

## Chapter 26—Open Space Districts – 3/8/2005

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### **§26.010 Purpose and Intent**

The purpose of the Open Space districts is to provide an optional method of development that encourages the provision of community open space for active or passive recreation, the preservation of trees and other significant flora, the preservation of significant views and vistas, the protection of sensitive environmental resources, and the enhancement of the character and texture of the urban or suburban setting of the area.

Further, the Open Space Districts provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure; provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land; preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat; permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development; promote interconnected greenways and corridors throughout the community; promote contiguous greenspace with adjacent jurisdictions; encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood; encourage street designs that reduce traffic speeds and reliance on main arteries; promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles; conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space; and preserve important historic and archeological sites.

These development options provide for flexibility in lot layout and variety in the types and sizes of buildings developed while maintaining the same limitations on gross density of dwelling units per acre in the general area; protecting the character of existing neighborhoods or areas; and providing useable and valued open space for common use and enjoyment.

### **§26.020 Definitions Referenced**

The definitions of certain terms referenced in this Section are set forth in Chapter 3, "Definitions", of the Zoning Ordinance, as amended.

**§26.030      Applicability**

This Conservation Subdivision (CS) overlay option is available in the following residential zoning districts as a use by right: RS-20, RS-15, RU-7. The applicant shall comply with all other provisions of this Zoning Ordinance and all other applicable laws, except those specifically referenced herein.

No new OSD-2 districts shall be created. OSD-2 is a residual zoning district designation whereby lands already zoned OSD-2 may carry out their approved development plan or modify their project based on the provisions of this Chapter. The developer of any land zoned OSD-2 shall comply with all other provisions of this Zoning Ordinance and all other applicable laws, except those specifically referenced herein.

**§26.040      CS, Conservation Subdivision District**

1.      Ownership of Development Site

The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.

2.      Permitted Uses, Conditional Uses, Other Uses

The uses listed in Table 21.04 of the Zoning Ordinance for the underlying zoning district in which the overlay was applied will be permitted with the conditions set forth in this Section and other relevant sections of the Zoning Ordinance. Townhouses, if permitted in the underlying zoning district, will be permitted in the Conservation Subdivision Overlay. A maximum of twenty (20) percent of the total units, up to fifty (50) units, may be townhouses.

3.      Prohibited Uses

Any use not specifically listed as a permitted, conditional, special exception, temporary or seasonal, or in-home occupation use in the underlying zoning district shall not be permitted.

4.      Accessory Buildings, Structures, and Uses

Accessory buildings, structures, and uses listed in Table 21.04 of the Zoning Ordinance for the underlying zoning district in which the overlay was applied will be permitted with the conditions set forth in this Chapter, Chapter 33 of the Zoning Ordinance, and other relevant sections and chapters of the Zoning Ordinance.

5.      Dimensional Requirements

Refer to Table 26.01 of the Zoning Ordinance for dimensional requirements.

6.      Signs

Refer to Table 31.01 of the Zoning Ordinance for signs permitted.

7.      Infrastructure Requirements

- a.      Water—Public water is required
- b.      Sewer—Public Sewer is required

- c. Roads/Streets—Residential streets may be classified as minor residential streets which require a twenty-two (22) foot gutter-to-gutter width unless on-street parallel parking is proposed. Collector streets may be thirty (30) feet in width unless on-street parallel parking is proposed. Any proposed cul-de-sacs shall be designed with a central island containing landscaping material. These islands shall meet the requirements of the City Landscape Architect and the City Engineer.
- d. Sidewalks—Sidewalks are required on both sides of the streets.
- e. Parking—Parking must meet the requirements of Chapter 30, “Parking and Loading Requirements” of the Zoning Ordinance. Applicants wishing to provide on-street parking shall discuss plans with the Planning Director and City Engineer prior to submitting plans.
- f. Utilities—All utility lines shall be placed underground. The developer or subdivider shall ensure final and proper completion and installation of utility lines as provided in the subdivision regulations. Standards for street lighting shall be provided by the developer in accordance with the Subdivision Regulations of the City of Newnan.

8. Better Site Design Practices and Techniques

All Conservation Subdivisions are strongly encouraged to use the Better Site Design Practices and Techniques as explained in detail in Section 1.4 of the *Georgia Storm Water Management Manual* along with the *Coastal Stormwater Supplement*.

**§26.050 General Development Standards – Open Space (CS)**

1. Definition

Open Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.

2. Standards to Determine Open Space.

- a. The minimum restricted Open Space shall comprise at least a minimum 40% of the gross tract area.
- b. The following are considered Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
  - i. The regulatory 100-year floodplain;
  - ii. Buffer zones of at least 75 ft width along all perennial and intermittent streams;
  - iii. Slopes above 25 percent of at least 5,000 square feet contiguous area;
  - iv. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
  - v. Populations of endangered or threatened species, or habitat for such species; and,
  - vi. Archaeological sites, cemeteries and burial grounds
- c. The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible.

- i. Important historic sites;
  - ii. Existing healthy, native forests of at least one acre contiguous area;
  - iii. Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;
  - iv. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
  - v. Prime agricultural lands of at least five acres contiguous area; and,
  - vi. Existing trails that connect the tract to neighboring areas.
- d. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Open Space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the Open Space.
  - e. At least 75 percent of the Open Space shall be in a contiguous tract. The Open Space should adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
  - f. The Open Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.
3. Permitted Uses of Open Space

Uses of Open Space may include the following:

- a. Conservation of natural, archeological or historical resources;
- b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- c. Walking or bicycle trails, provided they are constructed of porous paving materials;
- d. Passive recreation areas;
- e. Active recreation areas, provided that they are limited to no more than 10 percent of the total Open Space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space;
- f. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
- g. Nonstructural stormwater management practices;
- h. Easements for drainage, access, and underground utility lines; or
- i. Other conservation-oriented uses compatible with the purposes of this ordinance.

4. Prohibited uses of Open Space
  - a. Golf courses;
  - b. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
  - c. Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,
  - d. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.
  
