



Appendix E:

Sample Ordinance for Conservation Subdivisions

ARTICLE 4 – OVERLAY DISTRICT REGULATIONS
Newton County, Georgia

DIVISION 400: PROCEDURES

Sec. 400-010 APPLICATION

Overlay Districts are supplemental to the zoning district classifications established in Article 2 above. All development and building permits for a lot located within any overlay district shall meet all of the requirements of the base zoning district in which it is located and in addition shall meet all of the requirements of the overlay district applicable to said lot.

Sec. 400-020

Reserved.

Sec. 400-030 OVERLAY DISTRICT MAPS

The following maps are used in the administration of this Article and are contained in the appendix of the official zoning maps of Newton County:

- A. Newton County Open Space Conservation Area Resource Map - Primary Conservation Areas
- B. Newton County Open Space Conservation Area Resource Map - Secondary Conservation Areas
- C. Newton County Open Space Conservation Area Resource Map - Linkage Opportunities
- D. Newton County Open Space Conservation Area Resource Map - Composite
- E. Newton County Watershed Protection Overlay District Map
- F. Newton County Wetlands Protection Overlay District Map
- G. Newton County Groundwater Recharge Area Protection Overlay District Map
- H. Newton County River Corridor Protection Overlay District Map

DIVISION 405: RIVER CORRIDOR PROTECTION OVERLAY

Sec. 405-010 PURPOSE AND INTENT

Pursuant to O.C.G.A. 12-2-8 and the Georgia Department of Natural Resources, Environmental Protection Division's Rules for Environmental Planning Criteria Chapter 391-3-16, the River Corridor Protection Overlay District establishes regulations to preserve rivers as habitats for wildlife, recreation sites, and sources of clean drinking water.

Sec. 405-020 RIVER CORRIDOR PROTECTION OVERLAY DISTRICT

The River Corridor Protection Overlay District includes all parcels or portions of parcels lying within a River Corridor. For purposes of this Ordinance Protected Rivers shall include the Yellow River, South River, and Alcovy River and any other river meeting criteria as established by the Georgia Department of Natural Resources. The Newton County River Corridor Protection Overlay District Map is available for inspection during office hours in the Newton County Planning Department.

Sec. 405-030 PERMITTED USES

Except as noted below, the River Corridor shall be maintained as a natural vegetative buffer and all construction within the buffer shall be prohibited:

- A. Single-Family Dwellings, subject to the state mandated 25-foot stream buffer and subject further to the following conditions:
 - 1. The dwelling must be in compliance with all applicable zoning regulations.
 - 2. The dwelling must be located on a tract of land containing at least two acres. No portion of the two acres may include any area that lies within the Protected River.
 - 3. Only one such dwelling may be on the two-acre or larger tract of land.
 - 4. Septic tanks serving such dwellings may be located within the buffer.
 - 5. Septic tank drain fields shall not be located in the buffer.

- B. Industrial and commercial land uses existing prior to the establishment of the River Corridor Protection Overlay District, subject to the following conditions:
 - 1. The industrial and commercial uses must not impair the drinking quality of the river water.
 - 2. The industrial and commercial uses must meet all state and federal environmental rules and regulations.

- C. Road and utility crossings, provided the construction of such road and utility crossings shall meet all requirements of the Georgia Erosion and Sedimentation Act of 1975 and the applicable local ordinances on soil erosion and sedimentation control.
- D. The following uses of River Corridors, provided that such uses do not impair the long-term functions of the Protected River or the River Corridor:
1. Timber production and harvesting, subject to the following conditions:
 - a. Timber production and harvesting must be consistent with Best Management Practices established by the Georgia Forestry Commission and all other state and federal regulations.
 - b. Timber production and harvesting must not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
 2. Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. 12-2-8.
 3. Wastewater treatment.
 4. Recreational usage consistent either with the maintenance of a natural vegetative buffer or with river dependent recreation. For example, outdoor passive recreational activities such as fishing, bird watching, hiking, boating (including a boat launch ramp), horseback riding and canoeing would be consistent with this criteria, but a hard-surfaced tennis court would not. Parking lots are not consistent with this criterion.
 5. Natural water quality treatment or purification.
 6. Agricultural production and management, subject to the following conditions:
 - a. Agricultural production must be consistent with Best Management Practices established by the Georgia Soil and Water Conservation Commission, regulations established by the Georgia Department of Agriculture, and all other state and federal regulations.
 - b. Agricultural production must not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
 7. Other uses permitted by the Department of Natural Resources or under Section 404 of the Clean Water Act.

Sec. 405-040 RESTORATION OF BUFFER

The natural vegetative buffer shall be restored within 120 days after any permitted land disturbing activity within the River Corridor.

Sec. 405-050 EXEMPT USES

- A. Legally established land uses existing prior to the establishment of the River Corridor Protection Overlay District.
- B. Mining activities, if permitted by the Department of Natural Resources pursuant to the Georgia Surface and Mining Act of 1968, as amended.
- C. Utilities, except as discussed above, if such utilities cannot feasibly be located outside the buffer area, provided that:
 - 1. The utilities must be located as far from the river bank as reasonably possible.
 - 2. The utilities must be installed and maintained so as to protect the integrity of the buffer area as well as is reasonably possible.
 - 3. The utilities may not impair the drinking quality of the river water.

