

Section 30-805 Open Space Preservation Developments

(a) *Purpose*

This section is intended to offer an alternative to traditional subdivision design through the use of open space preservation development opportunities, as authorized by Section 506 of the Michigan Public Act 110 of 2006, as amended, for the purpose of:

- 1) Assuring permanent preservation of substantial open space and other natural resources;
- 2) Allowing innovation and greater flexibility in the design of residential developments;
- 3) Facilitating construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- 4) Providing for site development that maintains a low visual impact, particularly along roadways and abutting properties;
- 5) Encouraging a less sprawling form of development, thus preserving open space, natural features, and wildlife habitat areas consistent with the Township's rural character; and
- 6) Ensuring compatibility of design and use between neighboring properties.

These regulations are intended to result in a development substantially consistent with these Ordinance requirements, generally, yet allowing for specific modifications from the general requirements. These regulations are not intended as a device for ignoring the Township's zoning requirements or the planning concepts upon which this Ordinance has been based.

These open space preservation development standards provide the design framework for the residential development plan. The review and approval process for a subdivision or site condominium shall still apply and can be conducted in conjunction with the open space preservation development review and approval process.

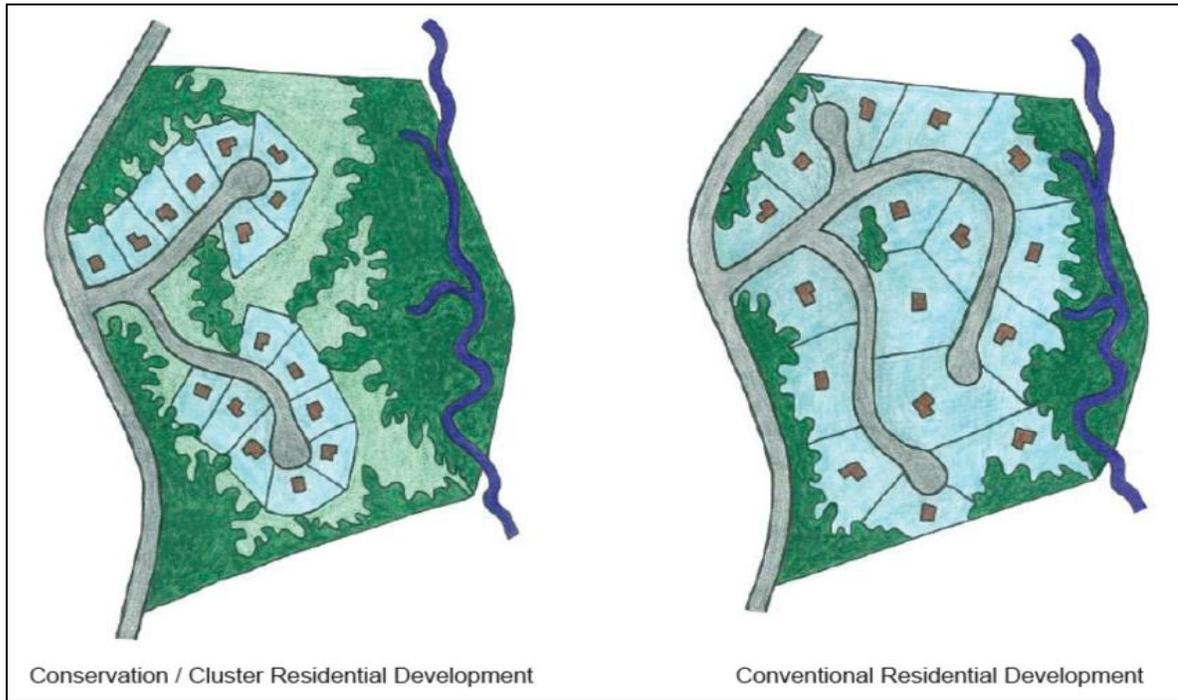
(b) *Scope*

An open space preservation development is defined as a residential development where the protection of substantial open space is the primary site development consideration,

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and the clustering or grouping of dwelling units and/or sites upon a small portion of the property is a fundamental feature.

An open space preservation development shall be permitted within the "RC", "AG", "LR", "SR1" and "MR" zoning districts, subject to the following requirements and standards.



(c) *General Development Requirements*

- 1) An open space preservation development shall be limited to single- and two-family dwellings, if same is allowed by the underlying zoning district, and provided that the total number of dwelling units does not exceed the density for the open space preservation development allowed by subsection 2).
- 2) The total number of residential dwelling units allowable within an open space preservation development shall not exceed the density allowed by the applicable requirements of the underlying zoning district.
- 3) The number of residential lots allowable within an open space preservation development shall be determined in the following manner:
 - a. A parallel design for the project consistent with the State and Township requirements and design criteria for a tentative preliminary plat shall be presented to the Planning Commission for review.

