

## Chapter 16.40

### OPEN SPACE AND PUBLIC FACILITIES

#### Sections:

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**16.40.010 Requirements for all land divisions.**

All land division, whether by certified survey map or by subdivision, shall comply with all provisions of Chapter 236 Statutes, all applicable state agency rules and regulations and all applicable county and town ordinances and shall comply with the requirements of this chapter and this title. (Ord. dated 7/27/95 § 5 (part))

**16.40.020 Open space and neighborhood recreational areas.**

A. The developer shall provide for appropriate area and facilities to serve the recreational needs of the immediate neighborhood in the form of "tot lots," greenways with pedestrian walkways and bicycle paths, small open spaces of meadow or woods, plazas, water courses or ponds. The developer shall also provide open spaces in the form of undeveloped woods, meadow, marsh or water, pasture or cropland, golf courses, riding trails, or ski hills or similar uses consistent with the preservation of open space for its aesthetic and ecologic value to the community.

B. Such open space and neighborhood recreational space shall be provided on the basis of no less than the following units of land per dwelling unit: one-half acre lot size,

ten (10) percent of one acre per dwelling unit; one acre lot size, eight percent of one acre per dwelling unit; three acres or more lot size, four percent of one acre per dwelling unit.

C. Such open space and neighborhood recreational space may be retained as private common lands or may be dedicated to the public with the consent of the Town Board. In the case of private ownership, the protection of such reservation and provision for care and maintenance shall be assured as provided below.

D. Open Space Easements and Care And Maintenance Provisions.

1. If lands are set aside for recreational or open space purposes under private ownership, the area reserved shall be protected against additional building development by conveying to the town a permanent open space easement over such areas restricting them against additional future building or use except as is consistent with that of providing open space for the aesthetic, ecologic and recreational benefit of the community. Buildings or uses for recreational, cultural or other purposes compatible with this objective may be permitted only where specifically authorized as part of the development plan or subsequently with the express approval of the town Planning and Zoning Committee following approval of building, site, and operational plans.

2. The care and maintenance of private reservations shall be assured by establishment of an appropriate management organization such as a property owners association. The manner of assuring maintenance and assessing the cost thereof to individual properties shall be established in the bylaws for such organization and in correlated deed restrictions, and shall be included in the conditions of approval and recorded with the title for each property.

3. The care, maintenance and appropriate operation of open space reservations involving agricultural, recreational, or other use under individual private ownership, and not as common lands to the development shall be assured by appropriate covenants and agreements with the town. Such covenants and agreements shall be consistent with the specific situation, provide adequate assurance that the use in perpetuity shall be consistent with the purpose of preserving the area as open space.

E. Determination of Required Land Area.

1. The number of units of required land to be provided for the specific purpose as set forth in subsection B of this section, shall be one of each dwelling unit anticipated from the layout of the development.

2. In the case of multiple-family developments, the number of units shall be the maximum permitted under the zoning unless the number is specifically limited by the terms of a planned development.

3. In the case of a planned development the unit factor as related to the zoning district lot size shall be converted to an average density for the entire development and the nearest appropriate factor selected.

4. In the case of a minor division, the number of units required shall be only for the additional dwelling units resulting from the division, and any permanent residential units which have existed for at least one year prior to the date of the division shall be exempt.

**16.40.030 Reservation for public purposes.**

A. Where a development includes land indicated in whole or part as a site for a public school, park, recreation area, new highway, or other public use and any part of such land is not dedicated pursuant to the

provisions of this subsection, it shall be reserved for the town, county or school district and such reservation may be released by the Town Board if it has not been accepted or developed within five years of recording the plat or map.

B. Any site so reserved may be used for any purpose, consistent with the zoning regulation, except that no permanent buildings or other improvements may be placed thereon unless a waiver is filed with the Town Board releasing it from any claim for the value of such improvements if the property is acquired for such public purpose. (Ord. dated 7/27/95 § 5(3))

**16.40.040 Easements.**

A. Pedestrian easements or dedications, at least twenty (20) feet in width shall be required, where deemed necessary, to provide access to playgrounds, parks, schools, shopping centers, or other community facilities.

B. Utility easements shall be provided as may be deemed necessary by those utility companies having installations in the plat. The utility companies shall review all plats to determine whether easements will be necessary and where they should be required.

C. Where a division is transversed by a drainage way or stream, an adequate easement shall be provided as deemed necessary by the Town Board. The location, width, alignment and improvement of such drainage way or easement shall be subject to approval by the Town Engineer; and parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the Town Engineer. Where deemed necessary, the

town may require these channels to be enclosed with pipe. (Ord. dated 7/27/95 § 10(5))