

SECTION 7 - SPECIAL RESIDENTIAL DEVELOPMENT PROVISIONS

7A. OPEN SPACE CONSERVATION DEVELOPMENT (OSCD)

7A.1 Purpose:

1. The preservation or provision of open space with special character that will benefit the present and future generations of Bolton residents including active or passive recreation areas, important wetlands systems, steep slopes, farmland, and/or areas containing significant natural features such as unusual terrain, vegetation, wildlife and scenic vistas.
2. To promote development of land in a way which is sensitive to the environment.
3. To promote a development that is compatible with surrounding residential areas.
4. To preserve or provide a recreation use, active or passive, which is compatible with open space preservation and which will directly or indirectly promote the general welfare of the residents of the Town of Bolton.
5. To give to the Commission the ability to determine whether a parcel of land is better suited for development under traditional subdivision and zoning requirements, under the Open Space Conservation Development (OSCD) requirements or under the fee in lieu of open space requirements.

(See Section 2 – Definitions for the definitions of terms, words, etc. that are applicable to this section, such as open space and wetlands.)

7A.2 Location of Development

To the extent feasible, any earth moving, excavation, filling and subsequent construction associated with an Open Space Conservation Development shall take place:

1. on the most suitable soils for sub-surface septic disposal;
2. away from legally designated inland wetlands soils, watercourses, and 100-year floodplain areas;
3. on the least fertile soils for agricultural uses;
4. on land of less than 25% slope;
5. in locations least likely to block or interrupt scenic vistas, as seen from the public road or roads abutting the parcel in question;
6. in locations having the greatest advantage in terms of solar access for proposed residences.

Where conflicts exist among the above preferred locations, the Planning and Zoning Commission will make the ultimate determination.

7A.3 Subdivision

1. Applicability and Suitability
The requirements and criteria of an OSCD apply to any application for development in any Residence Zone in which the parcel or contiguous parcels of land involved comprise a

total area of at least ten acres with the exception that the Planning and Zoning Commission may waive the OSCD subdivision requirements as follows:

- a) For a subdivision application of greater than ten acres but proposing no more than seven lots for sale or building development.
- b) Prior to filing a subdivision application an applicant may file an application requesting the Planning and Zoning Commission to waive the OSCD requirements in favor of an alternate open space proposal that is suitable to the Town such as a traditional development or a fee in lieu of open space. The applicant must provide four sets of conceptual plans depicting the proposed development of the subject parcel. For this depiction the proposed layout of lots, streets, utilities and open space (if a fee in lieu of open space is not being proposed) may be in conceptual forms but all other information, expressly including natural resource information, must be in final form in accordance with the Zoning Regulations and the Subdivision Regulations. Based upon the review of the conceptual plans the Planning and Zoning Commission, at its discretion, may waive or may not waive the OSCD subdivision requirement. The Commission shall make its decision on waiving the requirements within 65 days of being requested to do so subject to any extension granted by the applicant. If the Commission does not act within the time limits it shall be deemed a denial of the waiver.

The Planning and Zoning Commission may determine that an OSCD may not be suitable for the proposed location for the following, or other reasons:

1. non-conformance with Sections 7A.1, 7A.2, and 7A.3 of these Regulations
2. open space which may be too isolated from other existing or potential open space to be of significant value for the intended use
3. open space which may be too close to an existing use that might conflict with its function
4. wetlands or other conditions that may interfere with the open space function
5. a different use may be a more suitable use for the proposed open space area such as:
 - a. preservation of the land in its natural condition
 - b. a road
 - c. a drainage facility
 - d. another public improvement
6. Other reasons that impact the health, safety and welfare of the citizens of the town or the intent of these regulations as set forth in Section 7A.1.

The Planning and Zoning Commission is the sole authority for determining if an OSCD or any other open space proposal is suitable for the town. To make a decision on the suitability of an open space proposal the Commission may consider information from appropriate sources, including but not limited to the Bolton Plan of Conservation and Development and the Open Space Plan for Bolton.