5. Ownership and Management of Open Space
  - a. The applicant must identify the owner of the Open Space who is responsible for maintaining the Open Space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the owner.
  - b. Applicant shall submit a Plan for Management of Open Space and Common Facilities ("Plan") that:
    - i. allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
    - ii. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
    - iii. provides that any changes to the Plan be approved by the Board of Commissioners; and,
    - iv. provides for enforcement of the Plan.
  - c. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, [the jurisdiction] may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.
  
6. Legal Instrument for Permanent Protection
  - a. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
    - i. A permanent conservation easement in favor of either a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the

organization becomes unable to carry out its functions; or a governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance.

- ii. A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,
- iii. An equivalent legal tool that provides permanent protection, if approved by City of Newnan.

- b. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this Chapter, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

## **§26.060 General Development Standards – Incentive Bonuses (CS)**

Incentive opportunities are provided to further encourage quality development and additional preservation of natural resources. Incentive bonuses are considered to be a privilege extended by the City of Newnan and not a use by right. Incentive bonuses may be granted by the Planning Commission if it is determined that they advance the quality of the development, preserve additional natural resources, and are of a benefit to the City of Newnan. Incentive bonuses are to be decided by the Planning Commission during the preliminary plat approval process. The potential incentive bonuses are as follows:

- 1. Bonus for "Quality" Open Space

Developments that provide at least 50% of the open space in areas classified as Secondary Conservation Areas are eligible to receive a 5% increase in the maximum number of permitted lots.

- 2. Bonus for "Additional" Open Space

Developments that provide at minimum 50% of the gross tract area as restricted open space are eligible receive a 3% increase in the maximum number of permitted lots.

- 3. Bonus for "Quality" Building Materials

Developments that deed-restrict homes to four-sided brick, stone, or cement board are eligible to receive a 3% increase in the maximum number of permitted lots.

## **§26.070 General Site Planning Standards and Procedures (CS)**

While the Conservation Subdivision (CS) overlay is a use by right per §26.030 of this Zoning Ordinance, application must be made to the City for a project to be recognized as such. The application consists of five submittals, listed in order below. Each submittal will require Staff approval. Step 3, the Preliminary Plat, requires approval of the Planning Commission.

- 1. Site Analysis Map Required

Prior to submission of the preliminary subdivision plat, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this article. The site analysis map shall be approved following a visual inspection of the site by City Staff. The site analysis map shall include the following features:

- a. Property boundaries;

- b. All streams, rivers, lakes, wetlands and other hydrologic features;
- c. Topographic contours of no less than 10-foot intervals;
- d. All Primary and Secondary Conservation Areas labeled by type, as described in Section 26.060 of this Chapter;
- e. General vegetation characteristics;
- f. General soil types;
- g. The planned location of protected Open Space;
- h. Existing roads and structures; and,
- i. Potential connections with existing greenspace and trails.

2. Housing Density Determination Required

A preliminary plat showing the highest density achievable in the underlying zoning district, with open space meeting the standards of §22.040 of this Zoning Ordinance, shall be submitted. This plat will reflect the maximum number of lots allowed in the Conservation Subdivision. This plat shall be prepared by a civil engineer, landscape architect, or land surveyor currently registered in the State of Georgia at the behest of the applicant. The preliminary plat will meet all specifications as detailed in the Subdivision Regulations of the City of Newnan.

3. Preliminary Plat Required

A preliminary plat meeting the open space and lot dimension standards of the Conservation Subdivision overlay shall be submitted. This plat shall be prepared by a civil engineer, landscape architect, or land surveyor currently registered in the State of Georgia at the behest of the applicant. The preliminary plat will meet all specifications as detailed in the Subdivision Regulations of the City of Newnan, and must be approved by the Planning Commission.

4. Open Space Management Plan Required

An open space management plan, as described in §26.050(5), shall be prepared and submitted prior to the issuance of a land disturbance permit.

5. Instrument of Permanent Protection Required

An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in §26.050(6), shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.

**§26.080 OSD-2, Urban Open Space Design District**

1. General Purpose and Description

The Urban Open Space and Conservation district is an overlay zone intended to provide traditional urban residential densities while preserving natural open space or providing a mix of natural and landscaped open space for the use and enjoyment of the residents in the development and the public at large.

2. Location of OSD-2 Districts

No new OSD-2 districts shall be created. OSD-2 is a residual zoning district designation whereby lands already zoned OSD-2 may carry out their approved development plan or modify their project based on the provisions of this Chapter.

3. Permitted Uses

The uses listed in Table 21.04 for RS-15, RU-7, and PDR districts will be permitted in the OSD-2 district with the conditions set forth in this Section and other relevant sections of this Ordinance.

4. Conditional Uses

The conditional uses listed in Table 21.04 for RS-15, RU-7, and PDR districts will be permitted in the OSD-2 district with the conditions set forth in this Section and other relevant sections of this Ordinance.

5. Special Exception Uses

The special exception uses listed in Table 21.04 for RS-15, RU-7, and PDR districts will be permitted in the OSD-2 district with the conditions set forth in this Section and other relevant sections of this Ordinance.

6. Other Uses

The uses listed in Table 21.04 for RS-15, RU-7, and PDR districts as temporary or seasonal uses or in-home occupation uses will be permitted in the OSD-2 district with the conditions set forth in this Section and other relevant sections of this Ordinance.

7. Prohibited Uses

Any use not specifically listed above as a permitted, conditional, special exception, temporary or seasonal, or in-home occupation use, shall not be permitted.

8. Accessory Buildings, Structures, and Uses

The accessory buildings, structures, and uses listed in Table 21.04 for RS-15, RU-7, and PDR districts will be permitted in the OSD-2 district with the conditions set forth in this Section, Chapter 33 of this Ordinance, and other relevant sections and chapters of this Ordinance.

9. Dimensional Requirements

Refer to Table 26.02 for dimensional requirements for OSD-2 districts.

10. Signs

Refer to Chapter 31, "Sign Regulations" of this Ordinance, Table 31.01 for signs permitted in OSD-2 districts.

