

<b>Topic:</b>	Natural Resource Protection & Conservation; Overlay District; Zoning; Development Standards
<b>Resource Type:</b>	Regulations
<b>State:</b>	New York
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Greenburgh
<b>Year (adopted, written, etc.):</b>	1994-1997
<b>Community Type – applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Greenburgh Conservation District Ordinance
<b>Document Last Updated in Database:</b>	May 5, 2017

### ***Abstract***

The purpose of this law is to provide performance criteria assuring conservation of natural resources during and after development in a conservation district (CD). The CD is to be an overlay zone over any other zone allowed in the town. The Conservation District will be evaluated by criteria set out under this provision including the development standards.

### ***Resource***

Town of Greenburgh NY Conservation District  
Code of the Town of Greenburgh NY  
Chapter 285: Zoning  
General Code [http://www.e-codes.generalcode.com/codebook\\_frameset.asp?t=tc&p=0237%2D285%2Ehtm%23Section285%2D9%2E&cn=884&n=\[1\]\[101\]\[875\]\[876\]\[216\]\[224\]\[884\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0237%2D285%2Ehtm%23Section285%2D9%2E&cn=884&n=[1][101][875][876][216][224][884])  
§ 285-9. Conservation District (CD) Zone. [Amended 12-14-1994 by L.L. No. 11-1994]

#### **A. Statement of intent and objectives.**

- (1) It is the intent of this Conservation District (CD) to provide performance criteria to assure conservation of natural resources during and after development.
- (2) A Conservation District shall be an overlay zone over any other zones allowed in the Town.
- (3) The following objectives will form the basic criteria for evaluating a CD development:

- (a) A significant natural environmental feature will be conserved, e.g., a forest, wetland, watercourse or water body, steep slopes or rock outcrops.
- (b) Views of natural features will be preserved along existing roads thereby protecting existing community character.
- (c) Development patterns will aggregate infrastructure and building, allowing the conservation of natural features and providing economical, compact development.
- (d) Natural areas may be protected as either common areas or as portions of individual lots; in either event, easements or covenants acceptable to the Town Attorney shall be required specifying the protection offered.
- (e) The zoning of land to a CD Overlay Zone may occur at the request of the property owner or upon initiative of the Town Board, the request to the Town Board by the Planning Board or the request to the Town Board by the Conservation Advisory Council (CAC).

B. Development standards and general requirements.

- (1) Eligibility standards. All Conservation Districts shall have a minimum parcel area of 2 1/2 acres. Where new public streets are included in the development plan, the areas of the streets may be used in calculating the minimum parcel area.
- (2) Development plan.
  - (a) A conservation and development plan for overall development of each Conservation District area shall be submitted to the Town in accordance with provisions of Subsection C of this section; Chapter 250, Subdivision Regulations; and Article VIII, Site Plan Approval, of this chapter, as appropriate, and any other relevant sections of the Town Code. If residential, the plan may take advantage of the provisions of § 285-24, PUD Planned Unit Development District. However, in no event shall designation of a CD Zone convey a right to a PUD. The Town reserves the right in all cases to evaluate desirability of rezoning for use density or PUD. Each Conservation District shall be planned to complement adjacent conservation districts and/or planned developments to the satisfaction of the Town.
  - (b) Permitted uses shall be all uses allowed in the underlying zones.

(c) Permitted accessory uses shall be accessory uses permitted in the underlying zones.

(d) Area requirements.

[1] Residential density or maximum floor area ratio (FAR) and other area requirements of underlying zones shall apply to all proposed development unless CD Zone requirements are more stringent, in which case CD Zone requirements shall override those of other zones.

[2] When a PUD rezone accompanies a CD Zone, PUD requirements of minimum site area and minimum number of units shall be waived to allow PUD standards to apply to the minimum Conservation District site area. However, the Town Board and/or the Planning Board in each individual application reserves the right to require specific housing types, such as but not limited to single-family detached, semiattached, townhouses or apartments.

(e) Off-street parking and loading. Off-street parking and loading shall be provided in accordance with the ratios established in § 285-38 of this chapter. **[Amended 8-13-1996 by L.L. No. 7-1996; 4-29-1997 by L.L. No. 6-1997]**

(f) Common property. All common property, if provided, shall be restricted and maintained in a manner acceptable to the Town Attorney and shall follow the alternatives outlined in § 285-24B(2) when the underlying use is residential.

#### C. Conservation criteria.

(1) Assessment. All petitions for CD rezoning shall be accompanied by a written report, supplemented with graphic illustrations, indicating the type and extent of natural features for which protection is sought. Graphic illustrations may include air photos, New York State Department of Environmental Conservation or local wetland maps, or other maps illustrating the extent of natural features.

(2) Natural features to be protected.

(a) The natural features the Conservation District is intended to preserve include forested areas, wetlands, streams, ponds or other water bodies, steep slopes and rock outcrops.