Sec. 405-060 PROHIBITED USES

The following uses are prohibited within River Corridors:

- A. Handling areas for the receiving and storage of hazardous waste.
- B. Hazardous waste or solid waste landfills.
- C. Automobile parking lots.
- D. Except as provided in Section 405-030 (A) concerning single-family dwellings, septic tanks and septic tank drain fields.

DIVISION 410: GROUNDWATER RECHARGE AREA PROTECTION OVERLAY

Sec. 410-010 PURPOSE AND INTENT

Pursuant to O.C.G.A. 12-2-8 and the Georgia Department of Natural Resources, Environmental Protection Division's Rules for Environmental Planning Criteria Chapter 391-3-16, the Groundwater Recharge Area Protection Overlay District establishes regulations to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, applications of chemicals, injections, and other development.

Sec. 410-020 GROUNDWATER RECHARGE AREA PROTECTION OVERLAY DISTRICT

The Newton County Groundwater Recharge Area Protection Overlay District Map, which is available for inspection during office hours in the Newton County Planning Department, is delineated according to the Georgia Department of Natural Resources' "Significant Recharge Areas, Hydrological Atlas 18 (1989 Edition)" and the Georgia Department of Natural Resources' "Pollution Susceptibility Map," which categorizes Newton County by areas of high, medium, and low groundwater pollution potential.

Sec. 410-030 DEVELOPMENT STANDARDS

All uses allowed in the underlying zoning districts, except those specifically prohibited in Section 410-040, are permitted in the Groundwater Recharge Area Protection Overlay District, subject to the following standards:

- A. New sanitary landfills must have synthetic liners and leachate collection systems.
- B. New above-ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall meet the requirements of U.S. EPA rules for oil pollution prevention, 40 CFR 112.1. Such tanks used for agricultural purposes are exempt, provided they comply with all federal regulations.
- C. New agricultural waste impoundment sites must be lined if they are within:
 - 1. A high pollution susceptibility area;
 - 2. A medium pollution susceptibility area and exceed 15 acre-feet;
 - 3. A low pollution susceptibility area and exceed 50 acre-feet.

At a minimum, the liner shall be constructed of compacted clay having a thickness of one-foot and a vertical hydraulic conductivity of less than 5×10^{-7} cm/sec or other criteria established by the U.S. Soil Conservation Service.

- D. Subject to minimum lot sizes established in Article 2 of this Zoning Ordinance, new homes served by septic tank/drain field systems must be on lots having the following minimum size limitations as identified on Table MT-1 of the Department of Human Resources' Manual for On-Site Sewage Management Systems (DHR Table MT-1):
 - 1. 150 percent of the subdivision minimum lot size of DHR Table MT-1 if they are within a high pollution susceptibility area.
 - 2. 125 percent of the subdivision minimum lot size of DHR Table MT-1 if they are within a medium pollution susceptibility area.

3. 110 percent of the subdivision minimum lot size of DHR Table MT-1 if they are within a low pollution susceptibility area.
- E. Subject to minimum lot sizes established in Article 2 of this Zoning Ordinance, new manufactured home parks served by septic tank/drain field systems must have lots or spaces having the following size limitations as identified on Table MT-2 of the Department of Human Resources' Manual for On-Site Sewage Management Systems (DHR Table MT-2):
1. 150 percent of the subdivision minimum lot size of DHR Table MT-2 if they are within a high pollution susceptibility area.
 2. 125 percent of the subdivision minimum lot size of DHR Table MT-2 if they are within a medium pollution susceptibility area.
 3. 110 percent of the subdivision minimum lot size of DHR Table MT-2 if they are within a low pollution susceptibility area.
- F. No construction may proceed on a building or manufactured home to be served by a septic tank unless the Newton County Health Department first approves the proposed septic tank installation as meeting the requirements of the DHR manual and subsections (D) and (E) above.
- G. New facilities which handle hazardous materials, of types and amounts determined by the Department of Natural Resources, shall perform their operations on impermeable surfaces having spill and leak collection systems, as prescribed by the Department of Natural Resources.
- H. Any project involving the spray irrigation of wastewater sludges in areas of high pollution susceptibility must conform with requirements specified in the Department of Natural Resources' "Criteria for Slow Rate Land Treatment."
- I. Exclusive of mining settling basins, all new wastewater treatment basins must have an impermeable liner in areas having high pollution susceptibility.

Sec. 410-040 PROHIBITED USES

The following uses are prohibited:

- A. The land disposal of hazardous wastes.
- B. Permanent stormwater infiltration basins in areas of high pollution susceptibility.

DIVISION 415: WATERSHED PROTECTION OVERLAY

Sec. 415-010 SCOPE AND APPLICABILITY

Pursuant to O.C.G.A. 12-2-8 and the Georgia Department of Natural Resources, Environmental Protection Division's Rules for Environmental Planning Criteria Chapter 391-3-16, the Watershed Protection Overlay District establishes standards and procedures that apply to any development, use, or alteration of land or structures on any lot which is in whole or in part contained within the boundaries of the Watershed Protection Overlay District. The procedures, standards, and criteria apply only to that portion of the subject property within the boundaries of the Watershed Protection Overlay District.