11. Infrastructure Requirements

- a. Water—Public water is required
- b. Sewer—Public Sewer is required



- c. Roads/Streets—Residential streets may be classified as minor residential streets which require a twenty-two (22) feet gutter to gutter width unless on-street parallel parking is proposed. Collector streets may be thirty (30) feet in width unless on-street parallel parking is proposed.
- d. Sidewalks—Sidewalks are required based on the provisions of The "Sidewalk Requirements" Ordinance within the City of Newnan Code of Ordinances.
- e. Parking—Parking must meet the requirements of Chapter 30, "Parking and Loading Requirements" of this Ordinance plus the following:
  - 1) General Standards—For residential lots in excess of forty (40) feet in width, individual driveways leading to rear attached or detached parking may be provided. For lots forty (40) feet or less in width, parking may be provided via a shared driveway to the rear yard or via an alley serving rear facing garages or pads. On-street parallel parking may be permitted with a street configuration acceptable to the Street Superintendent.
  - 2) Location of Parking—Unless physically impossible, all parking for OSD developments shall be located on the street, to the rear, a mixture of side and rear, or underground.
- f. Utilities—All utility lines in an OSD project shall be placed underground except that adaptive reuse developments may have this provision waived upon a finding by the Building Official, in conjunction with a representative of Newnan Utilities, that such requirement would require the replacement or relocation of existing lines at a cost prohibitive to the economic rehabilitation of the building or site. The developer or subdivider shall ensure final and proper completion and installation of utility lines as provided in the subdivision regulations. Standards for street lighting shall be provided by the developer in accordance with the approved site plan.

**§26.090 General Development Standards (OSD-2)**

1. Determination of Residential Density

a. Yield Plan

Applicants for OSD districts shall determine the standard permitted density according to the underlying zoning district through the use of a Yield Plan. Such Yield Plans consist of conventional lot and street layouts, and must conform to the City's regulations governing lot dimensions, land suitable for development (for example, not including wetlands or floodplains), street design, and parking. Although such plans shall be conceptual in nature, and are not intended to involve significant engineering costs, they must be realistic, and not show potential house sites or streets in areas that would not ordinarily be legally permitted in a conventional layout.

b. Mapping of Primary Conservation Areas (PCA)

In order to prepare a realistic Yield Plan, applicants need to first map the Primary Conservation Areas on their site. Typical Yield Plans would include, at minimum, basic topography at five (5) feet intervals, location of wetlands, 100-year floodplains, slopes exceeding twenty percent (20%), watershed buffers and setbacks, and soils unsuitable for development, as indicated on the

medium-intensity maps contained in the Coweta County soil survey published by the USDA Soil Conservation Service.

2. Density Bonuses

a. Density Bonus to Endow Maintenance Fund

- 1) The City may allow up to a ten percent (10%) density bonus to generate additional income to the applicant for the sole purpose of endowing a permanent fund to offset continuing costs of maintaining the undivided open space (mowing meadows or lawns, woodland vine control, insurance premiums, tax payments, etc.), including any active or passive recreation facilities. Spending from this fund should be restricted to expenditure of interest, in order that the principal may be preserved. Assuming an annual average interest rate of five percent (5%), the amount designated for the Endowment Fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization with experience in open space management acceptable to the Planning Commission.
- 2) Because additional dwellings over and above the maximum that would ordinarily be permitted on the site, may reasonably be considered to be net of development costs and represent true profit, seventy-five percent (75%) of the net selling price of the endowment lots shall be donated by the applicant to the Open Space Maintenance Endowment Fund for the preserved lands within the subdivision. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities (such as a homeowners' association, a land trust, or the City), at the time this designated entity is created.
- 3) When estimating the projected maintenance costs of the undivided open space, it is not necessary to include land that is not accessible by the subdivision residents for their common enjoyment. In such cases, the density bonus shall be adjusted proportionately to reflect the acreage that is accessible to residents for their passive or active recreation, and not being used for other uses by another party.

b. Density Bonus for Public Access

- 1) Applicants for new residential developments involving ten (10) or more dwelling units shall be required to set aside five thousand (5,000) square feet of land for each proposed new dwelling unit, as undivided recreational land designated for public usage. Such land shall be suitable for active and/or passive recreation, with at least half the land suitable for active sports, where such facilities are required by the City. In lieu of a set-aside for public usage, two alternatives exist for the applicant proposing subdivision involving ten (10) or more dwellings:
  - a) The applicant may offer a set-aside limited to recreational usage by the residents of the proposed subdivision. If land is set aside in this manner for private recreational use, it shall also be permanently protected through a conservation easement enforceable by the City and/or a land trust, prohibiting future non-recreational (or commercial recreational) uses.

- b) The applicant may offer to pay a fee to the City in lieu of any recreational land set aside. Situations in which it would be appropriate for the City to accept such offers include cases where the land would not provide a particular public benefit because of its small size or location. Exceptions to this rule, where public use of relatively small land areas would still be appropriate, include situations in which the land could be used to buffer or extend public parks or public school grounds, or could provide potential linkage in a future City trail network. The decision whether to accept a fee-in-lieu offer by the applicant shall lie with the Planning Commission, which shall also establish the amount of the fee in lieu, based upon the City's estimated cost of acquiring land that is similar in area and attributes, which would better serve public recreational needs. In appraising alternative sites, the City shall be guided by the site selection criteria contained in its Open Space Plan. Such estimates shall be based on discussions with realtors or appraisers familiar with land values in the City. All such fees collected shall be deposited in an interest-bearing account earmarked for recreational land or facility provision by the City, and the applicant shall be informed of the use to which the fee will be put.
- 2) In Open Space Developments with fewer than ten (10) dwelling units, where there would be no particular benefit accruing from a public dedication (as described above), the recreational land that is part of the fifty or sixty percent (50% or 60%) requirement for undivided open space shall be designated for private shared recreational usage among the Subdivision lot owners.
- c. Density Bonus for Meeting Additional Recommended Criteria

