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## **8. Chapter 8 CONSERVATION SUBDIVISION AND FARM PRESERVATION REGULATIONS**

The standards and regulations set forth in this chapter relate to proposed subdivisions in the Town of Wallsburg. All subdivision shall be consistent with Chapter 6 herein and all other relevant sections of this Code.

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## ***8.1. Purpose.***

The purpose of this Chapter is to provide an alternative to the standard subdivision development pattern within Wallsburg Town in a manner that:

1. Protects constrained and sensitive lands, including those areas containing sensitive and undevelopable features such as steep slopes, floodplains and wetlands, by setting them aside from development;
2. Conserves conservation and open space land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;
3. Provides greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;
4. Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;
5. Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;
6. Provides incentives for the creation of greenway systems and open space within the Town for the benefit of present and future residents;
7. Implements adopted Town policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Comprehensive General Plan;
8. Implements adopted land use, environment, natural hazards, transportation, and community policies, as identified in the Comprehensive General Plan;
9. Protects areas of the Town with productive agricultural soils for continued agricultural use by conserving blocks of land large enough to allow for viable farm operations;
10. Creates neighborhoods with direct visual and/or recreational access to constrained, sensitive and conservation land;
11. Provides for the conservation and maintenance of constrained, sensitive and conservation land within the Town to achieve the above-mentioned goals;
12. Provides incentives and design alternatives for landowners to minimize impacts on environmental resources such as, sensitive lands, wetlands, floodplain, and steep slopes, and to minimize disturbance of natural or cultural features such as, mature woodlands, tree lines, wildlife habitats and corridors, historic buildings, and floodplain walls;
13. Provides standards accommodating to some extent the varying circumstances and interests of individual landowners and the individual characteristics of their properties; and
14. Conserves scenic views and elements of the Town's rural and scenic character and minimizes perceived density by minimizing views of new development from existing roads.

## **8.2. *Applicability.***

The election to develop property as a Conservation Subdivision is voluntary and provided to developers as an alternative to development of property as a Conventional Subdivision pursuant to other applicable provisions of this Title. The intent of this Chapter and the Conservation Subdivision options is to encourage the creation and development of flexibly-designed open space subdivisions. Conservation Subdivisions may be developed within applicable agricultural and residential zones of the Town. Conservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this Chapter and with all other applicable subdivision ordinances and zoning regulations of the Town which are not otherwise in conflict with the provisions of this Chapter.

## **8.3. *Definitions.***

For purposes of this Chapter, the following words shall have the meanings set forth herein:

### **8.3.1. *Conservation Land***

*Conservation Land* means land containing unique, historic, cultural, archeological, natural or other significant features, including, but not limited to, meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, and open space.

### **8.3.2. *Constrained and Sensitive Land.***

*Constrained and Sensitive Land* means land which is generally unbuildable and which contains constrained and sensitive features including, but not limited to, wetlands, floodplains, steep slopes, faults, high water table and other geologically or environmentally sensitive features.

## **8.4. *Development Requirements.***

Conservation Subdivision provides for residential development at the base density permitted in the relevant zone plus any corresponding density incentive as provided herein for Option One Conservation Subdivisions. In order to obtain the full density incentive permitted herein for an Option One Conservation Subdivision, the development must utilize a conservation design which sets aside and preserves all constrained and sensitive lands, natural hazards and resources, and provides the required percentage of conservation land within the development.

## **8.5. *Approval Process.***

Applications for a Conservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the Town Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set

forth in this Chapter, including, but not limited to, submission of a Subdivision Yield Plan, Sensitive Area Designation Plan and/or Master Development Plan.

## ***8.6. Development Activities Prohibited.***

In order to ensure the preservation and enhancement of existing conditions of certain property within the Town, including, but not limited to, constrained and sensitive lands, natural and cultural resources, wildlife habitat and other unique and sensitive lands, no new development activity shall be permitted on property proposed for development as a Conservation Subdivision prior to final plat approval as provided herein. Upon final plat approval, all development activity shall be conducted in accordance with and subject to applicable permit and development approval processes required by Town Ordinances, rules and regulations. For purposes of this Section, "development activity" shall include any disturbance or alteration of the property in any way, but shall not include continuation of any currently existing permitted use of the property.

