

Chapter 140

SUBDIVISION OF LAND

GENERAL REFERENCES

- Planning Board** — See Ch. 49. **Sewers** — See Ch. 132.
Building code administration — See Ch. 87. **Streets and sidewalks** — See Ch. 138.
Flood damage prevention — See Ch. 103. **Zoning** — See Ch. 160.
Individual sewage disposal systems —

§ 140-1. Title.

This chapter shall be known as the "Town of Catskill Subdivision Regulations."

§ 140-2. Purposes.

This Catskill Town Board hereby finds that this chapter is adopted for the following purposes:

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

§ 140-3. Authority.

By the authority of the resolution of the Town Board of the Town of Catskill adopted on January 17, 2007, pursuant to the provisions of Article 16 of the Town Law of the State of New York, the Planning Board of the Town of Catskill is authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways, and to approve the development of entirely or partially undeveloped plats already filed in the Office of the Clerk of Greene County within that part of the Town of Catskill outside the limits of any incorporated city or village.

§ 140-4. Compliance required.

- A. Regardless of whether or not any formal conveyance by metes and bounds shall be made, when any subdivision is proposed and before any

offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the subdivider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this chapter.

- B. It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- C. After the effective date of this chapter, no building permit or certificate of occupancy shall be issued for any construction, structure or development except in conformance herewith.
- D. No construction, alteration, removal, demolition, excavation, enlargement or use shall be commenced except in conformance herewith.
- E. The regulations of this chapter shall not apply to lot improvements as defined herein (see § 140-167). The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying plat presented that "These plans are acknowledged by the Town of Catskill, and for recording purposes only, to represent an exempt lot improvement in accordance with § 140-176 of the Town of Catskill Subdivision Regulations. No subdivision approval is required or given." No plat so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.

§ 140-5. Construal of provisions; interference with other legislation; severability.

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

UNDERGROUND UTILITIES — Electric, telephone, cable and other customary utilities constructed or placed in underground vaults or trenches so as not to be visible.

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

WETLAND — Any land that lies within the jurisdiction of the New York State Department of Environmental Conservation pursuant to Article 24, the Freshwater Wetland Act, and/or within the jurisdiction of the United States Army Corps of Engineers and/or other federal agencies pursuant to § 404 of the Clean Water Act.

§ 140-10. Procedures and requirements for minor subdivisions.

The following procedures and requirements shall apply to minor subdivisions only (see § 140-10, Definitions). All other subdivisions and resubdivisions, regardless of the total number of lots involved, shall be processed as major subdivisions according to the procedures and requirements specified herein.

- A. Application. Any person proposing to create a minor subdivision shall submit, along with plans required below, nine copies of an application for minor subdivision approval. This application may be in letter form and shall specify and/or be accompanied by:
- (1) The name, address and telephone number of the property owner of record and those of the subdivider, if different.
 - (2) The name or number of the street where the proposed subdivision is to be located.
 - (3) The name, address and telephone number of the surveyor or engineer preparing the subdivision plans.
 - (4) The type of water supply proposed.
 - (5) The type of sewer system proposed.
 - (6) The required fee or receipt for the same from the Secretary of the Planning Board.
 - (7) A completed EAF as required by SEQRA.
 - (8) The names and addresses of all adjoining property owners as disclosed by the most recent deed or tax records.
 - (9) The subdivider shall submit nine copies of a final plat and required supplementary data for the proposed subdivision. This plat shall be

prepared by a professional engineer or surveyor, with a professional engineer or surveyor's seal affixed, and shall show all the lots proposed to be created. The final plat shall meet the following requirements:

