direct pedestrian access from each lot to the street. Lots fronting onto Conservation Lands shall have convenient vehicular access to a street or to a permanent easement via an alley or shared driveway.

**FIGURE 6-1**  
**LOT FRONTAGE ON CONSERVATION LANDS**



#### **6-103.4 Lot Frontage on Open Space**

The Planning Commission may consider a Conservation Subdivision with lots fronting onto Conservation Lands with vehicular access from an alley, as illustrated in Figure 6-1. All alleys in Conservation Subdivisions are subject to the requirements of Subsection 6-106.3, Requirements for Alleys.

#### **6-103.5 Multiple Lots on a Common Access Easement**

Multiple lots may share a common access easement when doing so is the only way to develop permitted densities without disturbing Conservation Lands as described in Subsections 6-107.1 and 6-107.2. Each of the following restrictions shall apply:

1. Up to ten (10) lots may share a common access easement.
2. The lots shall be designed to ensure the health, safety, and welfare of future residents of the development in terms of access by service and emergency vehicles, pedestrian safety, and compliance with other applicable sections of the zoning ordinance.
3. For common access easements longer than one-hundred fifty (150) feet that terminate in a dead-end, a vehicle turnaround shall be provided.

#### **6-103.6 Front Setbacks for Residential Buildings**

The minimum front setback for residences with front-facing garages shall be the greater of forty (40) feet or that required by the applicable zoning provision. Except as provided for residences with front-facing garages, the **maximum** front setback shall be twenty (20) feet.

### **6-104 DESIGN PROCESS FOR CONSERVATION SUBDIVISIONS**

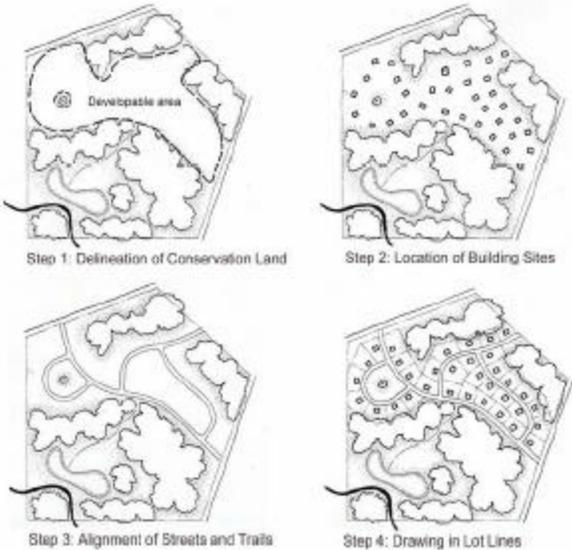
All Conceptual Plans for Conservation Subdivisions shall include documentation of a four-step design process in determining the layout of proposed Conservation Lands, house sites, streets and lot lines as described below and illustrated in Figure 6-2.

#### **Step 1: Delineation of Conservation Lands**

- 1) The percentage and acreage of required Conservation Lands shall be calculated by the applicant and submitted as part of the Conceptual Plan. Street rights-of-way shall not be counted towards the required minimum Conservation Lands.
- 2) Lands to be included as Conservation Lands shall be determined in the following manner:
  - a) All Primary Conservation Areas
  - b) If the Primary Conservation Areas do not make up at least fifty (50) percent of the tract, Secondary Conservation Areas shall be delineated to meet at least the minimum area percentage requirements. Secondary Conservation Areas shall be chosen for inclusion based on the priorities determined in Subsection 6-107.2, the configuration of the tract, the tract's context to adjacent resource areas, and the applicant's subdivision objectives.

**FIGURE 6-2**

**FOUR STEP DESIGN PROCESS FOR CONSERVATION SUBDIVISIONS**



- c) Conservation Lands situated outside of individual development lots shall be delineated in a manner clearly indicating their boundaries as well as types of resources included within them.