As further developed in Chapter 26, §26.120, subsection 4, "Open Space Evaluation Criteria" in this Ordinance, there are six (6) Required Criteria that must be met for an open space development. In addition, four (4) of eight (8) recommended criteria must be met. For developments that meet more than the required four (4) recommended criteria, an additional two percent (2%) density bonus shall be granted for each additional criteria met.
- d. Density Bonus for Open Space Provision

The core concept of this development type is the density bonus granted for the dedication of open space which shall be applicable to all lands not dedicated as open space. Each open space type has a specific density bonus or allowance. See Chapter 26, §26.120, subsection 3, "Type and Location of Dedicated Open Space" in this Ordinance for additional information.
- 3. Type and Location of Dedicated Open Space

Open space shall be comprised of two (2) types of land: primary and secondary conservation areas. All lands within these conservation areas are required to be protected by a permanent conservation easement prohibiting further development and setting other standards safe-guarding the site's special resources from negative or incompatible change. The location of open space conserved through this method of development shall be consistent with the policies contained in the Open Space and Recreation Element of the Comprehensive Plan, and with the recommendations contained in Designing Open Space Subdivisions: A Practical Step-by-Step Approach by

Randall Arendt. The type of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement recorded and held by the City or by a recognized land trust or conservancy, shall be as specified below:

a. Open Space In Primary Conservation Area

Open space in the Primary Conservation Area (PCA) is determined by deducting the following kinds of unbuildable land (which are also required to be deducted when calculating net permitted density for conventional subdivisions as well):

- 1) Wetlands (as shown on the Official Wetlands Map published by the Georgia Department of Natural Resources).
- 2) All floodway and floodway fringe areas within the one hundred (100)-year floodplain, as shown on official FEMA maps.
- 3) Land with slopes exceeding twenty percent (20%), or soils unsuitable for building.
- 4) Land under permanent easement prohibiting future development (including easements for drainage, access, and utilities).
- 5) All lands located within a watershed protective buffer that are within the 100-year floodplain, are classified as wetlands, or have a slope exceeding twenty percent (20%).
- 6) A density credit of fifty percent (50%) shall be awarded for all lands included within this classification.

These environmentally sensitive resources form the core of the open space that is required to be protected. The purpose of assigning the above referenced density to PCA land is for the valid public purpose of protecting environmentally sensitive lands and resources, including watershed buffer and setback areas, from the negative effects of development.

b. Open Space in Secondary Conservation Area

- 1) Secondary Conservation Areas (SCA) shall be those otherwise buildable areas that have natural or historic features deemed worthy of protection. Secondary open space typically includes all or part of the following types of resources: mature stands of native hardwoods or pines, mixed woodlands, open fields or pastures, significant views or vistas, historic sites or structures, cultural sites or features, and centrally or strategically located open spaces well-suited for a green or park.
- 2) A one and one-quarter (1¼) credit or one hundred twenty-five percent (125%) density bonus shall be awarded for all lands included within this classification.

SCA lands are essentially buildable lands that, due to their location in proximity to sensitive water supply sources, require protection through a prohibition of development. The purpose of assigning the above referenced density to SCA land is for the valid public purpose of protecting environmentally sensitive lands and resources from the negative effects of development.

c. Restriction on Further Subdivision

All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the City and duly recorded in the Office of the Clerk of the Superior Court of Coweta County.

d. Distribution of Designated Open Space

At least twenty-five percent (25%) of the minimum required open space shall be suitable for active and passive recreation purposes including golf courses, and no more than fifty percent (50%) shall be utilized for that purpose, in order to preserve a reasonable proportion of natural areas on the site. The purposes for which open space areas are proposed shall be documented by the applicant.

e. General Locational Standards

Subdivisions shall be designed around the primary or secondary conservation areas, which together constitute the total required open space. The design process should therefore commence with the delineation of all potential open space, after which potential house sites are located. Following that, access road alignments are identified, with lot lines being drawn in as the final step. This process, hereinafter defined as the "four-step design process" is further described below.

Primary or Secondary Conservation Areas shall be placed in undivided preserves, which may adjoin housing areas that have been designed more compactly, to create larger areas that may be enjoyed equally by all residents of the development. Undivided open space shall be directly accessible to the largest practicable number of lots within an open space development. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, non-contiguous parcels, no parcel shall consist of less than twenty thousand (20,000) square feet in area nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed as village greens, ballfields, upland buffers to wetlands, waterbodies or watercourses, or designed as trail links.

f. Interconnected Open Space Network

As these policies are implemented, the protected open space in each new subdivision is envisioned to eventually adjoin each other, ultimately forming an inter-connected network of primary and secondary conservation areas across the City. To assure that there will be no taking of land without compensation, the only elements of this network that would necessarily be open to the public are those lands that have been required to be dedicated for public use, typically configured in a linear fashion as an element of the City's long-range open space network. As an incentive to applicants to connect open space in a proposed development to similarly designated open space in an adjacent existing or proposed development, a two (2) unit density bonus may be awarded for each external linkage provided that the applicant indicate on the Sketch Plan where the linkage will occur.

4. Open Space Evaluation Criteria

In evaluating the layout of lots and open space, the following criteria will be considered by the Planning Commission as indicating a design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this Section. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the Planning Commission shall evaluate proposals to determine whether the proposed Sketch Plan accomplishes the following:

a. Required Criteria

- 1) Protects and preserves all floodplains, wetlands, watershed undisturbed buffers and building setbacks (as applicable), areas of poor or rocky soils, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the City for essential infrastructure or active or passive recreation amenities).
- 2) Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds.
- 3) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency.
- 4) Provides active recreational areas in suitable locations offering convenient access by residents, and adequately screened from nearby house lots (Mandatory for developments larger than ten [10] acres).
- 5) Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside sidewalks, footpaths, or multi-use paths should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or with existing space on adjoining developed parcels, where applicable).
- 6) Provides open space that is reasonably contiguous and whose configuration is in accordance with the guidelines contained in the Design and Management Handbook for Preservation Areas, produced by the Natural Lands Trust. For example, fragmentation of open space shall be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development unless no significant natural features were extant to begin with. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of larger contiguous and integrated greenway systems.

b. Recommended Criteria

- 1) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize

conflicts between residential and agricultural uses. For example, locating house lots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or mature woodlands which raise an equal or greater preservation concern. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.

