

ARTICLE XX (Adopted 4/27/09)
Conservation Subdivision Ordinance

20.1. PURPOSE AND INTENT

It is the purpose and intent of this ordinance to encourage preservation of open space within residential developments; provide flexibility to allow for creativity in developments; minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures; provide an interconnected network of permanent open space; encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation; enhance the community character; permit clustering of houses and structures which will reduce the amount of infrastructure, including paved surfaces and utility lines; encourage street design that controls traffic speeds and creates street inter-connectivity; and promote construction of convenient and accessible walking trails and bike paths both within a subdivision and connected to neighboring communities, businesses and facilities to reduce reliance on automobiles.

20.2. APPLICABILITY OF REGULATIONS

The Conservation Subdivision option shall require a Use Permit and is available for single family detached residential developments in the following districts: AG-1, R-1, R-2, R-2A, R-3, R-3A, R-4, R-4A, and R-5. Compliance with all applicable ordinances, regulations, or resolutions is required; however, when in conflict, the provisions of this ordinance shall prevail.

20.3. CONSERVATION SUBDIVISION DENSITY

Housing Density Determination: The maximum number of lots in the Conservation Subdivision is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:

- a. 50% of the Primary Conservation Areas
- b. Anticipated right-of-way for roads and utilities (minimum of 18% of gross tract area)

20.4. LOT REQUIREMENTS AND TRACT SIZE

The minimum lot size in any project shall be 4,000 square feet. The total number of lots may not exceed the number of lots that could otherwise be developed under the existing zoning.

The minimum tract size for the overall development shall be 10 acres. The land shall not have been used for timber harvesting within the previous 24 months.

20.5. **MINIMUM LOT FRONTAGE**

The minimum lot frontage on a right-of-way or private street shall be 20 feet.

20.6. **SETBACKS, BUILDING SEPARATION, AND ARCHITECTURAL STANDARDS REQUIREMENTS**

Setbacks, building separations, and architectural standards shall be established by the Use Permit and are subject to the provisions of the Building Code.

20.7. **EXTERIOR BUFFER REQUIREMENTS**

A minimum 50-foot wide natural buffer, undisturbed except for approved access and utility crossings and replantings where sparsely vegetated, plus a 10-foot improvement setback, shall be provided along all property lines adjacent to AG-1 zoned properties, residentially zoned properties, and existing roads, or as may be approved by the Director. The 50-foot wide buffer along the property frontage may include a 20-foot landscape strip and other entrance features.

20.8. **APPLICATION REQUIREMENTS**

Site Analysis Map Required: Concurrent with the application of the Use Permit, 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 and that the proposed Open Space will meet the requirements of this article. The site analysis map shall include the following features:

- a. Property boundaries
- b. All streams, rivers, lakes, wetlands, and other hydrologic features along with applicable buffers
- c. Topographic contours of no less than 10-foot intervals
- d. All Primary and Secondary Conservation Areas labeled by type, as described in Sections 13 & 15 of this Article
- e. General vegetation characteristics
- f. General soil types
- g. The planned location of protected Open Space
- h. Existing and proposed roads and structures
- i. Frontage landscaping and entrance features

- j. Potential connections with existing greenspace and trails

Open Space Management Plan Required: An Open Space Management Plan shall be prepared and submitted prior to the issuance of a land disturbance permit. The Applicant shall submit an Open Space Management Plan that:

- a. Allocated 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
- b. 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
- c. Provides for enforcement of the Open Space Management Plan

Architectural Requirements: Include architectural elevations and floor plans of all proposed dwellings that illustrate house design and architectural treatments.

Instrument of Permanent Protection Required: An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, as described in Sections 17, 18, and 19, shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.

Other Requirements: The Applicant shall adhere to all other applicable requirements of the underlying zoning, Development regulations, and other applicable ordinances.

20.9. **DEFINITION OF OPEN SPACE**

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.

20.10. **OPEN SPACE REQUIREMENT**

Each conservation subdivision shall provide a minimum of 40% of its total gross acreage as open space as defined by this ordinance. The open space shall be designated on the site analysis map, development plan and subsequently recorded on the final plat.

20.11. **OPEN SPACE CONFIGURATION**

The minimum standards for open space are as follows:

- a. The minimum width of any open space area is 25 feet.

- b. All paths shall be a minimum of 20 feet from any overall project exterior property line except where interparcel access may be required.
- c. All open space shall provide connectivity to any common areas within the development and to any adjacent public places/rights-of-way or as approved by the Director.
- d. Paths located in primary conservation areas shall be constructed of pervious materials.
- e. Where path networks cross internal subdivision streets or public streets, access points shall be directly across from each other or as approved by the Director.
- f. Crossings and access points shall be clearly identified to pedestrians and motorists and may include traffic control devices, bridges and tunnels as approved by the Director.
- g. Above-ground utility rights-of-way and small areas of impervious surface (i.e.: picnic table and benches) 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). Impervious areas greater than 50 square feet shall be excluded from the Open Space.
- h. At least 75 percent of the Open Space shall be in a contiguous tract. The Open Space shall 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.

20.12. **OPEN SPACE AND CONSERVATION AREAS**

Open space shall be designated as either primary conservation areas or secondary conservation areas and shall remain natural and undisturbed except for permitted activities.