## ***8.7. Waiver.***

Subject to the provisions set forth herein, any provision of this Chapter may be waived by the Town upon a vote of not less than four (4) members of the Town Board. Such waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary by the Town Board. No waiver shall be granted absent a finding of good cause based upon specific special circumstances attached to the property. No waiver should be granted that would be contrary to the public interest or contrary to the underlying intent of this Chapter. Any waiver of the required minimum conservation land dedication shall require comparable compensation, off-site improvements, amenities or other consideration of comparable size, quality and/or value.

## ***8.8. Subdivision Yield Plan.***

All applications for a Conservation Subdivision shall include a Subdivision Yield Plan prepared in accordance with the provisions set forth herein. The Subdivision Yield Plan is utilized to determine and calculate the base number of dwelling units for any given property to be developed as a Conservation Subdivision.

### ***8.8.1. Subdivision Yield Plan.***

Applicants shall prepare a Subdivision Yield Plan for the proposed project showing how the property within the project could be developed under a Conventional Subdivision layout using the dimensional standards set forth in Subsection (8.8.3). The Subdivision Yield Plan is not intended to propose or permit the actual development of the property in accordance with the dimensional standards set forth herein, but is prepared merely to determine the base number of dwelling units to be used in calculating the permitted number of dwelling units and lot size for the actual Conservation Subdivision. No subdivision may be developed in accordance with the dimensional standards set forth in Subsection (8.8.3) or a proposed Subdivision Yield Plan.

**8.8.2. Realistic Layout.**

The Subdivision Yield Plan must be drawn to scale and must exhibit a realistic layout reflecting a Conventional Subdivision layout that could reasonably be expected to be implemented in consideration of dimensional standards set forth herein and calculating and addressing the presence of non-buildable or infrastructure areas, including, but not limited to, rights-of-way, public improvement areas, wetlands, floodplains, steep slopes, restricted areas, and existing easements or encumbrances.

**8.8.3. Dimensional Standards.**

The Subdivision Yield Plan shall reflect the following dimensional standards:

Subdivision Yield Plan Dimensional Standards		
Zone	Lot Area	Lot Width
		Interior
R (Residential)	½ Acre	100
RA (Residential Agriculture)	5 Acre	250'
A (Agriculture-Very Low Density)	20 Acre	330'

**8.8.4. Approval.**

The Subdivision Yield Plan must be approved in writing by the Town Planner for compliance with the standards and provisions of this Section prior to the submission of a Schematic Plan for a Conservation Subdivision.

**8.9. Sensitive Area Designation Plan.**

All applications for a Conservation Subdivision shall include a Sensitive Area Designation Plan prepared in accordance with the provisions set forth herein. The Sensitive Area Designation Plan shall identify all constrained and sensitive lands within the property boundaries and within four hundred (400) feet outside of the property boundaries, including, but not limited to, floodplains, wetlands, steep slopes, and fault lines.

The Sensitive Area Designation Plan shall also clearly identify all natural or cultural resources present on the property and within four hundred (400) feet outside of the property, including, but not limited to, geographic features, including, but not limited to, meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space. Applicants are solely responsible for checking and ensuring the accuracy and designation of constrained and sensitive lands and natural and cultural resources on the Sensitive Area Designation Plan for their particular project and applicable adjacent property. If site analysis, surveying and/or identification of constrained and sensitive lands and natural and cultural resources require entry onto adjacent properties, applicants are solely responsible for obtaining all required permits and/or approvals for such entry and analysis, surveying and/or identification.

### **8.10. Master Development Plan.**

When deemed necessary or desirable by the Town, application and approval for a Conservation Subdivision may require the submission and approval by the Town of a Master Development Plan and/or Development Agreement. Such Master Development Plan and/or Development Agreement may be required by the Town at any stage of the subdivision approval process.

