

**RESOLUTION
OF THE TOWN BOARD
OF THE TOWN OF SKANEATELES**

Proposed Amendments to the Town of Skaneateles Zoning Law

WHEREAS, Pursuant to Municipal Home Rule Law Section 20(4), Board Member Lotkowitz introduced for consideration Introductory Local Law No. A of 2026 entitled “A Local Law Amending Chapter 148 of the Code of the Town of Skaneateles” (the “Proposed Local Law”); and

WHEREAS, the purpose of the Proposed Local Law is to amend certain provisions of Chapter 148 of the Code of the Town of Skaneateles, more commonly known as the Zoning Law of the Town of Skaneateles (the “Zoning Law”), related to: conservation easement area calculation; definitions of data processing center battery energy storage system, lodging facility, temporary fence and temporary storage structure; dimensional requirements for two family and multi-family dwellings; prohibited uses; location of boathouses; fence standards; regulation of outdoor storage areas and temporary storage structures; and exclusion of lodging facilities from accessory uses; and

WHEREAS, the Town Board desires to comply with the requirements of the State Environmental Quality Review Act (“SEQRA”) and its implementing regulations set forth at 6 NYCRR Part 617, and Section 239 of the General Municipal Law, with respect to these proposed amendments to the Zoning Law.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby declares its intent to serve as lead agency for purposes of a coordinated review under SEQRA of the Proposed Local Law;

BE IT FURTHER RESOLVED that the Town Board hereby preliminarily classifies the Proposed Local Law as a Type 1 Action under SEQRA, and the Town Board hereby directs the Town Clerk to send Part 1 of the Full Environmental Assessment Form and the Proposed Local Law to all interested agencies to request their comments thereon;

BE IT FURTHER RESOLVED that the Town Clerk shall refer the Local Law to Onondaga County Planning for its review pursuant to General Municipal Law Section 239;

BE IT FURTHER RESOLVED that the Town Clerk shall refer the Proposed Local Law to the Town of Skaneateles Planning Board for its review and report pursuant to Section 148-10-11 of the Zoning Law, no later than thirty (30) days from the date of this resolution; and

The adoption of the foregoing Resolution was moved by Councilor Lotkowitz, seconded by Councilor Milne, and duly put to vote, which resulted as follows:

Supervisor Chris Legg	Voting	Aye
Sue Dove	Voting	Aye
Mark Tucker	Voting	Absent
Lori Milne	Voting	Aye
Bob Lotkowitz	Voting	Aye

The resolution was thereupon declared duly adopted.

Dated: April 6, 2026

Town of Skaneateles
Introductory Local Law A of the Year 2026
A Local Law Amending
Chapter 148 of the Code of the Town of Skaneateles

Section 1. Authority

This local law is enacted pursuant to the provisions of the New York Town Law and the New York Municipal Home Rule Law.

Section 2. Purpose

The purpose of the Proposed Local Law is to amend Chapter 148 of the Code of the Town of Skaneateles, more commonly known as the Zoning Law of the Town of Skaneateles (the “Zoning Law”).

Section 3. Amendments to Code

See the attached proposed amendments to the Zoning Law.

Section 4. State Environmental Quality Review Act (SEQRA)

The Town Board has considered the provisions of Article 8 of the Environmental Conservation Law (“SEQRA”) and the regulations adopted thereunder at 6 NYCRR Part 617 and finds that the proposed amendments to the Zoning Code will not result in any significant adverse environmental impacts. Therefore, no further review is required under SEQRA.

Section 5. Effective Date

This Local Law shall take effect upon filing with the Secretary of State.



01.15.2026 Proposed Zoning Code Update

Regulations Applicable in More than One District

Proposed Action: Revisions to §148-5-1-Accessory Uses

Current Zoning – The current zoning code allows uses customarily incidental to principal uses on the same terms as a principal use.

Proposed Zoning – The proposed modification will place a restriction that a lodging facility is considered a principal use only and not an accessory use.