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- b. The design shall be reviewed to determine the number of lots that could be feasibly constructed following the adopted plat requirements.
 - c. The number of lots determined by the Planning Commission in this review shall be the maximum number of residential sites allowable for the open space preservation development.
- 4) Minimum lot area, lot width, and lot coverage requirements shall not apply within an open space preservation development. All other zoning ordinance dimensional requirements for the underlying zoning district shall apply, unless specifically modified by the Planning Commission as authorized below.

The Planning Commission is authorized to approve specific modifications from the building setback and building separation requirements set forth in this Ordinance. Any such modification shall be approved through a finding by the Planning Commission that the modification meets the purpose of the open space preservation development set forth in section (a). Such a modification is not subject to variance approval or further relief by the Zoning Board of Appeals.

- 5) Residential sites shall be confined to cluster areas established within the open space preservation development.
- 6) Cluster area design standards:
- a. A range of approximately five (5) to 10 sites per cluster area, arranged in a small, cohesive neighborhood, shall be considered a desirable design feature, as opposed to a linear arrangement.
 - b. Cluster areas should provide access to accommodate vehicles, utilities, and commonly owned facilities, as well as a linkage to the project open space system.
 - c. Cluster areas should be visually and physically separated from one another and off-site roadways by open space buffers.
 - d. Cluster areas should be integrated into the site without causing significant impacts on neighboring properties.
 - e. Cluster areas should be designed to be compatible with the surrounding community character.
 - f. The use of single-loaded streets (houses on only one side), especially alongside “open space”, around community common areas, and to create foreground

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meadows along the public road that serves the development should be incorporated into cluster area designs to avoid a traditional suburban subdivision appearance.

- 7) Visual screening of dwellings from off-site street networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.
- 8) The proposed open space preservation development shall be under common ownership or control while being constructed, such that there is a single entity having proprietary responsibility for the full completion of the project. Sufficient documentation of ownership or control, that indicates the proposed development will be completed in its entirety, shall be submitted with the application for approval.

(d) Open Space Requirements

- 1) A minimum of 50 percent of the gross contiguous land area of the open space preservation development shall be designated as “open space”.
- 2) All significant/sensitive environmental resources (steep slopes, wetlands, woodlands, prime agricultural soils, scenic features, etc.) within the open space preservation development should be included within the designated “open space”.
- 3) The following land areas within the open space preservation development shall not be included as designated “open space”:
 - a. Land devoted to a residential lot or unit, accessory use, vehicle access, parking, and/or approved land improvement (other than those land improvements specifically referenced in the definition of “undeveloped state” in subsection 4) below);
 - b. Public or private road rights-of-way or easements.
 - c. Land devoted to a community water supply and/or septic system.
- 4) Designated “open space” shall remain perpetually in an undeveloped state. “Undeveloped state” shall be defined as a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park.

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- 5) Designated “open space” shall, except for open space used for agriculture, consist of contiguous land area and be easily accessible to all residents of the open space preservation development through open space segments between clusters, visual and pedestrian linkages and proximity to such open spaces. Open space design should consider adjacent properties for the purpose of linking open spaces and creating connected open space and wildlife corridors.
- 6) Division (using the Land Division Act, Condominium Act, or otherwise) of the designated “open space” is prohibited.
- 7) Designated “open space” shall be under common ownership or control, such that there is a single entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided.
- 8) Designated “open space” shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as:
 - a. Recorded deed restrictions;
 - b. Covenants that run perpetually with the land;
 - c. Conservation easements; and/or
 - d. Land trusts.
- 9) Such conveyance shall assure that the designated “open space” will be protected from all forms of development, except as shown on the approved site plan, and shall never be changed to another use. Such conveyance shall also:
 - a. Indicate the approved use(s) of the designated “open space”;
 - b. Require that the designated “open space” be maintained by parties who have an ownership interest in the “open space”; and
 - c. Provide standards for maintenance of the “open space”.
- 10) Failure of the party(ies) having an ownership interest in the designated “open space” to maintain said “open space” in accordance with the standards set forth in the terms of conveyance described in subsection 9) shall constitute a violation of this Ordinance and subject the violator(s) to all sanctions, including injunctive relief, provided for under this Ordinance.

(e) *Design Standards*

1) Interior Street System

The open space preservation development shall be serviced by an interior street system; dwelling units shall not front on or gain direct access from an off-site road network. Interior streets may be public and/or private subject to Township approval.

a. Public streets shall be constructed to the standards of and dedicated to the Washtenaw County Road Commission.

b. Private roads shall be subject to the following standards:

i. A private road shall be located upon a 66-foot right-of-way/easement. The Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.

ii. A private road shall be constructed to Washtenaw County Road Commission standards, except a private road shall have a driving surface with a minimum width of 20 feet, exclusive of parking area.