20.13. **PRIMARY CONSERVATION AREAS**

Primary conservation areas form the core of the open space and are required to be included within the open space. Active recreation areas are prohibited in primary conservation areas unless approved by the Director. Primary conservation areas, as defined by this ordinance, include the following:

- a. Cemeteries;
- b. Habitats for endangered or threatened species as defined by the Georgia Department of Natural Resources;

- c. Wetlands identified by the National Wetlands Inventory maps prepared by the U.S. Fish and Wildlife Service, the County Soil Survey prepared by the United States Department of Agriculture (USDA) Natural Resources Conservation Service, or a certified wetlands delineation using data from the U. S. Army Corps of Engineers;
- d. Alluvial soils identified by the Federal Emergency Management Agency (FEMA) and 100-Year floodplain;
- e. Lakes (natural and man made), rivers, streams, existing ponds, creeks, including but not limited to blue line tributaries and state waters;
- f. Riparian zones equal to any required stream buffers; stream buffers shall be a minimum of 75' undisturbed
- g. Existing slopes greater than 25% on average with a site area greater than 5,000 square feet identified as part of a site analysis conducted by a registered engineer, land surveyor or landscape architect and calculated using topographic maps from the City of Johns Creek's GIS system or from a topographic survey prepared by a licensed land surveyor.

20.14. **VALUE OF PRIMARY CONSERVATION AREAS**

Because primary conservation areas are either protected or sensitive environmental areas, 100% of the acreage of a primary conservation area may be counted as open space.

20.15. **SECONDARY CONSERVATION AREAS**

Secondary conservation areas consist of undeveloped (unconstrained) but buildable land and protected (constrained) lands and may be included within the open space to the maximum extent feasible. Secondary conservation areas, as defined by this ordinance, include the following:

- a. Farmlands (fields, pastures, meadows);
- b. Woodlands and buffers except stream buffers;
- c. Historic and/or archaeological sites as identified by the Fulton County Historic Resources Survey;
- d. Passive recreation areas, public and private, to include pedestrian, bicycle and equestrian trails, picnic areas, community commons or greens, and similar areas;

- e. Active recreation, playing fields, and playgrounds. Recreation areas with impervious surfaces (e.g., tennis courts, basketball courts and pools) and golf courses shall be excluded.

20.16. **VALUE OF SECONDARY CONSERVATION AREAS**

With the exception of active recreation areas and facilities, 100% of secondary conservation areas may be counted as open space. Because active recreation areas are cleared and graded and therefore reduce natural resources and wildlife habitats, only 50% of active recreation , excluding impervious surfaces, may be counted as open space.

20.17. **OPEN SPACE PROTECTION**

The required open space areas shall be protected in perpetuity from further development or unauthorized use by a conservation easement or permanent restrictive covenant (per O.C.G.A. Section 44-5-60(c)). The City of Johns Creek reserves the right to enforce all restrictive covenants and conservation easements.

20.18. **REQUIREMENTS FOR CONSERVATION EASEMENTS**

The conservation easement(s) shall:

- a. Clearly delineate primary and secondary conservation areas;
- b. Describe the features of the subject property that should be permanently protected in accordance with The Georgia Uniform Conservation Easement Act, O.C.G.A. 44-10-1 et seq.;
- c. List the parties, that is, the owner(s) of the property and the holder of the easement;
- d. Specify how the easement may be transferred as in the case of a homeowners association dissolving;
- e. Clearly identify the boundaries of the property by survey and a metes and bounds legal description;
- f. Clearly list restrictions;
- g. Provide for inspections of the property by the owner, the holder of the easement and the City of Johns Creek;
- h. Provide for maintenance of the property;
- i. Be shown on a certified survey and duly recorded with the Clerk of Superior Court prior to the issuance of a Land Disturbance Permit;

- j. Provide for amendments only with the express written permission of the property owner(s), the holder of the easement and Johns Creek. Amendments to the easement shall be filed with the Director and shall be recorded in Superior Court.

20.19. **REQUIREMENTS FOR PERMANENT RESTRICTIVE COVENANTS**

The permanent restrictive covenant(s) shall:

- a. Clearly delineate primary and secondary conservation areas;
- b. Describe the features of the subject property that should be permanently protected;
- c. Clearly identify the boundaries of the property by survey and a metes and bounds legal description;
- d. Clearly list restrictions;
- e. Provide for inspections of the property by Johns Creek;
- f. Provide for maintenance of the property;
- g. Be shown on a certified survey and duly recorded with the Clerk of Superior Court prior to the issuance of a Land Disturbance Permit; and
- h. Provide for amendments only with the express written permission of the property owner(s) and The City of Johns Creek. Amendments to the covenant shall be filed with the Director and shall be recorded in Superior Court.

20.20. **MAINTENANCE OF OPEN SPACE**

Open space may be maintained and/or improved through reforestation, pasture management, buffer replantings, stream bank protection and wetlands management or by other means as approved by the Director.

20.21. **OWNERSHIP OF OPEN SPACE**

All open space shall be permanently protected and held in fee simple interest by a qualified conservation organization as defined in The Georgia Uniform Conservation Easement Act, O.C.G.A. 44-10-1 et seq., or a homeowners association established in accordance with the Georgia Property Owners Association Act, O.C.G.A. 44-3-220 et seq., or a land trust.

20.22. **OWNERSHIP OF OPEN SPACE BY A HOMEOWNERS ASSOCIATION**

Open space that is owned by a homeowners association is subject to the following:

- a. Prior to the approval of the final plat, the developer of a conservation subdivision shall submit to the Director a description of the homeowners association, including by-laws, and methods for maintaining the open space.
- b. Membership of each lot owner in the conservation subdivision shall be mandatory.
- c. The homeowners association shall be responsible for maintenance, insurance, and taxes on the open space.
- d. The homeowners association shall not be dissolved before providing the appropriate documentation to transfer conservation easements.
- e. Any transfer of conservation easements is subject to the approval of the Director.