

## ARTICLE XX

### OPEN SPACE COMMUNITIES

#### § X.05 - INTENT & PURPOSE

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The intent and purpose of this Article is to:

- (A) Encourage the preservation of the Township's open spaces, scenic vistas, agricultural operations, rural character, natural resources, woodlands, wetlands, natural drainage systems, natural topography, environmentally sensitive areas, and other natural features;
- (B) Encourage the use of land in accordance with its character and adaptability;
- (C) Reduce soil erosion by limiting the amount of clearing and grading necessary for development;
- (D) Encourage flexible, innovative, context-sensitive, and higher-quality design of residential developments;
- (E) Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- (F) Encourage compatibility of design and use between neighboring properties;
- (G) Allow for residential planned unit developments, as provided in MCL 125.3503 (Public Act 110 of 2006); and
- (H) Establish the standards and the review process for open space communities.

#### § X.10 - AUTHORITY

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- (A) **Open Space Community:** Authority to approve, approve with conditions, or deny an open space community shall be with the Planning Commission.
- (B) **Appeal of Decision:** The Zoning Board of Appeals shall not have authority to hear an appeal of an open space community decision made by the Planning Commission or Township Board.
- (C) **Conservation Guarantee:** Authority to approve, approve with conditions, or deny an open space community conservation guarantee shall be with the Township Board.

#### § X.15 - QUALIFYING CONDITIONS

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Property may be developed as an open space community if all of the conditions below are met:

- (A) **Zoning District:** The property shall be located within an Open Space Community (OSC) Overlay District;
- (B) **Unified Control:** The applicant shall have ownership and/or control of the all of the area for the proposed open space community; and
- (C) **No Previous Open Space:** The open space community or open space preservation option has not been previously used for any of the property to be developed as part of the open space community.

§ x.20 - ADDITIONAL LOTS

In reviewing an open space community, the Planning Commission may allow additional lots beyond those allowed in a conventional plan, as outlined below.

(A) **Conventional Plan:** A conventional plan shall serve as the basis for granting any additional lots.

- (1) *Conventional Plan:* The conventional plan shall show how the site could be developed, according to developmental standards of the underlying zoning district and other local, county, state, and federal standards and laws. The Director of Planning and Zoning or the Planning Commission may require that the conventional plan show detailed engineering, such as finished grading, stormwater details, and features that may impede development, upon determination that such information is necessary in order to determine the feasibility of the conventional plan.
- (2) *Feasibility:* If the Planning Commission determines that the conventional plan is not feasible, the conventional plan shall be revised and resubmitted.

~~(B) Additional Open Space Area:~~ The Planning Commission shall grant ~~an three (3) percent~~ increase in the number of residential lots from the conventional plan for an increase in the open space area beyond the minimum required, as outlined below. ~~for each one (1) percent increase of the open space area beyond the minimum required. The maximum increase in the number of additional lots from this additional open space area bonus shall be thirty (30) percent of the lots allowed in the conventional plan.~~ These additional lots shall be in addition to any additional lots granted for superior design and/or purchase of development rights.

- ~~(1) Agricultural Zoning Districts:~~ For each one (1) percent increase in the open space area, there shall be four point five (4.5) percent increase in the number of residential lots from the conventional plan. The maximum increase from this additional open space area shall be ninety (90) percent.
- ~~(3)(2) Residential Zoning Districts:~~ For each one (1) percent increase in the open space area, there shall be a two point five (2.5) percent increase in the number of residential lots from the conventional plan. The maximum increase from this additional open space area shall be thirty (30) percent.

OR

<u>Table x.20(B)</u>		
<u>Zoning District</u>	<u>Increase in Number of Lots</u>	<u>Maximum Increase in Number of Lots</u>
<u>Agricultural (AG)</u>	<u>4.5 percent</u>	<u>90 percent</u>
<u>Rural Residential (RR)</u>	<u>2.5 percent</u>	<u>30 percent</u>
<u>Lakes Residential (LR)</u>	<u>2.5 percent</u>	<u>30 percent</u>

~~(B)(C) Superior Design:~~ The Planning Commission shall grant a ten (10) percent increase in the number of residential lots from the conventional plan shall be granted for each superior design element that is found to be true below. The maximum increase in the number of residential lots from superior design shall be forty (40) percent of the lots allowed in the conventional plan. These additional residential lots shall be in addition to any additional lots granted for additional open space area and/or purchase of development rights.