- (a) The plat shall be not less than 8 1/2 inches by 11 inches nor more than 24 inches by 36 inches in size.
 - (b) The names of all abutting property owners and the size of any remaining acreages in the tract from which lots are being taken shall be shown.
 - (c) The plat shall show the name of the municipality, name of the owner of record, North point, graphic scale, and date.
 - (d) Soil types found on the site shall be shown unless the lots involved contain existing sewage systems. Soil Conservation Service classifications shall be used.
 - (e) Existing streets shall be identified by name or route numbers and private roads by their posted names.
 - (f) Proposed lot or parcel lines shall be drawn to scale and dimensions given in feet and hundredths of a foot. Lot areas shall be shown in acres or square feet. The plat shall depict the proposed subdivision as a part of the contiguous holdings of the subdivider and show adjacent lots already taken from the parcel.
- (10) Authorized consent of the property owner, where the developer is not the current owner of the property to be subdivided, in a form acceptable to the Planning Board. **[Added 12-16-2009 by L.L. No. 3-2009]**
- (11) Authorized consent of the property owner or developer granting access to the property to be subdivided for the Planning Board and its consultants to facilitate review of the application, in a form acceptable to the Planning Board. **[Added 12-16-2009 by L.L. No. 3-2009]**
- B. Receipt of a complete final plat. A final plat shall not be considered complete until a negative declaration has been filed or until a notice of completion of the DEIS has been filed in accordance with the provisions of SEQRA. Time periods for review of a final plat shall begin to run upon filing of such negative declaration or such notice of completion.
- C. Soil tests. Documentation as may be required by the New York State Department of Health, including a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal, shall be submitted.
- D. Private street and driveway access permits. A completed application to the Town of Catskill Highway Superintendent, the State Department of Transportation or Greene County Highway Department, as the case may be,

for a permit for access to a public street or highway by a private street or driveway shall be required. [Amended 12-16-2009 by L.L. No. 3-2009]

E. Improvements and common areas. Written offers of dedication to the Town of all public easements, utilities, streets, rights-of-way and open spaces shown on the plat and copies of agreements or other documents showing the manner in which such areas or improvements, title of which is reserved by the subdivider, are to be maintained shall be required, including homeowners' association and/or road maintenance agreements/easements, as applicable. [Amended 12-16-2009 by L.L. No. 3-2009]

F. Action on final plat.

(1) Planning Board as lead agency under SEQRA; public hearing; notice; decision.

(a) Public hearing on final plats. The time within which the Planning Board shall hold a public hearing on such final plat shall be coordinated with any hearings the Planning Board may schedule pursuant to SEQRA, as follows:

[1] If the Planning Board determines that the preparation of an EIS is not required, the public hearing on the final plat shall be held within 62 days after the receipt of a complete final plat by the Clerk of the Planning Board; or

[2] If the Planning Board determines that an EIS is required and a public hearing on the DEIS is held, the public hearing on the final plat and the DEIS shall be held jointly within 62 days after the filing of the notice of completion of such DEIS in accordance with the provisions of SEQRA. If no public hearing is held on the DEIS, the public hearing on the final plat shall be held within 62 days following filing of the notice of completion.

(b) Public hearing: notice; length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the DEIS or 14 days before a hearing held jointly therewith. ~~The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The Applicant shall notify, by Certified Mail (Return Receipt Requested) postmarked at least fifteen (15) days prior to the date of the Public Hearing, all owners of properties within three hundred (300) feet, of the property which is the subject of the application. The Return Receipts must be delivered to the Planning Board Secretary prior to the start of the Public Hearing.~~ The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

(c) Decision. The Planning Board shall make its decision on the final plat as follows:

[1] If the Planning Board determines that the preparation of an EIS on the final plat is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat within 62 days after the date of the public hearing; or

[2] If such Board determines that an EIS is required and a public hearing is held on the DEIS, the FEIS shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the DEIS, the FEIS shall be filed within 45 days following the close of the public hearing on the final plat. Within 30 days of the filing of the FEIS, the Planning Board shall issue findings on such FEIS and shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat.

(d) Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

(2) Planning Board not as lead agency under SEQRA; public hearing; notice; decision.

(a) Public hearing. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the final plat jointly with the lead agency's hearing on the DEIS. Failing such agreement or if no public hearing is held on the DEIS, the Planning Board shall hold the public hearing on the final plat within 62 days after the receipt of a complete final plat by Clerk of the Planning Board.

(b) Public hearing: notice; length. The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the DEIS or 14 days before a hearing held jointly therewith. The Applicant shall notify, by Certified Mail (Return Receipt Requested) postmarked at least fifteen (15) days prior to the date of the Public Hearing, all owners of properties within three hundred (300) feet, of the property which is the subject of the application. The Return Receipts must be delivered to the Planning Board Secretary prior to the start of the Public Hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such final plat. The hearing on the final plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

(c) Decision. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant final approval and authorize the signing of such plat as follows:

[1] If the preparation of an EIS on the final plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the final plat.

[2] If an EIS is required, the Planning Board shall make its own findings and its decision on the final plat within 62 days after the close of the public hearing on such final plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board.