Sec. 415-020 PURPOSE AND INTENT

The purpose of the Watershed Protection Overlay District is to establish regulations to:

- A. Protect watersheds and drinking water supplies from activities which could degrade drinking water quality in streams, rivers, lakes, and reservoirs.
- B. Protect water supply reservoirs from sedimentation, which would reduce their storage capacity, shorten their useful life, and reduce their drought withstanding capabilities.

Sec. 415-030 WATERSHED PROTECTION OVERLAY DISTRICT

A. To achieve the purpose and intent of this Section, all of the land that drains to the public water supply intake is declared to be within the Watershed Protection Overlay District. Watershed protection areas include:

- 1. Cornish Creek Reservoir (Lake Varner)
- 2. Proposed Bear Creek Reservoir
- 3. Big Haynes Creek Watershed
- 4. City Pond
- 5. Little River

The boundaries of these districts are defined by the ridgelines of the respective watersheds.

B. The Water Quality Critical Area is established for land that lies adjacent to the reservoir boundary (or stream bank) and extending either to the ridge line boundary of the watershed or one mile, whichever is the shorter distance. The Water Quality Critical Area also includes land adjacent to the banks of streams upstream of the reservoir boundary within a radius of seven (7) miles from the

reservoir boundary and 1,000 feet on either side of such streams, as measured from each bank.

- C. The boundaries of these zones are drawn on the Newton County Watershed Protection Overlay District Map available for inspection during office hours in the Newton County Planning Department.

Sec. 415-040 USE RESTRICTIONS

- A. Unless existing and legally established prior to the adoption of the Watershed Protection Overlay District, the following limitations on permissible uses shall apply to the Water Quality Critical Area of the Watershed Protection Overlay District in addition to limitations imposed on land prescribed by the underlying zoning district:
1. No industries or businesses that distribute or warehouse hazardous materials may be located within the Water Quality Critical Area.
 2. Uses that provide for the sale of fuel for motor vehicles are prohibited.
 3. No confined animal feeding operation may be conducted within the Water Quality Critical Area.
 4. No landfills or wastewater disposal facilities of any kind (except for septic tanks approved by the Newton County Health Department) shall be allowed in the Water Quality Critical Area.
 5. No underground or above ground fuel or chemical storage tanks shall be allowed in the Water Quality Critical Area.
 6. No facilities that dispose of toxic or hazardous waste may be located in the Water Quality Critical Area.
 7. No industries or businesses classified as large quantity generators of hazardous waste, as defined by the Georgia Department of Natural Resources, may be located within the Water Quality Critical Area.
 8. The manufacture of chemicals and allied products, dairy products, fats and oils, leather tanning, meat, fish and poultry packing, paper and allied products, petroleum and related industries, primary metal, rubber and plastics or concrete products is prohibited.
 9. Junkyards and auto wrecking facilities are prohibited.
 10. Bulk storage of petroleum is prohibited.
 11. Truck terminals are prohibited.

12. Railroad terminals, classification yards or intermodal freight terminals are prohibited.
 13. Auto and truck rental and repair shops are prohibited.
 14. Auto and truck washes are prohibited.
- B. Underground fuel or chemical storage tanks located within permitted areas of the Watershed Protection Overlay District shall meet all applicable requirements set by the Georgia Department of Natural Resources, Environmental Protection Division.
- C. Unless existing and legally established prior to the adoption of the Watershed Protection Overlay District, the following limitations on permissible uses shall apply to the Watershed Protection Overlay District, outside of the Water Quality Critical Area, in addition to limitations imposed on land prescribed by the underlying zoning district:
1. Industries or businesses classified as large quantity generators of hazardous waste, as defined by the Georgia Department of Natural Resources, are prohibited.
 2. Facilities that dispose of toxic or hazardous waste are prohibited.

Sec. 415-050 DEVELOPMENT STANDARDS

Within the watershed, disturbance of any of the following types of lands is prohibited, except for perpendicular crossings of roadways, drainage ways, trails, paths, and utility easements, as approved by the Planning Director based on a site plan conforming to the standards of the Newton County Development Regulations:

- A. Riparian buffers as described in Section 105-020 and Section 415-060;
- B. Wetlands as determined from field delineations without a permit authorized by Section 404 of the federal Clean Water Act;
- C. Areas within the 100-year floodplain;
- D. Areas which have a natural slope in excess of 15 percent; and
- E. Soils with severe limitations according to the SCS soils maps.

Sec. 415-060 BUFFERS

- A. All development and disturbance of land within the watershed shall preserve a natural and undisturbed buffer 100 feet in width along the shorelines of lakes and banks of rivers or perennial streams identified on the U.S. Geological Survey 7.5 minute quadrangle map. All structures, septic tanks and septic tank drain fields

shall be set back a minimum of 150 feet from the shorelines of lakes and banks of rivers or perennial streams identified in the U.S. Geological Survey 7.5 minute quadrangle map. Roadways, drainage ways, paths, trails, and utility easements, are allowed to cross riparian buffers in a perpendicular manner, subject to the approval of the County Engineer.

