

Openspace/Conservation Model Ordinances

Conservation Zones (Town of Ithaca, NY)*

Land Conservation Regulations (Town of Livonia, NY)

**includes provisions for steep slopes, cluster subdivision, vegetative riparian buffers, sensitive habitats, wildlife corridors, timber harvesting and scenic views.*

*Town of Ithaca, NY
Tuesday, January 13, 2015*

Chapter 270. ZONING

Article V. Conservation Zones

§ 270-10. Purpose.

- A. It is the purpose of the Conservation Zone to preserve the outstanding natural features in certain areas of the Town, as described in the Town of Ithaca Comprehensive Plan, as amended from time to time, and to provide a regulatory framework through which development can occur with minimal negative environmental impact in these areas. Among the natural values and ecological importance of these areas are their diversity as a plant and wildlife habitat, their existence as biological corridors, their importance for natural drainage features, their scenic views and rural character, and their importance as an educational and recreational resource. In addition, certain lands in the Conservation Zones contain large areas of steep slopes, wetlands, highly erodible or poorly drained soils and, in one instance, the City of Ithaca water supply, which must be taken into consideration in planning for future development.
[Amended 1-11-2010 by L.L. No. 1-2010; 3-12-2012 by L.L. No. 3-2012]
- B. It is a further purpose of the Conservation Zone to preserve existing areas of contiguous open space, prevent unnecessary destruction of woodland areas, preserve natural stormwater retention and water quality functions, preserve existing and potential agricultural land and promote appropriate development densities and flexibility of design and development of land. Developers should be encouraged to use mechanisms to accomplish these objectives. Such mechanisms could include enlarged buffer areas, conservation easements, deed restrictions, and public or semipublic land dedications.
[Amended 1-11-2010 by L.L. No. 1-2010]
- C. Certain of the areas included in Conservation Zones, in recognition of their natural and ecological significance, have been designated by the Tompkins County Environmental Management Council as Unique Natural Areas. It is a further purpose of this Conservation Zone to preserve the natural resources and scenic beauty of the areas to promote tourism as an important economic benefit to the Town of Ithaca.

§ 270-11. Permitted principal uses.

In a Conservation Zone, no building shall be erected or extended and no land or building or part thereof shall be used for other than any of the following purposes:

- A. A one-family dwelling, except a mobile home, to be occupied by no more than:
 - (1) One family, or
 - (2) One family plus no more than one boarder, roomer, lodger or other occupant.
- B. A two-family dwelling provided that:
 - (1) Each dwelling unit is occupied by no more than one family; and
 - (2) The floor area of the second dwelling unit is not more than 50% of the floor area excluding the basement of the primary dwelling unit except where the second dwelling unit is constructed entirely

within the basement area, it may exceed 50%.

- C. Garden, nursery or farm.
- D. Roadside stand or other structure, not exceeding 500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right-of-way.
- E. Forest management and other forest resource uses. Timber harvesting shall be subject to the requirements in § **270-22L**.
[Amended 3-12-2012 by L.L. No. 3-2012]
- F. Public water supply.
- G. Small wind energy facilities, subject to the limitations on small wind energy facilities set forth in § **270-219.4**.
[Added 8-11-2008 by L.L. No. 13-2008]

§ 270-12. Principal uses authorized by special permit only.

The following uses are permitted in a Conservation Zone, but only upon receipt of a special permit for same from the Planning Board in accordance with the procedures set forth in this chapter:

- A. Church or other places of worship.
- B. Public, parochial and private schools, public library, public museum, day-care center, nursery school, hospital, and any institution of higher learning including dormitory accommodations.
[Amended 6-12-2006 by L.L. No. 9-2006]
- C. Publicly owned park or playground, including accessory buildings and improvements.
- D. Fire station or other public building necessary to the protection of or the servicing of a neighborhood.
- E. Roadside stand or other structure, exceeding 500 square feet but not more than 2,500 square feet of enclosed space, for the display and sale of farm or nursery products related to farming and as a seasonal convenience to the owner or owners of the land. The majority of the products sold at such stand shall be, or be derived from, products produced on the farm on which the roadside stand is located. Any such stand shall be located a minimum of 30 feet from the street line, in such a manner as to permit safe access and egress for automobiles, and parking off the highway right-of-way.
- F. Bed-and-breakfast.
- G. Equestrian facility, provided that adequate provision is made to prevent nuisance to adjoining properties and provided:
[Added 8-1-2005 by L.L. No. 7-2005]
 - (1) The lot size is at least two acres (three acres if public sewers are not available);
 - (2) There is a nonoccupied and unused buffer of at least 50 feet around the perimeter of the lot;
 - (3) Any building in which farm animals are kept shall be at least 100 feet from any lot line or street line; and
 - (4) No manure shall be stored within 100 feet of any lot line or street line.
- H. Deposit, removal or moving of earth, fill or related products consisting of more than 50 cubic yards of material on any parcel in any one year, as described and regulated in § **270-217** of this chapter.
[Added 3-12-2012 by L.L. No. 3-2012]

§ 270-13. Additional requirements for special permit.