**Step 2: Location of Building Areas**

Potential building areas shall be tentatively located using the map delineating Conservation Lands, supplemented by existing conditions data required for Conceptual Plan approval. Buildings should generally be located no closer than one-hundred (100) feet from Primary Conservation Areas and fifty (50) feet from 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. Locating building areas on ridges, hilltops, along peripheral public streets or in other visually prominent areas should be minimized.

**Step 3: Alignment of Streets and Trails**

After designating the building areas, a street plan shall be designed to provide vehicular access to each building area, complying with the standards in these Subdivision Regulations and bearing a logical relationship to the topography of the property. Impacts of the street plan on proposed Conservation Lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands, streams, and slopes exceeding fifteen (15) percent. Street connections shall minimize the number of cul-de-sacs and facilitate access to and from building areas in different parts of the property and adjoining properties.

**Step 4: Drawing in the Lot Lines**

Upon completion of the preceding three steps, lot lines shall be drawn as required to delineate the boundaries of individual residential lots.

**6-105 PLANNING AND DESIGN STANDARDS FOR CONSERVATION SUBDIVISIONS**

In addition to the requirements contained in the Articles I through V, for all subdivisions, the following standards shall apply to Conservation Subdivisions.

**6-105.1 General Standards to Minimize Adverse Impacts**

All subdivisions and land developments shall avoid or minimize adverse impacts on the Town's natural, cultural, and historic resources, as defined below.

**6-105.2 Groundwater Resources**

To ensure that the Town's limited groundwater resources are protected for purposes of providing water supplies to its residents and businesses and to protect the base flow of surface waters, these standards shall be applied in conjunction with those provided for in other sections of this regulation, dealing with groundwater conservation and replenishment.

The proposed subdivision and development of any tract shall be designed to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table through careful planning of land disturbance activities and the placement

of streets, buildings, and other impervious surfaces in locations other than those identified on the Existing Resources and Site Analysis Map as having the greatest permeability where precipitation is most likely to infiltrate and recharge the groundwater.

### **6-105.3 Stream Valleys, Swales, Springs, and Other Lowland Areas**

The Town's Open Space Plan describes and maps stream valleys (which include stream channels and flood plains), swales, springs, and other lowland areas as resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems.

The following activities shall be minimized:

1. Disturbance to streams and drainage swales.
2. Disturbance to year-round wetlands, areas with seasonally high water tables, and areas of surface water concentration.
3. Because of their extreme limitations, stream valleys, swales, and other lowland areas warrant designation as Conservation Lands. They may also require adjoining buffer lands to be included in the open space as determined by an analysis of the protection requirements of such areas on a case-by-case basis. In certain instances, seasonal high water table soils may be excluded from the open space where it can be demonstrated that they are suitable for low-density residential uses and conventional on-site sewage systems.

### **6-105.4 Woodlands**

Woodlands occur extensively throughout the Town, often in association with stream valleys and wet areas, poor and erodible agricultural soils, and moderate to steep slopes.

1. Woodland conditions within the Town vary with respect to species composition, age, stocking, and health. They range from relatively recent post-agricultural young stands to mature mixed-age forests. Most woodlands in the Town represent one or more of the following resource values.
  - (a) As soil stabilizers, particularly on moderate to steep slopes, thereby controlling erosion into nearby streams, ponds, impoundments, and roads. A closely related function is their enhancement of groundwater recharge.
  - (b) As a means of ameliorating harsh microclimatic conditions, in both summer and winter.
  - (c) As a source of wood products (i.e., poles, sawtimber, veneer, and firewood.)
  - (d) As habitats for woodland birds, mammals, and other wildlife.
  - (e) As recreation resources for walkers, equestrians, picnickers, and other related outdoor activities.

