

# Chapter 1121: Open Space Standards

## 1121.01 Purpose

This section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for open space, public parks, and greenways. The purpose of this section is to:

- (a) Establish the standards and criteria under which portions of land associated with development shall reserve and dedicate land to the City for the purposes of development as private open space, public parks, greenways, or other recreational spaces; and
- (b) Establish minimum ownership and maintenance standards for homeowner and property owner associations related to private formal and informal open space areas associated with development.

## 1121.02 Applicability

- (a) This chapter shall apply to all types of development identified in [Table 1121-1](#) after the effective date of this code.
- (b) The Zoning Administrator shall not grant a zoning certificate approval for any building or structure shown in a subdivision or development subject to the provisions of this chapter unless the open space allocated to that phase have been conveyed under one of the options established in this chapter.

## 1121.03 Open Space Requirement

### (a) Amount of Open Space Required

[Table 1121-1](#) identifies the minimum amount of open space that must be established for certain types of developments allowed by this code.

TABLE 1121-1: OPEN SPACE REQUIREMENTS	
Development Type	Minimum Percentage of Open Space
Any Cluster Residential Developments	20%
Multi-Family Dwellings	20%
Any Planned Development District with Residential Dwelling Units	30% based on the areas of the development to be used solely for residential uses
Any Other Subdivision with 150 or more lots	10%

- (1) The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
- (2) The following areas shall not be counted toward compliance with open space requirements:
  - A. Private and public roads, and associated rights-of-way;
  - B. Public or private parking spaces, access ways, driveways, and other vehicular use areas;
  - C. Required minimum spacing between buildings and required yard setbacks;
  - D. Land that is subject to pre-existing conservation easements or other similar protected open spaces;

- E. Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
- F. Substations or public utility easements;
- G. Dry stormwater detention basins or facilities; and
- H. Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the Planning Commission or Zoning Administrator, as may be applicable based on the review procedure.

**(b) Permitted Uses in Open Spaces**

The following uses may be permitted in required open space:

- (1) Areas preserved in their natural state as wetlands, woodlands, lakes or ponds, historic lands, environmentally sensitive areas, or similar conservation-oriented areas;
- (2) Community gardens (See Section [1109.03\(b\)\(2\)](#).);
- (3) Outdoor active or passive recreational uses for the use and/or enjoyment of the residents of the proposed development. Any restricted open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Planning Commission. Where deemed appropriate by the Planning Commission, recreation areas shall be provided with sufficient parking and appropriate access;
- (4) Utilized for the raising of crops when authorized in a conservation easement or in the association's covenants and restrictions; and
- (5) Any other similar uses approved by the Planning Commission or Zoning Administrator during the applicable review procedure.

**(c) Design Standards for Open Spaces**

Land set-aside as open space shall comply with the following standards:

- (1) All areas of open space shall be accessible to residents or users of the development by providing at least 50 feet of frontage on a public street.
- (2) All areas of the open space shall have a minimum width of 50 feet.
- (3) The open space shall be located and designed to the satisfaction of the Planning Commission and shall be sufficiently aggregated to create large areas of planned open space.
- (4) The open space shall conserve significant topographic and landscape natural features to the extent practicable.
- (5) Any area within the open space that is disturbed during construction or otherwise not preserved in its natural state, shall be landscaped with vegetation that is compatible with the natural characteristics of the site.
- (6) All open space required by this chapter, including any recreational facilities proposed to be constructed in such space, shall be clearly shown on all approved plans.
- (7) Where open areas, trails, parks, or other open space resources are planned or exist adjacent to development, the open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.

**(8) Provision of Open Space in Multi-Phase Developments**

- A.** Development proposed in phases shall be considered as a single development for the purposes of applying the open space set-aside standards required in this chapter.
- B.** The open space set-aside for the entire project shall be reviewed and approved as part of the preliminary plat process.
- C.** Development shall not be phased solely as a method to avoid the minimum open space set-aside standards in this chapter.
- D.** In cases where less than 100 percent of the total amount of open space set-aside is provided within the first phase of a multi-phase development, the open space set-aside required shall, at a minimum, be apportioned into each of the remaining development phases. At any point, the applicant may fulfill the open space set-aside requirements prior to completion of the development or subdivision.