The application for a special permit for any of the uses set forth in the immediately preceding section shall be made to the Planning Board. Any required site plan shall conform to the requirements of, and be subject to the procedures contained in Article **XXIII**. No building permit shall be issued unless the proposed structure is in accordance with the final site plan approved by the Planning Board. In determining whether to grant a special permit, the Planning Board shall consider the matters set forth elsewhere in this chapter and in addition shall grant a special permit for any of the above uses only if it can be demonstrated that:

- A. The proposal is consistent with the goals and objectives of the Conservation Zone, as enumerated in the purpose section relating to this zone;
- B. The proposal provides adequate measures to control stormwater runoff and minimize erosion and sedimentation;
- C. The project includes adequate measures to protect surface and groundwaters from direct or indirect pollution; and
- D. Off-street parking facilities are adequately buffered to minimize visual and noise impacts on surrounding areas, and are designed to minimize the increase in impervious surfaces on the site.

§ 270-14. Permitted accessory buildings or uses.

The following accessory buildings or uses are permitted as of right in a Conservation Zone:

- A. Accessory buildings customarily incidental to the above permitted uses.
- B. Home occupations, subject to the limitations on home occupations set forth in § **270-219.2**.
[Amended 2-12-2007 by L.L. No. 1-2007]
- C. Wildlife rehabilitation operation as defined and regulated under six NYCRR Part 184, provided that no noise, dust, disorder, or objectionable odor is experienced (as a result of that use) beyond the boundary lines of the property where such use is conducted, and that no more than three additional persons not residing on the premises may be employed.
- D. Day-care homes, family day-care homes, and group family day-care homes.
- E. Adult day-care facilities serving no more than four clients at any one time.
- F. The keeping of household pets in a dwelling unit or other location adjacent to or accessory to a dwelling unit (e.g., outside doghouse, etc.) provided that no more than three household pets shall be kept outside of dwelling units unless a greater number is authorized by special approval of the Zoning Board of Appeals.
- G. Amateur radio facilities, subject to the limitations on amateur radio facilities set forth in § **270-219.3**.
[Added 8-13-2007 by L.L. No. 7-2007]
- H. Small wind energy facilities, subject to the limitations on small wind energy facilities set forth in § **270-219.4**.
[Added 8-11-2008 by L.L. No. 13-2008]
- I. Timber harvesting, subject to the requirements in § **270-22L**.
[Added 3-12-2012 by L.L. No. 3-2012]

§ 270-15. Accessory buildings and uses authorized by special approval only.

The following accessory buildings or uses are permitted in a Conservation Zone, but only upon receipt of a special approval for same from the Board of Appeals in accordance with the procedures set forth in this chapter:

- A. Elder cottages.
- B. A second dwelling unit in a building other than the principal building, provided that:
 - (1) All of the general criteria set forth elsewhere in this chapter for the issuance of a special approval have been satisfied;
 - (2) The location of the second dwelling, and the building in which it is located, does not adversely impact in any significant manner the adjoining neighbors;
 - (3) The building containing such second dwelling is located at least 50 feet from any side boundary of the lot, and is not constructed in any required front yard;
 - (4) There is adequate off-street parking for the proposed number of occupants, including occupants of both the principal building and the dwelling unit for which special approval is sought;
 - (5) The floor area of the second dwelling (inclusive of floor area on all floors dedicated to such dwelling) does not exceed 50% of the floor area of the primary dwelling on the lot;
 - (6) The second dwelling is located in a building that is accessory to the principal dwelling;
 - (7) The building containing the primary dwelling does not contain more than one dwelling; and
 - (8) There are no elder cottages or other buildings on the lot containing dwellings other than the building containing the primary dwelling and the building for which special approval is sought.

§ 270-16. Height limitations.

Except as may be specifically otherwise authorized in this chapter, in Conservation Zones no nonagricultural building shall exceed 38 feet in height from lowest interior grade nor 36 feet in height from lowest exterior grade, and no nonagricultural structure other than a building shall exceed 30 feet in height. Nonagricultural accessory buildings shall in no case exceed 15 feet in height.

§ 270-17. Yard regulations.

Except as may be specifically otherwise authorized in this chapter, in Conservation Zones yards of at least the following dimensions are required:

- A. Front yard: Not less than the average depth of the front yards of building immediately adjacent. However, except for roadside stands authorized by § 270-11, the front yard shall not be less than 50 feet nor need it be greater than 75 feet in depth.
- B. Rear yard: Not less than 200 feet in depth.
- C. Side yards: Each not less than 50 feet.
- D. Greater yards: Notwithstanding the foregoing, any special yard requirements for specific uses or buildings set forth elsewhere in this chapter shall, if more restrictive, supersede the above yard provisions.
- E. Buffer areas: The foregoing requirements may include any required buffer areas and shall not be in addition to any required buffer areas.
- F. Accessory buildings: In Conservation Zones, accessory buildings other than garages, and other than woodsheds meeting the requirements of Subsection H below, may not occupy any open space other than a rear yard. The total lot area covered by nonagricultural accessory buildings (including garages and

woodsheds) may not occupy more than 1,000 square feet of any required rear yard. Accessory buildings other than garages shall be not less than 50 feet from any side or rear lot line.