Committee Statement: The committee is recommending the modifications to address a recent application where a lodging facility was approved as an accessory use to a retail and instructional use by allowing beds in the rear of a retail store causing a potential life and safety issue. The revision will exclude a lodging facility as an accessory use. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
Don Kasper
Denise Rhoads
Scott Molnar
Bob Herrmann
Karen Barkdull

Article 5 Regulations Applicable in More than One District

§ 148-5-1. General Regulations

- A. Purpose.** The purpose of this section is to set forth general regulations that apply to all land uses throughout the Town.
- B. General Rules.**
- 1.** No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered, unless in conformity with all general regulations and district regulations in this chapter. Article 4 contains regulations specific to each district.
 - 2.** No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, side yards, or lake yards than is specified herein for the district in which such building is located.
 - 3.** Any use not specifically set forth as a permitted or special permit use in a district is prohibited in that district. See § 148-12-2 for definitions of the use categories.
 - 4.** Nothing contained herein shall prohibit any person from submitting a request for a zoning amendment or a variance in accordance with the provisions of this chapter and the New York State Town Law.
- C. Accessory uses.** Uses and structures customarily incidental to principal uses listed in Article 4 and used in conjunction with the principal use shall be allowed on the same terms as the principal uses, with the exception of lodging facility that is considered a principal use only.
- D. More than one use on a lot.** All related special permit and/or site plan reviews for uses on the same lot shall be consolidated into one proceeding before one board to the extent legally permissible, based upon the cumulative total size of all related projects. All use standards established by Articles 4, 5, and 7 shall apply to each proposed use.



01.01.2026 Proposed Zoning Code Update

Outdoor Storage Areas and Temporary Storage Structures

Proposed Action: Modification of §148-5-5-E Outdoor Storage areas and Temporary Structures

Current Zoning – The current zoning code regulates outdoor storage however it does not regulate temporary storage.

Proposed Zoning – The proposed modification to the zoning code will expand outdoor storage areas to include regulations for setbacks, time limitations for outdoor storage in conjunction with construction activity, and exemption for outdoor storage for agricultural use. The section of code will be expanded to include regulations for temporary storage structures location, time limitation, and requirement for a building permit. Agricultural activities would also be exempt from the temporary storage structures section.

Committee Statement: The committee is recommending modifications for this section of code due to recent outdoor storage activities in the town and any impact they may have to the neighboring community. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
Don Kasper
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Karen Barkdull

148-5-5-E. Outdoor storage areas and Temporary Storage Structures

1. Outdoor storage areas

- a. Outdoor storage areas shall be screened from view of the public and adjoining property owners. No outdoor storage area for construction equipment or other heavy equipment or vehicles, or display, storage or collection of junk or junk cars, and no more than one unregistered vehicle shall be permitted in a location visible from adjoining properties or public roads.
- b. Outdoor storage shall be located to the rear or side of the primary structure and screen from view from nearby residential property as well as from public view.
- c. All outdoor storage shall be located ten feet from a property line.
- d. Any outdoor storage directly related to agricultural production shall be exempt from these requirements.
- e. Any outdoor storage of material in conjunction with a construction project shall be removed within 60 days of completion of a project.
- f. **The regulations in this subsection are intended to supplement the provisions of Chapter 86 of the Town Code (junkyard regulations).**

2. Temporary Storage Structures

- a. All temporary storage structures shall be permitted by a zoning permit issued by the Codes Enforcement Office for a 30 day duration. This period may be extended at the discretion of the Codes Enforcement Office and cannot exceed 180 days in duration per year beginning on the first day of use.
- b. Temporary storage structures shall be located to the rear or side of the primary structure. Temporary storage structures over 200 square feet shall meet the required setbacks for the district and screened from public view.
- c. All temporary storage structures must comply with NYS building code and NYS fire code.
- d. Any existing temporary structure must be removed within one year of enactment of this section of code.
- e. Any outdoor storage directly related to agricultural production shall be exempt from these requirements.



02.05.2026 Proposed Zoning Code Update

Gates and Fences

Proposed Action: Revisions to §148-5-2-Fences

Current Zoning – The current zoning code provides general standards for fences established in 1996 and no guidance on gates.

Proposed Zoning – The proposed modification will provide guidance on minimum standards for gates and pillars, limit temporary fences to no more than 180 consecutive days and under 6 feet in height, and allow ten feet in height fencing for courts for racket/paddle sports. A definition for temporary fencing will be added.