- (f) As visual buffers between areas of development and adjacent roads and properties.
2. Because of their resource values, all woodlands on any tract proposed for subdivision or land development shall be evaluated by the applicant to determine the extent to which such woodlands should be designated partly or entirely as either Conservation Lands or as development lands. Evaluation criteria shall include:
- Configuration and size.
  - Present conditions (i.e., stocking, health, and species composition).
  - Site potential (i.e., the site's capabilities to support woodlands based on its topographic, soil, and hydrologic characteristics.)
  - Ecological functions (i.e., in protecting steep slopes and erodible soils, maintaining stream quality, and providing for wildlife habitats).
  - Relationship to woodlands on adjoining and nearby properties and the potential for maintaining continuous woodland areas.
3. In designing a subdivision and land development plan for any tract, the applicant shall be guided by the following standards:
- (a) To the maximum extent possible healthy woodland exceeding one (1) acre shall be preserved and designated as Conservation Lands. Proposed site improvements shall be located, designed, and constructed to minimize the loss or degradation of woodland areas.
  - (b) Subdivisions shall be designed to preserve woodlands along roadways, property lines, and lines occurring within a site such as streams, swales, stone fences, and hedgerows. Such lines and the native vegetation associated with them shall be preserved as buffers between adjacent properties and between areas being subdivided within a property. Preservation shall include ground, shrub, understory, and canopy vegetation.
  - (c) Disturbance or removal of woodlands occupying environmentally sensitive areas shall be undertaken only when approved by the Planning Commission and on a limited, selective basis to minimize the adverse impacts of such actions. This shall include but not necessarily be limited to vegetation performing important soil stabilizing functions on wet soils, stream banks, and sloping lands.
  - (d) No clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems) shall be permitted on a site before approval of the Development Plan and accompanying land development agreements. The determination of sight distance clearances along roadways shall be made graphically and not by clearing on site prior to Final Plan approval.

### **6-105.5 Upland Rural-Agricultural Areas**

These areas comprise fields, pastures, meadows, and former agricultural areas in early stages of woodlands succession, with fences, stone walls, tree copses, and hedgerows, typically bordered by stream valleys and upland woodlands. These constitute the Town's historic working landscape, dotted with historic houses, barns, and other structures. They give the Town much of its rural character. They also contain the greatest concentration of prime agricultural soils. Because of their openness and high visibility, development in these areas is likely to be most readily seen and disruptive to the historic landscape. They sometimes provide habitat for wildlife, in conjunction with nearby woodlands and stream valleys. However, it is recognized that these areas also frequently offer the fewest constraints for development.

1. Several elements of these working landscapes lend themselves to incorporation into the Town's open space network. These include prime agricultural soils and natural features that visually punctuate the landscape, such as hedgerows, tree copses, stone walls, and visually prominent places such as knolls and hilltops.
2. These areas can also accommodate development, with preferred locations being the nonprime agricultural soils and lower topographic settings where development will be visually less obtrusive. Compact clustered residential designs, with coordinated architectural and landscape architectural themes, are encouraged in highly visible locations where future development cannot be avoided (such as at the far edge of open fields).

### **6-105.6 Steep Slopes**

Moderately sloping lands (fifteen (15) to twenty-five (25) percent) and steeply sloping lands (over twenty-five (25) percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds, and public roads are detrimental to water quality and aquatic life and a potential hazard to public safety. Areas of steep slope shall be preserved as required below.

1. All grading and earthmoving on slopes exceeding fifteen (15) percent shall be minimized.
2. No site disturbance shall be allowed on slopes exceeding twenty-five (25) percent, 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 twenty-five (25) percent is feasible.
3. On slopes of fifteen (15) to twenty-five (25) percent, the only permitted grading beyond the terms described above shall be in conjunction with the siting of a single-family dwelling, its access driveway, and the septic system (which should typically be designed with a long, narrow drainage field following the land contours).
4. Grading or earth moving on all sloping lands shall be in accordance with the standards established in Subsection 4102.9, Grade Changing. Roads and driveways shall follow the line of existing topography to minimize the required cut and fill. Finished slopes of all cuts and fills shall be as required to minimize disturbance of natural grades.