### **8.11. Dimensional Standards.**

1. The permitted density for development within a Conservation Subdivision shall be determined in accordance with the following chart, hereinafter referred to as the "Development Incentive Chart." The percentage increases noted as the "multiplier" in the Chart are percentage increases from the base density identified in the approved Subdivision Yield Plan for the proposed development.

Development Incentive Chart			
Zone	Conservation Land	Incentive Multiplier	Lot Size Minimum
R-1			
RA	40%	20%	40,000
A	40%	20%	40,000

2. Minimum Required Conservation Land. All Conservation Subdivisions shall provide at least the minimum percentage of conservation land within the Conservation Subdivision as set forth in the Development Incentive Chart in Subsection (a). The minimum percentage of required conservation land for any given Conservation Subdivision shall be calculated based upon the total acreage of property within the proposed subdivision less areas containing constrained and sensitive lands. Required conservation land shall not include any constrained or sensitive lands as defined herein. Except as otherwise provided herein, conservation land shall not be included within any residential lot.
3. Lot Area. The lot area and minimum lot size for lots within a Conservation Subdivision shall be determined in accordance with the Development Incentive Chart set forth in Subsection (a). The typical lot area is likely to be much closer in size to the established threshold for each zone because that lot size can be delivered by developers while still meeting the minimum conservation land requirements set forth herein.
4. Lot Width at Building Line. The minimum lot width at the building line for main buildings within a Conservation Subdivision shall be seventy-five (75) feet, except in the R and LR zones the minimum lot width shall be sixty (60) feet.
5. Street Frontage. The minimum street frontages for lots within a Conservation Subdivision shall be determined in accordance with the street frontage regulations provided for the relevant zone.

6. **Yard Regulations.** The builder or developer of a Conservation Subdivision is encouraged to consider variations in the principal building position and orientation, but shall observe the following minimum standards for buildings within a Conservation Subdivision. Exceptions to these minimum setback regulations may be approved by the Town, in its sole discretion, during plat approval process when deemed appropriate and desirable under the circumstances.
  - a) **Front Setback.** The minimum front yard setback for main buildings in a Conservation Subdivisions shall be twenty (20) feet . Notwithstanding the foregoing, the minimum front yard setback for front-loaded garages in any Conservation Subdivision shall be thirty (30) feet.
  - b) **Rear Setback.** The minimum rear yard setback for main buildings within a Conservation Subdivisions shall be thirty (30) feet.
  - c) **Side Setback.** The minimum side yard setback for main buildings within a Conservation Subdivision shall be ten (10) feet.
  - d) **Side Corner Setback.** The minimum side corner setback for main buildings within a Conservation Subdivision shall be fifteen (15) feet from the property line in compliance with clear vision standards set forth in Section 3.7 of this Title.

## ***8.12. Design Standards.***

1. **Individual Lots.** Individual lots in Conservation Subdivisions shall be laid out pursuant to the dimensional standards set forth herein. Except as otherwise provided for herein, individual residential lots shall not encroach upon or contain any of the required minimum designated conservation land for the Subdivision or any constrained or sensitive lands, as defined herein.
2. **Buffer from Road.** All new dwellings shall be arranged and located a minimum of eighty (80) feet from all external roads with a functional classification higher than a local street.
3. **Views of Houselots.** Views of houselots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the Town's landscaping requirements for residential subdivisions.
4. **Access.** Houselots shall be accessed from interior streets, rather than from roads bordering the tract.
5. **Abut Conservation Lands.** At least half of the lots shall directly abut conservation land or face conservation land across a street.
6. **Conservation Lands.** Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the conservation land within a Conservation Subdivision shall be complied with as provided herein.
7. **Constrained and Sensitive Lands.** Restrictions and regulations regarding the preservation, protection, ownership and maintenance of constrained and sensitive lands within a Conservation Subdivision shall be complied with as provided herein.

### ***8.13. Conservancy Lots.***

**Conservancy Lots.** Conservation land and constrained and sensitive land may be included within individual residential lots in limited circumstances when such areas can be properly protected and preserved in accordance with the intent and purpose of this Chapter. Such lots shall be known and referred to as “Conservancy Lots” and must be approved by the Town in conjunction with the subdivision approval.