- (1) *Open Space Area:* Providing at least sixty (60) percent of the area of the total project parcel as permanent open space area;
- (2) *Buffer:* Providing additional buffer depth along exterior streets or adjacent properties in a manner that reduces the impact of the open space community;
- (3) *Landscaping:* Providing additional landscaping that uses native species in a manner that reduces the impact of the open space community or improves the environment;
- (4) *Agricultural Operation:* Allowing agricultural operations within the open space area;

or

(5) *Dwellings:* Including two-family or multiple-unit dwellings within the open space community;

or

~~(5)~~(6) *Architecture:* Some sort of description for a better variety/quality of the buildings to be constructed.

~~(E)~~(D) *Purchase of Development Rights:* The Planning Commission shall grant an increase of one (1) lot from the number of residential lots from the conventional plan for the purchase of development rights of one (1) lot. The maximum increase in the number of additional residential lots from purchase of development rights shall be forty (40) percent of the lots allowed in the conventional plan. These additional residential lots shall be in addition to any additional lots granted for additional open space area and/or for superior design.

(1) *Giving Areas:* The property from which the development rights are purchased shall be within a designated giving area, approved by the Township.

(2) *Receiving Areas:* The property receiving the additional lots shall be within a designated receiving area, approved by the Township.

(3) *Details:* ADD HERE

## § X.25 - GENERAL PROVISIONS

Open space communities shall meet the general provisions outlined below.

(A) *Overlay District:* The Open Space Community (OSC) Overlay District shall be an overlay district in Agricultural (A), Rural Residential (RR), Lakes Residential (LR), and Common Use (CU) Districts.

(B) *Development Options:* Land within an Open Space Community (OSC) Overlay District may be developed according to the standards of the underlying zoning district or as an open space community, as outlined in this Article.

(C) *Approval of Lots:* The creation of lots as part of an open space community shall be through one (1) of the following options:

(1) *Land Division:* A land division, if the number of lots created are equal to or less than the number of divisions available for the property according to Township Ordinances and the Land Division Act;

(2) *Subdivision Plat:* A platted subdivision; or

(3) *Site Condominium:* A site condominium, as outlined in this Ordinance.

(D) **Open Space Area:** All land within an open space community that is not devoted to a residential lot, street, vehicle parking, utility, building, or storm sewer shall be common area for recreation, conservation, agriculture, or preservation in an undeveloped state.

### § X.30 - PERMITTED USES

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Open space area and individual lots within an open space community shall be used as outlined below.

(A) **Lots:** Use of individual lots shall be limited to the following uses:

- (1) *Single-family Dwellings:* Detached, single-family dwellings and associated accessory uses;
- (2) *Two-family Dwellings:* Two-family dwellings, up to twenty (20) percent of the total dwelling units, rounded down, and associated accessory uses;
- (3) *Multiple-unit Dwellings:* Multiple-unity dwellings with a maximum of four (4) dwelling units per building, up to twenty (20) percent of the total dwelling units, rounded down, and associated accessory uses;
- (4) *Other Residential Uses:* Other residential uses allowed in the underlying zoning district; and
- (5) *Club House:* Club house providing a meeting space for the open space community, including a pool.

(B) **Open Space Areas:** Use of open space area shall be limited to the following uses:

- (1) *Agriculture:* Raising of crops for commercial agriculture, community farming, or individual farming in a manner consistent with the Right to Farm Act and Generally Accepted Agricultural and Management Practices;
- (2) *Passive Recreation:* Recreational trails, preserved natural areas, parks, wildlife preserve;
- (3) *Active Recreation:* Playgrounds, hunting preserves, gazebos, golf course, or common use access lot; and
- (4) *Other Uses:* Other permitted uses allowed within the underlying zoning district.

### § X.35 - DESIGN STANDARDS

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Open space communities shall meet the design standards outlined below.

(A) **Cohesive Neighborhood:** Open space communities shall be designed to create a cohesive residential neighborhood through common open space areas for passive and active recreation that are easily accessible to all residents.

