

Topic:	Subdivision Regulations; Open Space Preservation; Natural Resource Protection & Conservation; Recreational Uses
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Greenburgh
Year (adopted, written, etc.):	1986-1996
Community Type - applicable to:	Suburban; Rural
Title:	Town of Greenburgh Subdivision Regulations
Document Last Updated in Database:	May 5, 2017

Abstract

Chapter 250 of Greenburgh's Town Code regulates subdivisions. Among other requirements, the law forces the developer to provide land for recreation and open space within a subdivision.

Resource

Town of Greenburgh NY Open Space; Natural Features
Code of the Town of Greenburgh NY
Chapter 250: Subdivision Regulations
General Code
[http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0237%2D250%2Ehtm%23Section250%2D19%2E&cn=224&n=\[1\]\[101\]\[875\]\[876\]\[216\]\[224\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0237%2D250%2Ehtm%23Section250%2D19%2E&cn=224&n=[1][101][875][876][216][224])

§ 250-19. Parks; open space; natural features.

A. Recreation and open space.

- (1) In order to provide adequately for the comfort, convenience, safety, health and welfare of the residents of the Town, it is necessary to establish recreational and open space areas for the public use. The Planning Board has set a standard that will provide for the eventual development of an adequate system of play lots, playgrounds, neighborhood parks, playfields and large parks or open space for the residents of the Town.

- (2) The prospective subdivider or residential site plan developer shall provide recreational land, within the subdivision or residential development site, of suitable size and topography and suitably located. Alternatively, land and/or improvements may be provided off site at another location mutually agreeable to the developer and the Town. The amount of land and/or improvements shall be equal in value to money offered in lieu thereof and in accordance with the schedule set forth herein. Any offer of land and/or money by the prospective subdivider or residential site plan developer shall be made by written communication to the Board. In the event that money is offered, it shall be based on the standard of \$4,000 per subdivided single-family building lot. Subdivided lots containing an existing single-family dwelling, with a valid certificate of occupancy dated prior to the instant application, shall be excluded from the lot count for the purposes of computing the amount of money in lieu of land. The provision of recreational land shall also apply to planned unit development and residential site plan developments, except that money in lieu of land for these developments shall be based on the standard of \$2,000 per dwelling unit when units are offered for sale or when shares of a corporate ownership are sold resulting in a space lease and \$1,000 per dwelling unit when units are offered for rent and are deed restricted as rentals for a minimum of 20 years. If at any time during the twenty-year period, units are converted to nonrental status, an additional \$1,000 per unit shall be paid to the Town prior to conversion. Developers providing affordable housing, as defined by the Town Board in the Town Zoning Code, Chapter 285, or as modified by the Town Board, under special circumstances, may receive waivers of up to 100% of the recreation land or fee in lieu thereof. Special circumstances that the Town Board may consider will include but not be limited to housing for handicapped persons or infirm persons, housing meeting the needs of persons of moderate income other than the United States Department of Housing and Urban Development's definition of low- and moderate-income households and/or housing for special target groups, such as teachers or public employees. Housing for senior citizens, aged 60 or over, that does not qualify as affordable housing may nonetheless be eligible for a reduction in the recreational land or fee in lieu thereof to a minimum of \$1,000 per unit upon special request to the Town Board and upon supplying any and all documentation said Board requires. This section shall apply to subdivision applications submitted after January 1, 1995. [Amended 5-11-1983; 11-2-1986 by L.L. No. 2-1986; 3-27-1996 by L.L. No. 2-1996]
- (3) The decision and discretion as to whether land or money shall be suitable and acceptable hereunder shall be vested exclusively in the Board in every case and not in the prospective subdivider, on the basis of the judgment of the Board as to which alternative is in the best interests of the Town in the light of the topography and land area of the site, population density, existing recreation facilities, cost of developing additional recreation facilities and all of the circumstances of each particular case. [Amended 6-22-1993 by L.L. No. 2-1993]

