

Chapter 240

§ 240-3 Terms defined.

COMMUNITY HOUSING SUBDIVISION

A subdivision of property in the Community Housing Overlay District for community housing dwelling units pursuant to Chapter 112 Community Housing Administration.

STANDARD SUBDIVISION

Any subdivision of land which is not classified as a conservation subdivision or a community housing subdivision.

§240-4. General Requirements

K. Contribute to meeting the Town's need for community housing for year-round residents and working households, consistent with the Southold Town Comprehensive Plan.

§ 240-5 Subdivision classifications.

A. Applicants may submit the following types of applications for consideration by the Planning Board:

- (1) Standard subdivision.
- (2) Conservation subdivision.
- (3) Community housing subdivision.

§ 240-7 Submission requirements.

Every application for subdivision shall include the following items during the review process indicated:

B. Conservation subdivision and Community Housing Subdivision.

- (1) Sketch plat review.
 - (a) Sketch plat application form;
 - (b) Fee;
 - (c) Long environmental assessment form;
 - (d) Existing resources and site analysis plan(s) (ERSAP);
 - (e) Yield calculation;
 - (f) Primary and secondary conservation area plan;
 - (g) Coastal assessment form (as applicable).
- (2) Final plat review or open development area (ODA).
 - (a) Final application form;
 - (b) Final plat (not applicable for an ODA);
 - (c) Road and drainage plan and performance bond estimate (not applicable for an ODA);
 - (d) ODA map (ODA only).

§240-8 Fees

C. Environmental review fees. ~~The Planning Board may charge the applicant appropriate fees to cover the cost of required environmental review, as permitted by the State Environmental Quality Review Act (SEQRA)~~

C. Technical consultant fees.

Commented [HL1]: Matches Ch. 280

- (3) The Planning Board may determine that a referral to an independent technical consultant(s) is deemed necessary to complete their review of an application, with the technical consultants' fees to be reimbursed by the applicant. Any such consultant shall be engaged in accordance with the Town's procurement policy.
- (4) Technical consultant fees (or "fees") are those reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with engineering, scientific, land use planning, environmental, legal or other similar professional reviews/assessments/advice/services concerning the adequacy, procedural or substantive aspects or applications or issues addressed during the course of decision making/review/approval/inspection functions of the Town Planning Board and rendered relative to and in connection with a particular application, including site plan approvals, subdivision approvals, or for any other land use or development permits or approvals required by the Town.
- (5) Reimbursement process.
 - (a) Estimate of costs. Upon determining the need for technical assistance, the Planning Board shall provide the applicant with an estimate of the costs for hiring the necessary consultants and experts.
 - (b) Deposit. The applicant shall deposit the estimated amount with the Town Clerk prior to the commencement of the review.
 - (c) An escrow account for the applicant shall be established with the Town Comptroller's office. Said escrow account shall be established prior to the Town's referral of the application to its consultant(s). Said escrow account shall be funded by the applicant in an amount to be determined by the Planning Board. The Planning Board may suspend its review of the application until an escrow account is established and funded.
 - (d) Withdrawals from said escrow account may be made from time to time to reimburse the Planning Board for the cost of its consultant's(s') professional review services actually incurred. Whenever the balance in such escrow account is reduced to 1/4 of its initial amount, the Planning Board shall notify the applicant; thereafter, the applicant shall deposit additional funds into such account so as to restore its balance to 1/2 of the initial deposit or to such sum as deemed necessary by the Planning Board. If such account is not replenished within 30 days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application.

- (e) Adjustment. If the actual costs exceed the initial estimate, the applicant shall be responsible for the additional costs. Conversely, if the actual costs are less than the estimate, the remaining balance shall be refunded to the applicant.
- (f) The consultant(s) will work under the direction of the Town Planning Director or designee. Copies of the consultant's(s') qualifications, findings and reports will be provided to the applicant.
- (6) Failure to reimburse consultant fees.
 - (a) Application approvals shall not be issued unless the applicant is in compliance with this chapter.
 - (b) There may be an instance where consultant fees have been incurred by the Town but not yet billed to the applicant, or where fees have been billed but are not yet past due by the applicant, but where the Planning Board is ready for approval of an application. In such case, the Planning Board may condition approval on compliance with this chapter prior to issuance of any building permit associated with such application.
 - (c) In addition to any other remedy herein or otherwise, should an applicant or owner fail to reimburse consultant fees in accordance with this chapter, regardless as to whether the subject application was ultimately approved or otherwise, the Town may seek recovery thereof in a court of competent jurisdiction.

§240-10 Technical requirements.

B. Yield Plan

- (2) Standard subdivision.** A yield plan shall be prepared for a standard subdivision in accordance with the requirements of this section and shall include a requirement to provide ~~affordable-community~~ housing.

Policy Decision:

Currently only subdivisions creating five or more lots are required to create community housing. The rate is set at 20% of the lots, and you round up if 0.5 or greater and round down if less than 0.5

That means a five-lot subdivision (creating four new lots), does not have to provide any community housing.

Consider requiring all subdivisions be subject to creating community housing, except for the smallest three and two-lot subdivisions, which could instead pay into the Southold Housing Fund.

The fee could be based on the same 20% calculation, and use the Home Purchase Price set by the Town Board each year for community housing.

Current Code Requirement

Six-lot subdivision (creating five new lots): $5 \times 20\% = 1$ community housing unit must be built

Proposed Addition to the Code:

Five-lot subdivision (creating four new lots): $4 \text{ new lots} \times 20\% = 0.8$. Build 1 unit

Four-lot (three new lots): $3 \text{ new lots} \times 20\% = 0.6$. Build 1 unit (or pay 60%)

Three-lot (two new lots): $2 \text{ new} \times 20\% = 0.4$. Pay 40% of the Home Purchase Price

Two-lot (one new lot): $1 \text{ new lot} \times 20\% = 0.2$ Pay 20% of the Home Purchase Price

Example:

A three-lot subdivision creating two new lots.