[Added 8-13-2012 by L.L. No. 11-2012]

- G. Garages: An attached or detached garage may occupy any yard provided that it shall be no less than 50 feet from the front property line, no less than 50 feet from a side line, and no less than 50 feet (detached garages) or 200 feet (attached garages) from a rear line. All detached garages in the aggregate shall not exceed a total of 600 square feet in size. Detached garages shall be included in the calculations of nonagricultural accessory buildings that, in the aggregate, may not occupy more than 1,000 square feet of any required rear yard. Notwithstanding the foregoing, the following shall apply:

[Added 8-13-2012 by L.L. No. 11-2012]

- (1) A one-story detached garage that serves dwellings on two separate lots may be built across a common lot line with a party wall by mutual agreement between adjoining property owners, provided that there is at least one garage bay on each lot, and further provided that the garage meets the front property line setback requirement above.
- (2) Where the average natural slope of a lot exceeds 8% rise or fall directly from the street line, a one-story detached garage capable of housing not in excess of two cars may be located in the front or side yard not less than five feet from said street line upon receiving a special approval from the Board of Appeals.

- H. Woodsheds: A woodshed which has no more than 100 square feet in floor area and the highest point of which is no more than 10 feet above ground level may occupy a side yard, provided that the total storage space of all woodsheds in a side yard shall not be more than 1,000 cubic feet. A woodshed in a side yard shall be not less than 50 feet from any side lot line.

[Added 8-13-2012 by L.L. No. 11-2012]

§ 270-18. Lot coverage.

The maximum building area shall not exceed 10% of the lot area. Projections described in § **270-224** are not to be included in computing the percentage. For the purposes of this zone, roads, driveways, parking areas, and other paved areas shall be considered buildings in computing the percentage of lot coverage.

§ 270-19. Size and area of lot.

Lots in Conservation Zones shall meet the following minimum requirements:

- A. Minimum lot area shall be at least seven acres; and
- B. Minimum lot width at the street line shall be 300 feet; and
- C. Minimum width at the maximum required front yard setback line (75 feet from the street line) shall be 300 feet; and
- D. Minimum depth from the street line shall be 450 feet.

§ 270-20. Clustering.

The Planning Board is hereby authorized to require clustering of residential units as outlined in Chapter **234**, Subdivision of Land, of the Code of the Town of Ithaca, where clustering will further the purposes of the Conservation Zone, subject to the requirement with respect to the Conservation Zone along Six Mile Creek, that where feasible, on the southwestern side of Six Mile Creek (i.e., on the Coddington Road side of the Conservation Zone), dwelling units shall be clustered between the former railroad grade and Coddington Road, in order to preserve the natural characteristics and scenic views of the lands adjacent to Six Mile Creek and the

city watershed properties. In such cases, the same number of dwelling units that could have been built on that portion of the parcel between the former railroad grade and Six Mile Creek under the above density requirements when feasible shall be transferred to the portion of the parcel between the former railroad grade and Coddington Road. This provision shall not apply to parcels which are situated entirely between the former railroad grade and Six Mile Creek.

§ 270-21. Parking.

Parking requirements shall be as set forth in § 270-227.

§ 270-22. Additional requirements and restrictions.

- A. The following activities are specifically prohibited in Conservation Zones:
- (1) The importation for dumping or disposal of snow or ice collected from roadways or parking lots into or within 200 feet linear distance of any wetland or watercourse carrying water six months out of the year.
 - (2) The location of buildings or structures on slopes of 25% or greater, with a minimum horizontal slope length of 25 feet.
- B. No buildings, structures, paved areas, or storage of construction equipment or machinery shall be located within 50 feet of the center line of any watercourse carrying water six months out of the year, or within 200 feet of the one-hundred-year-flood boundary of any body of water or watercourse identified as "Zone A" on any Flood Insurance Rate Map for the Town of Ithaca, New York, prepared by the Federal Emergency Management Agency, (or any other generally recognized map of one-hundred-year-flood zones) within any Conservation Zones.
- (1) In the case of residential subdivisions, whether conventional or cluster, the no disturbance zone as defined above shall be increased by up to 50% if the Planning Board determines that such an increase is necessary to protect water quality or to minimize the impacts of erosion and sedimentation.
 - (2) Unless otherwise authorized by the Planning Board, no disturbance as listed above shall be located within 100 feet linear distance of any wetland. During the subdivision or site plan approval process, where there is evidence of a wetland, the Planning Board may require a wetland delineation study to determine the potential impacts of development or disturbance on said wetland. For the purposes of this section, wetlands shall mean all wetlands, as defined in either state or federal legislation (whichever is more restrictive) governing regulation of wetlands, of an area of more than 1/10 of an acre.
- C. With respect to the Conservation Zone along Six Mile Creek, no buildings, structures, or storage of construction equipment or machinery shall be located within 100 feet of the center line of the South Hill Recreation Way.
- D. The storage and land application of manure for agricultural purposes shall follow reasonable agricultural practices. Minimum conditions for storage of solid manure are a pad of concrete and a leachate collecting system or other system reasonably equivalent in its protection of the surrounding environment. The manure storage system should be designed to prevent animal waste from entering any stream or water body.
- E. The following apply to vegetation and landscaping:
- (1) Existing native vegetation shall be maintained to the extent practicable, with conserved areas clearly defined on proposed and approved site plans and subdivision plats. Timber harvesting shall be subject to the requirements in Subsection L below.
[Amended 3-12-2012 by L.L. No. 3-2012]