1. Minimum Conservancy Lot Size. The minimum acreage required for any Conservancy Lot containing conservation land shall be five (5) acres.
2. Regulations. Conservation land and constrained and sensitive land within a Conservancy Lot shall remain subject to all regulations and requirements for such land as set forth herein, including, but not limited to, use, design, maintenance, ownership and permanent protection.

### ***8.14. Use Regulations.***

#### ***8.14.1. Subdivision.***

Subject to use and development restrictions of constrained and sensitive lands as set forth herein, land within Conservation Subdivisions may be used for the following purposes:

##### ***8.14.1.1. Permitted Uses.***

Any uses permitted in the relevant zone.

##### ***8.14.1.2. Conservation Land.***

Conservation land, subject to the use and development restrictions of conservation land as set forth herein.

##### ***8.14.1.3. Accessory Uses.***

Any permitted accessory uses as provided in the relevant zoning regulations.

#### ***8.14.2. Conservation Land.***

Conservation land may be used for the following purposes:

##### ***8.14.2.1. Permitted Uses.***

The following uses are permitted in conservation land areas:

- a. Conservation of open land in its natural state; *e.g.*, meadow, grassland, tree stands, farmland, etc.

- b. Agricultural and horticultural uses, including raising crops or Class “B” livestock and associated buildings that support an active, viable agricultural or horticultural operation, excluding commercial livestock operations involving swine, poultry, and mink.
- c. Pastureland for sheep, cows and horses.
- d. Equestrian facilities for Class “B” animals.
- e. Underground utility easements for drainage, access, sewer or water lines, or other public purposes.
- f. Above-ground utility and street rights-of-way may traverse conservation land if permitted under Town Ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted towards the minimum required conservation land for the Subdivision.

**8.14.2.2. Conditional Uses.**

The following uses shall be considered as conditional in conservation land areas:

- a. Agricultural uses, not otherwise permitted, including Class “C” Animals, but excluding commercial livestock operations involving swine, poultry and mink.
- b. Wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations.
- c. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
- d. 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.
- e. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways.
- f. Golf courses, not including miniature golf.
- g. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation land.
- h. Fencing, when deemed necessary and appropriate for the particular use, condition, purpose and/or location of the conservation land.

### **8.14.2.3. Prohibited Uses.**

Except as otherwise approved and permitted by the Town as a permitted or conditional use in conjunction with the Conservation Subdivision approval, the following uses shall be considered prohibited in conservation land areas:

- a. Any residential, commercial or industrial activity;
- b. Any development, construction or location of any man-made modification or improvements such as buildings, structures, roads, parking lots, or other improvements;
- a. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property;
- b. Any dumping or storing of ashes, trash, garbage or junk;
- c. Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes;
- d. The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except as may be necessary to maintain and operate the property and/or utility facilities within the property;
- e. Hunting or trapping for any purpose other than predatory or problem animal control;
- f. Advertising of any kind or nature and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized use of the same;
- g. Any cutting of trees or vegetation, except as necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses;
- h. The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property;
- i. The division, subdivision or de facto subdivision of the property;
- j. Changing the topography of the property by placing on it any soil, dredging spoils, land fill, or other materials, except as necessary to conduct specific permitted purposes; and
- k. All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of the easement.

#### **8.14.2.4. *Constrained and Sensitive Lands.***

No development or residential uses shall be permitted within constrained and sensitive lands.

### **8.15. *Conservation Land Design Standards.***

Designated conservation land within a Conservation Subdivision shall meet the following standards:

#### **8.15.1. *Significant Areas and Features.***

Conservation land should include the most unique and sensitive resources and locally significant features of the property within the Subdivision such as meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmlands, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, cultural features, green space, scenic views, etc.