2. Subdivision Application Procedure

An applicant for subdivision as described in Section 7A.3. may pursue one of the following options:

- a. The applicant may file an application for an OSCD subdivision with the Planning and Zoning Commission, meeting all the criteria stated within this Section as well as all procedures and requirements as stated in the Bolton Subdivision Regulations.
- b. The applicant may file an application for a traditional subdivision that includes an alternative for an OSCD Subdivision. The application must include four sets of plans depicting development of the subject parcel as a traditional, non-OSCD subdivision, and four sets of plans depicting development of the subject parcel as an OSCD subdivision in accordance with these Zoning Regulations and the Bolton Subdivision Regulations. The Planning and Zoning Commission shall have the authority to require modifications to either or both plans. The Planning and Zoning Commission may approve or modify and approve either the traditional, non-OSCD subdivision plans or the OSCD subdivision plans, or may disapprove both plans in accordance with the standards set forth in these regulations.
- c. If the Planning and Zoning Commission has granted a waiver from the OSCD subdivision requirements, as described in Section 7A.3., then the applicant may submit a non-OSCD subdivision application in accordance with the Bolton Subdivision Regulations provided that the application incorporates the conceptual plans upon which the waiver was based.

3. Open Space Requirements

Open Space Requirements

Open space to be preserved or reserved on any parcel developed under this section shall consist of an area or areas comprising, in sum, a minimum of forty percent (40%) of the total parcel area, and should not include any land that is covered by buildings, parking areas, sidewalks, driveways, or roadways, except as expressly approved by the Commission for the use of the open space. The percentage of open space land that is comprised of Special Features that, taken in the aggregate, shall not exceed 50% or 1 ½ times the percentage of Special Features located on the entire parcel, whichever is less, except that, in the sole discretion of the Commission, and by a majority vote of all its members, portions of open space lands that the Commission has identified as especially worthy of preservation, may contain a greater area of Special Features, provided that the Commission shall require the payment of a partial fee-in-lieu of open space as set down in Section 4.5 of the Bolton Zoning Regulations. The area to be preserved or reserved as open space shall be identified and so designated on the site development plan. The open space land must include access to the land appropriate for its intended use as approved by the Planning and Zoning Commission. The location and boundaries of the open space, even if it is to be left in its natural state, shall be identified at the time that the application is submitted and shall be subject to the approval or the modification and approval of the Planning and Zoning Commission. It is the intention of this section to preserve open space parcels of significant size or having other characteristics as set forth in Section 7A., B., and C. of these regulations. Any subsequent change in the use to the open space area shall require approval of the Planning and Zoning Commission.

4. Lot Density

Multiplying the total square footage of the subject parcel by 0.75, then dividing by the traditional minimum lot area for the Residence Zone in which the subject parcel is located, the resulting number (fraction removed) equals the maximum number of lots within an OSCD subdivision.

5. OSCD Subdivision - Dimensional Requirements

	Min. Lot Area (Sq. Ft.)**	Min. Lot Frontage (Ft.)*	Min. Front Yard (Ft.)*	Min. Side Yard (Ft.)	Min. Rear Yard (Ft.)
R-1	24,000	140	30	20	35
R-2	24,000	140	30	20	35
R-3	13,500	100	30	10	25

Maximum building height, minimum floor area, maximum lot coverage, and maximum impervious cover requirements shall be the same as for a traditional, non-OSCD subdivision in the applicable Residence Zone.

* All lots shall have frontage abutting an existing or proposed public road right-of-way. The Planning and Zoning Commission may permit an interior lot or lots within an OSCD subdivision, such lots having a minimum frontage of 50 feet, a minimum front yard setback of 60 feet, and a minimum lot area equal to double the amount shown in the above table for the applicable zone. In considering whether to permit such lot or lots, the Planning and Zoning Commission shall consider whether the scenic character of the subject property, as viewed from the abutting public road, will be significantly enhanced, and whether existing natural features will be preserved.