* Home Purchase Price at 120% AMI for 2026: \$492,900

* $2 \text{ new lots} \times 20\% = 40\%$

* $40\% \text{ of } \$492,900 = \$197,160$

Options:

* Consider a lesser percentage for the pay-out: 10% instead of 20%

- this would change the above example to pay out \$98,580 ($2 \text{ new lots} \times 10\% = 20\%$)

* Don't require payout for smallest subdivisions, but reduce the number required to build a unit to a four-lot subdivision (creating three new lots).

* Keep the code the way it is now: only six-lot subdivisions or greater have to build.

Considerations:

Estate planning and hardships.

* Proposed code includes a deferment option (pay before building permit), and a hardship exemption procedure that is already in the code.

(c) Community Affordable housing requirement. Every new standard residential subdivision ~~involving the creation of five or more new lots~~ shall comply with the requirements herein to provide ~~affordable community~~ housing.

~~HH~~ **[1]** Twenty percent of the lot yield as determined pursuant to § 240-10B(2)(a) and (b) shall be set aside as community housing ~~moderate-income family dwelling~~ units (MIFDUs), as defined, created and administered under the provisions of Southold Town Code Chapter 112 Community Housing Administration. Each dwelling ~~the Affordable Housing District, §§ 280-24 through 280-33 of this Code. Each MIFDU~~ shall be created subject to covenants and restrictions as set forth in Chapter 112 Community Housing

~~Administration at § 280-30 or through another mechanism approved by the Town Board that will keep units perpetually affordable.~~

- [a] The number of ~~MIFDU community housing dwelling~~ units required in a subdivision shall be rounded up to the next whole number if the fractional requirement is 0.50 or greater, and shall be rounded down to the next whole number if the fractional requirement is less than 0.50.
- [b] ~~For subdivisions creating less than three new lots, an inclusionary zoning fee is required to be paid into the Southold Housing Fund. The fee shall be a percentage of the Home Purchase Price at the 120% AMI level set by the Southold Town Board pursuant to Chapter 112 Community Housing Administration. The percentages are as follows:~~
- ~~• Three-lot subdivision (creating two new lots): $2 \times 20\% = 40\%$.~~
 - ~~• Two-lot subdivision (creating one new lots): $1 \times 20\% = 20\%$.~~
- [2] ~~Development fee waiver.~~ An applicant shall receive a waiver of all application fees, building permit fees, plan review fees, inspection fees, park and playground fees and such other development fees and costs attributable to the ~~MIFDU community housing dwelling units~~ built in the subdivision. ~~A waiver may not be granted for sanitary flow credits purchased pursuant to the provisions of Chapter 117.~~
- [3] **Phasing of construction.** The applicant shall provide to the Planning Board a phasing plan that provides for the timely and integrated development of the ~~affordable community housing dwelling~~ units as the subdivision is built out. The phasing plan shall provide for the development of the ~~MIFDU community housing dwelling units~~ concurrently with the market rate units. Building permits shall be issued for dwelling units within the subdivision based on the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for different financing and funding environments, economies of scale, and infrastructure needs applicable to the development of the market rate and the ~~MIFDU community housing dwelling units~~. The phasing plan shall also provide that the ~~MIFDU community housing dwelling units~~ shall not be the last units to be developed in the applicable subdivision. ~~The community housing dwelling units must receive certificates of occupancy prior to 80% of the market rate dwelling units in the subdivision.~~
- [4] **Exterior appearance.** The exterior appearance of the ~~MIFDU community housing dwelling units~~ shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for ~~MIFDU community housing dwelling units~~ and market rate units.

Commented [LH2]: We no longer charge a fee for sanitary flow credits so a waiver of that fee is not necessary.

Policy discussion items:

1. Phasing. How to ensure the community housing units are built – proposal to increase the specifics already in the code about phasing based on Southampton experience of

developer not following through (built all market rate and never built the community housing units).

2. If on a private road, should the community housing lots be required to pay a full share in the maintenance of that road? Should it be zero? Or a small percentage of the cost?

[5] Community Housing lots created on a private road shared with market-rate lots shall not be subject to road and drainage maintenance fees.

[6] When payment in the Southold Housing Fund is required, the Planning Board may defer the timing of the payment by including the requirement in the covenants prior to a building permit being issued for the new market-rate lots created. The fee will correspond to the Home Purchase Price at the time of the payment. (((Note: could instead be certificate of occupancy though that has issues)))

[7] Appeal. A developer of any project subject to the requirements of this chapter may appeal to the Town Board for a reduction, adjustment or waiver of the requirements based upon the absence of any reasonable relationship or nexus between the impact of the development and the inclusionary requirement.

§ 240-21 Technical requirements.

B. The final plat shall show:

- (12) ~~MIFDU~~ ILots intended for community housing dwelling units must be designated on the final plat.

§240-25. Final plats not in substantial agreement with approved preliminary plats or when no preliminary plat is required.

B. Final approval. Prior to obtaining the Planning Board Chair's or Vice Chair's signature of the final plat, the developer shall have provided the following:

- (5) Proof that funds owed in accordance with the affordable housing requirement have been paid.

Commented [HL3]: This would be taken out if the policy decision on the payment into the Housing Fund decides against it. This is left over from when there was a buyout option and should have been removed when that was removed in 2024.