### **6-105.7 Significant Natural Areas and Features**

Natural areas containing rare or endangered plants and animals, as well as other features of natural significance, exist throughout the Town. Some of these have been carefully documented, whereas for others, only their general locations are known. Subdivision applicants shall take all reasonable measures to protect significant natural areas and features either identified by the Town's map of potential conservation areas or by the applicant's "Existing Resources and Site Analysis Map" by incorporating them into proposed Conservation Lands or avoiding their disturbance in areas proposed for development.

### **6-105.8 Historic Structures and Sites**

Plans requiring subdivision and land development approval shall be designed to protect existing historic resources of all classes. The protection of an existing historic resource shall include the conservation of the landscape immediately associated with and significant to the resource to preserve its historic context. Where, in the opinion of the Planning Commission, a plan will have an impact on a historic resource, the developer shall mitigate that impact to the satisfaction of the Commission by modifying the design, relocating proposed lot lines, providing landscape buffers, or using other approved means.

### **6-105.9 Historic Rural Road Corridors and Scenic Viewsheds**

The Town contains a number of historic rural roads in various locations. All applications for subdivision and land development shall attempt to preserve the scenic visual corridors along such roads by incorporating them into greenway areas or otherwise providing site designs to minimize their intrusion. In instances where such designs fail to protect the viewsheds along these corridors, applicants will be required to provide naturalistic landscape buffers to minimize their adverse visual impacts.

### **6-105.10 Rural Siting Principles**

The following guidelines shall apply to the siting of residential and non-residential uses.

1. Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
2. Preserve stone walls and hedgerows. 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.
3. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in the ecologically least significant parts of wooded areas. Septic systems and leach fields should, however, generally be located in open fields, when possible, where soil conditions are likely to be better.

4. Use existing vegetation and topography to buffer and screen new buildings if possible. Site buildings in groups or tuck them behind treelines or knolls rather than spreading them out across the landscape in a "sprawl" pattern.
5. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Create curves in driveways to increase the screening of buildings.
6. Site buildings so that they do not protrude above treetops and crestlines of hills as seen from public places and roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
7. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.

#### **6-105.11 Location of Utility Systems**

Since the most suitable conditions for wells and sewage disposal systems are generally not well distributed throughout a site, conservation design allows smaller lots to be concentrated where the best conditions exist. To facilitate the creation of smaller lots which can comply with Health Department standards for wells and sewage disposal systems, such facilities may be located within the Conservation Lands. The systems may be owned and maintained by individual property owners or by a Homeowners' Association.

### **6-106 STREET DESIGN IN CONSERVATION SUBDIVISIONS**

#### **6-106.1 General Design Parameters**

The street network shall be designed to:

- Preserve existing tree lines, hedgerows, and watercourses.
- Minimize alteration of natural, cultural, or historic features.
- Promote pedestrian movement.
- Secure the view to prominent natural vistas.
- Minimize crossing of Primary Conservation Areas.

#### **6-106.2 Detailed Design Elements**

1. The street network shall form a connected pattern.
2. The street pattern shall be designed to respect and follow existing terrain as much as possible to minimize earthmoving and disturbance of the existing topography.

3. Streets may take the form of a two way street, a pair of one-way streets on either side of a landscaped median or a one-way loop street around a small neighborhood green.
4. Streets may be designed using the appropriate street types contained in these regulations. (See Subsection 4-106.2, General Design, and accompanying Tables 4-1 and 4-2.)
5. Connections shall be provided to existing or proposed through-streets or collectors adjacent to the subdivision, wherever practicable.
6. Cul-de-sacs are generally prohibited and shall be permitted only where all other street design alternatives, such as loop streets or closes shown in Figure 6-3, are not feasible and one of the following two conditions exists:
  - Where natural features such as wetlands or steep slopes exist or other primary or secondary conservation areas that are not desirable to remove.
  - Where connection to an existing or planned street is blocked by an existing permanent structure, an existing or planned freeway, or a protected open space area.