(B) **Location of Lots:** Residential lots shall be located and organized, to the greatest extent possible, as follows:

- (1) *Alterations:* In areas that require minimum alteration of the natural environment;
- (2) *Soils:* On the soils best suited for septic systems, for open space communities with on-site septic systems;
- (3) *Views:* In areas least likely to block or interrupt scenic vistas, as seen from public streets;

- (4) *Agriculture:* Upwind or adequately screened from agricultural areas that are subject to land management practices that may cause dust, odors, or similar nuisances; and
- (5) *Adjacent Residential Lots:* At least fifty (50) feet from developed, residential lots with a lot area of two (2) acres or less.
- (C) *Utilities:* Utilities within open space communities shall meet the standards outlined below.
- (1) *Underground:* All utilities shall be installed underground.
- (2) *Public Water & Sewer:* Public water and/or sanitary sewer service shall be provided if such services are reasonably available and capacity is available.
- (D) *Fire Protection:* Fire protection measures, such as fire hydrants or other on-site water supply, shall be provided if any of the following are true:
- (1) *Lot Size:* Any residential lots have a lot area of one half (0.5) acres or less;
- (2) *Water System:* A municipal or community water system is present that has adequate capacity; or
- (3) *Number of Units:* There are fifty (50) or more dwelling units.
- (E) *Lot Access:* Lots within an open space community shall have access from either an internal private street or a shared driveway. Lots shall not have individual driveways from public streets.
- (F) *Circulation:* Open space communities shall provide internal circulation for vehicular and nonmotorized movement.
- (1) *Vehicular Circulation:* Streets shall be constructed in a manner consistent with the Road Ordinance.
- a. *Connections:* The vehicular circulation system shall be designed to provide connections to future adjacent developments and planned street improvements.
- b. *Materials:* Streets shall be paved if they provide access to ten (10) or more dwelling units.
- (2) *Nonmotorized Circulation:* A nonmotorized circulation system shall be provided throughout the open space community.
- a. *Access:* The nonmotorized circulation system shall provide access to non-agricultural open space areas, common access lots, and any bus stops.
- b. *Connections:* The nonmotorized circulation system shall be designed to connect with future adjacent developments and to accommodate and connect with existing and planned nonmotorized improvements.
- c. *Materials:* The nonmotorized circulation system may be constructed of concrete, asphalt, gravel, wood chips, or similar materials, according to the anticipated usage and character of the use and the area of the nonmotorized circulation system.
- (G) *Bus Stop:* For open space communities with an anticipated school-age population of at least ten (10) students, a bus stop shall be provided at a location approved by the school district.
- (H) *Natural Features:* Open space communities shall be designed to promote the preservation of natural features, such as mature woodlands, steep slopes, wetlands, floodplains, stream corridors, and protected plant and animal habitats.

- (I) **Waterbody & Wetland Buffer:** All waterbodies and wetlands shall have a fifty (50) foot wide natural buffer. Pesticides shall not be used in this buffer, except those deemed necessary to address a public health emergency. Paths may be installed within this area, and a small maintained area, including, but not limited to a park or beach, may be installed along the waterbody.
- (J) **Stormwater Management System:** Stormwater management systems shall use natural systems to the greatest extent possible and preserve the quality and integrity of the natural system. Stormwater management systems that encourage unnecessary topographic alterations, erosion, heightened impurities directed to surface and ground water systems and similar negative impacts shall only be available if the Planning Commission determines that the use or creation of natural systems is not feasible.

#### § X.40 - OPEN SPACE AREA STANDARDS

Open space area used to calculate the required open space area and additional lots shall meet the standards outlined below.

