

Article 12 OPEN SPACE COMMUNITIES (OSC)

Section 12.01 Purpose

It is the purpose of this Article to provide opportunities for residential development which, because of the more flexible standards available to "Open Space Communities" (OSC) under this Article, more effectively encourage the preservation of the Township's open spaces, natural resources, sensitive environmental areas, and rural character. The regulations of this Article propose to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the zoning district within which the OSC is proposed to be located, so that the remainder of the site can be preserved as open space, including agriculture where applicable.

Section 12.02 Procedures

A. OSCs are classified as special land uses and authorized in the A-1, RR, and R-1 Districts only, pursuant to Table 9-1. Application for an OSC shall follow the same procedures and requirements for special land uses pursuant to Article 5 except as provided below:

1. **Recording of Approval Action and Permit Issuance:** The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved OSC plan unless a change is approved by the Planning Commission. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Township Clerk. Upon receipt of the recorded documents, the Township Clerk shall direct the Zoning Administrator to issue a zoning permit for the OSC.
2. **Conventional Plan:** At the time the applicant submits a preliminary site plan for the OSC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the basic lot area and width standards of the respective District. This plan shall identify the total number of lots and dwellings reasonably attainable. The Planning Commission shall review the conventional plan and determine the approximate number of dwellings and lots attainable by conventional design. This information shall be used when determining the permissible number of dwelling units in the proposed OSC.
3. **Standards of Approval:** The standards of this Article shall be applied in the review and action on OSC applications, in addition to those of Section 4.05 (Site Plan Approval Standards) and Section 5.06 (General Standards for Special Land Uses).

Section 12.03 Design Standards

A. Regulatory Flexibility: To encourage flexibility and creativity consistent with the OSC concept, departures from the regulations of the zoning district may be permitted, subject to review and approval by the Planning Commission. For example, such departures may include but are not limited to modifications to lot dimensional standards, setback requirements, and building height standards. Such modifications may be permitted only if the proposed OSC shall result in a higher quality of development than would be possible without the modifications, and that the proposed OSC shall be a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely under the regulations of the District absent OSC approval. Density standards may not be modified more than the maximum permitted under the bonus provisions of Section 12.03(B) below. All proposed modifications shall be specified in the OSC application materials.

1. **Conventional Plan:** At the time the applicant submits a preliminary site plan for the OSC, the applicant shall also submit a Conventional Plan which shall illustrate a practical and reasonable manner for developing the project parcel without the benefit of an OSC approval. This plan shall identify the total number of lots and dwellings reasonably attainable. The Planning Commission shall review the Conventional Plan and determine the approximate number of dwellings and lots attainable by conventional design. This information shall be used in determining appropriate density bonuses for an OSC proposal as authorized under (B) below.

B. Residential Density Bonus: Recognizing that individual sites lend themselves to different design solutions with different space utilization requirements and that the OSC process provides that the Planning Commission may exercise discretionary powers, densities in excess of those attainable under the Conventional Plan may be permitted, provided that all other requirements of this Article are met. No residential bonus density increases shall be permitted unless a determination is made by the Planning Commission that the desired density will not adversely affect public services including, but not limited to, water and sewer services, storm water drainage, road conditions and capacity, traffic, parks and recreation, fire and police services, schools, character of the area, and any planned public and private improvements in the area. Evaluation criteria for the approval of a bonus density shall be as follows:

1. For every ten percent (10%) of the project parcel that is set aside as dedicated open space, a ten percent (10%) increase in the number of dwellings over that attainable under the Conventional Plan shall be authorized, not to exceed a maximum increase of thirty percent (30%) in the A-1 and R-1 Districts, and sixty percent (60%) in the RR District.
2. For every one hundred (100) continuous linear feet of dedicated open space located along the public road(s) that the OSC parcel has frontage on, an additional ten percent (10%) increase in the number of dwellings over that attainable under the Conventional Plan shall be authorized, not to exceed a maximum increase of thirty percent (30%) in the A-1 and R-1 Districts, and sixty percent (60%) in the RR District. Such dedicated open space shall be a minimum of one hundred (100) feet in depth.