- 2) If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far or distant edge of a field or foreground meadow, as seen from existing public roads. Homes should face such a field, not back into it, so that the view from a public road is not of the rear of the home. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs and wildflowers.
- 3) Designs around existing hedgerows and tree lines between fields or meadows. Minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat, or those not degraded by invasive vines. Also, woodlands of any size on highly erodible soils with slopes greater than ten percent (10%) should not be disturbed. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. Stands of hardwoods and mature Long-Leaf Pine trees should be preserved while Slash or Loblolly Pines should be considered worthy of preservation only where the site is devoid of other significant tree stands. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- 4) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roadways. (For example, in open agricultural landscapes, a deep 'no-build, no-cut' buffer is recommended along the public roadway where those views or vistas are prominent or locally significant. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep no-build, no-cut buffer should be respected to preserve existing vegetation.
- 5) Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- 6) Designs around and preserves sites of historic, archaeological or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, historic homes or buildings, historic districts, spring houses, barn foundations, cellar holes, burial grounds, civil war sites, etc.
- 7) Protects roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting onto existing public roads. Establishes buffer zones along the scenic corridor of roads and streets with historic buildings, stone walls, hedgerows, etc.
- 8) Landscaped common areas (such as community greens), cul-de-sac

islands, and both sides of new streets with native species shade trees and flowering shrubs with high wildlife conservation value.

Applicants must meet all six (6) required criteria and at least four of eight recommended criteria. For each of the recommended criteria met over the four (4) minimum, an additional two percent (2%) (see page 26-11 c) density bonus, as specified in Chapter 26, §26.090, subsection 2(c) of this Ordinance, will be granted.

5. Dimensional Requirements

The dimensional requirements provided in Table 26.02 at the end of this chapter relating to lot area, lot width, required yards, bulk, building height, and minimum standards relating to landscaping and open space shall be met before any permits will be issued. When these requirements conflict with other requirements above, the more restrictive shall apply.

**§26.100 Specific Development Standards (OSD-2)**

1. OSD-2, Urban Open Space Design District

The Urban Open Space Design option is intended to cluster residences in a small grouping or several small groupings similar to neighborhoods that have historically been a part of Southeastern small town life. Such clustered development is intended to soften dense development by providing significant common open space and parklands. Such clustered development is intended to permit the compact grouping of homes located so as to blend with the existing landscape-such as the rise and fall of the topography, beelines, and wooded areas-and to preserve to a greater extent the agricultural, forest, and visual character of the landscape. Specific standards for this open space development option are as follows:

- a. Sidewalks shall be provided according to The "Sidewalk Requirements" Ordinance within the City of Newnan Code of Ordinances and are required for all OSD-2 developments.
- b. No fewer than ten (10) nor more than fifty (50) lots may be grouped together in a specific cluster.
- c. Clusters may be no closer than one hundred (100) feet from each other measured lot line to lot line except that the maximum distance between building areas of cluster lots facing across a green or square is three hundred fifty (350) feet.
- d. A minimum five (5) foot wide and maximum eight (8) foot wide tree lawn is required between the required sidewalk and the curb. The tree lawn shall be planted with shade trees and additionally landscaped in a manner consistent with the landscaping standards as specified in the "Tree Preservation and Landscaping" Ordinance within the City Code of Ordinances.
- e. Dwellings erected in an OSD-2 Development shall have either a full or partial (minimum thirty-three percent [33%] of facade) front porch. Garages shall be rear entry or rear yard/front entry or may be detached and located in the rear yard. Alleys are permitted and encouraged to serve garages in the rear of the lots.
- f. Dwellings, guest houses, garages and other such structures shall not trespass into minimum side yards. However, detached garages located at the rear of a



lot (i.e., behind the rear building line) and attached to a similar garage on a contiguous lot may be located within the side yard setback provided that a fire wall separate the individual garage spaces.

- g. A landscaped green or square is required for any OSD-2 Development of greater than seven (7) dwellings. This green or square may be included in secondary open space calculations. Greens or squares shall meet the following minimum criteria:
  - 1) The maximum length:width ratio of such a green shall be 4:1.
  - 2) Greens or squares shall have a minimum size of ten thousand (10,000) square feet and are recommended to be between seven thousand five hundred (7,500) and forty thousand (40,000) square feet in area.
  - 3) The use of multiple greens and/or squares is encouraged. A standard of one (1) green or square per twenty-five (25) to thirty (30) residences is recommended.
- h. Advisory Design Standards

The City of Newnan recognizes that every OSD-2 design will be a custom response to the unique assets and constraints of each tract. As a consequence, the City has only incorporated within the OSD regulations those siting and design rules required to preserve open space, allow the clustering of dwellings, and create a neighborhood atmosphere. However, the City does wish to encourage design consistent with the City of Newnan's past and appends the following general design guidelines for OSD-2 designers.

## **§26.110 General Site Planning Standards and Procedures (OSD-2)**

- 1. Summary of Procedures
  - a. Development of Yield Plan to determine baseline densities.
  - b. Pre-Application Discussion.
  - c. Existing Site Features Plan (forty-five [45] day review period with the submittal of this plan at the on-site field survey or at a regularly scheduled meeting of the Planning Commission).
  - d. On-Site Field Survey by Planning Commissioners and applicant.
  - e. Pre-Submittal Conference.
  - f. Sketch Plan (conceptual illustration of greenway land, potential house sites, street alignments and tentative lot lines, prepared according to the four-step design process described herein).
  - g. Preliminary Plan submittal, determination of completeness, review of overall planning concepts, and decision.
  - h. Preliminary plan approval.
  - i. Final plan submittal, determination of completeness, review, and decision.
  - j. Commission signatures.
  - k. Recording with Clerk of Superior Court.