Committee Statement: The committee is recommending the modifications to address recent concerns regarding gates for dwellings becoming more prevalent, and having a consistent standard will assist with fire department concerns for safety and access in emergencies. Emerging recreational activities including pickleball require fences with a need for the height of 10 feet. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
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148-5-2 Gates and Fences

H. All Permanent Gates and Fences shall require a building permit and shall be permitted regardless of the setback requirements of this chapter, subject to the following conditions:

- 1. No fence exceeding six feet in height shall be permitted anywhere within the Town, except that a fence up to 10 feet in height may enclose a kennel or court for racket/paddle sports, provided that it complies with an accessory structure applicable setback requirements.**
- 2. Fences shall be set back a minimum of one foot from the adjacent property line, with the exterior (good) side of the fence facing out, and with the wiring, structural elements or other components of the fencing not designated for presentation to the public facing toward the interior of the property.**
- 3. No fence shall be constructed in a road or street right-of-way.**
- 4. Gates and pillars must comply with the Town of Skaneateles Highway Specifications Manual dated June 15, 2004, and all addenda and amendments thereto. (See §129-29).**
- 5. Gates and pillars must comply with New York State Fire Code.**
- 6. Temporary fencing including but not limited to a dog pen, garden fence and snow fence shall be up utilized for no more than 180 consecutive days and shall be less than 6 feet in height. Temporary fencing in conjunction with active construction shall be removed at completion of the project.**

Centerline of Roadway

Edge of Pavement

For gate installs, minimum distance from edge of pavement shall be 45'

45'-0"

15'-0"

min radius 25'

Minimum width traveled way

Town of Skaneateles Detail

Private Driveway Gate
Town Code Reference: 148-5-2H
Gates & Fences

Drawn by: MFR
Original: October 28, 2025
Revision: 1



01.01.2026 Proposed Zoning Code Update

Shoreline Structures- Boathouse

Proposed Action: Revisions to §148-7-1-K.1 to clarify regulations on the location of boathouses

Current Zoning – The current zoning code requires boathouses to be located at least 10% on land however, there is no regulation regarding what portion of the boathouse should be located over water.

Proposed Zoning – The proposed modification will require a boathouse to be located at least 10% on land and 10% over water, with direct door access opening to the water.

Committee Statement: The committee is recommending the modifications to address recent concerns with boathouses being primarily located on land and not differentiated from a shoreline storage shed. The modification will assist with clarification of what constitutes a boathouse. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
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148-7-1-K.1.

b. Special requirements for onshore and offshore structures.

i). No onshore structure other than a deck and/or stairs leading to an offshore dock shall be erected, constructed, or placed to extend offshore beyond the Lake Line, except as otherwise approved by the Planning Board.

ii). The foundation area of a boathouse shall not exceed 500 square feet, and shall have at least 10% of the foundation (boat house footprint) on land (at or above the Lake Line Elevation), at least 10% of the boathouse over water, and have direct door access opening to the water. The height of any part of a boathouse shall not be greater than 16 feet above the Lake Line. No living quarters shall be allowed in a boathouse. No boathouse shall be used for any purpose other than storage.

iii). Not more than one boathouse or covered/roofed boat slip shall be permitted for each lakefront lot.

iv). Except as provided in § 148-8-9-A.1, all onshore structures except seawalls and retaining walls needed for erosion control shall be constructed with a minimum side setback of 20 feet from the property line; all offshore structures shall be constructed with a minimum side setback of 10 ft to the offshore property line. To locate the offshore property line, extend a line perpendicular from the center line of Skaneateles Lake, as shown on the officially adopted centerline map, to the point of intersection of the side property line and the City of Syracuse Lake Line (as defined). This perpendicular line shall be treated like a property line for purposes of determining offshore setbacks. (See demonstration graphics in Shoreline Guidelines).



02.12.2026 Proposed Zoning Code Update

Prohibited Uses

Proposed Action: Revisions to §148-5-1-Prohibited Uses

Current Zoning – The current zoning code does not specify emerging uses that the Town may determine that they would prohibit.

Proposed Zoning – The proposed modification will include Data Processing Centers as prohibited uses. Definitions for Data Processing Center will be added.