- (A) **Minimum Open Space:** The open space area shall be at least twenty (20) percent of the area of the total project parcel before development.
- (B) **Not Open Space:** The following shall not be considered open space area for purposes of calculating the minimum open space area and additional lots:
- (1) **Lots:** Any individual lot that will be used for a dwelling, club house, utilities, or other similar structure or use;
  - (2) **Rights-of-way:** The area within all public and private street rights-of-way and access easements;
  - (3) **Parking:** Off-street parking areas;
  - (4) **Golf Course:** Fifty (50) percent of the area of golf courses, driving ranges, or putting greens;
  - (5) **Utility Easements:** Fifty (50) percent of easements for overhead high-voltage utility lines or below-ground utilities;
  - (6) **Septic System:** Community sewage system drain field, treatment pond, or other treatment facilities;
  - (7) **Waterbodies:** The area of existing Creekscreeks, rivers, and lakes;
  - (8) **Wetlands & Ponds:** Fifty (50) percent of the area of existing wetlands and ponds;
  - (9) **Floodplains:** Fifty (50) percent of the area within a floodplain; and
  - (10) **Slopes:** Fifty (50) percent of steep slope areas.
- (C) **Wetland, Waterbody, and Slope Limitations:** Wetlands, waterbodies, and steep slopes shall contribute no more than fifty (50) percent of the required open space area or the area used to calculate additional lots.
- (D) **Structures:** Structures within the open space area shall be limited to a cumulative maximum lot coverage of one (1) percent of the open space area.
- (E) **Ownership & Control:** The open space area shall be owned and controlled by a homeowners' association or nonprofit land or nature trust or conservancy.



(F) **Design & Location:** Open space area shall be designed and located as outlined below.

- (1) *Exterior Roads:* Open space areas shall be located along all exterior public streets and shall have a depth of at least one hundred (100) feet.
- (2) *Adjacent Open Space Areas:* If an open space community is adjacent to an established open space community, open space preservation development, or other recreation area with a contiguous open space area, it shall include some open space area adjacent to that open space area.
- (3) *Open Space Area Between Clusters:* Open space areas between residential lots shall have a width of at least one hundred (100) feet.
- (4) *Accessibility:* Open space areas shall be available and accessible to all residents of the development. Safe and convenient pedestrian access points shall be provided.
- (5) *Waterbody:* If the project parcel contains a waterbody or is adjacent to a waterbody, the Planning Commission may require that all or a portion of the waterbody be abutted by open space area.
- (6) *Preservation:* Open space areas shall be located to preserve significant natural resources, scenic vistas, steep slopes, and special plant and animal habitats.

(G) **Conservation Guarantee:** The open space area shall remain in that state in perpetuity, subject to uses approved by the Township or in the approved plan. A conservation guarantee or easement shall ensure that the dedicated open space area will be protected from all forms of development.

- (1) *Allowable Uses:* The conservation guarantee shall list the proposed allowable uses for the open space area.
- (2) *Restrictions:* The conservation guarantee shall prohibit the following activities within the open space area:
  - a. *Dumping:* Dumping or storage of hazardous material or refuse;
  - b. *Soil Erosion:* Activities that may cause soil erosion;
  - c. *Off-road Vehicles:* Use of off-road vehicles, except for agricultural and maintenance vehicles and golf carts for golf courses;
  - d. *Vegetation Removal:* Cutting or removal of vegetation, except for dying or diseased vegetation, invasive or pest species, seasonal pruning, necessary maintenance, and agricultural operations;
  - e. *Wetland:* Cutting, filling, or removal of vegetation from wetland areas, except for invasive species; and
  - f. *Chemical Use:* Use of pesticides, herbicides, or fertilizers within fifty (50) feet of surface waterbodies and wetlands, except those deemed necessary to address a public health emergency.

## § x.45 - MODIFICATION OF STANDARDS

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The Planning Commission may modify specific standards of this Ordinance as part of open space community review, as outlined below.

**(A) District Developmental Standards:** The standards of the underlying zoning district, including, but not limited to, setbacks, lot coverage, lot area, or lot width, may be modified, as outlined below.

- (1) *Decision Criteria:* In order to grant a modification of district developmental standards, the Planning Commission shall make a written finding that all of the following are true:
  - a. *Recognizable & Substantial Benefit:* The open space community shall result in recognizable and substantial benefit to the ultimate users of the open space community and the Township;
  - b. *Higher-Quality Development:* The open space community shall result in a higher-quality development than that permitted by the underlying zoning district; and
  - c. *Modification Necessary:* The recognizable and substantial benefit and higher-quality development could not be achieved without the modification.
- (2) *Limitations:* All residential lot widths and frontages shall be at least fifty (50) feet, and all residential lot areas shall be adequate to fit any necessary onsite water or septic system.
- (3) *Documentation:* The open space community application shall list all of the requested modified district developmental standards, and the approved plan shall list all of the modified district developmental standards that were approved by the Planning Commission.