- 2. Elements of the Preliminary Plan Process

The elements of the preliminary plan process are as described below. It is strongly recommended that applicants retain the services of a licensed landscape architect (ASLA) who is familiar with open space planning concepts. This can significantly reduce the review and revision time often needed for this type of development.

a. Pre-Application Discussion

A pre-application discussion is required between the applicant, the site designer(s), and the Development Review Committee (DRC). The purpose of this informal meeting is to introduce the applicant and the site designer(s) to the City's zoning and subdivision regulations and procedures, and to discuss the applicant's objectives in relation to the City's official policies and ordinance requirements. The City may designate a consultant experienced in open space development design and in the protection of natural features and greenway lands to meet with the applicant, and to attend or conduct meetings required under this ordinance. (The cost of these consultant services shall be paid for through subdivision review fees received by the City.)

b. Existing Site Features Plan

Existing site features plans analyzing each site's special features are required for all proposed subdivisions, as they form the basis of the design process for greenway lands, house locations, street alignments, and lot lines. The applicant or representative shall bring a copy of the Existing Site Features Plan to the on-site field survey. Existing Site Features Plans shall be provided on a 24" x 36" plat and must include at a minimum:

- 1) A contour map based at least upon topographical maps published by the U.S. Geological Survey.
- 2) The location of severely constraining elements such as steep slopes (over twenty percent [20%]), wetlands, watercourses, intermittent streams and 100-year floodplains, watershed protective buffers, watershed building setbacks, and all rights-of-way and easements; soil boundaries as shown on USDA Soil Conservation Service medium-intensity maps; and the location of significant features such as woodlands, treelines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails.
- 3) The Existing Site Features Plans shall identify primary conservation areas and secondary conservation areas, as described above. Together, these conservation areas comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed in the Comprehensive Plan. The Existing Site Features Plan shall form the basis for the Sketch Plan, which shall show the tentative location of houses, streets, lot lines and greenway lands in new subdivisions, according to the four-step design process described in subsection e, number 2 below.

c. On-Site Field Survey

After the Existing Site Features Plan has been prepared, the Development Review Committee (DRC) shall schedule a mutually convenient date to walk the property with the applicant and his/her site designer. The purpose of this visit is to familiarize City officials with the property's special features, and to provide them an informal opportunity to offer guidance (or at least a response) to the applicant regarding the tentative location of the secondary conservation areas and potential house locations and street alignments. If this visit is not scheduled before submittal of the sketch or the Sketch Plan, it should occur soon thereafter.

d. Pre-Submittal Conference

Prior to the submittal of the Sketch Plan, the applicant shall meet with the Development Review Committee (DRC) to discuss how the four-step approach to designing subdivisions, described in subsection e, number 2 below, could be applied to the subject property. At the discretion of the DRC, this conference may be combined with the On-Site Field Survey.

e. Sketch Plan

1) After the pre-submittal conference, a Sketch Plan on a 24" x 36" plat shall be submitted by the applicant to the Planning Department who will then submit it to the Development Review Committee (DRC) for review for the purpose of securing early agreement on the overall pattern of streets, house lots, primary and secondary conservation areas, and potential trail linkages (where applicable). As used in this Ordinance, the term "Sketch Plan" refers to a preliminarily engineered plan drawn to illustrate initial thoughts about a conceptual layout for greenway lands, house sites, and street alignments. This is the stage where drawings are tentatively illustrated prior to any significant expenditure on engineering costs in the detailed design of streets, stormwater management systems, or the accurate delineation of internal lot boundaries. It is highly recommended that the Sketch Plan be prepared by either an ASLA certified landscape architect, a physical or site planner experienced in designing open space subdivisions, or a design team that includes such professionals.

2) Four-Step Process

Each Sketch Plan shall follow a four-step design process, as described below. When the Sketch Plan is submitted, applicants shall be prepared to demonstrate to the Planning Commission that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and greenway lands. This process shall be accomplished during the first fifteen (15) days of the designated forty-five (45)-day review period for Preliminary Plans.

a) Designating the Open Space

During the first step, all potential conservation areas (primary) are identified, using the Existing Site Features Plan. Guidance on which parts of the remaining land to classify as secondary conservation areas shall be based upon:

- i. The procedures described in Designing Open Space Subdivisions, produced by the Natural Lands Trust,
- ii. On-site visits or field surveys,
- iii. The open space locational criteria contained above,
- iv. The evaluation criteria listed in above,
- v. Information from published data and reports, and
- vi. Conversations with existing or recent owners of the property, members of the Planning Commission and the Development Review Committee (DRC).

b) Location of House Sites

During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the fourteen (14) evaluation criteria contained above, subdivision applicants shall identify tentative house sites on the Sketch Plan and proposed house sites on the detailed Final Plan. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas, but may be situated within fifty (50) feet of Secondary Conservation Areas, in order to enjoy views of the latter without negatively impacting the former. The building footprint of proposed residences may be changed by more than fifty (50) feet in any direction with majority approval from the members of the Planning Commission. Changes involving less than fifty (50) feet do not require approval.

c) Street and Lot Layout

The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and efficient manner. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland or stream crossings and streets traversing existing slopes over fifteen percent (15%) are strongly discouraged. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the City and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels). Where cul-de-sacs are necessary, those serving six (6) or fewer homes may be designed with "hammerheads" facilitating three-point turns. Cul-de-sacs serving more than six (6) homes shall generally be designed with a central island containing indigenous trees and shrubs (either conserved on site, or planted). The City generally encourages the creation of single-loaded residential access streets, in order that the maximum number of homes in new developments may enjoy views of open space. Please note that the method of subdivision layout required in this Section differs from conventional subdivision layout in that street position is only considered when open space and home site have been determined.

d) Lot Lines

The fourth step is simply to draw in the lot lines (where applicable).

3) Engineering Certification

Prior to approval of the Sketch Plan, the applicant shall submit to the DRC a Preliminary Engineering Certification that the approximate layout of proposed streets, house-lots, and open space lands complies with the City's zoning and subdivision ordinances, particularly those sections governing the design of subdivision streets and stormwater

management facilities. This certification requirement is meant to provide the City with assurance that the proposed plan is able to be accomplished within the current regulations of the City. The certification shall also note any waivers needed to implement the plan as drawn.

f. Preliminary Plan Submittal

Should the Sketch Plan be found acceptable to the DRC, a Preliminary Plan submitted on a 24" x 36" plat shall be submitted to the Planning Commission along with the application for consideration of rezoning for OSD-2 designation. The Preliminary Plan shall, in effect, serve as a preliminary subdivision plat submittal and shall meet all requirements for a preliminary subdivision plat as prescribed by the City of Newnan Subdivision Ordinance. Acceptance of the preliminary plan by the Planning Commission shall constitute rezoning to an OSD-2 overlay upon City Council approval.

