

## Exhibit A

### Section 5.030 Lot and Building Regulations

#### 5.030-C Cluster Development

##### 4. Open Space

- a. Each cluster development must include permanently protected common open space equal to at least ~~40~~30% of the gross area of the subdivision or the difference between the cumulative total lot area that would have been required under the conventional development minimum lot area requirements of ~~§5.030-B~~ and the actual cumulative total area provided within the cluster development, whichever results in a greater amount of open space.

### Section 60.040 Major Subdivision Open Space ~~Reserved (Amended 7-1-2021)~~

#### **60.040-A Basic Open Space Requirements**

For new major Subdivisions in areas identified as “Rural Residential” on the future land use map in the current comprehensive plan, there shall be set aside 30% of the acreage of the development site as common open space. The required common open space shall not be used to calculate maximum site density and shall be subtracted after items in 5.030-B (3) (1) (a)-(b) for Conventional Developments, and 5.030-C (3) (a)-(c) for Cluster Developments, have been excluded from maximum site density.

#### **60.040-B Additional Open Space Requirements for Cluster Development**

Common open space as required by 60.040-A for Cluster Developments shall follow and meet the requirements for Open Space set forth in 5.030-C(4)(a)-(g).

#### **60.040-C Additional Open Space Requirements for Conventional Development**

Common open space as required by 60.040-A for Conventional Development (as “Conventional development” is defined in 5.030-B), shall follow and meet the following requirements:

1. Required open space must be directly accessible to residents of the development.
2. At least 50% of the common open space required to be set aside must be usable open space, meaning an area that is capable of being used and enjoyed for passive recreation and that:
  - a. Is left in its natural or undisturbed state (as of the date development began), if wooded, except for the cutting of trails for walking or jogging (see below), if not wooded at the time of development is property vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objective of providing passive recreational opportunities; or
  - b. Consists of a pond, lake or other natural or human-made body of water.
3. Common open space must be protected in perpetuity by a binding legal instrument that is recorded with the deed. The legal instrument must be one of the following:

- a. A permanent conservation easement in favor of either:
    1. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization must be bona fide and in perpetual existence and the conveyance instruments must contain an appropriate provision for transfer in the event the organization becomes unable to carry out its functions;
    2. A governmental entity (if the entity accepting the easement is not the county, then a third right of enforcement favoring the county must be included in the easement);
  - b. An open space tract protected by a permanent restrictive covenant for conservation purposes in favor of a governmental entity; or
  - c. An equivalent legal tool that provides permanent protection, as approved by the county attorney.
4. The applicant must identify the owner of the open space. The designated owner and the owner's successors are responsible for maintaining the open space and any associated facilities. If a property owners association is the owner, membership in the association is mandatory and automatic for all property owners within the development and their successors.
  5. The applicant must submit a management plan for the open space and all common areas. The management plan must::
    - a. Allocate responsibility and guidelines for the maintenance and operation of the open space and any associated facilities, including provisions for ongoing maintenance and for long-term capital improvements;
    - b. Estimate the costs and staffing requirements needed for maintenance, operation and insurance and outline the means by which necessary funding will be obtained or provided; and
    - c. Describe the means of enforcing the management plan.