Committee Statement: The committee is recommending the modifications to address recent concerns regarding with Data Processing Centers from an environmental impact to the water quality and supply, energy consumption, potential noise impacts to neighborhoods, and electronic waste with potential higher energy rates for the community. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

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148-5-1

E. Prohibited uses. Any use, even if otherwise permitted by Article 4, shall be prohibited if it does not satisfy all applicable performance criteria contained in this chapter. The following uses are prohibited under all circumstances throughout the Town:

1. New mobile home courts
2. New junkyards
3. Racetracks
4. Amusement parks
5. Adult entertainment businesses
6. Toxic waste facilities
7. Dumps or landfills for solid waste, municipal or industrial sewage sludge or biosolids
8. Construction waste or demolition debris processing or disposal facilities
9. Heavy Industry
10. Privately owned package sewage treatment plants serving multiple owners, except that the Planning Board may approve community septic systems, constructed wetland treatment facilities, or other innovative technologies that meet the performance standards in this chapter and comply with applicable regulations of the Onondaga County Health Department and the City of Syracuse Watershed Regulations
11. Drive-through windows in any business establishment where customers receive products or services in their vehicles from a window in the establishment
12. Natural gas and/or petroleum extraction, exploration, or production wastes, as further detailed in Sec. 148-5-5.H.
13. Large Wind Energy Systems and Wind Farms (See §148-5-7).
14. Data Processing Centers



03.19.2026 Proposed Zoning Code Update

Regulations applicable to two family and multifamily dwellings

Proposed Action: Revisions to §148-5-5- Two Family and Multi-family dwellings

Current Zoning – The current zoning code places undo restrictions on two family and multifamily dwellings discouraging middle housing opportunities. The code also encourages multiple ADUs on a lot.

Proposed Zoning – The proposed modification will remove the requirement for twice the amount of land for two family dwellings and will remove the requirement for land placed in conservation for multi-family dwellings. The draft will remove the plurality of ADUs on a lot.

Committee Statement: The committee is recommending the modifications to address the missing middle housing to assist with developers being able to provide alternative housing to single family dwellings. Onondaga County's Plan On noted that there is demand for the middle housing (duplex, multifamily, condo, townhomes) and by removing some of the zoning obstacles to encourage this type of residential development. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
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§ 148-5-5. Regulations for Specific Uses and Accessory Uses Draft 3.19.2026

The following regulations apply to specifically described Uses and Accessory Uses that occur anywhere in the Town.

A. Permitted Housing Types.

1. Single-Family dwellings and accessory structures within 1500 Feet of the Lake Line that exceed 2,500 square feet in cumulative footprint shall require site plan review. The Planning Board shall take into account, in the course of site plan review, the need to minimize stormwater runoff and pollution of the Lake, and the need to harmonize buildings architecturally with existing buildings in the vicinity.
2. Two-family dwellings. Two-family dwellings are permitted by right on lots that are at least **twice** the minimum lot size in the district. On lots created as part of a conservation subdivision, two-family dwellings may be approved as part of the approval process for the conservation subdivision, consistent with the limits on the number of units allowed in a conservation subdivision.
3. Accessory apartments and accessory dwellings. An accessory apartment may be located in a principal building or an accessory structure (in which case that structure would become an accessory residential dwelling) in any zoning district, provided that the following conditions are met:
 - a. An accessory apartment or accessory dwelling may contain the lesser of 1000 square feet of floor space or, if the accessory apartment is in a single-family dwelling, 30% of the floor space of the dwelling (including the area of the accessory apartment as part of the total floor space of the dwelling).
 - b. Any accessory apartment or accessory dwelling that exceeds the thresholds described in 3a above shall constitute a multiple residence on a lot and be governed by the provisions of 148-5-5.A.5.
 - c. Any lot may contain one accessory apartment or accessory dwelling by right, if it has at least the minimum lot area required in the district pursuant to Article 4.
 - d. The Planning Board may grant a special permit allowing **an** accessory apartment**s** or accessory dwelling**s** to be located on a

lot which does not comply with minimum lot area requirements, provided that the structure is not within 100 feet of the Lake and the Board finds that such accessory apartments will comply with County Health Department regulations and with other applicable sections of this chapter. The Board shall require, as a condition of such special permit, that such accessory apartments or accessory dwellings may not be later subdivided onto separate lots.

- e. No accessory dwelling shall be subdivided onto a separate lot unless it can satisfy applicable dimensional requirements of this chapter or any siting or design guidelines adopted by the Town Board.