- B. A natural and undisturbed buffer shall be maintained for a distance of 150 feet from the boundary of any water supply reservoir.

Sec. 415-070 IMPERVIOUS SURFACE

The impervious surface area, including all public or private structures, utilities or facilities, of the entire water supply watershed must be limited to twenty-five (25) percent, or existing impervious surface, whichever is greater. In order to achieve a maximum impervious surface coverage of 25 percent, all lots in the Watershed Protection Overlay District must be a minimum of two (2) acres.

Sec. 415-080 STREET STANDARDS

Within the Watershed Protection Overlay District, new collector and local streets may be designed using 10 foot travel lanes without curb and gutter subject to approval by the Planning Department. Drainage may be provided through open swale and natural filtration systems unless required otherwise by the County Engineer because of topographical or engineering conditions, or in order to ensure compatibility with publicly funded improvements.

Sec. 415-090 REQUIRED PARKING AREAS

Within the Watershed Protection Overlay District, minimum parking requirements shall be reduced by ten percent for all non-residential uses. Parking spaces in excess of the minimum number required by this Section shall be constructed of porous or pervious block surfaces, gravel, grass, or other materials approved by the Planning Department.

Sec. 415-100 EXEMPTIONS

The following uses are exempt from the riparian buffer and setback requirements if they meet the stipulated conditions:

- A. Legally established land uses existing prior to the establishment of the Watershed Protection Overlay District.
- B. Mining Activities
Outside of Water Quality Critical Areas, mining activities are subject to prior approval by the Department of Natural Resources under the Surface Mining Act.
- C. Utilities
 - 1. The utilities must be located as far from the stream bank as reasonably possible.

2. The utilities must be installed and maintained to protect the integrity of the buffer and setback areas as best as reasonably possible.
3. The utilities may not degrade the quality of the drinking water stream.

D. Forestry and Agricultural Activities

1. The activity is consistent with Best Management Practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture.
2. The activity shall not impair the quality of drinking water.

DIVISION 420: WETLANDS PROTECTION OVERLAY

Sec. 420-010 PURPOSE AND INTENT

Pursuant to O.C.G.A. 12-2-8 and the Georgia Department of Natural Resources, Environmental Protection Division's Rules for Environmental Planning Criteria Chapter 391-3-16, the Wetlands Protection Overlay District establishes regulations to promote the wise use of wetlands and protect them from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge, aesthetic natural areas and wildlife habitat areas.

Sec. 420-020 WETLANDS PROTECTION OVERLAY DISTRICT

These regulations affect all wetlands in Newton County as generally designated in the Newton County Wetlands Protection Overlay District Map available for inspection during office hours in the Newton County Planning Department.

Sec. 420-030 WETLANDS DEVELOPMENT PERMIT REQUIREMENTS

No activity or use except those identified in Section 425-040 shall be allowed in the Wetlands Protection Overlay District without issuance of a local development permit. Local permits will only be issued if the proposed use is in compliance with the requirements of the underlying zoning district and the Wetlands Protection Overlay District. Furthermore, if the area of proposed development is located within 100 feet of the wetlands boundaries as established by the Wetlands Protection Overlay District Map, a U.S. Army Corps of Engineers delineation is required under Section 404 of the Clean Water Act. If wetlands are altered or degraded, mitigation to offset losses may be required as a condition of a Section 404 permit. Local development permits will not be issued until after any necessary Section 404 permits have been secured.

Sec. 420-040 PERMITTED USES

Subject to federal and state requirements, the following uses are permitted by right in the Wetlands Protection Overlay District to the extent that they are not prohibited by any other ordinance or law and provided that they do not require structures,

grading, filling, draining, or dredging unless a permit pursuant to Section 404 of the Clean Water Act is obtained.

- A. Forestry practices applied in accordance with Best Management Practices approved by the Georgia Forestry Commission.
- B. Conservation or preservation of soil, water, vegetation, fish or other wildlife, provided they do not affect waters of the State of Georgia or of the United States in such a way that they would require an individual permit pursuant to Section 404 of the Clean Water Act.
- C. Outdoor passive recreation activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- D. Natural water quality treatment or purification.
- E. Normal agricultural activities, including the planting and harvesting of crops and pasturing of livestock. Such activities shall be subject to Best Management Practices approved by the Georgia Department of Agriculture.
- F. Other uses permitted under Section 404 of the Clean Water Act.

Sec. 420-050 PROHIBITED USES

- A. Receiving areas for toxic or hazardous waste or other contaminants.
- B. Hazardous or sanitary waste landfills.

DIVISION 425: OPEN SPACE CONSERVATION RESIDENTIAL OVERLAY

Sec. 425-010 PURPOSE AND INTENT

It is the purpose of this Section to create an Open Space Conservation Overlay Zone that will:

- A. Preserve unique areas of Newton County that are in the path of development, and contain natural beauty, scenic views, historic rural character, and amenity that are irreplaceable;
- B. Create accessible open space and recreation amenity that adds value to contiguous land development;
- C. Minimize the environmental impacts of development;
- D. Improve water quality and reduce runoff by reducing soil erosion and the area of impervious surfaces;
- E. Provide for a more flexible and attractive arrangement of subdivisions;

- F. Reduce the cost of development by reducing the length of utilities and the amount of impervious surface area;
- G. Reduce capital and operating costs of garbage collection, street and utility maintenance; and
- H. Save energy.

