

Johnston County, NC - County Code of Ordinances
Amendment Approved January 4, 2010

This amendment is to amend the requirements of Open Space

Section 14-75 Agricultural-Residential District (AR)

(f) **Provision of Common Open Space or Recreation Area Requirements.** All residential developments shall provide or dedicate common open space or recreation areas suitable for the residents' common passive or active recreational uses or make a payment in lieu of provision or dedication. Design criteria can be found in the Design Manual.

(g) **Minimum Common Open Space or Recreation Area.** ~~Where~~ ~~When~~ common open space or recreational area must be provided or dedicated as part of a residential development, its total land area shall be at least ~~ten~~ fifteen (15%) percent of the total gross land area of the development. ~~however total amount of open space provided can be no less than two acres in size.~~ Where amenities are proposed, a reduction in the required minimum acreage may be approved by the Planning Board. For subdivisions with less than 2 acres of open space, the Planning Board shall determine if the location, design, use, and area provide a benefit to the community, require revision, or proposal of fee-in-lieu.

The required open space shall be contiguous, unless it is determined by the Planning Board that the required open space can be split and located at different places in a subdivision development. Wherever possible, open space and recreation areas should be located as to abut existing open space in adjacent developments or phases If a proposed subdivision development contains wetlands and/or riparian or stream buffer areas, or overhead electric utility easements, they must be designated as common open space. However, these areas will not count toward the amount of required open space. No off-site septic areas for the benefit of residential lots can be included within the open space.

~~If it can be demonstrated by the developer that this requirement presents an unreasonable hardship and strictly limits the amount of lots they can develop, then the Planning Board can allow these areas to be included in residential lots so long as all other requirements of this section are met.~~

Any proposed reduction or change involving previously recorded open space must be approved by the Planning Board. The applicant must provide sufficient information on why the change is requested and why no other alternative exists.

(h) **Method of Provision or Dedication.** Land provided or dedicated for common open space or recreation purposes shall be designated on a final plat duly recorded with the County Register of Deeds. Amenities shall be designated on the final plat and shall be specific as to type of amenity/use. Design criteria can be found in the Design Manual. Such common open space land shall ~~may~~ be dedicated or deeded to an appropriate public body upon their acceptance, land trust, nonprofit, or for-profit organization established for the purpose of land conservation or recreational purposes; or create a neighborhood or homeowner's association for the continuing maintenance and control of common open space or recreation area; or, held by the owner for the continuing maintenance and control of common open space or recreation area, subject to a binding agreement with financial surety for such maintenance. ~~subject to the recording of a permanent conservation easement or similar open space or recreational land dedication.~~

(i) **Payments in Lieu of Provision or Dedication.** In lieu of providing or dedicating common open space or recreation area required pursuant to this section, a developer of a subdivision or planned development may choose to make a payment to the County. As noted in Section 14-75(g), if the the required open space to be provided is less then two acres the Planning Boards shall determine if fee-in-lieu shall be required. ~~whereby the County may acquire common open space land.~~ The County shall use such payment only for the acquisition or development of open space, recreation, or park sites to serve residents of the County. The amount of the payment shall be the product of the total number of ~~lots or~~ dwelling units recorded ~~proposed~~ multiplied by the ~~that~~ fee established in the County's Annual Schedule of Fees. The developer shall make the payment before approval of a final plat ~~or issuance of a land use permit, provided,~~ however, ~~that~~ the Planning Director may allow phasing of payments consistent with the approved phasing of the subdivision ~~development.~~

(j) **Access to Open Space.** All open space must be pedestrian accessible. Open space not contiguous to a proposed subdivision street must have a minimum of a 20-foot fee-simple access.