C. Guarantee of Open Space: An OSC shall establish a minimum of ten percent (10%) of the OSC parcel acreage as permanently dedicated open space. In the case where the proposed OSC site plan provides for a density increase over the Conventional Plan, an additional amount of open space shall be dedicated according to Section 12.04(B). The dedicated open space shall forever remain open space, subject only to uses approved by the Planning Commission on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation, or agricultural uses or preservation in an undeveloped state, except for easements for utilities and septic systems, shall be strictly prohibited.

1. Any structure(s) or building(s) accessory to a recreation, conservation, or agricultural use or area preserved in an undeveloped state, may be erected within the dedicated open space, subject to the approved site plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the total dedicated open space area.
2. Dedicated open space may include flood plain areas, but required dedicated open space shall not include required yard setback areas, roads, and public rights-of-ways.
 - a. Wetlands (as defined by the Michigan Department of Environmental Quality) and year round submerged lands may be used to meet the minimum required dedicated open space area provided such wetlands and submerged lands do not exceed fifty percent (50%) of the required open space area.
3. The applicant shall guarantee to the satisfaction of the Township that all open space portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space development. The dedicated open space shall be set aside by the owner through an irrevocable conveyance that is found acceptable to the Township, such as recorded deed restrictions, covenants that run perpetually with the land, transfer to a non profit land trust, or a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended. Such conveyance shall assure that the open space will be protected from development, except as shown on an approved site plan. Such conveyance shall:
 - a. Indicate the proposed allowable use(s) of the dedicated open space.
 - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - c. Provide standards for scheduled maintenance of the open space.
 - d. Provide for maintenance to be undertaken by the Township of Arcada in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

D. Permitted Uses: The following uses shall be permitted within an OSC:

1. Single family and two-family dwellings.
2. Nonresidential uses may be permitted as part of an OSC provided that the applicant demonstrates that the residential uses will be predominant. The Planning Commission shall determine predominance of use after taking into account the following criteria as they apply to each of the proposed uses: extent to which it serves residents in the OSC compared to others who travel to or near the site; amount of traffic generated; hours of operation or use; noise, odors, and overall impact on adjoining uses; land area allocated to each use; and, building area allocated to each use. A commercial component of an OSC that is predominantly designed to serve persons other than those to reside in the OSC shall not be permitted.

E. Utilities:

1. The OSC shall provide for underground installation of all utilities.
2. An OSC permit shall not be issued unless public water and sanitary sewer service is provided to the development if such service is available.
3. Provisions shall be made for storm water management law, including the construction of necessary storm water facilities.
4. Fire protection measures shall be provided in all OSCs which provide public water, and in OSCs which are generally characterized by lots of approximately one half (1/2) acre or less in size where such lots are clustered or otherwise generally adjacent to one another. Fire protection measures shall include an adequate on-site source of water for use by the local fire department and associated infrastructure to enable the local fire department to effectively respond to a fire emergency.

F. Access and Circulation:

1. Access: The nearest edge of any entrance or exit drive for a OSC shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line). All dwellings within an OSC shall gain access from an interior road within the OSC.
2. Pedestrian Circulation: A pedestrian circulation system may be required along one side of, or all of, the internal roads of the OSC. The exact location and alignment of the pedestrian ways shall be jointly agreed upon by the applicant and the approving body, and shall be coordinated with existing or planned pedestrian ways and roads in the area. Pedestrian circulation network shall assure ease of access from residences to the designated open space areas.
3. Vehicular Circulation: Construction of private roads as a means of providing access and circulation and increasing the rural character of the OSC project is encouraged. Private roads within an OSC must be constructed according to the private road regulations of this Ordinance.

G. Natural Features: The development shall be designed to promote the preservation of natural features such as mature woodlands, steep slopes, wetlands, floodplains, stream corridors, and special plant and animal habitats.

Section 12.04 Phasing and Commencement of Construction

H. Scheduled Phasing:

1. Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each 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 the users of the open space development and the residents of the surrounding area.
 - a. Each phase of an OSC project requires submittal and approval of a site plan.
 - b. At least seventy-five percent (75%) of all dwelling units shall be constructed prior to the commencement of construction for any approved non-residential component of such OSC.
2. Timing of Phases: Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, an extension may be granted following review of a formal request for extension by the owner and approval of same by the Planning Commission. Such approval may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the case of fraud or violation of the terms of the original approval.

End of Article 12