These purposes are to be achieved by allowing the transfer of density in the subdivision of a parcel into residential lots whereby individual lots are reduced in size and clustered on the most buildable portion of the parcel in exchange for reserving in perpetuity a significant amount of open space, natural habitat, and recreational area, including the natural areas of the parcel that are the most vulnerable to land disturbance.

Sec. 425-020 APPLICATION

The Open Space Conservation Overlay Zone shall be applied as follows:

- A. The owner of a parcel of land, or two or more contiguous parcels of land in single ownership or control, may make application to the Zoning Administrator to apply the provisions of the Open Space Conservation Zone, provided that:
 - 1. The property is zoned for residential use, and
 - 2. At least 20 percent of the parcel is comprised of undisturbed natural areas of the type classified as Primary Conservation Areas or Secondary Conservation areas in this Division and shown on the Newton County Open Space Conservation and Area Resource Maps on display in the offices of the Newton County Planning Department.
- B. Within an Open Space Conservation Overlay Zone, all federal, state, and county regulations that pertain to property developed pursuant to the underlying zoning district shall remain in force, except as otherwise provided by the provisions of this Section.
- C. Within an Open Space Conservation Overlay Zone, the provisions of other overlay zones regarding watershed protection, aquifer recharge areas, wetlands, and floodplain must also be met where applicable to such a parcel.
- D. If a parcel subject to the Open Space Conservation Overlay Zone lies in more than one zoning district, then the allowed uses and the standards required of the most restrictive district shall apply to the entire parcel.
- E. No subdivision using Open Space Conservation Overlay Zone standards shall be permitted unless it is proposed to be subdivided into at least ten lots meeting the

standards of this Division and at least twenty (20) percent of the land area must be set aside as required open space as set forth below.

Sec. 425-030 STANDARDS FOR REQUIRED OPEN SPACE

- A. Required open space in an Open Space Conservation subdivision shall consist of any of the following three categories of land:
1. **Primary Conservation Area**
This category includes surface water bodies, wetlands designated by the National Wetlands Inventory, 100-year floodplain as identified on Federal Insurance Rate Maps, steep slopes exceeding 25 percent, areas of exposed rock, private cemeteries and burial grounds. These areas shall be left in a natural and undisturbed state except for the fewest possible perpendicular crossings of essential access roads and utility lines.
 2. **Secondary Conservation Area**
This category includes land in water supply watersheds and aquifer recharge areas identified in the Newton County Comprehensive Plan, stream and wetland buffers that are over 25 feet in width, significant habitat areas as identified in the Newton County Comprehensive Plan, areas containing archaeologically or historically significant structures or sites as identified in the Newton County Comprehensive Plan, and related contextual areas, soils unsuitable for septic tanks, prime agricultural soils, mature hardwood forest, meadows, farm fields, pastures, and other areas with scenic views.
 3. **Outdoor Recreation Area**
This category includes greenways, trails, bikeways, paths, tennis courts, ballfields, playfields, courts, swimming pools, clubhouses, toilets, dressing rooms, lockers, bicycle facilities, equestrian facilities, beaches, docks, seating areas, amphitheaters, stages, bandshells, community buildings, fountains, plazas, patios, decks, lawns, picnic shelters and picnic areas, landscaping and other land containing outdoor recreation structures and facilities.
- B. Open space and recreation areas shall be developed in accordance with Division 520 of the Newton County Development Regulations.
- C. No more than one-half of the required open space in a subdivision developed in an Open Space Conservation Overlay District shall be comprised of areas subject to land disturbing activities.
- D. Parking lots, drives, walks, buildings, and other impervious surfaces within a conservation area or recreation area may be counted as required open space provided that they constitute no more than 10 percent of the total required open space.

E. Up to one-half of utility easements may be counted as required open space provided that such easements are unfenced and the easement allows public recreation use.

F. Accessibility of Open Space

Open space shall be designed and located for the convenient access and enjoyment of all residents of the subdivision. Open space shall be located adjacent to all lots in the subdivision, or otherwise shall be within 1,000 feet of all lots that are connected to the open space by improved pathways or sidewalks.

G. Interconnected Open Space Network

It is the intent of this Division that the protected conservation areas, open spaces, greenways, bikeways, trails, sidewalks, and outdoor recreation areas in each subdivision be continuous with compatible areas containing similar features on abutting property. The design of developments within the Open Space Conservation Overlay District shall provide for maximum connections providing pedestrian and bike access to off-site and on-site attractions such as public trails, paths, parks, wildlife refuges, public facilities such as community centers, schools, libraries, fire and police stations, senior centers, railroad right-of-way, utility easements, and institutions such as universities, churches, museums and other cultural facilities.

H. Incentives

The developer of property within an Open Space Conservation Overlay District may receive an increase of no more than ten percent in the maximum number of residential lots permitted within the subdivision as provided in Section 425-050 in exchange for providing any of the following:

1. More than 75 percent of required open space as secondary conservation areas;
2. A trust fund approved by the County Attorney that is adequate for the continual maintenance of required open space; or
3. Innovative use of pervious paving, wetland restoration, controls of non-point air and water pollution or other environmental mitigation features approved by the Planning Director.

