

ARTICLE X. Realty Subdivisions

Sec. 873.931. Realty subdivisions; declaration of policy.

[§ 1100, Art. 11, eff. 9-1-1971]

1. The purposes of the provisions of this article are to promote healthful and safe environmental conditions within and adjacent to all types of realty subdivisions and to assist local municipal agencies to achieve healthful communities. To this end, public water supply and public sewerage facilities should be provided, whenever possible, and be constructed and maintained in accordance with accepted state and national standards.
2. Separate water supply systems shall be considered temporary systems. Such systems are inadequate in many areas of the health district to meet domestic needs in new realty subdivisions.
3. In considering applications for approval of realty subdivisions, community needs and potential hazards, both natural and man-made, may be considered for the purpose of assuring residents clean air, clean water, clean recreational areas and clean land.

Cross references—Department of Environmental Facilities, Chs. 128 and 237; Department of Planning, Ch. [191](#); Planning Board, Ch. [277](#), Art. [IV](#); environmental facilities sewer ordinance, Ch. [824](#); sanitary sewer districts, Ch. [964](#).

Sec. 873.941. Realty subdivisions; definitions.

[§ 1101, Art. 11, eff. 9-1-1971]

1. *Realty subdivisions*. The term "realty subdivision" means any tract of land which is divided into more than two (2) habitable building sites or parcels on any site along an existing or proposed street, highway, easement or right-of-way or other means or proposed means of access, road or street, for sale, lease or rent, regardless of whether the sites are to be sold or offered for sale or leased for any period of time, are described by metes and bounds or by reference to a map or survey of the property or by any other method of description.
2. *Usable area*. The term "usable area" means the general area required and suitable for the normal and reasonable development of each building site in a realty subdivision to permit the provision of water supply and sewage facilities to serve the area for the proposed occupancy in accordance with provisions of local ordinances, watershed rules and regulations and the requirements of the department or other provisions of law.
3. *Separate water supply system*. The term "separate water supply system" shall mean a single system of piping, tanks or other facilities together with a source of water intended to supply a single building site.
4. *Separate sewerage system*. The term "separate sewerage system" shall mean a single system of piping, tanks or other facilities serving only a single building and disposing of sewage or other liquid wastes into the soil of the lot.
5. *Public water system*. The term "public water system" shall mean a water supply and necessary appurtenances together with a distribution system serving more than one (1) lot, whether owned by a municipal corporation or private utility.

6. *Public sewerage system.* The term "public sewerage system" shall mean a system utilized for the collection and disposal of sewage or other wastes of a liquid nature, including the various devices for the treatment of such wastes serving more than one (1) lot, whether owned by a municipal corporation or private utility.

7. *Dry sewer.* The term "dry sewer" shall mean a pipe intended to carry domestic waste at such time as sewerage and treatment facilities are constructed and available.

Sec. 873.951. Realty subdivisions; approval of plans.

[§ 1102, Art. 11, eff. 9-1-1971; amended 2-26-1987, eff. 4-1-1987]

1. No person shall engage in the development of a realty subdivision or sell, offer for sale or contract for sale of land therein or erect any permanent building thereon without first obtaining the approval of the department for the proposed methods of providing water and sewerage facilities and land drainage, and until such plan shall have been filed in the office of the Clerk of the County of Westchester.

2. A plan submitted to the department pursuant to this section shall show methods of providing adequate water supply and adequate disposition of sewage and land drainage to serve each building site according to the standards and requirements of the department.

3. The installation of any water supply and any sewerage disposal facilities, public or separate, shall be in accordance with the plans approved by the department, the state Department of Health, the state Department of Environmental Conservation or approved revision or revisions thereof.

4. The approval of any realty subdivision plan under and pursuant to the provisions of the Public Health Law and this code shall become effective only upon filing of the approved plan in the office of the Clerk of the County of Westchester within one year of the date of approval.

5. Approval.

a. The approval by the department of the proposed methods of providing water and sewerage facilities and land drainage shall be indicated by a stamp or endorsement on the face of the original tracing of the subdivision plan.

b. Such approval by the department shall be obtained prior to the filing of any map or plan showing such subdivision of land in the office of the Clerk of the County of Westchester or in any other required public office.