- G. Certification, filing and signing of final plat. Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary of the Planning Board as having been granted conditional or final approval, and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk. A copy of the resolution shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements, the plat shall be signed by a duly authorized officer of the Planning Board and filed with the Secretary.
- H. Time limits on conditional approvals. A conditional approval of a final plat shall expire within 180 days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of 90 days where particular circumstances so warrant in the judgment of the Planning Board.
- I. Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by the Planning Board, the subdivider shall be entitled to an approval by default pursuant to § 276 of the Town Law.
- J. Recording of final plats. All final plats shall be filed by the applicant in the Office of the County Clerk within 62 days of approval, subject to the provisions of § 276 of the Town Law.

§ 140-11. Procedures for major subdivisions.

Major subdivision plat submissions shall be subject to SEQRA review and be processed as follows:

- A. Sketch plan required. Submission of a sketch plan as provided in § 140-13 shall be required as part of the preliminary plat approval process for all major subdivisions. This plan shall be used to determine the number of lots permitted, to determine whether the subdivision will involve other agencies, and to make a preliminary classification of the subdivision as a Type I or unlisted SEQRA action for determining whether a full EAF and coordinated review is necessary. The Planning Board shall also use the sketch plan for purposes of determining lead agency status, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan.
- B. Preliminary plat required. A complete preliminary plat accurately showing proposed streets and lot layout and such other information as is required by this chapter must be submitted to the Planning Board. A preliminary plat is not complete unless a negative declaration has been filed or a notice of completion of a DEIS has been filed, pursuant to § 276 of the Town Law.
- C. When no other agencies are involved, or when an uncoordinated review is conducted, the Planning Board must issue a SEQRA determination within 20 days of its receipt of an application, an EAF, and any additional information required, pursuant to the Part 617 SEQRA regulations. When a coordinated review is conducted, the Planning Board must notify all involved agencies that a lead agency must be agreed upon within 30 days. If the Planning Board is established as the lead agency for coordinated review, it must issue a SEQRA determination within 20 days of its establishment as lead agency.
- D. Action on preliminary plat.

(1) Planning Board as lead agency under SEQRA; public hearing; notice; decision.

(a) Public hearing on preliminary plats. The time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:

[1] If the Planning Board determines that the preparation of an EIS on the preliminary plat is not required, the public hearing on such plat shall be held within 62 days after the receipt of a complete preliminary plat by the Clerk of the Planning Board;
or

[2] If such Board determines that an EIS is required, and a public hearing on the DEIS is held, the public hearing on the preliminary plat and the DEIS shall be held jointly within 62 days after the filing of the notice of completion of such DEIS in accordance with the provisions of SEQRA. If no public hearing is held on the DEIS, the public hearing on the preliminary plat shall be held within 62 days of filing the notice of completion.

(b) Public hearing: notice; length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if no hearing is held on the DEIS or 14 days before a hearing held jointly therewith. The Applicant shall notify, by Certified Mail (Return Receipt Requested) postmarked at least fifteen (15) days prior to the date of the Public Hearing, all owners of properties within three hundred (300) feet, of the property which is the subject of the application. The Return Receipts must be delivered to the Planning Board Secretary prior to the start of the Public Hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

(c) Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:

[1] If the Planning Board determines that the preparation of an EIS on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing; or

[2] If the Planning Board determines that an EIS is required, and a public hearing is held on the DEIS, the FEIS shall be filed within 45 days following the close of such public hearing in accordance with the provisions of SEQRA. If no public hearing is held on the DEIS, the FEIS shall be filed within 45 days following the close of the public hearing on the preliminary plat. Within 30 days of the filing of such FEIS, the Planning Board shall issue findings on the FEIS and make its decision on the preliminary plat.

(2) Planning Board not as lead agency under SEQRA; public hearing; notice; decision.

(a) Public hearing on the preliminary plat. The Planning Board shall, with the agreement of the lead agency, hold the public hearing on the preliminary plat jointly with the lead agency's hearing on the DEIS. Failing such agreement or if no public hearing is held on the DEIS, the Planning Board shall hold the public hearing on the preliminary plat within 62 days after the receipt of a complete preliminary plat by the Clerk of the Planning Board.

(b) Public hearing: notice; length. The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing if held independently of the hearing on the DEIS or 14 days before a hearing held jointly therewith. The Applicant shall notify, by Certified Mail (Return Receipt Requested) postmarked at least fifteen

(15) days prior to the date of the Public Hearing, all owners of properties within three hundred (300) feet, of the property which is the subject of the application. The Return Receipts must be delivered to the Planning Board Secretary prior to the start of the Public Hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within 120 days after it has been opened.