- (2) When landscaping is required by the Planning Board to enhance buffer areas, to replace existing vegetation, or otherwise, native plant materials should be used to the extent practicable.
 - (3) Nonnative invasive species shall not be planted and, if present on a site, they may be removed by the site owner or authorized agent.
[Added 3-12-2012 by L.L. No. 3-2012]
- F. Scenic views, in particular those with viewing points from adjacent roads (and, in the case of the Conservation Zone along Six Mile Creek, from Six Mile Creek and the gorge) should be preserved using practices such as the following:
- (1) Avoid the siting of buildings or structures on ridgelines or hilltops. Buildings should be sited below the crest or ridgeline of hills to preserve a natural topographic and vegetative profile.
 - (2) Retain existing vegetation to the extent practicable.
 - (3) Retain existing stone walls, fences and other features in open meadows.
 - (4) Regrading should blend in with the natural contours and undulations of the land.
 - (5) Buildings proposed to be located within significant viewing areas should be screened and landscaped to minimize their intrusion on the character of the area. Building materials and color schemes should harmonize with their setting and be compatible with neighboring land uses.
 - (6) Where possible, buildings and structures should be located on the edges of open fields and in wooded areas to minimize visual impacts.
 - (7) Visibility of proposed buildings or structures from public trails within Conservation Zones should be considered so as to minimize visual intrusion on views from the public trails.
- G. Wildlife habitats and biological corridors should be preserved. Open space linkages should be encouraged to accomplish the above. Open space and conservation easement areas shall be designed with massing and linking as guiding principles. Open space and conservation areas both on and off site should be as contiguous as reasonably possible.
- H. Roads and driveways should follow existing contours to the extent practicable to minimize the impact of cuts and fills. The number of driveways accessing public streets shall be kept to a minimum. The appropriate use of common driveways is encouraged.
- I. The following shall apply to drainage:
- (1) The Planning Board may require the preparation and submittal of a stormwater management plan, to be approved by the Town Engineer, for proposed special approval uses and for proposed subdivisions.
 - (2) Existing natural drainageways should be retained where possible.
 - (3) In cases where a retention basin will be required, a landscaping plan shall be prepared and submitted for the Planning Board's approval. Basin landscaping materials that enhance wildlife habitat shall be used to the extent practicable.
- J. The following shall apply to lighting:
- (1) Street lighting shall be provided only where site-specific safety conditions warrant.
 - (2) Where street lighting is required, its location, type, and intensity shall be subject to the Planning Board's review and recommendation to the Town Board for approval.
 - (3) All approved street lighting must comply with the requirements of the Outdoor Lighting Law, Chapter **173** of the Town of Ithaca Code.
[Added 10-16-2006 by L.L. No. 12-2006]
- K. Whenever a subdivision of land or a site plan is proposed in a Conservation Zone, the Planning Board may

require that the nonbuildable areas listed above, including wetlands, slopes 25% or greater, and streams/watercourses and setbacks, be shown on the preliminary and final subdivision plats and site plans. [Amended 3-12-2012 by L.L. No. 3-2012]

L. Timber harvesting.

[Added 3-12-2012 by L.L. No. 3-2012]

- (1) No timber harvesting shall occur without a timber harvesting permit issued by a Code Enforcement Officer, unless such timber harvesting is exempted from this permit requirement by Subsection **L(2)** below.
- (2) The following shall not require a timber harvesting permit:
 - (a) Reasonable site clearing preparatory to construction of a building or other structure for which a building permit has been issued, provided such site clearing does not exceed one acre.
 - (b) Site clearing preparatory to construction of a building or other structure pursuant to a site plan approved by the Planning Board, provided such site clearing does not exceed one acre.
 - (c) Clearing of land for rights-of-way or utilities.
 - (d) Clearing and maintenance of land for agricultural purposes (including timber operations that constitute a farm operation, as defined by § 301 of the New York Agriculture and Markets Law), where the principal use of the land is as a farm and the land is located within a county agricultural district created under the provisions of Article 25-AA of the New York State Agriculture and Markets Law.
 - (e) The harvesting of evergreens specifically planted for Christmas trees.
 - (f) Maintenance of trees or property through the pruning or topping of trees.
 - (g) Cutting, removing or harvesting trees to prevent or treat disease, to control invasive species, or to remove trees that are dead or damaged or present safety or health hazards.
 - (h) Any other cutting, removal or harvesting of timber from a parcel in quantities less than 10 standard cords of wood, or 5,000 board feet, as measured by the International 1/4 Inch log rule described in the U.S. Forest Service's National Forest Log Scaling Handbook (effective October 30, 2006), in any one year.
- (3) Submission requirements for timber harvesting permit. An applicant for a timber harvesting permit shall submit a forest management plan prepared by a forester who is certified by the Society of American Foresters or such successor organization as is later created, a cooperating consulting forester with the New York State Department of Environmental Conservation, or a qualified forester approved by the Town Code Enforcement Officer. Such forest management plan shall demonstrate compliance with all standards contained in Subsection **L(5)** below as well as applicable timber harvesting guidelines issued by the New York State Department of Environmental Conservation. In addition, the application shall include the following:
 - (a) A description of the land on which the proposed timber harvest will occur, including deed and filed map references, lot numbers, and tax parcel numbers.
 - (b) The full name and address of the owner and of the applicant, the names and addresses of their responsible officers if any of them are corporations, and written permission from the owner if the applicant is not the owner.
 - (c) The signature of the professional forester responsible for the forest management plan and the application.
 - (d) A description of trees to be cut, the percentage of trees to be cut, and the methods of cutting and removing trees, and a plan to preserve healthy, mature trees to maintain a sustainable stand of woodland, which plan shall identify ecologically valuable trees of native species to be