3. Final Plan Submittal

When all of the conditions of the Preliminary Plan have been met and determined complete by the Planning Commission, the applicant is eligible to submit a Final Plan. A Final Plan, which shall be considered a final subdivision plat, shall meet all of the requirements for a final subdivision plat as prescribed by the City of Newnan Subdivision Ordinance. If approved, the Final Plan shall also serve as an approved final subdivision plat.

**§26.120 Guidelines for Ownership and Maintenance of Open Space & Other Common Elements (OSD-2)**

1. General Guidelines

Different ownership and management options apply to the permanently protected open space created through the development process. The open space shall remain undivided and may be owned and managed by the required Homeowners Association (HOA), the City, or a recognized land trust or conservancy. A public land dedication, not exceeding ten percent (10%) of the total parcel size, may be required by the City, through this open space, to facilitate trail connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities and open spaces. All common elements apart from the required open space must be owned and managed by the Home Owners Association (HOA).

2. Ownership Standards

Common open space within a development shall be owned, administered and maintained by any of the following methods, either individually or in combination, and subject to approval by the City.

a. Offer of Dedication

The City shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The City may, but shall not be required, to accept undivided open space provided:

- 1) Such land is accessible to the residents of the City;

- 2) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and
- 3) the City agrees to and has access to maintain such lands. Where the City accepts dedication of common open space that contains improvements, the City may require the posting of surety to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of surety shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

b. Homeowners Association

The undivided open space and associated facilities may be held in common ownership by a HomeOwners Association (HOA), hereinafter referred to as "the association". The association shall be formed and operated under the following provisions:

- 1) The developer shall provide a description of the association including its bylaws and methods for maintaining the open space.
- 2) The association shall be organized by the developer and be operated with financial subsidization by the developer, before the sale of any lots within the development.
- 3) Membership in the association is automatic (required) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
- 4) The Association shall be responsible for maintenance, insurance, and taxes on undivided open space, enforceable by liens placed by the City.
- 5) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.
- 6) In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners association, or of the assumption of maintenance of undivided open space land by the City, notice of such action shall be given to all property owners within the development.
- 7) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the undivided open space.
- 8) The homeowners association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide:
  - a) The residents of the development shall at all times have access to the open space lands contained therein.
  - b) The undivided open space to be leased shall be maintained for the purposes set forth in this Ordinance.

- c) The operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the City, at the election of the developer and/or homeowners association, as the case may be.
- d) Lease agreements so entered upon shall be recorded with the County Clerk of the Superior Court within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the City.

c. Condominiums

The undivided open space and associated facilities may be controlled through the use of condominium agreements, approved by the City. Such agreements shall be in conformance with the state's uniform condominium act. All undivided open space land shall be held as a common element.

d. Dedication of Easements

The City may, but shall not be required, to accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by condominium or homeowners association, provided:

- 1) Such land is accessible to City residents;
- 2) There is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
- 3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association and the City.

e. Transfer of Easements to a Private Conservation Organization:

With the permission of the City, an owner may transfer easements to a private, non-profit organization, among whose purpose it is to conserve open space and/or natural resources, provided that:

- 1) The organization is a bona fide conservation organization with perpetual existence;
- 2) The conveyance contains appropriate provision for proper reconveyance or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions;
- 3) A maintenance agreement acceptable to the HOA is entered into by the developer and the organization; and
- 4) Maintenance agreements so entered upon shall be recorded with County Clerk of the Superior Court within thirty (30) days of its execution and a copy of the recorded agreement shall be filed with the City.

3. Maintenance Standards

- a. The ultimate owner of the open space (typically a homeowners' association) shall be responsible for raising all monies required for operations, maintenance

or physical improvements to the open space through annual dues, special assessments, etc.

- b. In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the City through the Zoning Administrator may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.
- c. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this Ordinance. The Zoning Administrator is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.
- d. Should any bill or bills for maintenance of undivided open space by the City be unpaid by November 1<sup>st</sup> of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other City claims.

4. Other Elements

- a. Each OSD district comprising common development elements shall have an incorporated Homeowners Association (HOA) or Business Association (BA) which shall have the right and responsibility to maintain the following areas and improvements:
  - 1) Common open space
  - 2) Private roads, if any, within or serving the development
  - 3) Any stormwater management ponds or areas
  - 4) Fire protection pond, dry mains, or other improvements
  - 5) Other common facilities or improvements as may be designated in the adopted bylaws
- c. The Association's documents shall be submitted as part of the initial record plat application and shall provide for adequate initial funding and assessments to fund the maintenance of common property and improvements.

**§26.130 Modification of Regulations (OSD-2)**

1. Conflicts

Where there are conflicts between the OSD provisions herein and the general zoning, subdivision or other regulations and requirements, the OSD regulations shall apply.

2. Modifications

In addition, the City Council may allow reasonable modifications to other applicable regulations as follows:

- a. These other regulations serve public purposes to a lesser degree than the OSD.
- b. The designs or solutions proposed by the applicant, although not literally in accord with these other regulations, satisfy public purposes to a greater degree.



- c. The strict implementation of these other regulations would prevent well designed OSD development.

Such modifications may be granted by the City Council by special exception only. Such modifications may be sought prior to filing the Sketch Plan. The landowner shall include the Sketch Plan of the proposed OSD development as part of the application for modification and shall demonstrate the reasons for the request.