**(B) Design Standards:** The design standards of this Article, §x.35 Design Standards, may be modified, as outlined below.

- (1) *Decision Criteria:* In order to grant a modification of open space community design standards, the Planning Commission shall make a written finding that all of the following are true:
  - a. *Intent & Purpose:* The modification shall be consistent with the intent and purpose of open space communities;
  - b. *Public Purpose:* Strict adherence to the standard will not serve a valid public purpose;
  - c. *Higher-Quality:* The modification shall be necessary to achieve a higher-quality development than would be possible with conventional development; and
  - d. *Nuisance & Safety:* The modification shall not create a nuisance or safety hazard.
- (2) *Limitations:* Modifications shall not be made to utilities, fire protection, or lot access standards.
- (3) *Documentation:* The open space community application shall list all of the requested modified design standards, and the approved plan shall list all of the modified design standards that were approved by the Planning Commission.

**(C) Open Space Area Standards:** The open space area standards of this Article, §x.40 Open Space Area Standards, may be modified, as outlined below.

- (1) *Decision Criteria:* In order to grant a modification of an open space area standard, the Planning Commission shall make a written finding that all of the following are true:
  - a. *Intent & Purpose:* The modification shall be consistent with the intent and purpose of open space communities;
  - b. *Public Purpose:* Strict adherence to the standard will not serve a valid public purpose;



- c. *Higher-Quality*: The modification shall be necessary to achieve a higher-quality development than would be possible with conventional development; and
  - d. *Nuisance & Safety*: The modification shall not create a nuisance or safety hazard.
- (2) *Limitations*: Modifications to open space area standards shall be limited to the design and location of open space area, §x.40(F) Design & Location.
- (3) *Documentation*: The open space community application shall list all of the requested modified open space area standards, and the approved plan shall list all of the modified open space area standards that were approved by the Planning Commission.
- (D) Street Standards**: The standards for private streets in the Street Ordinance may be modified, as outlined below.
- (1) *Decision Criteria*: In order to grant a modification of a street standard, the Planning Commission shall make a written finding that all of the following are true:
- a. *Intent & Purpose*: The modification shall be consistent with the intent and purpose of the Street Ordinance and open space communities;
  - b. *Public Safety & Access*: The modification shall still allow for unobstructed, safe, and continuous access to all lots and common areas for everyday use, maintenance, and emergency responders;
  - c. *Other Improvements*: The modification shall still allow adequate room for the street, utilities, and drainage;
  - d. *Parking*: There shall be adequate space for parking within the open space community that does not create a negative impact on the safe flow of traffic;
  - e. *Pedestrian Circulation*: The modification shall not have a negative impact on pedestrian circulation;
  - f. *Higher-Quality*: The modification shall be necessary to achieve a higher-quality development than would be possible with conventional development; and
  - g. *Nuisance & Safety*: The modification shall not create a nuisance or safety hazard.
- (2) *Limitations*: Modifications of street standards shall be limited to the following:
- a. *Private Streets*: Streets that will not be dedicated to the Road Commission;
  - b. *Right-of-way*: Right-of-way width shall be at least fifty (50) feet;
  - c. *Cul-de-sac*: Cul-de-sac configuration shall allow for fire apparatus access;
  - d. *Horizontal Curve Radii*: The horizontal curve radii of streets shall allow for fire apparatus access; and
  - e. *Street Width*: Two-way streets shall have a travelled width of at least twenty (20) feet, and one-way streets and boulevards shall have a width of at least sixteen (16) feet.
- (3) *Documentation*: The open space community application shall list all of the requested modified street standards, and the approved plan shall list all of the modified open space area standards that were approved by the Planning Commission.

## § x.50 - REVIEW PROCESS

Open space communities shall be reviewed as described below.