conserved throughout the harvesting operation.

- (e) A description of any locally or regionally scarce plants or rare or endangered plant species as designated by the New York State Department of Environmental Conservation located within any areas proposed to be disturbed by the timber harvesting operations.
 - (f) The location of any access to a paved or unpaved road shown on the most recent version of the Town's Official Map, and the location and nature of all existing and proposed logging roads, all staging areas for loading equipment and logs, and all other disturbances to the site as part of the timber harvesting operation.
 - (g) All wetlands, watercourses, topography at five-foot intervals, slopes identified as unstable by the professional forester, and slopes exceeding 25%.
 - (h) A plan for cleanup of timber harvesting areas, staging areas, and landings upon completion of the harvesting operations.
 - (i) A plan for restoration of timber harvesting areas, staging areas, and landings to a natural state upon completion of the harvesting operations.
 - (j) If the professional forester determines that engineering controls are necessary to prevent erosion and sedimentation, identification of the location and type of such engineering controls.
 - (k) Submission of any stormwater pollution prevention plan or simple erosion and sedimentation control plan required by Chapter **228**.
 - (l) Such other information as may reasonably be required by the Code Enforcement Officer.
 - (m) Submission of the application fee, which shall be set from time to time by Town Board resolution.
- (4) On-site requirements for timber harvesting permit application. In addition to the application information required in Subsection **L(3)** above, the applicant shall take the following actions on-site where a timber harvest is proposed:
- (a) Mark all trees selected for harvest. Any specimen trees identified for protection shall also be appropriately marked.
 - (b) Flag the line designating the protected one-hundred-foot buffer for streams and wetlands [See Subsection **L(5)(b)** below] The wetland buffer shall be flagged by a qualified wetland scientist.
- (5) Standards for forest management plans and their implementation.
- (a) No clear-cutting shall be permitted unless specifically shown in the approved forest management plan, in which case a reforestation plan shall also be included in the forest management plan. The replanting shall not include nonnative invasive species. Replanting of trees pursuant to such reforestation plan shall be secured by a performance bond, as provided in Subsection **L(6)** below.
 - (b) For parcels that are 10 acres or less, clear-cutting shall not occur on more than 20% of the parcel. For parcels that exceed 10 acres, clear-cutting shall not occur on more than 20% of 10 acres on the parcel, and clear-cutting shall not occur on more than 10% of the balance of the acreage on the parcel.
 - (c) No timber harvesting or logging road construction shall occur within 100 feet of any wetland, or of any stream protected by the New York State Department of Environmental Conservation, except as necessary to cross a stream, where such stream crossing is permitted by the New York State Department of Environmental Conservation. In addition, timber harvesting and logging road construction must comply with all other applicable zoning requirements, including any more restrictive stream setback requirements.
 - (d) No timber harvesting or logging road construction shall occur on any steep slope equal to or exceeding 25%. Slopes of 25% or greater shall be determined by using one of the following

resources or methods, as appropriate:

- [1] On-site measurement of slopes by registered professional engineers, surveyors, or landscape architects, using accepted engineering practices.
 - [2] Use of two-foot topographic data created with the use of Light Detection and Ranging (LIDAR)-derived information.
 - [3] United States Geological Survey 7.5 Minute Quadrangles.
 - [4] Other resources or methods that Town staff determine are of similar or greater accuracy than those listed above.
- (e) Best management practices for stormwater management shall be required to prevent runoff of mud, debris, and silt-laden stormwater from the site to streams, public roads, or the shoulders or drainage systems of public roads.
 - (f) No tree cutting, harvesting or removal, other than for exempt operations, shall take place between the hours of 6:00 p.m. and 7:00 a.m. local time.
 - (g) All trees shall be felled so that no trees or debris falls on any adjoining property or on any roads not owned or controlled by the applicant.
 - (h) All stumps shall be cut off as low as possible and shall, in general, be no higher than the diameter of the tree trunk when measured on the uphill side of the stump.
 - (i) Landing and loading areas shall be located as close as possible to the timber harvesting operations and shall be smoothed to remove all ruts and debris at the conclusion of the timber harvesting operation.
 - (j) The timber harvesting operation shall comply with all applicable erosion, sediment control, and stormwater management regulations, including any stormwater pollution prevention plans and simple erosion and sedimentation control plans.
 - (k) Equipment used for timber harvesting shall be as small and nondisruptive to the forest as is economically feasible and safe.
 - (l) Logging roads and skid trails shall be designed to avoid erosion and stream sedimentation. The forest management plan shall ensure the proper location of such roads and skid trails and, where necessary, the use of appropriate engineering controls.
 - (m) Cutting or clearing of any locally or regionally scarce plants or rare or endangered plant species as designated by the New York State Department of Environmental Conservation is permitted only upon receipt of a special permit for same by the Planning Board in accordance with the procedures set forth in this chapter.
 - (n) Slash and/or logging debris shall not be burned on-site.
- (6) Performance bond. All site restoration required by the forest management plan, including replanting of trees pursuant to a reforestation plan, removal of stumps and debris, restoration of landing and loading areas, and remediation of any damage to retained natural vegetation, roads, or drainage systems, shall be secured by a performance bond. The performance bond shall be furnished in accordance with the procedures specified in § 277 of the Town Law of the State of New York relating to subdivisions. The sufficiency of such performance bond shall be determined by the Director of Code Enforcement after consultation with the Department of Public Works.
 - (7) Procedures for approval and enforcement of a timber harvesting permit.
 - (a) Upon receipt of a complete timber harvesting permit application, the Code Enforcement Officer shall refer the application to the Town Conservation Board for review and a recommendation pursuant to the procedures in Town Code § **23-3**. The Conservation Board shall have 30 days

from the date of referral to complete its review and submit any written comments to the Code Enforcement Officer. If the Conservation Board fails to act within this time, the Code Enforcement Officer may proceed with his or her permit determination.

- (b) The Code Enforcement Officer shall promptly review the timber harvesting permit application, inspect the site, and approve or deny the application, giving the reason for any denial. A copy of the permit or decision to disapprove shall be delivered or mailed to the applicant within 45 days of the submission of a complete application.
- (c) Any permit shall be conditioned upon approval of access point(s) onto any Town roads, issued by the Town Highway Superintendent, and upon compliance, where applicable, with Chapter **230**, Streets and Sidewalks, Article **I**, Excavation and Construction in Municipal Roadways and Highway Rights-of-Way of the Town of Ithaca Code.
- (d) The timber harvesting permit shall consist of the application submitted, any conditions imposed by the Code Enforcement Officer and attached to the application, and the approval of the Code Enforcement Officer endorsed on the application with the attached conditions. The timber harvesting permit shall be placed in the permanent property file for the property.
- (e) A timber harvesting permit shall be valid for a period of two years from the date of its issuance, except where a multiphase forest management plan has been submitted, in which case the permit may be approved with time limits indicated within the permit for each phase. No timber harvesting permit shall be valid for a period in excess of 10 years.
- (f) Before any site work begins, the Code Enforcement Officer shall inspect the site to assure that the buffer areas and staging areas are adequately marked and that any other applicable permit conditions have been implemented. The Code Enforcement Officer shall make periodic inspections to assure compliance with the forest management plan and all conditions of approval.
- (g) The Code Enforcement Officer or Stormwater Management Officer shall have the authority to issue a stop-work order for all or part of the cutting and harvesting activity if in his or her opinion conditions created by a spring thaw, adverse weather conditions or any other cause may make damage to Town roads likely or may result in soil erosion or other damage beyond or outside of the boundaries of the area of the timber harvesting operation.
- (h) Inspection of the site and review of the forest management plan may be delegated by the Code Enforcement Officer to a professional forester retained by the Town.

§ 270-23. Park and recreation setasides and fees in lieu thereof.

Because of the reduced density in the Conservation Zones, the requirements for maintaining open space, existing public trails, and the existing and expected additional opportunities for passive recreational activities in the areas included in the Conservation Zones, it is anticipated that in Conservation Zones normally there will be no need for mandated parkland reservations or fees in lieu thereof pursuant to applicable Town Law and Town of Ithaca Code Chapter **234**, Subdivision of Land, and this Chapter **270**, Zoning, including § **234-22** of Chapter **234**, Subdivision of Land, and any successor or related provisions.

§ 270-24. Site plan approval.

No building permit shall be issued for a building or structure within a Conservation Zone requiring a special permit unless the proposed building or structure is in accordance with a site plan approved pursuant to the provisions of Article **XXIII**.

New York

Law

Open Space Preservation, Natural Resource Protection, Scenic Resources, Historic Preservation, Floodplain Regulation, Erosion & Sedimentation Control, Steep Slope Protection, Watershed Protection

EPA Region 2

Municipality- Town of Livonia

Land Conservation

Summary

This law outlines the Town's procedure for creating Land Conservation Areas, and for protecting these areas from potentially harmful development. These areas were created on the basis of a soil and existing land use survey, and have been grouped in to seven categories, which include: natural forest/woodland, wetland, steep slope, floodplain, major scenic overlook, stream corridor, watershed and sites of historical/archaeological significance.

Law

Town of Livonia NY Land Conservation

Code of the Town Of Livonia NY

Chapter 150: Zoning

Article VII: Regulations Applicable to All Zoning Districts

General Code

§ 150-68. Land conservation.