- (4) The public facilities will not be accepted and the performance bond will not be released until all facilities have been completed to the satisfaction of the Town Board.
- (5) Money accepted in lieu of land shall be used only for the purpose of acquisition or development of permanent park and recreation facilities in accordance with the approved recreation development plan and in accordance with Town Law § 277. The money shall be deposited by the Town of Greenburgh in a separate fund entitled "Fund for Reserve for Acquisition and/or Development, Recreation Land," which can only be used for the aforesaid purposes. Money for single-family residential subdivisions shall be due prior to the Secretary of the Planning Board signing the subdivision plat. Money for multiple-family developments shall be due upon filing for building permits. [Amended 6-22-1993 by L.L. No. 2-1993; 3-27-1996 by L.L. No. 2-1996]
- (6) Recreation fees collected by the Town pursuant to Town Code § 250-19 and Town Law § 277 and deposited before July 1, 1993, may only be utilized according to the following procedure: [Added 6-22-1993 by L.L. No. 2-1993]
 - (a) Proposals to utilize recreation fees shall be submitted to the Commissioner of Parks and Recreation, the Commissioner of Community Development and Conservation and the Town Board. Each proposal shall comply with the requirements of Town Law § 277 and set forth, in detail, the scope of the proposed project and the anticipated cost.
 - (b) The Commissioner of Parks and Recreation shall review each proposal and send his written comments, with specific recommendations, together with the comments and recommendations of the Parks and Recreation Advisory Council, if any, to the Planning Board within 60 days, unless such time is extended by the Board.
 - (c) After review of all comments and recommendations, the Planning Board shall refer the proposal, together with its recommendations, to the Town Board for final review and approval. The Planning Board may solicit and entertain whatever comments or request whatever necessary additional information the Board, in its sole discretion, deems necessary and appropriate to its decision. The Board shall explain its recommendations fully. The Planning Board shall refer each proposal to the Town Board within 90 days after receipt, unless such time is extended by the Town Board.
 - (d) Final authority to expend recreation funds deposited with the Town pursuant to Town Law § 277 and Town Code § 250-19 shall be vested in the Town Board, which shall have sole discretion to approve or disapprove any

proposal to utilize recreation funds forwarded by the Planning Board. Where a proposal to utilize recreation funds would, in the opinion of the Town Board, offer Town-wide recreation services not available in an existing district or where the establishment of a recreation facility cannot be entirely funded by any single escrow district, the Town Board may, in its discretion, assess a proportional amount of the cost to each contributing escrow district. In considering whether a recreation project will provide Town-wide recreation services not available in any existing escrow district the Town Board shall consider and weigh the following: the nature, extent and location of existing facilities; population demographics, particularly proximity to existing and proposed recreation facilities; the cost of developing additional services and facilities; and the benefits provided. Before more than one escrow district is assessed the cost of a project, the Town Board shall find that the proposed project will provide residents of each contributing escrow district with recreational benefits not currently available and, in addition, that it is not reasonable, practical or economical to build recreational facilities or services of a similar caliber like that proposed within the contributing escrow district.

- (7) Recreation fees collected by the Town pursuant to Town Code § 250-19 and Town Law § 277 and deposited after July 1, 1993, may only be utilized according to the following procedure: [Added 6-22-1993 by L.L. No. 2-1993]
- (a) Proposals to utilize recreation fees shall be submitted to the Commissioner of Parks and Recreation, the Commissioner of Community Development and Conservation and the Town Board. Each proposal shall comply with the requirements of Town Law § 277 and Town Code § 250-19 and set forth, in detail, the scope of the proposed project and the anticipated cost.
 - (b) The Commissioner of Parks and Recreation shall review each proposal and send his written comments, with specific recommendations, together with the comments and recommendations of the Parks and Recreation Advisory Council, if any, to the Planning Board within 60 days, unless such time is extended by the Board.
 - (c) After review of all comments and recommendations, the Planning Board shall refer the proposal, together with its recommendations, to the Town Board for final review and approval. The Planning Board may solicit and entertain whatever comments or request whatever necessary additional information the Board, in its sole discretion, deems necessary and appropriate to its decision. The Board shall explain its recommendations fully. The Planning Board shall refer each proposal to the Town Board within 90 days after

receipt, unless such time is extended by the Town Board.