(A) **Application:** The applicant shall submit a complete and accurate open space community application form, provided by the Township for that purpose. The application shall include all of the relevant materials, as outlined below. Submission of an application constitutes a representation that all the information is complete and accurate. An application for an open space community shall include the following:

- (1) *Application Form:* A signed and completed application form;
- (2) *Fee:* An open space community application fee, as outlined in the adopted fee schedule;
- (3) *Site Plans or Surveys:* The applicant shall submit at least one (1) hard copy and a digital copy of the associated site plan or survey, in a format acceptable to the Township, with the application, and shall submit at least fifteen (15) additional hard copies following the review of completeness. If the application is being reviewed at the same time as a site plan, additional copies are not needed for the open space community application;
- (4) *Conventional Plan:* A conventional plan showing how the site could be developed using conventional zoning standards;
- (5) *Master Deed:* A draft master deed for the development;
- (6) *Conservation Guarantee:* A draft of the documents guaranteeing the conservation of the open space area; and
- (7) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning in order to determine compliance with this Ordinance and other applicable laws.

(B) **Preapplication Meeting:** The applicant shall meet with Township Officials, other agencies, and other interested parties before submission of an open space community application.

- (1) *Intent:* The intent of the preapplication meeting is to inform Township Officials and other interested parties of the general concept of the proposed development and to provide the applicant with feedback and guidance concerning the application. Statements made in the course of a preapplication meeting shall not be legally-binding on any party nor construed as representing approval or actions the approving authority may make during open space community review.
- (2) *Township Attendance:* The Director of Planning and Zoning shall invite the following individuals to attend the preapplication meeting:
  - a. *Township Officials:* Other Township Officials, including, but not limited to: the Planning Commission Chair, the Township Engineer, and the Township Attorney; and
  - b. *Other Agencies:* Officials from other agencies, including, but not limited to: the Washtenaw County Road Commission, the Washtenaw County Environmental Health Department, the Washtenaw County Water Resources Commissioner, the Dexter Area Fire Department, and local schools.
- (3) *Applicant Attendance:* The applicant, or an agent, shall attend and shall be responsible for inviting individuals responsible for preparing the open space community plan.

(C) **Review of Completeness:** An application for an open space community shall be reviewed by the Director of Planning and Zoning for completeness.

- (1) **Review Letter:** The Director of Planning and Zoning shall issue a review letter within fourteen (14) days of receiving the application stating whether the application is complete or, if not, what additional materials or information is necessary for it to be considered complete. If the review letter is not issued within the above period, the application shall be placed on the next available Planning Commission agenda. REASONS FOR DENIAL.
- (2) **Administratively Complete:** The date on which the Director of Planning and Zoning declares an application complete or the expiration of the fourteen (14) days described above, unless the application has been declared incomplete, shall be considered the date the application is administratively complete.

(D) **Scheduling:** Upon declaration of an administratively complete open space community application, the application shall be placed on the next available agenda for the Planning Commission. The applicant may request it be placed on a later meeting agenda or may request a special meeting, with payment of an additional special meeting fee.

(E) **Right to Enter Property:** Submission of an open space community application shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.

(F) **Transmission of Materials:** The Director of Planning and Zoning or appropriate official or body shall transmit all relevant records and other materials to the Planning Commission.

(G) **Applicant's Responsibilities:** The applicant shall post a public notice sign or signs on the site, clearly visible from each adjacent street and mark the property, at least fifteen (15) days before the public hearing. The public notice sign(s) and marking shall be maintained in good condition until a decision is made.

(H) **Public Hearings:** Open space communities shall be reviewed by the Planning Commission at a public hearing.

- (1) **Notice of Hearing:** The Township shall give public notice of the open space community public hearing as outlined in §xx of this Ordinance and STATE REFERENCE HERE.
- (2) **Hearing Appearance:** Any party may appear in person or by duly-authorized agent or attorney at public hearings.
- (3) **Hearing Recess:** The Planning Commission may recess public hearings for open space communities from time to time with notice conforming to the requirements of the Open Meetings Act.

(I) **Planning Commission Review:** The Planning Commission, following a public hearing, shall approve, approve with conditions, deny, or postpone an open space community using the standards in this Article.

- (1) **Approval:** If an open space community is approved, the Planning Commission shall cite its reasons for approval and any conditions necessary for approval, a site plan or land division may be approved. The concurring vote of at least four (4) members of the Planning Commission shall be necessary to approve an open space community.
- (2) **Denial:** If an open space community is denied, the Planning Commission shall cite its reasons for denial.

