

Topic:	Conservation Districts & Subdivisions; Land Acquisition
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Amherst
Year (adopted, written, etc.):	Unknown
Community Type - applicable to:	Suburban; Rural
Title:	Town of Amherst Conservation Easement Ordinance
Document Last Updated in Database:	March 19, 2017

Abstract

This ordinance allows the town board to take easements for the public use. It sets out a procedure to take the land and provide for compensation for the taking. There are penalties if the taking is done in other manners.

Resource

Amherst, NY Conservation Easements

Code of the Town of Amherst NY
Chapter 92: Conservation Easements

General Code
http://gcp.esub.net/cgi-bin/om_isapi.dll?clientID=71156&infobase=amherst.nfo&softpage=Browse_Frame_Pg42

92-1. Title.

This chapter shall hereinafter be known and cited as the "Conservation Easement Law of the Town of Amherst."

§ 92-2. Purpose.

It is the purpose of this chapter to provide for the acquisition of interests or rights in real property for the preservation of open space and areas which shall constitute a public purpose for which public funds may be expended or advanced after due notice and a public hearing, by which the Town of Amherst may acquire by purchase, gift, grant, bequest, devise, lease or otherwise the fee or any lesser interest, development right, easement,

covenant or other contractual right necessary to acquire "open space" or "open area" as the same is defined in § 92-5 herein.

§ 92-3. Legislative authority.

In accordance with § 247 of the General Municipal Law of the State of New York, the Town Board of the Town of Amherst has the authority to acquire such interests or rights in land. Pursuant to the above authority, the Town Board has prepared and adopted this chapter setting forth standards to be followed in the acquisition of such interest.

§ 92-4. Applicability.

This chapter shall apply to the entire area of the Town of Amherst, excluding those areas within the corporate limits of the Village of Williamsville.

§ 92-5. Definitions.

For the purpose of this chapter, the terms used herein are defined as follows:

CONSERVATION ADVISORY COUNCIL -- The Conservation Advisory Council of the Town of Amherst.

OPEN SPACE or OPEN AREA -- Any space or area characterized by natural scenic beauty or whose existing openness, natural condition or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development or would maintain or enhance the conservation of natural, aesthetic or scenic resources. For the purposes of this section, natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

§ 92-6. Procedure.

A. Proposal by owner. Any owner or owners of land may submit a proposal to the Town Board for the granting of interests or rights in real property for the preservation of open spaces or areas. Such proposal shall be submitted in such manner and form as may be prescribed by the Town Board and shall include a survey map and metes and bounds description of the proposed area. The owner shall pay to the town a fee of fifty dollars (\$50.), which shall be deemed a reasonable sum to cover the costs of administration, no part of which shall be returnable to the applicant.

B. Review by the Conservation Advisory Council. Upon receipt of such proposal, the Town Board shall first refer it to the Commissioner of Building, the Planning Director, the Town Engineer, the Highway Superintendent, the Assessor, the Town Attorney and the Conservation Advisory Council for their review and consideration and their recommendation to the Town Board.

C. Public hearing by Town Board. After receiving any such recommendations, and after due investigation, if the Town Board determines that it is in the public interest to accept such a

proposal, then the Town Board shall conduct a public hearing on the issue of whether or not the town should accept such proposal. At least ten (10) days' notice of the time and place of such hearing shall be published in a paper of general circulation in such town, and a written notice of such proposal shall be given to all adjacent property owners and to any municipality whose boundaries are within five hundred (500) feet of the boundaries of said proposed area, and to the school district in which it is located.

D. Determinations. The Town Board, after such public hearing, may adopt the proposal, or any modification thereof, it deems appropriate, or may reject it in its entirety.

E. Recording agreement. If such proposal is adopted by the Town Board, it shall be executed by the owner or owners in written form and in a form suitable for recording in the Erie County Clerk's office.

F. Cancellation. Said agreement may not be canceled by either party. However, the owner or owners thereof may petition the Town Board for cancellation upon good cause shown, and such cancellation may be granted only upon payment of the penalties provided in § 92-8 herein.

§ 92-7. Valuation.

After acquisition of an easement pursuant to this chapter, the assessed valuation placed upon such land area shall take into consideration the limitation on the use of the land.

§ 92-8. Penalty for offenses.

If there is a substantial violation of the terms and conditions of the conservation easement agreement, or if said agreement is canceled by the Town Board upon petition, the then owner or owners of said property must pay to the Town of Amherst the difference in reduced taxes for all the prior years resulting from the reduction in assessment due to the conservation easement.