- (d) Final authority to expend recreation funds deposited with the Town pursuant to Town Law § 277 and Town Code § 250-19 shall be vested in the Town Board, which shall have sole discretion to approve or disapprove any proposal to utilize recreation funds forwarded by the Planning Board. When considering a proposal to expend funds collected after July 1, 1993, the Town Board shall weigh and consider the origin of funds collected pursuant to this section.

B. Parkland.

- (1) In the event that an area to be used for a park or playground is required to be so shown, the prospective subdivider shall submit to the Board a tracing, drawn in ink on tracing cloth or Mylar, showing, at a scale suitable to show all the elements of such area and the following features thereof:
 - (a) The boundaries of the area.
 - (b) Existing features such as brooks, ponds, trees, rock outcrops, structures, drains, etc.
 - (c) Existing and, if applicable, proposed changes in grades and contours of the area and of the areas immediately adjacent.
- (2) Land set aside for recreation and open space shall be shown on the final grading plan. Such land shall:
 - (a) Have adequate graded access to a Town street or streets.
 - (b) Be suitably graded.
 - (c) Be cleared of material, either native or deposited, which may present hazards, unsightliness and obstructions which will tend to hinder the use of the land as intended.
 - (d) Be protected by a fence or similar protective device when constituting a hazard or attractive nuisance by virtue of topography.
- (3) The performance of park work shall be included in the improvement work required to be accomplished by the prospective subdivider and shall be included

in the subdivision performance bond.

§ 250-20. Preservation of natural features.

- A. The Planning Board shall, wherever possible, require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and water bodies, historic spots, vistas, steep slopes and similar irreplaceable assets. In general, all trees on the site, except those within proposed building lines and for a distance of 10 feet therefrom, shall be preserved in accordance with the provisions of the Tree Ordinance of the Town. **Editor's Note: See Ch. 260, Trees.** Where trees cannot be preserved, as set forth in the Tree Ordinance, then they shall be replaced in kind. In the case of large and mature trees which cannot be replaced in kind, the Planning Board may, in its discretion, require multiple plantings instead. [Amended 5-11-1983]
- B. Excavation and soil erosion.
- (1) No changes shall be made in the contour of the land and no grading, excavating, removal or destruction of topsoil, trees or other vegetative cover of the land shall be commenced within a proposed subdivision until such time as an erosion and sediment control plan shall have been submitted to and reviewed by the Soil Conservation Service and approved by the Planning Board or there has been a determination by the Planning Board, upon recommendation of the Soil Conservation Service, that such plans are not necessary.
 - (2) Where the construction of the required improvements in the subdivision will necessitate the removal from the site of excess topsoil, earth, sand, gravel, rock or other substance from the ground from within the street rights-of-way and slope rights or from the areas reserved for drainage facilities, the quantity to be removed shall be stated on the construction plans, and a permit obtained as required in Chapter 210 of the Town of Greenburgh Code entitled "Excavations and Soil Removal."
 - (3) Where, in its discretion, the Planning Board determines that plantings at the borders of a proposed plat would be necessary to prevent erosion, flooding or drainage problems, it may require that the same be provided by the subdivider after the completion of construction. [Added 5-11-1983]
- C. Plantings. In order that a proposed subdivision be developed in harmony with the existing natural features or landscaping of surrounding properties, the Planning Board, in its discretion, may require plantings at the borders of the plat. [Added 5-11-1983]