** Section 3J. of these Regulations shall be applied to this requirement.

6. Shared Driveways

The Planning and Zoning Commission may permit no more than three lots within an OSCD subdivision to share portions of driveways, subject to the common driveway requirements in the Subdivision Regulations.

In determining whether to permit such shared portions, the Planning and Zoning Commission shall consider whether or not scenic character, natural features preservation, and motor vehicle traffic safety will be enhanced by such an arrangement.

7. Community Septic Systems

The Planning and Zoning Commission may permit a shared or community septic system or systems arrangement within an OSCD subdivision, provided that:

- a. the proposed system or systems shall meet all requirements for construction, installation and maintenance of the Connecticut Department of Environmental

Protection, Water Compliance Division and/or the Connecticut Department of Health Services as applicable;

- b. a letter of approval from the Connecticut Department of Environmental Protection, Water Compliance Division or the Connecticut Department of Health Services, whichever is applicable, concerning the design of such system or systems shall be submitted to the Planning and Zoning Commission as part of the final application for subdivision.

7A.4. Multiple Dwelling Complex

1. Applicability and Suitability

The requirements and criteria of an OSCD are as described in Section 7A.3 and apply to any application for a Multiple Dwelling Complex in an R-1 or R-2 zone in which the parcel or contiguous parcels of land involved comprise a total area of at least ten acres. The OSCD requirements may not be waived for a multiple dwelling complex as they may be for a subdivision.

2. Procedure

- a. R-1 Zone

The applicant shall file a special permit application with the Planning and Zoning Commission, meeting all the criteria stated within this Section 7, as well as all requirements of Section 6A.14 and Section 16 of these regulations except as modified by this Section 7A.

- b. R-2 Zone

An applicant for a Multiple Dwelling Complex as described in Section 7.4.1 shall pursue one of the following two options:

1. The applicant shall file a Special Permit application with the Planning and Zoning Commission, meeting all the criteria stated within this Section, as well as all applicable requirements of Section 6A.14 and Section 16 of these Regulations, except as modified by this Section 7.
2. The applicant shall initially file a Site Plan Review application with the Planning and Zoning Commission to decide whether the Multiple Dwelling Complex will be a traditional (non-OSCD) development or an OSCD. The application shall include four sets of conceptual plans depicting development of the subject parcel as a traditional, non-OSCD Multiple Dwelling Complex and four sets of conceptual plans depicting development of the subject parcel as an OSCD Multiple Dwelling Complex.

For both depictions, the proposed layout of buildings, roads, parking areas, utilities, and landscaping may be in conceptual form, but all other information, expressly including natural resource information, is to be in final form pursuant

to the applicable requirements of this Section as well as Section 6A.14 and 16 of these Regulations. The Planning and Zoning Commission is the sole authority for determining if a proposal is suitable for the town based on the requirements in these Zoning Regulations and based upon information in the Town of Bolton Plan of Conservation and Development and in the Town of Bolton Open Space Plan. The Planning and Zoning Commission shall have the authority to require modifications to either or both plans. The Planning and Zoning Commission may approve, modify and approve or disapprove the type of development to be in accordance with either the traditional, non-OSCD Multiple Dwelling Complex conceptual plans or the OSCD Multiple Dwelling Complex conceptual plans, or may disapprove both plans in accordance with the standards set forth in these regulations. Once the Planning and Zoning Commission has approved the Site Plan Review application for the type of development, the applicant shall submit a Special Permit application, including four sets of complete, final plans depicting the approved layout, to the Planning and Zoning Commission in accordance with all applicable requirements of Section 6A.14 and Section 16 of these Regulations. Even though a Site Plan Review approval action has been made by the Planning and Zoning Commission for the type of development, no on-site development of any kind shall commence until such time as the Planning and Zoning Commission has approved the Special Permit application and the applicant has satisfactorily completed any conditions of approval for which performance is required prior to commencement of development.