4. Multifamily dwellings.

- a. The construction of multifamily dwellings requires a special permit.
- b. The maximum density for multifamily dwellings shall be determined in each case by the Planning Board based upon all relevant special permit and site plan review criteria and the standards in this Subsection 4.
- c. Density of multifamily site shall not exceed four dwelling units per acre of unconstrained land as defined in §148-12-2 except that the Planning Board may allow greater density in the RR, HM, HC and IRO Zone Districts when public water is available and upon finding that the use and density is appropriate for the conditions of the site and surrounding area.
- d. In any multifamily major project, a minimum of 50% of the total project site and 15% of the site's unconstrained land shall be preserved as open space land pursuant to § 148-10-13, except that in the HM Districts outside of the LWOD, a minimum of 25% of the total project site and 15% of the site's unconstrained land shall be preserved as open space land pursuant to § 148-10-13.
- e. The Planning Board when reviewing the appropriateness of a proposed development may consider and utilize applicable design guidelines within the Town Policy & Guideline Book

5. More than one residence on a lot. A lot may contain more than one residential structure, provided that it has sufficient acreage to comply with the lot area requirements of the district for each dwelling unit.

- a. The construction of more than one residential structure on a lot shall require site plan approval by the Planning Board. The

construction of four or more dwelling units shall also require a special permit from the Planning Board and if the development is located on environmentally sensitive land, the Planning Board may require the preparation of a land suitability analysis pursuant to §148-6-2.

- b. The Planning Board may allow a density bonus of a maximum of 50% more than the otherwise allowable number of units, if the development will provide significant benefits in the form of permanent protection of publicly accessible open space, permanently restricted affordable housing as described in § 148-6-8 and/or the provision of alternative housing types through such building types as rowhouses, cottage housing, pocket neighborhoods, and additional housing types described in the Comprehensive Plan in Goal 3, Objective 3.
6. **Common Ownership.** Any existing or proposed development project that is structured to have condominium or similar ownership structure shall be considered the functional equivalent of a land subdivision and shall be subject to Site Plan Review and approval by the Planning Board. The Planning Board shall apply all relevant review criteria contained in Chapter 131 Town of Skaneateles Land Subdivision Law and the provisions of this chapter, including Section 148-10-12.



03.19.2026 Proposed Zoning Code Update

Definitions

Proposed Action: Modification of §148-12-2 Definitions

Current Zoning – The current zoning code has definitions for temporary and lodging facility; however, it does not have a definition for data processing center, temporary , temporary fence, temporary storage structure.

Proposed Zoning – The proposed modification to the zoning code definitions will include the addition of Data Processing Center Battery Energy Storage System, Temporary Fence, and Temporary storage structure definitions. The Lodging Facility definition will be modified to clarify that a lodging facility must contain six or more units. The redevelopment definition will be modified to provide more clarity on when redevelopment is applied. The temporary definition will provided more flexibility to the Codes Enforcement Officer for time extension.

Committee Statement: The committee is recommending modifications of this section of code due to emerging technology and due to recent activities in the town and any impact they may have to the neighboring community. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

**Mark Tucker
Don Kasper
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Karen Barkdull**

Draft Definition 03.19.2026

BATTERY ENERGY STORAGE SYSTEM -One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1, Tier 2, or Tier 3 battery energy storage system and regulated as follows:

A. Tier 1 battery energy storage system has an aggregate energy capacity less than or equal to 600 kWh and if in a room or enclosed area consist of only a single energy storage system technology.

B. Tier 2 battery energy storage system has an aggregate energy capacity greater than 600 kWh and up to 5000kWh.

C. Tier 3 battery energy storage system has an aggregate energy capacity of greater than 5000kWh designed primarily for integration with the electric grid.

DATA PROCESSING CENTER -A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer or network equipment, systems, servers, appliances and other associated components related to digital data operations including but not limited to operations related to cryptocurrency mining, blockchain authenticating, Artificial Intelligence (A.I.) processing, general data computing, processing and storage or other large-scale computer or electronic-based centers.

FENCE, TEMPORARY –A freestanding portable barrier that is not affixed to the ground, for short term use and easily removed. A temporary fence includes but is not limited to construction fencing, dog pen, garden fence or snow fence.

LODGING FACILITY — Any hotel, motel, inn or other establishment, other than a bed-and-breakfast, containing individual sleeping units intended primarily for transient travelers, containing six or more rental units (rooms). ~~providing sleeping accommodations for transient guests, with or without a dining room or restaurant.~~ Accommodations incidental to such occupancy may be provided, including dining rooms, gift shops, personal services, a bar where nonalcoholic and alcoholic beverages may be served for on-premises consumption, meeting rooms, lounges, swimming pools and physical fitness rooms, to accommodate the residents and invited guests and the general public.