The Planning Commission may modify road construction standards upon a finding that the modification will continue to protect public health, safety and general welfare and upon review and approval by the Township Engineer and Township Fire Department.

iii. Construction of a private road shall be certified in writing by a licensed civil engineer or surveyor and such certificate shall accompany the maintenance agreement and be submitted to the Township Clerk and approved by the Township Zoning Administrator prior to the creation of any dependent lots.

iv. A private road shall be maintained by parties who have an ownership interest in the private road. Maintenance responsibilities shall be specified in a deed restriction. The private road shall be maintained to the minimum standards of the State Fire Code. The Planning Commission may also require that a special assessment district be established under Michigan Public Act 188 of 1954 to assure maintenance of the private road.

c. Street systems should be designed so that their curvature or alignment produces “terminal vistas” of open space elements, such as water features, meadows, or

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playing fields. This may commonly occur at the terminus of street intersections or through the use of single-loaded streets.

- d. Street systems shall be designed to accommodate required emergency vehicle access and circulation.

2) Access

Access to the open space preservation development shall be designed consistent with the rural, natural character of the area.

3) Utilities

- a. Public water and/or sanitary sewer services shall be required where reasonably available.
- b. Where such public services are not reasonably available, private on-site and/or community water supply and septic systems may be permitted subject to the review and regulation of the Michigan Department of Environmental, Great Lakes and Energy (EGLE) and/or the Washtenaw County Health Department and the approval of the Township.
- c. Appropriate provision for the ownership, operation, maintenance and replacement of a community system shall be irrevocably committed and documented through agreements, contracts, covenants, and/or deed restrictions. Sufficient documentation of the conveyance shall be provided and shall be subject to the approval of the Township. The Planning Commission may also require that a special assessment district be established under Michigan Public Act of 188 of 1954 to assure operation, maintenance and replacement of a community system.
- d. All utility lines and installations capable of being placed underground, including telephone, electric and cable television, shall be placed underground.

4) Storm Water Management

Storm water management systems and drainage facilities shall be designed so as to:

- a. Protect the natural environment, including wetlands, water bodies, watercourses, flood plains, groundwater and soils;
- b. Retain the natural retention and storage capacity of any wetland, water body, or watercourse, and not increase flooding or the possibility of polluting surface water or groundwater, on-site or off-site; and

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c. Incorporate and/or use natural drainage systems existing on the site.

5) Street Lighting

Street lighting shall be designed and arranged so as to avoid light spillover onto adjacent premises and so that any light source is shielded or directed so that the light intensity or brightness will not be reasonably objectionable to surrounding areas.

6) Natural Features

The open space preservation development shall be designed to promote the preservation of natural features.

(f) *Review Criteria*

In considering an application for approval of an open space preservation development, the Planning Commission shall make its determination on the basis of the site plan review criteria set forth in section 30-78 (c) and the following criteria:

- 1) The overall design and land uses proposed in connection with an open space preservation development shall be consistent with the intent of the open space preservation development concept and the specific open space/general development/design standards set forth herein.
- 2) The proposed open space preservation development shall be serviced by the necessary public and/or private facilities to assure the public health, safety, and welfare of project residents and users.
- 3) The proposed open space preservation development shall be designed to minimize the impact of traffic generated by the development on the surrounding land use and road network.
- 4) The proposed open space preservation development shall be designed so as to be in character with surrounding conditions as they relate to the bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
- 5) The proposed open space preservation development shall be designed and constructed so as to preserve the integrity of existing on-site and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.

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- 6) The designated “open space” shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
- 7) The proposed open space preservation development shall comply with all applicable federal, state and local regulations.

(g) Approval Process

1) Conceptual Development Plan

- a. The applicant shall present the following information on the proposed open space preservation development for a conceptual review by the Planning Commission:
 - i. An accurate legal description of the development site;
 - ii. The names and addresses of all current owners of the development site;
 - iii. A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon PA 288 of 1967, as amended, and the Township Subdivision Control Ordinance. The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;
 - iv. A concept plan of the proposed open space preservation development;
 - v. The total acreage of the development site;
 - vi. The location and dimension of known natural features.
 - vii. The number of acres ineligible for density computation or open space;
 - viii. The number of acres to be designated as “open space”;
 - ix. The number of acres to be developed by use;
 - x. The number and type of proposed dwelling units;
 - xi. The pedestrian and vehicular circulation system
- b. Conceptual Development Plan approval shall not constitute an approval of a detailed final development plan but shall be deemed a tentative approval of the development concept and layout as a guide to the preparation of the final development plan. A request for modification of the conceptual development plan shall be submitted to the Planning Commission for review in the same manner as the original conceptual development plan.