#### **8.15.2. *Contiguous Land.***

Conservation lands within a development shall be contiguous to provide for large and integrated open space areas within the Subdivision. Non-contiguous parcels of conservation lands may be approved by the Town during plat approval process upon a finding that such exception is necessary and/or desirable based upon consideration of the size of the project, the size of the conservation parcels, the types of features and resources included within the conservation lands, and other relevant considerations. Long thin strips of conservation land (less than one hundred (100) feet wide) are prohibited, unless approved by the Town during plat approval process upon a finding that such configuration of the conservation land is necessary and/or desirable to connect other significant areas, to protect linear resources such as streams or trails, or to provide a buffer.

#### **8.15.3. *Open Space Network Connection.***

Conservation land within a Conservation Subdivision shall be designed and laid out as part of a larger continuous and integrated open space system in general accordance with the Wallsburg Resource and Site Analysis Plan to ensure that an interconnected network of open space will be provided throughout the Town.

#### **8.15.4. *Visibility.***

Conservation land shall be located and designed within the Conservation Subdivision to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space. Such enhanced visibility of conservation land may be accomplished through design and location of such open space as terminals at the ends of streets or along "single-loaded" street segments, particularly along the outside edges of street curves, and by maximizing the visibility of external open space as perimeter "greenbelt" conservation land.

#### **8.15.5. *Resource Uses.***

A substantial amount of the minimum required conservation land may be devoted to active resource uses such as agriculture, horticulture, or equestrian uses; provided, at least twenty percent

(20%) of the minimum required conservation land remains available for the common use and enjoyment of the subdivision residents or the public.

**8.15.6. Recreational Uses.**

A substantial amount of the minimum required conservation land may be comprised of active recreation facilities such as playing fields, golf courses, tennis courts, etc., exclusive of parking lots; provided, at least twenty percent (20%) of the minimum required conservation land remains available for common use and enjoyment of the subdivision residents or the public.

**8.15.7. Buffering.**

Conservation land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and from public parks. Where the proposed development abuts a national forest or other public park, open space, wildlife sanctuary or preserve, a natural greenway buffer at least fifty (50) feet wide shall be provided within the development along its common boundary with said land, 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 or fire safety). Where this buffer is unwooded, the Town may require vegetative screening to be planted at developer's sole cost and expense and/or that the buffer be managed to encourage natural forest succession through 'no-mow' policies and the periodic removal of invasive alien plant and tree species.

**8.15.8. Pedestrian Access.**

Developer shall provide adequate pedestrian access to conservation land which is open to public or resident use.

Maintenance Access. Developer shall provide sufficient maintenance access to all conservation land and constrained and sensitive lands within the Conservation Subdivision.

- a. Landscaping. All conservation land that is not wooded, farmed, or maintained as conservation meadows, grassland, or other approved open space, shall be landscaped at developer's sole cost and expense in accordance with landscaping requirements for subdivisions.

**8.16. Permanent Protection of Conservation Lands.**

(a) Conservation Easement. All conservation land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the Town. Under no circumstances shall any development be permitted in the conservation land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the Conservation Subdivision. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Subdivision, shall be approved by the Town and recorded prior to or concurrent with the recording of the final plat for the Conservation Subdivision.

(b) Terms and Conditions. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the Town and shall include, at a minimum, the following terms and/or conditions:

- (1) legal description of the easement;
- (2) description of the current use and condition of the property;
- (3) permanent duration of easement;
- (4) permitted and conditional uses;
- (5) prohibited development and/or uses;
- (6) maintenance responsibilities and duties; and
- (7) enforcement rights and procedures.

(c) Grantee. Unless otherwise approved by the Town, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization or governmental entity. The Town may, but shall not be required to, accept, as grantee, a Conservation Easement encumbering conservation lands within a Conservation Subdivision, provided there is no cost of acquisition to the Town for the easement and sufficient access to and maintenance responsibilities regarding the conservation land are provided.

### ***8.17. Ownership of Conservation Lands.***

(a) Undivided Ownership. Unless otherwise approved by the Town and subject to the provisions set forth in this Chapter, the underlying fee ownership of the conservation land shall remain in single ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.

(b) Property subject to a conservation easement, or other acceptable method of protection and preservation, shall not be subdivided.