### **6-106.3 Requirements for Alleys**

Alleys shall be strongly encouraged where practicable to reduce the need for curb cuts. The following standards shall apply to alleys within conservation subdivisions:

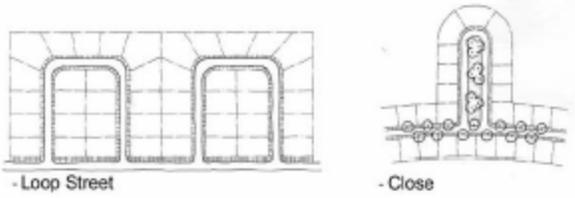
- Alleys, wherever practicable, shall connect with streets at their ends and dead-end alleys shall be avoided.
- Turnarounds shall be provided if a dead-end alley is longer than one hundred-fifty (150) feet.
- Alleys may contain turn and intersections with other alleys provided service vehicles can be accommodated.
- Alleys shall serve as a utility corridor and wherever practicable, utilities shall be located to the rear of buildings.
- The right-of-way of the alley shall be a minimum of twenty (20) feet.
- Public alleys shall be approved by the Town.
- For all lots where the distance from the dwelling unit to the street via the alley may be greater than one hundred-fifty (150) feet, the alley shall serve as a fire lane as well as providing vehicular access to dwelling units.

### **6-107 CONSERVATION LANDS**

Conservation Lands are the undisturbed areas of at least fifty (50) percent of the tract to be set aside. Conservation lands are made up of Primary and Secondary Conservation Areas. All lands identified as Primary Conservation Areas shall be designated as Conservation Lands. If the Primary Conservation area makes up less than fifty (50) percent of the tract, the balance of the required Conservation Lands shall be made up of Secondary Conservation Areas.

**FIGURE 6-3**

**ALTERNATIVES TO CUL-DE-SACS**



### **6-107.1 Primary Conservation Areas**

The following shall be considered Primary Conservation Areas and shall be included as Conservation Lands, unless the applicant demonstrates that this provision would be counter to the purposes of a Conservation Subdivision:

- The 100-year floodplain.
- All perennial and intermittent streams and associated floodways with a seventy-five (75) foot corridor measured from the outer edge of the floodway.
- Contiguous slopes over twenty (20) percent.
- Wetlands.
- Known habitat for rare, threatened, or endangered species.
- Archaeological sites, cemeteries and burial grounds.

### **6-107.2 Secondary Conservation Areas**

Secondary Conservation Lands shall be prioritized on the tract in terms of their highest to least suitability for inclusion in the Conservation Lands. The following shall be considered Secondary Conservation Areas and shall be included in the Conservation Lands to meet at least minimum area percentage requirements for conservation lands:

- Existing healthy, native forests of a least one (1) acre contiguous area.
- Prime farmland soils and land in agricultural use.
- Designated historic and specimen trees.
- Other significant natural features and scenic viewsheds.
- Existing and planned trails that connect the tract to neighboring areas
- Contiguous slopes between fifteen (15) and twenty (20) percent.
- Significant historical and cultural sites.

## **6-108 STANDARDS FOR CONSERVATION LANDS**

A major element of conservation subdivision design is to identify sensitive natural features of a site and to protect them and preserve their continuity both within the site and where they continue into adjacent lands. These lands should be delineated on the subdivision maps and permanently preserved as "open space". Conservation Lands shall be subject to the following standards.

### **6-108.1 Minimum Area**

Designated Conservation Lands shall include at least the minimum percentage of the site required by Section 6-107, CONSERVATION LANDS.