2) Final Development Plan

- a. Following conceptual development plan review, an open space preservation development shall undergo a final development plan review by the Planning

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Commission. The final development plan review shall conform to the approved conceptual development plan and incorporate any revisions required by the Planning Commission at the conceptual development plan review. If a final development plan is not submitted for review within six (6) months of conceptual development plan approval, the Planning Commission may require a resubmission of the conceptual development plan for further review and possible revision. Final development plan review shall be subject to all appropriate sections of this Ordinance.

- b. The following information shall be provided as part of the final development plan:
- i. The names, address, and telephone number of:
 - all persons with an ownership interest in the land on which the open space preservation development will be located, including a description of the nature of each entity's interest
 - all engineers, attorneys, architects or registered land surveyors associated with the open space preservation development
 - the developer or proprietor of the open space preservation development
 - any person(s) authorized to represent the owner in the review process
 - ii. Boundaries of the open space preservation development, including an accurate legal description with appropriate tax identification numbers;
 - iii. Existing zoning designations, uses, and ownerships of the open space preservation development and all land within one quarter (1/4) mile of the boundaries of the open space preservation development;
 - iv. The topography of the site and its relationship to adjoining land;
 - v. A general description of existing soil conditions per the Washtenaw County Soil Survey Map and locations and dimensions of wetland areas and other significant natural features such as: woodland areas, slopes in excess of eight (8) %, lakes, ponds, streams and water drainage areas;
 - vi. A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon Michigan Public Act 288 of 1967, as amended, and the Township Subdivision Control Ordinance. The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;

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- vii. Delineation of proposed residential cluster areas indicating for each such area its size and number of buildings, dwelling unit density, building envelopes, and orientation of units;
- viii. The interior open space system and park/recreation areas;
- ix. The location of existing roads adjacent to the open space preservation development with an indication of how they will connect with the proposed circulation system for the proposed development;
- x. The pedestrian and vehicular circulation system proposed within the open space preservation development;
- xi. The proposed sewage treatment method and water systems;
- xii. The overall storm water drainage system;
- xiii. Proposed landscaping, including greenbelts, berms, and/or screening;
- xiv. A colored rendering of the development plan for presentation purposes;
- xv. Sealed engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the Township, including the cross sections of proposed streets, drive aisles, paved areas, and on-site drainage, including retention and/or detention areas.
- xvi. A specific time schedule for the intended development and construction details, including proposed phasing or timing of all improvements;
- xvii. The following analysis and documentation:
 - A narrative describing how the open space preservation development is consistent with the Township's Master Plan, the capacity and availability of necessary public facilities to the development, and the impact the development will have on adjoining properties;
 - An analysis of the significant natural, cultural, and geographic features of and near the site;
 - An analysis of vehicular traffic impact of the proposed open space preservation development on the existing road network;

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- Easements, deed restrictions, and other documents pertaining to the ownership and maintenance of the open space system, park/recreation areas and private road system;
- If condominium ownership is proposed, all documentation required by any condominium regulations of the Township; and
- Written reviews/approvals from all applicable regulatory agencies.

3) Public Hearings and Noticing

The Planning Commission shall hold a public hearing on an application for conceptual development plan review and final development plan review for an open space preservation development. Notice of a public hearing for an open space preservation development shall be given as required by section 103 of Michigan Public Act 110 of 2006, as amended.

4) Effect of Approval

After a final development plan has been approved and construction of any part thereof commenced, no other type of development is permitted on the site without further approval thereof by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.

5) Conformity to Approved Plan

Property which is the subject of approval for an open space preservation development must be developed in strict compliance with the approved final development plan and any amendments thereto which have received Planning Commission approval. If construction and development does not conform to same, the approvals thereof shall be forthwith revoked. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.

6) Amendment to Approved Plan

A proposed amendment or modification to a previously approved final development plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

7) Project Phasing

When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of users of the open space preservation development and the residents of the surrounding area.

Each phase of the project shall be commenced within 12 months of the schedule set forth on the approved final development plan. If construction of any phase is not commenced within the approved time period, approval of the plan for the unconstructed phases shall become null and void.

8) Performance Guarantee

The Planning Commission may require that a performance guarantee, in accordance with section 30-85, be deposited with the Township to ensure completion of the site in accordance with the approved final development plan. The Planning Commission may also require a development agreement to ensure completion of the site in accordance with the approved final development plan.

9) Recording of Action

No building permit shall be issued for an open space preservation development and no construction activity commenced within the open space preservation development until an affidavit containing the full legal description of the open space preservation development, specifying the date of final Planning Commission approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation final development plan, is recorded with the Register of Deeds for Washtenaw County.

In addition, all required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be duly filed with the Township and have been recorded with the Register of Deeds for Washtenaw County.