

Section 7.22 Open Space Preservation Communities (OSPS)

A. Purpose: It is the purpose of Open Space Communities (OSPC) to provide opportunities for residential development which, because of the more flexible standards available to OSPCs under this Section and according to Section 506 of the Michigan Zoning Enabling Act, more effectively encourage the preservation of open spaces and natural resources including woodlands, wetlands and sensitive environmental areas, and the Township's rural character. The regulations of this Section intend to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the District within which the OSPC is to be located, so that the remainder of the site can be preserved as open space.

B. Compliance with Table 3-4 and Additional Standards and Requirements: See Table 3-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and building and lot coverage, except where this subsection (B) provides otherwise.

1. Uses: Uses within an OSPC shall be limited to those dwelling types authorized by the District in which the OSPC is located and customary accessory uses to dwellings including recreation areas, in addition to the open space as required by this Section.
2. Number of Lots/Dwellings: The number of dwellings and lots authorized in an OSPC shall be the number attainable by the Conventional Plan according to subsection (C)(2) below plus an additional twenty-five percent (25%).
3. Minimum Lot Area and Width
 - a. Lot Area: The minimum lot area shall be that which is necessary for acquisition of all required public health permits and approvals including potable water and on-site sewage disposal where such public utilities are not available. However, in no case shall a lot be less than twenty thousand (20,000) sq. ft. in the absence of public sewer service and where public sewer service is provided, in no case shall a lot be less than thirty percent (30%) of the normally required lot area of the respective District.
 - b. Lot width: Minimum lot widths shall be of such dimension so that no lot has a depth greater than four (4) times its width, but in no case shall a lot be less than fifty (50) feet in width.
4. Setbacks
 - a. The following front, side and rear yard setbacks for buildings shall apply except that in no case shall a building be located within seventy-five (75) feet of the perimeter lot line of the OSPC development. Where the site plan approving body finds the natural or proposed topography, vegetation, or other conditions provide adequate screening and buffering within the context of surrounding development patterns, the above referenced setbacks may be reduced by no greater than fifty percent (50%).
 - 1) Front yard: twenty-five (25) feet.
 - 2) Side yard: ten (10) feet.
 - 3) Rear yard: twenty (20) feet.
 - b. In addition to subsection (a) above, a minimum (75) foot building setback shall be maintained along lakes, ponds, rivers, streams, and wetlands, except that this setback shall not prohibit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's resources within the setback.
 - c. Minimum setbacks for accessory structures not constituting buildings shall be as regulated by Section 20.8.
5. Building and Lot Coverage: The maximum building and lot coverage shall be as regulated according to Table 3-4 of Article 3, based on the District that most closely resembles the prevailing lot size of the OSPC. Where OSPC lot sizes exhibit a considerable range in size, the site plan approving body may prescribe varying maximum building and lot coverage standards according to lot size ranges.
6. Guarantee of Open Space: An OSPC shall include permanently dedicated open space. Such required open space shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, acceptable to the approving body. Further subdivision of open space land or its use for other than conservation, agricultural uses, or preservation in an undeveloped state, is prohibited. The applicant shall guarantee to the satisfaction of the approving body 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. For the purposes of this Section, "undeveloped state" shall be construed to mean 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. For the purposes of this Section, "greenway" shall be construed to mean a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

a. The open space conveyance shall:

- 1) Indicate the proposed allowable use(s) of the dedicated open space.
- 2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space, and establish a funding mechanism to ensure the same.
- 3) Provide for maintenance to be undertaken by the Township, in the event that the dedicated open space is inadequately maintained or is determined by the Planning Commission to be a public nuisance, with the assessment of costs upon the property owners.

7. Open Space Preservation Area, Character, and Priorities

a. A minimum of fifty percent (50%) of the OSPC site shall be designated as permanent open space. However, in no case shall the required open space area be characterized by year-round submerged land such as ponds, lakes, and year-round submerged wetlands. In addition, no more than fifty percent (50%) of the required open space area shall be characterized by wetlands not otherwise submerged year-round.

b. Open space shall be located on the OSPC site to meet the following objectives:

- 1) To preserve water courses and bodies, MDNRE-regulated wetlands, floodplains, and mature woodlands. Other on-site natural resources shall also be considered in the location of open spaces and overall design of the project including farmland, tree lines, wetlands not regulated by the MDNRE, and panoramic rural views.
- 2) To promote the effective preservation of the existing character along the exterior public road frontages that the OSPC abuts.
- 3) To ensure the open space area is of a unified character comprised predominantly of large contiguous areas, except where special conditions may exist that support a more fragmented configuration of open space.

8. Fire Protection: Fire protection measures shall be provided in all OSPCs that include a public water system, and in OSPCs that are generally characterized by lots of approximately twenty thousand (20,000) sq. ft. or less in size and are more than three (3) miles from the nearest municipal fire department. 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.

9. Vehicular and Pedestrian Access and Circulation

- a. All dwellings within an OSPC shall gain access from an interior road within the OSPC.
- b. A non-motorized circulation system may be required along one or both sides of the roads of the OSPC and/or through other portions of the OSPC, to ensure safe non-motorized travel. The circulation system shall be coordinated with existing or planned pedestrian ways, roads, and activity centers in the area. Non-motorized circulation networks shall encourage ease of access from residences to the designated open space areas.
- c. Access points or paths shall be provided to afford pedestrian access to designated open space and common areas. These access points shall link the open space to the road system, sidewalks, or the remainder of the development.
- d. All public roads shall conform to the requirements and standards of the County Road Commission. All private roads shall conform to the requirements and standards of this Ordinance.

C. Special Application and Approval Requirements: The following information shall be provided as part of an OSPC application In addition to the information required by Article 14, Site Plan Review:

1. Unified Control: The application shall demonstrate that the proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
2. Conventional Plan: At the time the applicant submits a site plan for the OSPC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project property according to the conventional development standards of the District in which it is located including the normally required minimum lot area and width standards. This plan shall identify the total number of lots and dwellings reasonably attainable. The approving body shall make the final determination as to the number of dwellings and lots reasonably attainable by conventional design. This information shall be used when determining the permissible number of dwellings and lots for an OSPC proposal according to subsection (B)(2).
 - a. The conventional plan need not be an engineered set of construction drawings, but shall be of such detail and clarity to demonstrate conformity with all state, county and township regulations including, but not limited to, potable water and sewage disposal, storm water management including necessary detention and retention ponds, and general road design and construction. The conventional plan shall demonstrate the feasibility of the proposed plan both in regard to its construction and its negligible impact upon sensitive environmental resources including wetlands and drainage courses and, in doing so, shall include the following: natural features such as wetlands, woodlands, flood plains, streams, rivers, county drains, lakes, ponds, and topography (at two-foot intervals), and man-made features such as existing roads, buildings, structures, utilities, easements, and adjacent land use conditions. A conventional plan shall not be considered if it does not provide the necessary level of detail or information to assess such conventional plan for the purposes of subsection (2) above.
3. Recording of Approval Action/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 approval, and declaring that all improvements will be carried out in accordance with the approved OSPC plan unless a change is approved by Township Board. 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 Zoning Administrator. Upon receipt of the recorded documents, the Zoning Administrator shall issue a zoning permit for the OSPC for the construction of the OSPC, limited to general grading, roads, storm water management, signs, utilities and similar development features. The erection of a dwelling or other building and structures on any lot within the OSPC shall require an additional zoning permit according to the provisions of this Ordinance.