- A. Intent. The purpose of this land conservation section is to delineate and help to protect areas in Livonia where substantial development of the land, including changing the character or use of, may cause ecological harm, create a public health or safety problem or degrade significant community features, such as scenic views or sites of historic or archaeological significance. Special or unusual conditions of topography, drainage, soil permeability, floodplain or other natural conditions and the lack of proper facilities or improvements may result in the land not being suitable for development at the present time.
- B. Derivation. Land conservation areas in Livonia have been derived generally on the basis of soils and existing land use studies and data and have been mapped to identify the following specific conservation areas: natural forest/woodland, wetland, steep slope, floodplain, major scenic overlook, stream corridor, watershed and sites of historical/archaeological significance. The above mapped conservation areas are official supplemental guides to the Zoning Map to be used by Livonia in ascertaining

what special conditions, if any, should be imposed or precautions taken before allowing development to proceed.

C. Procedure for processing zoning permits using conservation areas maps. Whenever an application is made for a zoning permit in Livonia, the Code Enforcement Officer shall proceed as follows:

- (1) Identify the approximate location of the proposed building site and/or use and check to see if the site is situated in one or more of the mapped conservation areas.
- (2) If the applicant's proposed development or use is found to be located well outside of any identified conservation area shown on the supplemental map **Editor's Note: The supplemental map is on file in the Building and Zoning Department.**, the Code Enforcement Officer may issue a zoning permit, provided that all other requirements and conditions of the chapter are met.
- (3) If the applicant's property is found to be located completely or partially within one or more of the mapped conservation areas or bordering thereon, the Code Enforcement Officer shall accompany the applicant to the site to confirm the exact location and existing physical conditions.
- (4) If the Code Enforcement Officer confirms the location of the proposed development and/or use within any of the conservation districts, the activity proposed shall be subject to review by the Joint Planning Board in accordance with the site plan review requirements of Article XIV and the standards of this section.

D. The following is a list of the mapped land conservation areas and relevant review standards.

- (1) Forest/woodland.
 - (a) Whenever possible, the site plan shall be so designed as to minimize the number of trees 30 feet and over in height which would have to be removed or would otherwise disturb the forest floor.
 - (b) Activities, such as subdivisions, campgrounds, mobile home parks and most commercial or industrial uses, shall be guided in their layout by a qualified forester or landscape professional.
- (2) Wetland.
 - (a) Development activities in wetland and wetland buffer areas shall be regulated by state and federal permit requirements.
 - (b) The development and/or use shall be designed so as not to disturb the natural function and process of the wetland.
- (3) Steep slope.
 - (a) The site plans submitted to the Joint Planning Board for review shall be prepared by a licensed architect or professional engineer and engineered specifically for the steep slope where the building will be placed.

- (b) Architectural design of the house or structure shall be such as to minimize the amount of cutting into the embankment, general grading and removal of vegetative cover. A rectangular-shape structure which can be placed parallel to the contour of the hill and/or designing a cantilevered structure for maximum exposure above the ground is acceptable.
 - (c) Location of driveway, walkway, accessory buildings and structures and general grading shall minimize disturbance of steep slope areas and potential for erosion.
 - (d) Terracing, sodding, planting and the construction of retaining walls shall be performed as found necessary.
- (4) Floodplain. In accordance with National Flood Insurance specifications and Chapter 80 of the Code of the Town of Livonia or Chapter 93 of the Code of the Village of Livonia, the following conditions shall apply:
 - (a) Structures shall be designed and anchored to prevent the flotation, collapse or lateral movement of the structure or portion of the structure due to flooding.
 - (b) Construction materials and utility equipment that are resistant to flood damage shall be used.
 - (c) Construction methods and practices that will minimize flood damage shall be used.
 - (d) Adequate drainage shall be provided in order to reduce exposure to flood hazards.
 - (e) Public utilities and facilities shall be located on the site in such a manner as to be elevated and constructed to minimize or eliminate flood damage. Such utilities and facilities include sewer, gas, electrical and water systems.
- (5) Major scenic overlook.
 - (a) No identified major scenic overlook shall be seriously threatened by any proposed new construction if the Joint Planning Board determines that a reasonable alternative exists. This may include the modification of the architectural design or relocation of the building site.
 - (b) If no reasonable alternative, as defined in Subsection D(5)(a) above, exists, site plan review approval may be withheld up to but no longer than 120 days, during which time a municipal agency or a philanthropic organization can be given the opportunity to preserve the site by acquisition or other means.
- (6) Stream corridor. These regulations shall apply to streams shown on the Livonia base map and to any major drainageway.
 - (a) No new public road or private road shall be located within 25 feet of the mean high-water mark except for such portions as are necessary for

crossing the stream. Where alternative access to the other side of the stream is available, new crossings shall be discouraged.

- (b) New structures, except for fences, bridges and fishing parking areas, shall not be constructed within 25 feet of the mean high-water mark.
- (c) A buffer strip consistent with the following standards shall separate all new structures, except fences, bridges and fishing parking areas, from the stream.