- (c) Decision. The Planning Board shall by resolution approve, with or without modification, or disapprove the preliminary plat as follows:
- [1] If the preparation of an EIS on the preliminary plat is not required, the Planning Board shall make its decision within 62 days after the close of the public hearing on the preliminary plat.
 - [2] If an EIS is required, the Planning Board shall make its own findings and its decision on the preliminary plat within 62 days after the close of the public hearing on such preliminary plat or within 30 days of the adoption of findings by the lead agency, whichever period is longer.
- E. Grounds for action. The grounds for modification, if any, or the grounds for disapproval of the preliminary plat must be stated in the records of the Planning Board. If the Planning Board approves a preliminary plat, the Planning Board must state in writing any modifications that it requires for submission of the final plat.
- F. Preliminary plat certification. Within five business days of the Planning Board's adoption of a resolution approving a preliminary plat, such plat shall be certified by the Secretary as having been granted preliminary plat approval, and a copy of the plat and resolution shall be filed in the Secretary's office and filed in the Office of the Town Clerk. A copy of the resolution shall be provided to the subdivider. If the Planning Board adopts a resolution disapproving a preliminary plat, this resolution and a copy of the preliminary plat must be filed in the same manner as a resolution approving a preliminary plat.
- G. Time to submit final plat. The subdivider must submit a final plat, as provided in §§ 140-15 and 140-16, within six months of the Planning Board's approval of the preliminary plat. If the final plat is in substantial agreement with the preliminary plat, the Planning Board must by resolution conditionally approve, with or without modification, disapprove, or grant final approval of the plat within 62 days of its receipt by the Secretary. The Planning Board may revoke preliminary plat approval if a final plat is not submitted within six months or grant a limited extension of its preliminary plat approval for a time period not to exceed six months.

- H. Lack of agreement with preliminary plat. When the final plat is not in substantial agreement with the preliminary plat, the final plat is reviewed as a new sketch plan and is subject to all procedural requirements for preliminary plat approval, including the issuance of a new SEQRA determination.
- I. Certification, filing and signing of final plat. Within five business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary of the Planning Board as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk. A copy of the resolution shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements, the plat shall be signed by a duly authorized officer of the Planning Board and filed with the Secretary. **[Amended 12-16-2009 by L.L. No. 3-2009]**
- J. Final plats by section. The Planning Board may permit any subdivision for which preliminary plat approval has been granted to be submitted in sections for final plat approval.
- K. Time limits on conditional approvals. A conditional approval of a final plat shall expire within 180 days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of 90 days each where particular circumstances so warrant in the judgment of the Planning Board.
- L. Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by the Planning Board, the subdivider shall be entitled to an approval by default pursuant to the Town Law.
- M. Recording of final plats. All final plats shall be filed by the applicant in the Office of the County Clerk within 62 days of final approval, subject to the provisions of § 276 of the Town Law.

§ 140-12. Sketch plans for major subdivisions.

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

- A. The location of that portion which is to be subdivided in relation to the entire tract.
- B. An existing and natural site features analysis which depicts all structures, wooded areas, streams, natural features, stone walls, wetlands, outstanding views and other aspects of the property around which a subdivision plan should be designed.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.

Town and the Town Attorney that all or part of the requirements of the bond have been satisfied.

- D. The subdivider shall complete all required improvements or post the required performance assurance to the satisfaction of the Town Board before any building permits will be issued. No certificate of occupancy may be issued until the Code Enforcement Officer finds that sufficient public improvements have been installed to the satisfaction of the Town to the extent necessary for the public health, welfare and safety of the occupants of the buildings.
- E. If the Town Board shall decide at any time during the term of the performance assurance that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance assurance, or that required improvements have been installed as provided in this section in sufficient amount to warrant reduction in the face amount of said assurance, or that the character and extent of such development requires additional improvements previously waived for a period stated in the original terms of such assurance, the Town Board may modify its requirements for any or all such improvements, and the face value of such performance assurance shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Town Board, and any security deposited with the assurance may be reduced or increased proportionately.

§ 140-16. Lot improvements.