## **6-108.2 Uses Permitted on Conservation Lands**

The following uses are permitted on Conservation Lands:

1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
3. Pastureland for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required Conservation Lands.
4. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses, specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Planning Commission.
6. Active non-commercial recreation areas, such as playingfields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required Conservation Lands or five acres, whichever is less. Playingfields, playgrounds, and courts shall not be located within two hundred (200) feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
7. Golf courses may comprise up to half of the minimum required Conservation Lands, but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within the minimum Conservation Lands requirement; their parking and access ways may be paved and lighted.
8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the Open Space.
9. Easements for drainage, access, sewer or water lines, or other public purposes;
10. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required Conservation Lands.
11. Single-family residences on large “conservancy lots” of at least ten acres. Such lots may also have one accessory dwelling unit.

### **6-108.3 Design Standards for Conservation Lands**

1. Conservation Lands shall be laid out to ensure that an interconnected network of open space will be provided, to the greatest extent practicable, considering both lands within the proposed subdivision and lands adjacent to it. The required Conservation Lands shall consist of Primary Conservation Areas, all of which must be included, and Secondary Conservation Areas. Primary areas include those areas listed in Subsection 6-107.1, Primary Conservation Areas. Secondary areas include other special features of the property that would ordinarily be overlooked or ignored during the design process.
2. Conservation Lands may be owned and maintained by a Homeowners' Association, land trust, another conservation organization recognized by the Town, or by a private individual (when properly protected by an approved conservation easement). In no case, however, shall less than thirty (30) percent of the land comprising the "Adjusted Tract Acreage" be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the Conservation Lands may be owned by different entities.
3. Up to ten (10) percent of the total tract acreage may be subject to the Town's public land dedication requirement (typically to provide potential connections with the Town's long-range trail network).
4. Buffers for Adjacent Public Parkland: Where the proposed development adjoins public parkland, a natural buffer at least one-hundred-fifty (150) feet deep shall be provided within the development along its common boundary with the parkland, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is not wooded, the Town 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.

### **6-108.4 Other Requirements**

1. No portion of any building lot may be used for meeting the minimum required Conservation Lands, except within "conservancy lots" of at least ten (10) acres on approved conservation easements. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required Conservation Lands.
2. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes, shall be provided to Conservation Lands in accordance with the following requirements.
  - (a) Each neighborhood shall be provided with at least one centrally located access point a minimum of thirty-five (35) feet in width per fifteen (15) lots.
  - (b) Access to Conservation Lands used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
  - (c) All Conservation Lands that are not wooded or farmed shall be suitably landscaped.

### **6-108.5 Open Space Design, Connection and Access**

When locating Conservation Lands the applicant shall:

1. Clearly delineate through signage or other means boundaries between individual development lots and Conservation Lands
2. Connect proposed Conservation Lands to any neighboring areas of open space or protected areas whenever possible.
3. Develop a pathway system connecting Conservation Lands accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent tracts.
4. Ensure the portion of Conservation Lands designed to provide plant and animal habitat be kept as intact as possible and trails shall be designed to avoid fragmenting these areas.
5. Every effort shall be made to ensure that Conservation Lands are contiguous and narrow or isolated fragments of Conservation Lands shall be avoided.

## **6-109 HOMEOWNERS' ASSOCIATION**

### **6-109.1 Homeowners' Association Required**

A Homeowners' Association shall be established and membership in the association shall be mandatory for all purchasers of homes in the development and their successors.

### **6-109.2 By-Laws**

The Homeowners' Association By-Laws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions, and restrictions of the Homeowners' Association shall be submitted for approval to the Enforcing Officer as part of the information required for the Development Plan.

### **6-109.3 Required Information**

The Homeowners' Association By-Laws or the declaration of covenants, conditions and restrictions of the Homeowners' Association shall contain the following information:

- The legal description of the common land including any working agricultural uses as appropriate.
- A description of common facilities.
- The restrictions placed upon the use and enjoyment of the lands or facilities.
- Persons or entities entitled to enforce the restrictions.
- A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes, and insurance premiums.

- A mechanism for resolving disputes among the owners or association members.
- The conditions and timing of the transfer of ownership and control of land and facilities to the association.
- Any other matter the developer deems appropriate.