- (b) To qualify for Conservation District zoning, at least 25% of the site must be comprised of natural features. The total natural area on any site shall be not less than one acre in size.
- (c) Forested areas shall be characterized by stands of trees at least 30 feet in height at their highest point. No area comprised of more than 50% of one or all of the following species shall be considered forested: *Ailanthus altissima* (tree-of-heaven), *Robinia pseudo-acacia* (black locust), *Acer platanoides* (Norway maple) or *Populus* species (poplar).
- (d) Any wetland designated by the New York State Department of Environmental Conservation (DEC) or the Town of Greenburgh shall be presumed to be a wetland under this chapter. Any unmapped wetland one acre or larger in size and meeting the three wetland indicators used by the United States Army Corps of Engineers (hydrology, soils and vegetation) shall qualify as a wetland if mapped by a wetland expert approved by the Commissioner of Community Development and Conservation.
- (e) A stream, pond or other water body shall include any mapped DEC water body.
- (f) Steep slopes and rock outcrops shall include all slopes in excess of 30% and all rock outcrops 50 square feet or more in area.

(3) Nature of protection.

- (a) Natural features shall be protected by conserving a minimum of 50% of all natural areas or the minimum area required by state or federal regulations. Such areas, both existing and proposed for protection, shall be designated on the comprehensive plan and shall be subject to review and approval of the Town agency empowered with approval. Enhancement of natural features may be permitted, and such features, if any, shall be illustrated on the comprehensive plan and any other requisite construction drawings.
- (b) All natural areas approved for protection in the comprehensive plan shall be clearly demarcated on site during construction, and the construction perimeter shall be fenced with a minimum three-foot-high wood-construction slat snow fencing for the duration of construction. Construction-related activities, such as storage of materials or equipment, shall be allowed only within the approved construction area. No construction activity shall occur closer than 10 feet to any tree to be preserved. Any broken limbs or other tree wounds shall be immediately trimmed and treated with a tree

wound product.

(4) Setbacks and buffer areas.

(a) All minimum state or federal setback and buffer standards shall apply to natural areas, e.g., DEC one-hundred-foot wetland buffer. In addition, there shall be twenty-five-foot minimum buffers provided along both sides of any stream or water body, which may be increased for more environmentally sensitive water bodies.

(b) Notwithstanding any other provisions of zoning districts in the Town of Greenburgh, a CD may require the following setbacks in conserving natural features identified in the plan:

[1] Fifty- to one-hundred-foot setbacks from Town, county or state roads, but in all cases 50 feet will be a minimum setback from said road.

[2] The Planning Board may vary the seventy-five-foot PUD side and rear yard buffer requirement to achieve the conservation objectives of the CD Zone.

[3] Limited access curb cuts off existing Town roads.

[4] Variation of any side or rear yard setbacks on individual lots but in no instance by more than 50% of the underlying zone requirement.

(5) Disturbance of natural areas. No natural areas or features shall be disturbed unless so indicated on the approved plan for the site. Any areas disturbed, for construction purposes, shall comply with all provisions of applicable state, federal or local ordinances.

(6) Landscape restoration.

(a) A landscape restoration plan shall be submitted indicating plantings for all disturbed areas of the property. The plan shall graphically show all proposed plants and shall indicate, in chart form, common and botanical names, sizes at planting time and at maturity, root condition and quantities. The landscape plan shall be prepared by a landscape architect licensed in the State of New York.

- (b) Preference will be given to native plants in all planting plans, with a mixture of trees, shrubs and herbaceous material. Major trees shall be a minimum of two to 2 1/2 inches in caliper, 16 to 18 feet in height. Minor trees shall be a minimum of 1 1/2 to two inches in caliper, eight to 10 feet in height. Shrubs with a mature size of five feet or greater shall be 3 1/2 to four feet in height at planting. All other shrubs shall be a minimum of 1 1/2 to two feet in size at planting. All planting beds must be clearly marked on plans and must be mulched with two inches of seasoned hardwood chips or shredded hardwood mulch.
- (c) The planting plan shall indicate who is responsible for replacing and maintaining plant material. All plants must be replaced if dead or dying with the same or similar species within 120 days. Planted areas must be properly maintained, including weeded, trimmed, pruned and treated as necessary for diseases. All mulched areas shall be maintained with required depth of mulch.

. Application procedure.

- (1) Upon petition to the Town Board by an applicant, recommendation to the Town Board by the Planning Board or the CAC, or by the Town Board's own initiative, the Town Board shall consider a rezoning of subject property to include an Overlay Conservation District Zone.
- (2) All provisions of Town Code § 285-64, Amendment procedure, shall apply to any Conservation District rezoning.
- (3) The Town Board may place specific conditions on a rezone, including but not limited to location and extent of natural features to be conserved, guidelines for protecting natural features during and after construction, and specific access, layout or other design features intended to foster the conservation criteria, intent and objectives of this section.
- (4) Upon rezoning any parcel to a Conservation District, said district shall continue in full force and effect in perpetuity or until the Town Board takes action to remove the Conservation District Zone in accordance with § 285-64 of the Town Code.
- (5) Subsequent to or in conjunction with a rezoning to a Conservation District, the applicant shall be responsible for obtaining any and all necessary site plan, subdivision, special permits and/or variances required for development per the Greenburgh Town Code.