- A. Lot improvements shall be exempt from the requirements contained herein, provided that nine copies of a plan prepared by a surveyor or professional engineer have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the applicability of the criteria below. To qualify as a lot improvement, the parcels shall:
 - (1) Involve the addition of land to an existing parcel so as to:
 - (a) Improve ability of that parcel to comply with setback or other building standards; or
 - (b) Increase suitability of the parcel for building development; or
 - (c) Add to the availability of open space; or
 - (d) Resolve a boundary line dispute or produce a corrected deed if a map reflecting the same is desired for recording purposes.
 - (2) Include a map restriction to the effect that the land added to the existing parcel, and the existing parcel are combined to form a single, undivided lot.
- B. The Planning Board shall, within 31 days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found

above. Should the Planning Board find that the plans do not meet the criteria for a lot improvement or should it fail to act in the time provided, such plans shall be processed as a minor or major subdivision. If the Planning Board finds that the plans qualify as a lot improvement, the Planning Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Catskill, and for recording purposes only, to represent an exempt lot improvement in accord with § 140-167 of the Town of Catskill Subdivision Regulations. No subdivision approval is required or given." No person shall record plans for any lot improvement without so first obtaining the Planning Board's signature and notation on the plans.

§ 140-17. Fees.

At the time a sketch plan for subdivision approval is filed and at the time a final plat is submitted for approval, fees shall be paid to the Town by the subdivider, such fees to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance and the expenses of public notices and hearings.

§ 140-18. Design standards.

- A. Application. The design standards and requirements set forth in this chapter are the minimum required in the design of each subdivision within the Town of Catskill. The Planning Board may require more restrictive standards where necessary to protect the health, safety and welfare of the public and where circumstances unique to the property so dictate.
- B. General site requirements.
 - (1) Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood, noise, or any other natural or nonnatural occurrence, or are uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards mitigating the hazards.
 - (2) In addition, the Town may rely upon information contained in its Comprehensive Plan and, in determining and evaluating any potential hazards, may use historical records, soil evaluations, engineering studies, expert opinions, established professional standards, including standards used by licensed insurance companies, and federal, State, or local policies.
 - (3) All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is

(2) The net figure shall then be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.

- F. The Planning Board may reduce development standards for lot size, lot width and lot depth and for yard requirements, provided that no dwelling structure (one-family or two-family) is located on less than one acre of land where on-site sewer and water facilities are to be provided or 1/2 acre of land where off-site sewer and water facilities are to be provided; and further provided the total average density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivision plan designed in accord with this chapter and as determined from the basic sketch plan submission.
- G. No individual parcel of common open space shall be less than one acre, except for street median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features. No less than 50% of the total land area of the conservation subdivision shall be dedicated to permanent open space. No portion of this 50% requirement shall be met with watercourses, water bodies, wetlands, floodplains, slopes over 15% in grade or other undevelopable areas. Of the 50% of this total land area of the conservation subdivision dedicated to permanent open space, 50% of this permanent open space land shall be usable for active recreation by residents of the subdivision and of the Town.
- H. The open space resulting from conservation subdivision design shall be permanently protected by a conservation easement providing for public use and generally titled to a property owners' association (POA) prior to the sale of any lots or dwelling units within the subdivision. Membership shall be mandatory for each property owner within the subdivision and for successive owners with voting of one vote per lot or unit under the subdivider's control, thereby passing to the individual lot/unit owners on the subdivider's sale of the majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent, and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost, and the POA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.

§ 140-20. Waivers. [Amended 12-16-2009 by L.L. No. 3-2009]

Consistent with the authority granted under Town Law § 277, the Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of

connecting facilities adjacent or in proximity to the subdivision. Such waivers are also subject to the following requirements:

- A. Applications for waivers of requirements or improvements shall ordinarily be submitted in writing by the subdivider at the time the preliminary plat is filed. The application shall state fully the grounds on which it is made.
- B. The Planning Board shall require a public hearing for any waiver application that it finds may have an impact on adjoining properties. The notice requirements for said public hearing shall be consistent with the notice requirements for subdivisions.
- C. Any resolution by the Planning Board authorizing a waiver of these regulations shall include the basis for its findings.
- D. In authorizing a waiver, the Planning Board shall attach conditions and require such performance guarantee or bond as it may deem necessary to assure compliance with the objectives of this chapter.
- E. Approvals of waivers pursuant to this section shall require a two-thirds majority vote of the Planning Board.

§ 140-21. When effective.

This chapter shall take effect 20 days after it is filed as provided in § 27 of the Municipal Home Rule Law.