6. The original tracing of the subdivision plan shall show on the face thereof the written consent of the owner of record approving the filing of said map.

7. If a plan is disapproved by the department, such plan shall be returned to the person who submitted the plan with a summary of the reasons for disapproval.

8. (Reserved)

9. As a condition of such approval, the department may require the installation within a specified period, in accordance with the plans presented or approved revisions thereof, of the whole or any part of the water, sewerage or land drainage facilities for said realty subdivision; or the department may require that the land shall have been suitably improved and shall have adequate land drainage and usable areas for such installations before approval of the plan.

10. In addition to any other cause as otherwise provided in this code, the department shall deny approval of any realty subdivision if it appears that a condition or hazard detrimental to health or safety may be created thereby or, if it appears that excessive demands may be imposed upon any public or community facility or service proposed to serve such subdivision.

11. Plans and specifications for the construction of any proposed public water supply or public sewerage systems shall be submitted to and shall receive approval of the department, the state Department of Health, or the state Department of Environmental Conservation, prior to the approval of the plans for the realty subdivision to be served.

Sec. 873.961. Realty subdivisions; application for approval; required data.

[§ 1103, Art. II, eff. 9-1-1971]

1. The original tracing shall show methods for furnishing adequate water supply, sewerage and drainage to serve each building site.
2. Applications for approval shall be accompanied by such maps, plans, reports, specifications and data as the department may require or direct.
3. The department may require that a report and such plans as may be needed, covering the following environmental factors may be submitted:
 - a. The method of solid waste collection and disposal;
 - b. The extent to which proposed land uses and structures may cause air pollution;
 - c. The methods for grading to prevent changes in soil percolation capacity and to provide for adequate collection and disposal of surface and ground water;
 - d. The methods to prevent contravention of surface and ground water quality standards;
 - e. The effect on the subdivision of environmental pollutants or hazards either on the property or from surrounding areas resulting from such facilities, activities or conditions as industrial or commercial structures or operations, highways, solid waste disposal sites, swamps, quarries, sink holes, limestone deposits, gravel pits, airports, watercourses, agricultural uses, floodplains and unstable soil condition;
 - f. The potential effect of the subdivision on environmental factors in surrounding areas.
4. The department may require that a test well be constructed on the site of a realty subdivision.

Sec. 873.971. Realty subdivisions; filing map.

[§ 1104, Art. 11, eff. 9-1-1971]

Any realty subdivision plan approved by the department shall be filed in the office of the Clerk of the County of Westchester within one year of such approval.

Sec. 873.981. Realty subdivisions; usable areas.

[§ 1105, Art. 11, eff. 9-1-1971; amended 5-27-1976, eff. 6-1-1976]

1. A usable area shall not be deemed to include any area occupied by a building, structure, lake, stream, pond or swamp, areas of exposed or underlying rock or ground water within five feet of the ground surface or marginal areas subject to flooding or along streams or other bodies of water.
2. The area intended for separate sewerage systems shall be well drained by natural or approved artificial means.
3. The minimum usable areas specified herein are intended to apply to single-family occupancies.
4. The department may require such usable area as it may deem necessary or adequate for any other type of land usage indicated on the plan or permitted under existing zoning laws, if any.
5. The usable area shall include a protective area not less than ten feet in width laterally on all sides of the separate sewerage system but shall not include such other protective area between any separate sewerage system and any water supply, line of drainage, watercourse or other hazardous condition as the department shall deem necessary and adequate.
6. As applied to separate sewerage systems, the usable area shall contain suitable absorptive natural soils for a depth of not less than seven feet above ground water or ledge rock. No site shall be deemed suitable for development as a soil absorption area which would require the placement or removal of natural soils for a depth greater than one-half the required depth of soil.

Sec. 873.991. Realty subdivisions; public systems required.

[§ 1106, Art. 11, eff. 9-1-1971]

1. If in the opinion of the department, a proposed realty subdivision is located in an area in which conditions preclude the installation of separate water supply systems or separate sewerage systems, or both, the department may require installation of a public or community water or sewerage system, or both.
2. If a realty subdivision consists of 50 or more building sites or housing for 200 or more persons, the department may require installation of a public or community water or sewerage system, or both.