**Table 26.01  
Conservation Subdivision Dimensional Requirements**

<b>DIMENSION ↓</b>	<b>CS</b>
<b>Minimum/Maximum District Size</b> (acres)	5 acres/ None
<b>Minimum Lot Size</b>	N/A
<b>Density</b> (Units/Acre)	Based on Yield Plan plus awarded bonuses
<b>Front Setback<sup>i</sup></b>	Major Street = 30/60 Minor Street = 20/40 With rear access alley = 5/25
<b>Side Setback</b>	5'
<b>Street Side<sup>ii</sup> Setback</b>	20'
<b>Rear Setback</b>	15'
<b>Minimum Bldg. Line Width</b>	Detached = 40' Attached = 30'
<b>Minimum Lot Frontage</b>	Detached = 40' Detached cul-de-sac = 30' Attached 30'
<b>Minimum Lot Depth</b>	N/A
<b>Minimum Principal Living Space</b> (Square Feet)	Based on Underlying Zoning District
<b>Principal Building Height</b>	35'
<b>Accessory Building Height</b>	15'
<b>Maximum Building Coverage Lot</b>	N/A
<b>Distance Between Buildings</b>	10'
<b>Minimum Development Open Space</b>	40%

<sup>i</sup> Note that the first number refers to the to the distance to be set back from the public right-of-way and the second number refers to the distance to be set back from the centerline of the right-of-way. Both numbers shall be considered when calculating setbacks and the larger distance used.

<sup>ii</sup> Street side may refer to the side of the residence or the rear of the residence.

**Table 26.02  
Open Space Design District-2 Dimensional Requirements**

<b>DIMENSION ↓</b>	<b>ZONING DISTRICT</b>
	<b>OSD-2</b>
<b>Minimum/Maximum District Size</b> (Square Feet)	3 acres/ None
<b>Minimum Lot Size</b> (Square Feet Single Family Detached) (Square Feet Single Family Attached)	3000 2500
<b>Base Density</b> (Units/Acre)	7.0
<b>Front Setback <sup>i</sup></b>	Major St.=30/60 Minor St.=15/35 Attached = 10/30
<b>Side Setback</b>	Detached = 5' <sup>ii</sup> Attached = None
<b>Street Side Setback <sup>ii</sup></b>	Major St.=30/60 Minor St.=15/35 Attached = 10/30
<b>Rear Setback</b>	15'
<b>Minimum Bldg. Line Width</b>	Detached = 30' Attached = 25'
<b>Minimum Lot Frontage</b>	Detached = 30' Detached cul-de-sac = 20' Attached = 20'
<b>Minimum Lot Depth</b>	100'
<b>Minimum Principal Living Space</b> (Square Feet)	1200
<b>Principal Building Height</b>	35'
<b>Accessory Building Height</b>	14'
<b>Maximum Building Coverage Lot</b>	50% (Detached) 70% (Attached)
<b>Base/Maximum Floor Area Ratio (FAR)</b>	--
<b>Distance Between Buildings</b>	10'
<b>Minimum Open Space</b>	20%
<b>Minimum Landscaped Area</b>	15%

<sup>i</sup> Note that the first number refers to the to the distance to be set back from the public right-of-way and the second number refers to the distance to be set back from the centerline of the right-of-way. Both numbers shall be considered when calculating setbacks and the larger distance used.

<sup>ii</sup> Street side may refer to the side of the residence or the rear of the residence.

**Table 26.03  
Determination of Density and Parcel Size**

<p>The Total Parcel Size (TPS) is established and conventional density of underlying zoning is noted:</p> <p>TPS = 100 acres</p> <p>Density: 2.9 units/acre x 100 acres = 290 units          Conventional Lot Size = 15,000 square feet          Conventional Yield (CY) = 290 units          Maintenance Fund Density Bonus = 290 * 0.12 = 35 units          Public Access Density Bonus = 290 * 0.15 = 44 units          Recommended Criteria Bonus = 290 * 0.08 = 23 units          Modified Conventional Yield (MCY) = 290 + 35 + 44 + 23 = 392 units          Modified Density: 3.92 units/acre</p>	<p>Adjusted Conventional Yield (ACY) is determined by multiplying the PBA by the Modified Density:</p> <p>PBA * 3.92 units/acre = ACY</p> <p>60 * 3.92 = 235</p>
<p>The Primary Conservation Area (PCA) is determined as follows:</p> <p>PCA = 4.0 acres of wetlands + 6.0 acres of steep slopes          PCA = 10 acres</p>	<p>A Fifty (50) percent density bonus is awarded for PCA set asides:</p> <p>(10 * 0.50) * 3.92 units/acre = 19.6 or 20 unit bonus</p>
<p>Gross Total Buildable Area (GTBA) is derived by subtracting PCA from TPS:</p> <p>TPS – PCA = GTBA          100 – 10 = 90</p>	<p>A One hundred and twenty five (125) percent density bonus is awarded for SCA set asides:</p> <p>(21.0 * 1.25) * 3.92 units/acre = 102.9 or 103 unit bonus</p>
<p>The Paved Area (PA) is subtracted from the GTBA figure to account for infrastructure requirements resulting in Net Total Buildable Area (NTBA):</p> <p>GTBA – PA = NTBA          90 – 9 = 81</p>	<p>Final Permitted Yield (FPY) is determined by adjusting the density for the ACY based on allotted conservation bonuses and dividing by the underlying minimum lot size:</p> <p>ACY + PCA Bonus + SCA Bonus = FPY          235 + 20 + 103 = 358 units</p>
<p>The Secondary Conservation Area (SCA) is determined as follows:</p> <p>SCA = 21 acre meadow and woodland copse</p>	<p>Permitted Lot Size (PLS) is determined by dividing FPY by PBA:</p> <p>FPY/PBA = 5.68 units/acre          358/60 = 5.97 units/acre          43,560/5.97 = 7297 square feet</p>
<p>Permitted Building Area (PBA) is determined by subtracting SCA from NTBA:</p> <p>NTBA – SCA = PBA          81 – 21 = 60</p>	<p>Total Built Area = 67 acres          Total Open Space = 33 acres          Conventional Yield = 290 units          Adjusted Permitted Yield = 358 units          Additional units under OSD = 68 units</p>

**Note:** The sum of PCA and SCA must be at least 50 percent (50%) of PBA