Sec. 425-040 USE STANDARDS

Within the Open Space Conservation Overlay District, all uses permitted in the underlying zoning district shall be permitted. In addition, the following uses may also be permitted:

A. Open space

B. Uses permitted in this Division as Outdoor Recreation Areas

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- C. Non-residential uses permitted in the C-N Zoning District may be permitted by conditional use, provided that:
1. The Open Space Conservation development contains at least 100 residential building lots;
 2. Non-residential uses are principally for the convenience of residents of the Open Space Conservation development;
 3. No non-residential use is contained in a building with a floor plate larger than 3,000 square feet of gross floor area;
 4. The total land occupied by buildings containing non-residential uses, along with their related parking and driveways, does not exceed 5 percent of the total land area of the Open Space Conservation development; and
 5. Non-residential uses meet all standards relating to non-residential uses in the C-N Zoning District and all standards of the Newton County Development Regulations.
- D. Buildings containing a mixture of residential and non-residential uses are permitted as conditional uses provided that non-residential uses are limited to the ground floor only.

Sec. 425-050 DEVELOPMENT DENSITY

The number of residential lots allowed in an Open Space Conservation Subdivision shall be calculated by the Zoning Administrator based on the net density allowed for the underlying zoning district of which the parcel is a part in accordance with the table below. The maximum number of residential lots permitted shall be the product of the density in lots per acre shown in the table multiplied by the net acreage of the parcel after the entire area contained in Primary Conservation Area and utility easements is deducted.

OPEN SPACE DEVELOPMENT DENSITY TABLE

Zoning District	Minimum lot size In zoning district (sq. ft.)			Maximum density, lots per acre		
	1 - Well and Septic	2 -Water and Septic	3- Water and Sewer	1	2	3
A	10 Acres			0.1		
R-E	3 acres			0.3		
A-R	51,000	43,560	43,560	.78	.90	.90
R-1	51,000	25,500	20,000	.78	1.5	1.9
R-2	NA	25,500	15,000	NA	1.5	2.6
R-3	NA	25,500	12,000	NA	1.5	3.2

Sec. 425-060 DEVELOPMENT STANDARDS FOR LOTS AND BUILDINGS

A. Minimum Lot Size

Within an Open Space Conservation Overlay Zone, the Zoning Administrator may reduce the minimum lot size required in the current zoning district an amount equal to the total acreage of open space for the development tract, divided by the maximum number of lots permitted on the same tract, in accordance with Section 425-050. Such open space must meet all the standards of required open space as defined and further qualified in Section 425-030. However, no lot shall be permitted that contains less than 5,000 square feet nor that provides a lot width measured at the building line of less than 50 feet.

B. Minimum Yard Requirements

Minimum yard requirements for individual single-family detached dwelling units within an Open Space Conservation Overlay Zone:

1. Front yard: none, except that where dwellings have front entry garages, the front of the garage shall be set back at least 22 feet from the front property line;
2. Interior side yards: 7 ½ feet on each side;
3. Side yard along side street on corner lot: 15 feet;
4. Rear yard: 20 feet.

C. Conservation Area

No portion of any building lot in an Open Space Conservation Overlay Zone shall contain land classified as Primary Conservation areas as defined in this Division.

D. Minimum Floor Area

Within an Open Space Conservation Overlay Zone, the minimum heated floor area and maximum building height shall be as specified in the underlying zoning district.

E. Land Use Transitions

At the option of the Planning Director, the developer of land in an Open Space Conservation Overlay District may be required to increase the lot size and required setbacks of lots abutting other residentially zoned property around the periphery of the development to be compatible with the standards of the abutting residential zoning districts. The Director may also require landscaped buffers or screening between uses in the Open Space Conservation Overlay District and residentially developed property in adjacent zoning districts to improve the land use transition with respect to abutting residential zoning districts.

Sec. 425-070 IMPROVEMENT STANDARDS

Within the Open Space Conservation Overlay District the following exceptions may be made by the Planning Director in order to allow greater flexibility and innovation in site design when site conditions would allow such exceptions without undue harm to the public safety, health, and general welfare and without undue environmental impact:

- A. Setbacks between structures may be reduced.
- B. Front yard setbacks may be reduced.
- C. Buffers and screening between adjacent uses within the development may be reduced or waived.
- D. The width of paved streets and driveways may be reduced.
- E. Street right-of-ways may be reduced when utility easements provide adequate space for placement of utilities.
- F. The minimum number of off-street parking places may be reduced.
- G. Stormwater detention ponds and swales may be placed in required open space.
- H. Pervious paving materials may be approved in lieu of standard paving for use in parking lots, trails, paths, crosswalks, and sidewalks.
- I. Community on-site septic systems may be used with approval of the Newton County Environmental Health Department.
- J. Drainfields of on-site septic systems may be placed in required open space with approval of the Newton County Environmental Health Department.
- K. Other innovative techniques for wastewater treatment may be permitted with the approval of the Newton County Environmental Health Department.