- (3) *Postpone*: If the Planning Commission determines that the open space community application does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement.
- (J) **Decision Criteria**: The Planning Commission shall approve or approve with conditions an Open Space Community upon finding that all of the following are true:
- (1) *Recognizable & Substantial Benefit*: The open space community shall result in a recognizable and substantial benefit to the ultimate users of the project and the community that would otherwise be unfeasible or unlikely using conventional development;
  - (2) *Public Service Capacity*: The open space community shall not place an unreasonable burden on the provision of public services, including, but not limited to, fire protection, police protection, schools, streets, and utilities;
  - (3) *Landscaping*: The landscape shall be preserved in its natural state to a greater extent possible than using conventional development;
  - (4) *Open Space Area Design*: The open space area has been located and designed to protect natural features and preserve important natural areas and views to a greater extent possible than using conventional development; and
  - (5) *Economic Impact*: The open space community shall not impede the continued use or development of surrounding properties for uses permitted on those properties.
- (K) **Conditions of Approval**: The Planning Commission may impose reasonable conditions in granting an approval related to the following:
- (1) *Health, Safety, & Welfare*: Conditions shall be designed to protect the health, safety, and welfare of those who will use the site under consideration, residents and landowners immediately adjacent to the site, and the community as a whole;
  - (2) *Public Services & Facilities*: Conditions shall be designed to ensure that public services and facilities affected by a proposed activity will be capable of accommodating the resulting increased service and facility loads;
  - (3) *Police Power*: Conditions shall be related to the valid exercise of the police power and purposes that are affected by the activity;
  - (4) *Compliance*: Conditions shall be necessary to ensure compliance with the standards and provisions of this Ordinance, other Township Ordinances, or state and federal law;
- (L) **Timely Decisions**: The Planning Commission shall render its decision within sixty (60) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Planning Commission. The decision shall become final upon adoption of meeting minutes or signing of a resolution by the Township, whichever occurs first.
- (M) **Acceptance of Conditions**: Open space community approval shall only be effective upon acceptance of the approval and any conditions of the approval by the applicant.

- (N) **Copies of Open Space Community Plan:** The applicant shall submit four (4) hard copies and a digital copy, in a format acceptable to the Township, of the open space community plan. Two hard (2) copies shall be returned to the applicant after they have been stamped and signed. These copies of the open space community plan shall not be necessary if the open space community receives approval at the same time as it receives a site plan approval.
- (1) **Modifications & Conditions:** The plan shall include any modifications and conditions required for approval.
  - (2) **Signatures:** The plan shall be stamped and signed by the Planning Commission Chair or Acting Chair and the Director of Planning and Zoning and signed by the applicant.
  - (3) **Record:** The plan shall become a part of the record.
- (O) **Recording:** The applicant shall record a description of the project with the Register of Deeds, with a copy provided to the Township.
- (1) **Township Approval:** The document shall be reviewed and approved by the Township before recording.
  - (2) **Information:** The document shall include at least the following information:
    - a. **Legal Description:** A full legal description for the property;
    - b. **Approval Date:** The date of the Township's approval;
    - c. **Conditions:** Conditions of approval;
    - d. **Development Standards:** A list of the specific developmental standards for the open space community;
    - e. **Modification of Standards:** A list of modifications of standards; and
    - f. **Declaration:** A declaration that all of the improvements shall be installed as approved.
  - (3) **Permits:** The Township shall not issue any permits for the project and work shall not commence until the Township receives a copy of the recorded document.
  - (4) **Development Agreement:** The document may be incorporated as part of the development agreement.
- (P) **Expiration:** Open space community approval shall be valid for a period from the date of approval, as outlined below.
- (1) **Site Plan:** When an open space community will be a subdivision or site condominium, an application for a site plan review shall be submitted within eighteen (18) months from the date that the open space community was approved or the open space community shall be expired. The open space community approval shall remain valid while the site plan application is being processed.
  - (2) **Land Division:** When an open space community will be a land division, an application for a land division shall be submitted within six (6) months from the date that the open space community was approved or the open space community approval shall be expired. The open space community approval shall remain valid while the land division application is being processed.
  - (3) **Effect:** Open space community applications that have expired shall be resubmitted for review as a new application.
  - (4) **Extension Request:** If an application for an extension has been submitted before the expiration date, the open space community shall remain valid until the Director of Planning and Zoning makes a decision.