REDEVELOPMENT – Any change, modification, rehabilitation, or alteration of a preexisting and nonconforming lot, whose total calculation of impermeable surface currently exceeds the maximum permitted by this chapter, and which expands or alters the existing footprint of structures located thereon. Modifications to permeable structures are not considered redevelopment.

TEMPORARY —An interim, time-limited activity, use, structure, or modification that may occur within a site or in support of changes to the allowed permanent uses or structure within the same site. Any temporary changes are removed upon the conclusion of a specified time period or upon accomplishment of such permanent changes, and the site is restored to its prior or approved new conditions. Examples may include a show, event, or special exhibition; also includes the storage of construction equipment, temporary fencing or driveways and top-soil storage. Annually repeating activities may be considered temporary if they are otherwise allowed by the Zoning Code or other applicable Town Codes and meet this definition of temporary such as holiday or garage sales, arts or music festivals, or fund-raisers. No single-occurrence or repeating use/event shall exceed 30 days duration **unless extended by the codes enforcement officer.**

TEMPORARY STORAGE STRUCTURE – A structure of a non-permanent nature (movable and *temporary*) including membrane covered structures, truck bodies, trailers, PODS, AVERDI storage trailer, and tents.



03.19.2026 Proposed Zoning Code Update

Conservation Easements to Protect Open Space

Proposed Action: Modification of §148-10-13. Conservation Easements to Protect Open Space

Current Zoning – The current zoning code regulates conservation easements and allows structures to be located in the easement area, and the conservation area calculation can be composed of 25% of the constrained land such as wetlands, steep slopes.

Proposed Zoning – The proposed modification to the zoning code will remove the allowed of agricultural structures to be located in conservation easement areas. It also removes the allowance of constrained lands to be included in the conservation easement calculation

Committee Statement: The committee is recommending modifications for this section of code due to the fact that wetlands, streams, and steep slopes are already protected land that cannot be built upon. Agricultural structures are permanent structures increasing impermeable surface coverage. The committee would also recommend that the revisions take effect immediately upon filing in the office of the Secretary of State of the State of New York.

Zoning Committee Members

Mark Tucker
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Karen Barkdull

§ 148-10-13. Conservation Easements to Protect
Open Space Draft 3.19.2026

- A. Since one of the major purposes of Open Space Development is to preserve open space, all open space preserved in perpetuity in connection with Conservation Subdivisions, Cluster Subdivisions, and Transfer of Development Rights shall follow the criteria in this Section. In addition, these criteria shall also apply where open space is required to be preserved by this Zoning Law in connection with a special permit or site plan approval.
- B. In Conservation Subdivisions, at least 60% of the land shall be preserved as open space by Conservation Easements pursuant to Subsection G below.
- C. In all other developments in which open space preservation is required, the amount of open space to be preserved shall be determined in the course of approval of the development by the Planning Board.
- D. Preserved open space may be included as a portion of one or more large lots or may be contained in a separate open space lot. Such open space may be owned by a property owners association, private landowner(s), a nonprofit organization, or the Town or another governmental entity, as long as it is protected from development by a conservation easement and does not result in fragmentation of the open space land in a manner that compromises its conservation value. The required open space land may not include private yards located within 100 feet of a principal structure. Such private yards shall be considered to be part of the building lot on which they are located and not preserved open space. **A maximum of 25% of land that is constrained may be counted toward the preserved open space requirement.** Open space set aside in an open space development or as a condition of any special permit or site plan approval (see § 148-10-8.C.6) shall be permanently preserved as required by this section. Land set aside as protected open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to this Section, and provided that the Planning Board approves such configuration of the open space as part of its subdivision, special permit or site plan approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land as established in the land suitability analysis required by Section 148-6-2.