## **6-110 OWNERSHIP OF LANDS AND FACILITIES HELD IN COMMON**

### **6-110.1 Ownership Alternatives.**

The following provisions apply to the ownership of Conservation Lands within Conservation Subdivisions. The designated lands held in common, common open space and common facilities may be owned and managed by a Homeowners' Association or a combination of Homeowners' Association and the Town or an individual or group of individuals or wholly by the Town, an individual or group of individuals.

### **6-110.2 Homeowners' Association**

Any land dedicated to a sewage disposal system or a conventional storm-water management device that requires a disturbance to the land shall be owned by the Homeowners' Association and shall be considered lands held in common.

### **6-110.3 Individual/Entity Ownership**

An individual, a group of individuals, a nonprofit organization or a public body may hold fee simple title to the Conservation Lands not owned by the Homeowners' Association subject to use of the land in conformance with the Conservation Lands Management Plan, or granting of a permanent conservation easement to a third party.

### **6-110.4 Legal Instrument for Permanent Protection**

Any Conservation Lands for which no conservation easement is granted to a third party (party other than owner of fee simple) shall be protected in perpetuity by a condition in the deed that any use of Conservation Lands not in conformance with the Conservation Lands Management Plan shall cause that land to revert back to its original owner, his heir or assigns, or by restrictive covenants in the deed that require use of Conservation Lands in conformance with the Conservation Lands Management Plan.

## **6-111 CONSERVATION EASEMENT HOLDER**

### **6-111.1 Conservation Easement Holder Alternatives**

The Conservation Easement on the Conservation Lands not owned by the Homeowners' Association shall be held by one of the following:

#### **6-111.101 A Nonprofit Organization**

A nonprofit organization devoted to conservation and preservation may be designated as the holder of the Conservation Easement for the Conservation Land not owned by the Homeowners' Association. The organization shall be acceptable to the Town Attorney. The focus of the conservation and preservation activities of the nonprofit shall include one or more of the following:

- i. Historic sites.
- ii. Archeological sites.
- iii. Agricultural uses.
- iv. Natural and hazard areas including:
  - Perennial and intermittent streams and associated floodways.
  - Floodplains.
  - Steeply sloped land.
  - Wetlands.
  - Known habitat for rare, threatened, or endangered species.
  - Forested or meadowlands.

**6-111.102 Public Agency**

A Public Agency involved in Conservation and Preservation may be designated as the holder of the Conservation Easement for the Conservation Land not owned by the Homeowners' Association.

**6-111.2 Conservation Easement Holder in Place**

The conservation easement holder shall be in place before building permits are issued.

**6-112 MAINTENANCE OF CONSERVATION LANDS, COMMONLY HELD LANDS, AND FACILITIES**

**6-112.1 Conservation Lands Management Plan**

A Conservation Lands management plan, approved by the Planning Commission shall be required that:

1. Allocates responsibility and guidelines for the maintenance and operation of the Conservation Lands, lands held in common and any facilities, including provision for ongoing maintenance and for long-term capital improvements.
2. Estimates the cost and staffing requirements needed for maintenance, operation, and insurance and outlines the means by which such funding shall be obtained or provided.
3. Provides that any changes to the management plan be approved by the Planning Commission.
4. Provides for enforcement of the management plan.

### **6-112.2 Maintenance of Natural Features**

Natural features shall be maintained in their natural condition. The cost and responsibility of maintaining Conservation Lands and any facilities located thereon shall be borne by the property owner(s) as described in Section 6-110, Ownership of Lands and Facilities Held in Common. Permitted modifications include:

- Reforestation.
- Woodland management.
- Pasture or cropland management.
- Buffer area landscaping.
- Stream bank protection.
- Wetlands management.
- Trails management.

### **6-112.3 Tax Assessment of Conservation Lands**

Once a legal instrument for permanent protection has been placed upon the Conservation Lands, the tax assessor shall be notified of the reduction in development rights in order to initiate reassessment of the conservation lands to reflect the more limited use.