Sec. 425-080 OWNERSHIP, MAINTENANCE, AND CONTROL OF OPEN SPACE

Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the County:

- A. Offer of Dedication
Open space or common areas within cluster residential developments may be offered for dedication to the public at the time of application. Dedication shall take the form of a fee simple ownership. The County may, but shall not be required, to accept undivided open space, provided that:

1. The size, location, type of development or cost of development or maintenance of such open space or common area or the availability of public open space would make public use desirable or necessary;
2. Such land is accessible to the public;
3. There is no cost of acquisition other than any cost incidental to the transfer of ownership such as title insurance; and
4. The residents of the subdivision agree to and have access to maintain such lands.

Where the residents of the subdivision accept dedication of common open space that contains improvements, the residents may require the posting of financial security to ensure structural integrity and maintenance of improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15 percent of the actual cost of installation of said improvements.

B. Alternatives to Dedication

Common open space not dedicated to public use shall be protected by legal arrangements satisfactory to the County and sufficient to assure its maintenance and preservation for its intended purpose, including:

C. Homeowners' Association

The undivided open space and associated facilities may be held in common ownership by a homeowners' association established in accordance with the laws of the State of Georgia. The association shall be formed and operated under the following additional provisions:

1. The developer shall provide a description of the association, including its by-laws and methods for maintaining open space.
2. The association shall be organized by the developer and shall be operated by the developer until the sale of two-thirds of the lots within the development.
3. Membership in the association is mandatory for all purchasers of property and their successors.
4. The association shall be responsible for maintenance of insurance and taxes on undivided open space, enforceable by liens placed by the County on the association. The association may place liens on the homes or house lots of its members who fail to pay their association dues in a timely manner. Such liens may require the imposition of penalty interest charges.

5. The members of the association shall share equitably the cost of maintaining and developing such undivided open space. Shares shall be defined within the association by-laws.
6. In the event of a proposed transfer, within the methods here permitted, of undivided open space land by the homeowners' association, notice of such action shall be given to all property owners within the development.
7. The association shall administer common facilities and property and continually maintain the undivided open space.
8. The homeowners' association may lease open space lands to any other qualified person or corporation for operation and maintenance of open space lands, but such a lease agreement shall provide:
 - a. That the residents of the development shall at all times have access to the open space lands contained therein (except croplands during the growing season);
 - b. That the undivided open space to be leased shall be maintained for the purpose set forth in this Division; and
 - c. That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the subdivision, at the election of the developer and/or homeowners' association as the case may be.
9. The lease shall be subject to the approval of the Board of Commissioners and any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Newton County Recorder of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the County.

D. Dedication of Easements

The residents of the subdivision may, but shall not be required to, accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by the homeowners' association, provided that:

1. Such land is accessible to subdivision residents;
2. There is no cost of acquisition other than any cost incidental to the transfer of ownership, such as title insurance; and
3. A satisfactory maintenance agreement is reached between the developer, homeowners' association, and the County.

E. Private Conservation Organization

With the permission of the residents of the subdivision, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space, provided that:

1. The organization is a bon-a-fide conservation organization with perpetual existence;
2. The conveyance contains appropriate provisions for proper reversion or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
3. A maintenance agreement acceptable to the Board is entered into by the developer and the organization.

Sec. 425-090 APPLICATION, REVIEW, AND APPROVAL PROCESS

A. Pre-Application Process

Prior to submission of an application for development pursuant to an Open Space Conservation Overlay District, the applicant shall meet with the Planning Department to discuss the purpose, standards, and procedures of the Open Space Conservation Overlay District as it relates to the applicant's property. Prior to submission of a concept plan for the proposed development, the developer or site designer shall arrange a meeting on the site with inspectors of the Planning Department to inspect the property. The purpose of the pre-application site inspection is to identify Primary and Secondary Conservation areas, and the potential locations of on-site or off-site Outdoor Recreation Areas and building sites within the property. The pre-application site inspection shall also take note of natural and historic resources, scenic vistas, pedestrian and vehicular access points, connectivity with trails, and the need for external transitions to abutting property and land uses.

B. Documentation

The application for development pursuant to an Open Space Conservation Overlay District must be prepared on an application form provided by the Planning Department, including the required fees and the following documentation:

1. All applications shall be accompanied by three (3) copies of a plat drawn to a designated scale of not less than one inch equals one-hundred feet (1" = 100'), certified by a professional engineer or land surveyor licensed by the State of Georgia, presented on a sheet having a maximum size of 24" x 36", and one 8½" x 11" reduction of the plat. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plat shall contain the following information:

- a. Boundaries of the entire property, with bearings and distances of the perimeter property lines.
- b. Total area of the property in square feet or acres.
- c. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- d. Area of open space in square feet or acres and percent of total area that is open space.
- e. Type of open space, whether common open space or dedicated open space, and the proposed uses.
- f. Boundaries of the open space to be dedicated and any easements to be set aside.
- g. Maximum number of dwelling units proposed, and the density and open space calculations.
- h. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run.
- i. Proposed layout of lots, streets, and open space.
- j. Location, where applicable, of trails, recreation areas, parks, schools, libraries, churches, and other public or community uses on the site or within 500 feet of the site.
- k. Public right(s)-of-way, indicating names, route numbers and width, any required or proposed improvements to the public right(s)-of-way and delineation of the existing centerline of all streets abutting the property, including dimensions from the existing centerline to the edge of the pavement and to the edge of the right-of-way.
- l. A delineation of all existing structures and whether they will be retained or demolished.
- m. Indication that the property is served by public water and/or sewer or private water and/or septic field.
- n. Designation of minimum lot areas and yards that will be provided on lots adjacent to major thoroughfares and adjacent to the peripheral lot lines of the subdivision.