**1121.04 Ownership of Open Space**

- (a)** The first priority of the open space requirement is to provide for a community wide network of parks, open spaces, greenways, or other recreational areas. As such, all open space required by this chapter shall first be offered to the City for potential public land dedication.
- (b)** Such offer for public land dedication shall be made during the applicable review procedure and the Planning Commission or Zoning Administrator with authority to make a decision during the applicable review procedure shall also have the authority to decide whether to recommend that the land should be considered by City Council for public dedication.
- (c)** The City shall consider any recommendation from Planning Commission or Zoning Administrator regarding the proposed land and shall make a decision on whether to accept any land offered for dedication. City Council shall not be required to accept any land offered for dedication.
- (d)** Where the City chooses not to accept the open space for public dedication, the developer shall retain the open space as private open space, protected in perpetuity in accordance with Section [1121.05](#).

**1121.05 Protection of Open Spaces**

- (a)** Any further subdivision of the open space for uses other than those prescribed in this chapter and the approved PD plan or subdivision plat shall be prohibited.
- (b)** In all cases, the long-term control and protection of the open space shall be accomplished through the use of a conservation easement.
- (c)** The applicant may seek to dedicate the open space to the City of Wooster, however the City is not required to accept such dedication. If the open space is not dedicated to, and accepted by, the City, the long-term control and protection of the open space shall be accomplished through the use of a conservation easement in accordance with this section.

**(d) Conservation Easements**

- (1)** At the time when an applicant records the plat for the approved subdivision or submits for a zoning certificate where no plat is required, a conservation easement shall be placed on all lands and private waters used to satisfy the open space requirements of this chapter. The conservation easement shall:
  - A.** Run with the land, regardless of ownership;

- B. Provide for protection of the land in perpetuity;
  - C. Be granted and deeded to the City, Wayne County, State of Ohio, park district, a City approved land trust, or other qualified organization approved by the Planning Commission and Law Director; and
  - D. Be solely for the purpose of ensuring the land remains undeveloped other than development of uses permitted by Section [1121.03\(b\)](#).
- (2) While the City, Wayne County, State, park district, City approved land trust, or other qualified organization may hold the conservation easement, the property itself shall still be owned by the original property owner, the developer (applicant of the subdivision), or a homeowners' or property owners' association. If it is to be owned by an association, the association's documents shall be recorded with the subdivision plat and a copy submitted to the Zoning Administrator to be maintained as part of the City's records.
- (3) The conservation easement shall include information on how the property will be maintained by the property owner and shall also state that failure to maintain the property in accordance with the conservation easement agreements shall be considered a violation of this code. In addition, the holder of the easement may pursue any remedy provided by law or equity, including, but not limited to, the remedies in Section 5301.70 of the Ohio Revised Code.

#### **1121.06 Standards for Owners' Associations**

- (a) A homeowners' association or property owners' association shall be established to permanently maintain all open space and common areas if such areas are not transferred and accepted by the City, Wayne County, State, park district, City approved land trust, or other qualified organization.
- (b) All homeowners' association or property owners' association agreements shall be submitted to the Zoning Administrator as part of the development plan review, subdivision application review, or PD review, whichever is applicable. No set of proposed covenants, articles of incorporation, or bylaws of a homeowner's association or property owners' association shall permit the abrogation of any duties set forth in this section.
- (1) All homeowners' associations or property owners' associations shall guarantee the maintenance of all open space and common areas within the boundaries of the development through the deed restrictions or covenants.
  - (2) Membership in the association shall be mandatory for all purchasers of lots in the development.
  - (3) The association shall be responsible for maintenance, control, and insurance of all common areas, including required open space.
  - (4) In the event that the homeowners' association or property owners' association no longer maintains the common areas and open space in a neat and orderly manner, or if the homeowners' association or property owners' association goes defunct, the City may take over maintenance and assess a fee to cover the costs of such maintenance. The fee shall be assessed to each of the benefitting property owners within the subdivision.
  - (5) The association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including restricted open space, without:
    - A. An affirmative vote of 75 percent of its members;

- B. Establishing a successor entity to take over said property pursuant to this code; and
  - C. The approval of the City Council.
- (6) Whenever the association adopts an amendment to any approved agreements that pertain to maintenance obligations or access to common areas, the revisions shall be provided to the Zoning Administrator for confirmation that the amendment is in compliance with all applicable standards of this code and any conditions of approval that applied to the original development or subdivision.
- (7) The association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to enter to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the City shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, and vacant building lots.