3. Open Space Requirements

The requirements of this Section 7A.4.3. are the same as those of Section 7A.3.3. of these Regulations.

4. Density

Using the entire acreage of the parcel or contiguous parcels of land involved, the maximum density of any OSCD Multiple Dwelling Complex shall be six dwelling units per acre. However, no OSCD Multiple Dwelling complex shall consist of more than eighty dwelling units (inclusive of all phases). No building within an OSCD Multiple Dwelling Complex shall contain less than three, nor more than six, dwelling units.

5. OSCD Multiple Dwelling Complex - Dimensional Requirements

Minimum Lot Frontage: 60 feet

Minimum Front Yard: 70 feet

Minimum Side Yard: 50 feet

Minimum Rear Yard: 50 feet

Maximum Building Height 35 feet or 2 1/2 Stories

Maximum Lot Coverage: 15%

Maximum Impervious Coverage: 20%

6. Dwelling Unit Requirements

All dwelling unit requirements are as stated in Section 6A.14f. of these Regulations.

7. Separation Distance
all separation requirements are as stated in Section 6A.14g. of these Regulations.
8. Roads, Parking and Sidewalks
All requirements for roads, parking and sidewalks are as stated in Section 6A.14h. of these Regulations.
9. Ownership of Improvements
All requirements regarding ownership of improvements are as stated in Section 6A.14i of these Regulations.
10. Landscaping and Buffering
All landscaping and buffering requirements are as stated in Section 6A.14j. of these Regulations.
11. Community Septic Systems
The requirements concerning community septic systems are as stated in Section 6A.14k. of these Regulations.
12. OSCD Multiple Dwelling Complex for the Elderly
OSCD Multiple Dwelling Complexes for the elderly may be permitted, following the same age requirements as stated in Section 6A.14l. of these Regulations. An OSCD Multiple Dwelling Complex for the elderly shall meet all requirements as stated within this Section 7A.4., with the following exceptions:
 - a. no dwelling unit shall have a floor area greater than 1,000 square feet;
 - b. minimum parking space requirements shall be 1 1/2 spaces per dwelling unit.

No OSCD Multiple Dwelling Complex for the Elderly, if approved by the Planning and Zoning Commission, shall be occupied as anything other than an OSCD Multiple Dwelling complex for the elderly unless a further Special Permit application, stating the intended change is filed and approved by the Planning and Zoning Commission. Such intended change must comply with these Zoning Regulations.

7A.5. Method of Conveying Open Space

The owner shall convey the open space land approved by the Commission to the receiving entity as described below.

1. Conveyance in fee simple to the Town.
2. Conveyance in fee simple to the State of Connecticut.
3. Conveyance in fee simple to a duly established conservation land trust, with the concurrence of the conveying property owner. The Commission may require the applicant to submit documentation concerning the mission of the organization and its ability to accept and maintain such property.

4. Conveyance of an easement to the Town.

The conveyance instrument for the open space land must dedicate the land to its intended open space purpose and the access to the land in perpetuity. A draft open space conveyance instrument must be included with the application. The open space conveyance instrument, as approved by the Commission, must be executed and made available for recording in the town land records before the approved plans and/or permits are endorsed by the Commission.

The application shall include written evidence, satisfactory to the Commission, from the entity proposed to own the open space land or easement, stating that the entity is willing to accept ownership of and responsibility for the preservation and maintenance of the open space land. No open space land proposal will be a valid proposal unless such written evidence is provided by the receiving entity. The Commission may require evidence of the entity's ability to preserve and maintain the land.

7A.6 Architectural and Site Design Guidelines

The design of any OSCD Subdivision shall be consistent with the Bolton, CT Architectural and site Design Guidelines (Appendix C), with the sole exception that individual lot improvements shall not be subject to these Guidelines. OSCD Multiple Dwelling Complexes shall be subject to these Guidelines in their entirety.

7B RESERVED