Sec. 873.1001. Realty subdivisions; separate water and separate sewerage systems.

[§ 1107, Art. 11, eff. 9-1-1971]

1. Where it is proposed to provide separate water supply and separate sewerage systems, each building site shall contain the required usable area for such facilities based upon the particular conditions as determined by appropriate soil investigations and design report acceptable to the department. In any case, the usable area for separate water supply and separate sewerage systems shall not be less than 14,000 square feet.
2. A plan may be required which shall indicate the required usable area for each building site and such other information as the department may require.
3. A separate water supply system shall consist of a drilled well which has a capacity of providing an average yield of not less than five gallons per minute of potable water.
4. The use of individually dug wells or springs shall not be approved.

5. A separate sewerage system shall consist of septic tanks followed by subsurface leaching systems designed for the appropriate land usage.

6. The use of cesspools shall not be approved.

7. Whenever duly approved public water supply or public sewerage systems are made available and accessible for any sites or properties within such subdivision, any prior general approval for construction with separate water supply or separate sewerage systems shall be deemed null and void, and further construction shall be served by individual connections to the public systems so provided.

Sec. 873.1011. Realty subdivisions; public water and separate sewerage systems.

[§ 1108, Art. 11, eff. 9-1-1971]

1. Where water is to be provided by provision of or the extension of a public water supply system and sewerage is to be provided by a separate sewerage system on each building site, the usable area for sewerage facilities on each building site shall be based upon the particular conditions on each building site as determined by appropriate soil investigations and design report acceptable to the department. In any case, the usable area for separate sewerage systems shall not be less than 5,000 square feet.

2. Such usable area may be reduced not more than 50 percent where public sanitary sewer mains are installed in accordance with a duly approved plan for sewerage of the community and service connections from the sewer main to the property lines are installed so as to readily serve each site when such public sewerage system is available for use.

3. A plan may be required which shall indicate the required usable area for each building site and such other information as the department may require.

4. A separate sewerage system shall consist of septic tanks followed by subsurface leaching systems designed for the appropriate land usage.

5. The use of cesspools shall not be approved.

6. Whenever duly approved public sewerage facilities are made available and accessible for any sites or properties within such realty subdivision, any prior general approval for separate sewerage systems shall be deemed null and void, and further construction shall be served by individual connections to the public sewerage systems so provided.

Sec. 873.1021. Realty subdivisions; public water and public sewerage systems.

[§ 1109, Art. 11, eff. 9-1-1971]

1. Where water and sewerage services are to be provided by public water mains and public sanitary sewers, the required approval may be indicated by stamp or endorsement on the face of the original tracing of the proposed realty subdivision plan indicating that such approval is issued subject to the provision of such systems to serve every habitable building constructed therein.

2. Such systems shall thereafter be installed to serve every habitable structure in such realty subdivision.

3. Where it is proposed to provide water supply to sewerage systems by connection to an existing public water supply or sewerage system, the applicant shall supply the department with a certification,

in writing, by the owner of the utility that such systems are adequate and will be furnished and maintained to serve the proposed subdivision.

Sec. 873.1031. Realty subdivisions; public water supply; in general.

[§ 1110, Art. 11, eff. 9-1-1971]

Public water supply systems shall be capable of delivering water meeting the provisions of the State Sanitary Code relating to drinking water supplies. Such systems shall provide for continuity of service, and if from a ground water source shall provide at least two separate sources, each of which shall have the required capacity, and the system shall have at least one day's available storage at design capacity.

Sec. 873.1041. Realty subdivisions; water and sewerage; joint systems.

[§ 1111, Art. 11, eff. 9-1-1971]

1. No arrangement intended to furnish water from a single well or other source of water to more than one building site, except individual connections from a public water supply shall be approved.
2. No arrangement intended to dispose of sewage by a separate sewerage system to serve more than one building site, except individual connections to a public sanitary sewer, shall be approved.

Sec. 873.1051. Realty subdivisions; water and sewerage; existing improvement districts.