- o. Approximate location and estimated size of all proposed stormwater management facilities and a statement as to the type of facility proposed.
 - p. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey or Newton County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted Comprehensive Plan, and if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental corridor.
 - q. Jurisdictional wetlands as defined by Section 404 of the Federal Clean Water Act.
 - r. A plan showing limits of clearing, existing vegetation, and any proposed landscaping and screening, including existing vegetation to be preserved.
 - s. Location of all existing utility easements having a width of twenty-five (25) feet or more.
 - t. Approximate delineation of any significant historic or archaeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it.
 - u. Seal and signature of professional person preparing the plat.
 - v. A traffic study, if required by Section 500-080 of this Ordinance.
2. Evaluation of Application
The Zoning Administrator shall review the application and related documentation in subsection 1 above in order to determine that the application is complete. If incomplete, the Zoning Administrator shall notify the applicant in writing noting the reasons that the application or supporting documentation is incomplete.
3. Review of Application
The application shall be reviewed in accordance with the procedures established in Section 300-040 of this Ordinance. In reviewing an application and documentation for conformity with the requirements of this Division and other applicable state, federal, and local regulations as may be determined consideration shall be given to the following review standards:
- a. Individual lots, buildings, streets, and parking areas are designed and situated to maximize open space, produce a more efficient and practicable development, reduce the construction of roads and other impervious

- surfaces, and minimize alteration of natural site features such as steep slopes, stream valleys, desirable vegetation or farmland.
- b. The cluster open space shall include and retain, to the extent feasible, natural features located on the tract, such as stream beds, significant stands of trees, and individual trees of a significant size.
 - c. The cluster open space intended for recreational or public use is accessible to pedestrians.
 - d. The relationship of the cluster subdivision and cluster open space to surrounding properties.
 - e. The cluster subdivision shall be in accordance with the adopted Comprehensive Plan and the established character of the area. To accomplish this end, the cluster subdivision shall be designated to maintain the character of the area by preserving, where applicable, rural views along major roads and from surrounding properties through the use of open space buffers, minimum yard requirements, varied lot sizes, landscaping or other measures.
4. Within 30 days following receipt of a complete application the Planning Commission shall either approve or disapprove the application in writing. The written response shall note the reasons for disapproval.
- a. If disapproved, the applicant may re-submit a completed application and the accompanying documentation within 12 months of the date of disapproval without paying an additional application fee.
 - b. Approval of the application shall constitute approval of the Open Space Overlay District as it applies to the subject property and constitute approval of a Concept Plan for a Major Subdivision as provided in Section 415-020 of the Newton County Development Regulations. From that date forward, the developer shall proceed with the development following the remaining provisions of the Newton County Development Regulations.
5. Prior to dedication or conveyance of open space, the following documents shall be submitted to and approved by the County:
- a. Specification of the ownership of the common open space.
 - b. The articles of incorporation or other organizational documentation for the non-profit organization.
 - c. The by-laws of the non-profit organization.

- d. The covenants or restrictions related to the use of common property, including the system and amounts of assessments for perpetuation and maintenance.
- e. A fiscal program for a minimum of ten (10) years, including adequate reserve funds for the maintenance and care of all lands, streets, facilities, and uses under the purview of the non-profit organization.
- f. A document granting the right of entry upon such common property to the County law enforcement officers, rescue squad personnel, and fire fighting personnel while in the pursuit of their duties; and, in the case of private streets and common driveways, permitting the enforcement of cleared emergency vehicle access.
- g. A complete listing of all land, buildings, equipment, facilities, and other holdings of the non-profit organization, as such is proposed, and a complete description of each.
- h. A specification of methods of maintenance, responsibilities of maintenance, and a recommended time schedule for the maintenance of major facilities, including streets, street signs, pools, sidewalks, parking areas, and buildings.
- i. Specification of taxes and insurance.
- j. A guarantee that any association formed to own and maintain cluster open space will not be dissolved without the consent of the County.
- k. A copy of the proposed notice that will be given to prospective buyers regarding the organization, assessments, and fiscal program.
- l. A specification of compulsory membership and compulsory assessment provisions.
- m. A copy of the Deed of Conveyance and a Title Certificate or, at the direction of the Director, a commitment for a policy of title insurance issued by an insurance company authorized to do business in the State of Georgia, assuring unencumbered title for all lands proposed to be conveyed to the County, other appropriate governmental agency, or other organization, including the nonprofit organization.

The documents set forth in subsection 3 above shall be reviewed and approved by the Zoning Administrator and the County Attorney, and such approval shall be obtained before any final plat is recorded or final site plan is approved. Such documents, once approved, shall become part of the recorded subdivision plat or approved site plan.