- E. Conservation value of open space. The open space protected pursuant to this Section must have conservation value as established by the Land suitability analysis.
- F. Notations on plat or site plan. Land protected by a conservation easement Preserved land shall be clearly delineated and labeled on the final subdivision plat or site plan as to its use, ownership, management, and the rights, if any, of the owners of other lots in the subdivision to such land. The plat or site plan shall clearly show that the open space land is permanently reserved for open space purposes and shall contain a notation indicating the deed reference of any conservation easements required to be recorded.
- G. Conservation easement document. A permanent deed of conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources or similar conservation purposes, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. (Such conservation easement may not be granted to a Property Owners Association).
1. The conservation easement shall be approved by the Planning Board and shall be required as a condition of subdivision plat (or site plan) approval. The Planning Board may require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's office. In the case of subdivisions of less than five lots and minor projects, a restrictive covenant enforceable by the Town may be substituted for a conservation easement.
 2. The conservation easement shall protect the conservation values identified in the land suitability analysis. It shall prohibit residential, industrial or commercial use of open space land (except in connection with agriculture, forestry and recreation) and shall not be amendable to permit such use. Access roads, driveways, local utility distribution lines, trails, and temporary structures for outdoor recreation and agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land. The approved plan for development that includes land protected by conservation easement may allow dwellings to be constructed on portions of parcels that are not covered by the conservation easement, provided that the total number of dwellings permitted in the entire development is consistent with applicable

limitations of this chapter and that the protected open space land does not become fragmented in a way that interferes with its proper management and with protection of its conservation values.

H. Ownership of open space land.

1. Open space land may be owned in common by a property owners' association (POA) as, dedicated to town, county or state governments, transferred to a nonprofit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to properly manage the open space land and to protect its conservation value, based upon the land suitability analysis.
2. If the land is owned in common by a POA, such POA shall comply with the requirements in Section 148-10-12.

I. Maintenance standards.

1. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for storage or dumping of refuse, junk or other offensive or hazardous materials.
2. If the Town Board finds that the provisions of Subsection 1 above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days' written notice to the owner, 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 a POA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.

- J. Preserved open space may be included as a portion of one or more large lots or may be contained in a separate open space lot. Such open space may be owned by a property owners association, private landowner(s), a nonprofit organization, or the Town or another governmental entity, as long as it is protected from development by a conservation easement and does not result in fragmentation of the open space land in a manner that compromises its conservation value. The required open space land may not include private yards located within 100 feet of a principal structure. Such private yards shall be considered to be part of the building lot on which they are located and not preserved open space. A maximum of 25% of land that is constrained may be counted toward the preserved open space requirement. Open space set aside in an open space development or as a condition of any special

permit or site plan approval (see § 148-10-8.C.6) shall be permanently preserved as required by this section. Land set aside as protected open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to this Section, and provided that the Planning Board approves such configuration of the open space as part of its subdivision, special permit or site plan approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land as established in the land suitability analysis required by Section 148-6-2.

- K. Conservation value of open space. The open space protected pursuant to this Section must have conservation value as established by the Land suitability analysis.
- L. Notations on plat or site plan. Land protected by a conservation easement Preserved land shall be clearly delineated and labeled on the final subdivision plat or site plan as to its use, ownership, management, and the rights, if any, of the owners of other lots in the subdivision to such land. The plat or site plan shall clearly show that the open space land is permanently reserved for open space purposes and shall contain a notation indicating the deed reference of any conservation easements required to be recorded.
- M. Conservation easement document. A permanent deed of conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources or similar conservation purposes, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. (Such conservation easement may not be granted to a Property Owners Association).
 - 1. The conservation easement shall be approved by the Planning Board and shall be required as a condition of subdivision plat (or site plan) approval. The Planning Board may require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's office. In the case of subdivisions of less than five lots and minor projects, a restrictive covenant enforceable by the Town may be substituted for a conservation easement.

2. The conservation easement shall protect the conservation values identified in the land suitability analysis. It shall prohibit residential, industrial or commercial use of open space land (except in connection with agriculture, forestry and recreation) and shall not be amendable to permit such use. Access roads, driveways, local utility distribution lines, trails, temporary structures for outdoor recreation and agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land. The approved plan for development that includes land protected by conservation easement may allow dwellings to be constructed on portions of parcels that are not covered by the conservation easement, provided that the total number of dwellings permitted in the entire development is consistent with applicable limitations of this chapter and that the protected open space land does not become fragmented in a way that interferes with its proper management and with protection of its conservation values.

N. Ownership of open space land.

1. Open space land may be owned in common by a property owners' association (POA) as, dedicated to town, county or state governments, transferred to a nonprofit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to properly manage the open space land and to protect its conservation value, based upon the land suitability analysis.
2. If the land is owned in common by a POA, such POA shall comply with the requirements in Section 148-10-12.

O. Maintenance standards.

1. Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for storage or dumping of refuse, junk or other offensive or hazardous materials.
2. If the Town Board finds that the provisions of Subsection 1 above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days' written notice to the owner, 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 a POA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.