(c) Owners' Association. Conservation land may be held in common ownership by a condominium homeowners' or other acceptable owners' association, subject to all of the provisions for owners' associations set forth in State regulations and the Town's Subdivision regulations. In addition, the following regulations shall be met:

- a. A description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for conservation land, including restrictive covenants for the Subdivision, shall be submitted by the developer with the Preliminary Plat application.
- b. The proposed association shall be established and operating (with financial subsidization, if necessary) prior to or concurrent with the recording of the Final Plat for the Subdivision.
- c. Membership in the association shall be mandatory for all purchasers of property within the Subdivision and their successors in title.
- d. The association shall be responsible for maintenance and insurance of conservation land.
- e. The by-laws of the association and restrictive covenants for the Subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls

delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted.

- f. Written notice of any proposed transfer of conservation land by the association or the assumption of maintenance for the conservation land must be given to all members of the association and to the Town no less than thirty (30) days prior to such event.
- g. The association shall have adequate staff to administer, maintain, and operate such conservation land.

## ***8.18. Maintenance of Conservation Lands.***

### ***8.18.1. Costs.***

Unless otherwise agreed to by the Town, the cost and responsibility of maintaining conservation land shall be borne by the owner of the underlying fee of the conservation land.

### ***8.18.2. Plan.***

The developer shall submit a Maintenance Plan providing for and addressing the means for permanent maintenance of the conservation land within the proposed Conservation Subdivision with the Preliminary Plat application for the Subdivision. The Maintenance Plan shall provide the following:

- a. The Plan shall define ownership.
- b. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (*e.g.*, lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.).
- c. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the conservation land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.
- d. At the Town's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.

### ***8.18.3. Approval.***

The Maintenance Plan must be approved by the Town prior to or concurrent with Final Plat approval for the Subdivision. The Maintenance Plan shall be recorded against the property and shall include provisions for the Town's corrective action rights as set forth herein. Any changes or amendments to the Maintenance Plan shall be approved by the Town.

**8.18.4. Failure to Maintain.**

In the event that the organization established to maintain the conservation land and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Town may assume responsibility, as a right but not an obligation, for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

**8.18.5. Corrective Action.**

The Town may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the Town in the County Recorder's office. The Maintenance Plan and all other documents creating or establishing any association or conservation organization for the property shall reference the Town's corrective action authority set forth herein and shall be recorded against the property.

## ***8.19. Farm Preservation Subdivision***

### ***8.19.1. Intent.***

The intent of the Farm Preservation subdivision is to encourage the continuance of viable farming operations by allowing parcels to be split off of a larger farm pieces and allow development with standards that are not as strict as a standard development. By allowing a lesser standard, the intent is for the farmer to be able to have a more manageable piece of property, allow family members an affordable parcel so they can afford to live close to the farm and provide the opportunity for raising of money to continue an agricultural pursuit.

### ***8.19.2. Requirements***

- a. All of the property must be in a RA or A zoning district.
- b. Farm preservation subdivisions cannot contain more than a total of 5 lots.
- c. At least one (1) of the lots must be 20-acres and remain in agricultural pursuits and must qualify for greenbelt status under the property tax laws.
- d. All of the lots must meet the setback requirement for the zone they are located in. Frontage shall be no less than 150 feet.
- e. All roads must meet the road standards required for the traffic volume.
- f. Homes may be on septic tanks as long as the density of the development does not exceed 1 septic tank for every five (5) acres (gross acreage),
- g. Parcels cannot be further subdivided.
- h. A deed restriction must be recorded on the 20-acre farm preservation parcel requiring the parcel to remain agricultural and not allowing further subdivision for a period of ten (10) years.
- i. A plat must be recorded with "Farm Preservation subdivision," in the title,
- j. Property proposed for development must be owned by the property owner or immediate family with three (3) degrees of consanguinity for a minimum of seven (7) years prior to application for subdivision.
- k. If the farm preservation piece is proposed to be developed all lots including existing smaller lots must tie onto water and maintain a total ratio of 1 septic tank for every five (5) acres (section f).