- (Q) Extension:** The Director of Planning and Zoning may grant one (1) extension of an approved open space community for a period of up to one (1) year, upon finding that all of the following are true:
- (1) *Application Date:* The application for an extension was submitted prior to the expiration date;
  - (2) *Applicant effort:* The applicant has made a good-faith effort to submit a site plan application or land division application in a timely manner, and the delay was not the result of actions or inaction of the application;
  - (3) *Substantial Changes:* There have been no substantial changes on abutting properties since the original approval that would raise concern of the impact of the approved open space community on those properties or the site; and
  - (4) *Current Standards:* The approved open space community shall be in compliance with this Ordinance at the time of extension.
- (R) Amendments:** A site plan for an open space community may be amended as part of site plan review if all of the following criteria are met:
- (1) *Open Space Area:* The amendments do not reduce the quantity or quality of the open space area from what was originally approved;
  - (2) *Number of Lots:* The amendments do not increase the quantity of individual lots or dwelling units; and
  - (3) *Original Approval:* The amendments are consistent with the intent and conditions of the original open space community approval.
- (S) Rehearing:** A rehearing shall be processed in the same manner as the original application, including a new fee, unless initiated by the Planning Commission or Township Board. A request for a rehearing shall be made within thirty (30) days of the decision becoming final. The only grounds upon which a rehearing of a previously-denied open space community shall be granted is if the Planning Commission, upon inspection, finds one (1) or more of the following to be true:
- (1) *New Evidence:* Newly-discovered evidence is available that may affect the original decision;
  - (2) *Inaccurate Evidence:* Evidence previously relied upon is found to be inaccurate that may affect the original decision; or
  - (3) *Procedures:* Proper procedures were not followed.
- (T) Reapplication:** An open space community application that has been denied shall not be resubmitted for a period of one (1) year from the date the decision became final, unless:
- (1) *Changed Conditions:* The Planning Commission, upon inspection, finds proof of changed conditions that contributed to the denial; or
  - (2) *Changes to the Application:* Substantial changes have been made to the open space community that addresses the reason(s) for denial.
- (U) Revocation:** An approved open space community may be revoked by the Planning Commission, as outlined below.
- (1) *Notice of Hearing:* The Township shall give public notice for the public hearing, as outlined in §xx of this Ordinance and STATE REFERENCE HERE. The applicant shall receive written notice of the possible revocation by mail, including the time and place the revocation will be considered and the reason(s) for the revocation.
  - (2) *Public Hearing:* The revocation shall be heard at a public hearing, as outlined in §xx of this Ordinance.



- (3) *Decision Criteria:* In order to revoke an approved open space community, the Planning Commission shall find any one (1) of the following to be true:
- a. *Ordinance Standard:* The execution or use of a zoning permit related to the approval is not consistent with a standard of this Ordinance as it existed at the time of approval;
  - b. *Condition of Approval:* The execution or use of a zoning permit related to the approval is not consistent with any condition of approval;
  - c. *Commitments:* The execution or use of a zoning permit related to the approval is not consistent with any written commitment; or
  - d. *Fraud:* The approval was a result of fraud or misrepresentation of facts.
- (4) *Effect:* Upon revocation of an open space community, all activity shall cease immediately, except for work directly related to securing the site or correcting a violation, as approved by the Director of Planning and Zoning.
- (V) *Suspension:* An approved open space community may be suspended temporarily and immediately by the Planning Commission as outlined below.
- (1) *Notice:* The applicant shall receive written notice of the possible suspension by mail, including the time and place the suspension will be considered and the reason(s) for the suspension.
  - (2) *Public Hearing:* A public hearing shall not be necessary for suspension of an approved open space community.
  - (3) *Decision Criteria:* In order to suspend an approved open space community, the Planning Commission shall find both of the following to be true:
    - a. *Threat:* A severe or immediate threat exists to the health, safety, and welfare of neighboring persons or properties; and
    - b. *Delay:* The delay required for a public hearing would be detrimental to efforts to mitigate or respond to the threat.
  - (4) *Effect:* Upon suspension of an open space community, all activity shall cease immediately, except for work directly related to securing the site or correcting a violation, as approved by the Director of Planning and Zoning.

**End of Article XX.**

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