Slope of Land	Degrees from Horizontal (feet)	Width of Buffer Strip in Critical Area from Mean High Water Mark
		50
10	6	90
20	12	130
30	17	170
40	23	210
50	26	250
60	31	290
70	35	330
80	39	370
90	42	410

Source: Hartung, R.E., and Kress, S.W.; Woodlands of Northeast, United States Department of Agriculture (USDA), Soil Conservation Service (SCS), and Forest Service, Philadelphia, Pennsylvania, 1977.

- (d) New structures and roads shall be designed and constructed in accord with erosion control standards and stormwater control standards contained in the supplemental stream conservation resource document. Refer to erosion and sediment control best management practices (BMP's) and stormwater management BMP's from pages 65 to 93 in Chapter 6 of the New York State Department of Environmental Conservation (NYSDEC) Stream Corridor Management Manual.
- (e) Within the buffer strip identified hereunder, woody shrubs and trees shall be retained sufficient to maintain the stability of the stream bank and to minimize stream bank erosion and direct runoff. Forest management roads or skid trails shall not be allowed inside the mean high-water mark, except at necessary stream crossings, and they shall be allowed at a distance from the mean high-water mark that is consistent with the following criteria for establishing buffer strips for logging areas.

Slope of	Degrees From	Width of Buffer Strip for
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Land	Horizontal	Logging Areas (feet)
		50
10	6	50
20	12	65
30	17	85
40	23	106
50	26	125
60	31	145
70	35	165
80	39	185
90	42	205
100	45	225

Source: Hartung, R.E., and Kress, S.W.; Woodlands of Northeast, USDA, SCS, and Forest Service, Philadelphia, Pennsylvania, 1977.

- (f) To protect the water quality, bed and banks of a stream from the impacts associated with logging, no more than 1/3 of the timber will be removed in a ten-year period within the buffer strip designated under Subsection D(6)(e) above. A professional timber harvesting program is required, including restoration measures for disturbed land and skid trail. A letter of credit may be required if deemed necessary by the governing board.
 - (g) Diseased vegetation and rotten or damaged trees or other vegetation presenting safety, environmental or health hazards may be removed. Firewood for personal use may be removed, within the limits of Subsection D(6)(f) above.
- (7) Conesus and Hemlock Lake Watersheds.
- (a) New structures shall be designed and constructed in such manner as to avoid undue adverse environmental impacts and in accord with erosion control standards and stormwater control standards contained in the supplemental stream conservation resource document. Refer to erosion and sediment control best management practices and stormwater management best management practices from pages 65 to 93 in Chapter 6 of the NYSDEC Stream Corridor Management Manual.
 - (b) Storm sewer outlets shall not be made directly to lakes, impoundments, streams or their tributary watercourses, without other treatment as specified in current engineering design criteria. Provision shall be made to discharge to the surface at least 100 feet from lakes, impoundments, streams and their tributary watercourses.

- (c) The dumping of more than two cubic yards of snow removed from streets, road and parking areas directly into lakes, reservoirs, impoundments or streams is prohibited.
- (d) Animal wastes.
 - [1] No concentration of animal wastes from an agricultural operation, including but not limited to manure piles, feedlots, barnyards and yarding areas, shall be located within a linear distance of 250 feet from any lake, reservoir, impoundment or watercourse.
 - [2] Barnyards, feedlots, yarding areas and manure piles shall be separated from streams and water bodies by ditches or surface grading to prevent their runoff from entering streams and water bodies.
 - [3] Drainage from barnyards, feedlots, yarding areas or manure piles shall not be discharged directly to a lake, reservoir, impoundment or watercourse. Such drainage shall be dispersed over the surface of the ground at a minimum distance of 250 linear feet from any lake, reservoir, impoundment or watercourse.
 - [4] Provision shall be made for satisfactory disposal of milk house waste either by surface or subsurface irrigation that prevents any discharge to any lake, reservoir, impoundment or watercourse. Such facilities shall be located at least 100 linear feet from the lake, reservoir, impoundment or watercourse.
- (e) Industrial sludge and toxic chemicals. Toxic chemicals shall not be buried in the soil, spread upon the surface of the ground or allowed to enter surface waters.
- (f) Fertilizer use.
 - [1] Open storage of chemical fertilizers for commercial use is prohibited.
 - [2] Fertilizer use for all applications shall be in accordance with best management practices.
- (g) Pesticide and herbicide use.
 - [1] Use of lakes, reservoirs or streams for makeup water or washing of equipment is prohibited.
 - [2] Pesticides and herbicides shall be used in accordance with label instructions.
- (h) Stockpiles.
 - [1] Storage of chloride salts is prohibited within a linear distance of 500 feet of a lake, reservoir, impoundment or watercourse, except in weatherproof buildings or watertight vessels.
 - [2] Calcium chloride shall be used instead of sodium chloride where

possible to limit sodium input to area waters.

- (i) All land-disturbing activity, including general construction, highway construction, access road construction and maintenance, is prohibited except where remedial measures have been put in place to minimize erosion and sediment production as per the standards of the Livonia Design Criteria and New York State Guidelines for Stream Corridor Management and Erosion and Sediment Control.
- (8) Sites of historic or archaeological significance. No sites of historic or archaeological significance shall be seriously threatened by any proposed new construction if the Joint Planning Board determines that a reasonable alternative exists. This may include the modification of the architectural design or relocation of the building site.