[§ 1112, Art. 11, eff. 9-1-1971]

1. Within the corporate limits of any city or village or within any town water or sewer district, no plan for development of a realty subdivision shall be approved except where the plan provides for the extension or extensions of such water or public sanitary sewer systems to serve every habitable structure in such development; provided, however, that where each building site has an area of 40,000 square feet or greater, separate sewerage systems may be approved when, in the opinion of the department, the extension of public sanitary sewer systems is not necessary and each such site contains the required usable area.
2. Within the corporate limits of any city or village or within any town water or sewer district wherein public sewerage is contemplated within five years or less as determined by a resolution of the municipal governing board, interim separate sewerage systems may be permitted by the department provided that:
 - a. Dry sanitary sewers are designed, duly approved and properly installed in accordance with the municipal sewerage plan;
 - b. Capped or plugged plumbing is installed to serve each building and individual sewer connections are installed to the dry sewer; and
 - c. The soil is otherwise suitable for separate sewerage systems.

Sec. 873.1061. Realty subdivisions; sale before construction of systems.

[§ 1113, Art. 11, eff. 9-1-1971]

1. Whenever building sites are sold or offered for sale without the actual provision or construction of water supply or sewerage or land drainage systems having been installed, the seller shall furnish to each purchaser of such site at the time of the sale a legible reproduction of the realty subdivision plan bearing the approval of the department and indicating the arrangements for water supply and sewerage approved by the department.

2. The contract of sale or deed to the property shall contain a provision to the effect that the arrangements for water supply and sewage disposal and land drainage shall be installed in accordance with the plans approved by the department prior to the start of construction of any building on the property so acquired.

Sec. 873.1071. Realty subdivisions; violations.

[§ 1114, Art. 11, eff. 9-1-1971]

1. No person shall engage in the development of a realty subdivision otherwise than in accordance with the conditions or terms of the approval as given by the department, or approved amendments thereto.

2. Vacation of violations.

a. In addition to and independently of any other penalty, whenever the department shall have knowledge of the development of a realty subdivision otherwise than in accordance with the approval as given by the department, or approved amendments thereto, the commissioner shall issue a written notice of violation and such notice shall be served personally or by registered mail to the last-known address of the person filing such map and to the owner or owners of record of lands within such realty subdivision, if known, and to the developer, if known, otherwise by posting conspicuously on the property. A duplicate of such notice may be filed in any public office having jurisdiction.

b. After delivery of such notice as herein provided, the further development, sale, offer for sale, or contract for sale or rent of building sites therein and the extension or construction of water or sewerage systems to serve any habitable building therein shall be prohibited; provided, however, that upon submission of evidence satisfactory to the commissioner that the further development of the realty subdivision and the extension or construction of water or sewerage systems to serve any habitable building therein will be continued in accordance with approved plans or approved amendments thereto, the commissioner may authorize in writing the resumption of the development, extension or construction involved on such conditions, including the correction of the violation, as the commissioner shall prescribe. The violation shall not be vacated until such time as the commissioner shall be satisfied that the development, extension or construction involved is proceeding in accordance with the approved plans or amendments thereto.

c. The sale, offer for sale, or contract for sale or rent of building sites of the realty subdivision shall not be permitted until the violation has been vacated in writing.

Sec. 873.1081. Realty subdivisions; applicability of local laws.

[§ 1115, Art. 11, eff. 9-1-1971]

1. Nothing contained in this article shall be construed to abrogate the authority of any municipal or other duly constituted agency having by law authority to regulate or control such subdivisions or any public facilities therein provided or proposed.

2. Nothing contained herein shall be construed to impair or abrogate the powers and functions of the Water Resources Commission or of any state or county agency having jurisdiction as now or hereafter provided by law.

Sec. 873.1091. Realty subdivisions; variances.

[§ 1116, Art. 11, eff. 9-1-1971]

1. The commissioner may on written application grant a variance from a specific provision of this article in a particular case, subject to appropriate conditions, where such variance is in harmony with the general purpose and intent of this code.

2. The commissioner may impose more stringent requirements in a specific case when necessary to assure an adequate and satisfactory water supply and sewerage system for the realty subdivision.