

Example Codes

Fulton County, Georgia Conservation Subdivision Ordinance

Summary

The purpose and intent of the ordinance is to insure 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 site 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 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, business and facilities to reduce reliance on automobiles.

This ordinance applies solely to residential developments. Open space is explicitly defined as permanently protected and restricted use of the open space in perpetuity through an approved legal instrument, the minimum open space requirement is 40% of total acreage of the subdivision and must be defined on the conceptual plan and final plat.

There are 2 types of open space and conservation areas, primary and secondary. Primary conservation areas prohibit active recreation (see the full ordinance for a list of allowed uses).

Open space shall be held in fee simple interest by a qualified conservation organization, a homeowners association subject to several requirements (see the full ordinance for a list of allowed uses).

Density of a conservation subdivision shall be based upon 80% of the net buildable area's density allowed by zoning (total acreage - primary conservation areas), some bonuses are allowed.

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. Minimum lot frontage is 20 feet. Setbacks subjects to building code. A minimum of a 50-foot wide natural undisturbed buffer along all property lines adjacent to agricultural and residential zoned properties and roads.

Streets should follow existing contours with a minimum of cut and fill, allowing interparcel access. The maximum length of an interior block is 600 linear feet, with a perimeter length maximum of 1,680 linear feet, total interior block area may not exceed 3.30 acres.

Once the legal instrument for permanent protection of open space is in place the tax assessor shall reassess the value of the open space.

ARTICLE VI

Conservation Subdivision Ordinance

- 6.1. **PURPOSE AND INTENT.** It is the purpose and intent of this ordinance to insure 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.
- 6.2. **APPLICABILITY OF REGULATIONS.** The Conservation Subdivision option 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, R-5 and R-5A in unincorporated Fulton County south of the City of Atlanta (South Fulton). Compliance with all applicable Fulton County ordinances, regulations, or resolutions is required; however, when in conflict, the provisions of this ordinance shall prevail.
- 6.3. **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.
- 6.4. **OPEN SPACE REQUIREMENT.** Each conservation subdivision shall provide a minimum of 40% of its total acreage as open space as defined by this ordinance. The open space shall be designated on the conceptual plan and recorded on the final plat. Interconnectivity of all open space within a Conservation Subdivision shall be required.
- 6.4.1. **OPEN SPACE NETWORKS CONFIGURATION.** The minimum standards for open space networks 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 property line except where interparcel access may be provided.
 - c. All open space networks shall provide connectivity to any common areas within the development and to any adjacent public places/rights-of-way.

- 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.
- 6.5. **OPEN SPACE AND CONSERVATION AREAS.** Open space shall be designated as either primary conservation areas or secondary conservation areas and shall be configured to create or maintain a network of open space.
- 6.5.1. **PRIMARY CONSERVATION AREAS.** Primary conservation areas form the core of the open space to be protected. 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, stormwater management ponds/facilities designed in accordance with the Fulton County Subdivision Regulations, creeks, including but not limited to blue line tributaries and state waters;
 - f. Riparian zones equal to any required stream buffers and improvement setbacks;
 - 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 Fulton County GIS system or from a topographic survey prepared by a licensed land surveyor.

- 6.5.1.1 **VALUE OF PRIMARY CONSERVATION AREAS.** Because primary conservation areas are either protected or sensitive environmental areas, only 50% of the acreage of a primary conservation area may be counted as open space.
- 6.5.2. **SECONDARY CONSERVATION AREAS.** Secondary conservation areas consist of undeveloped (unconstrained) but buildable land and protected (constrained) lands. Secondary conservation areas, as defined by this ordinance, include the following:
- a. Farmlands (fields, pastures, meadows);
 - b. Woodlands and buffers except riparian 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 areas and facilities, public and private, to include parks as identified by the Parks and Recreation Master Plan, playing fields, and playgrounds. Recreation areas with impervious surfaces (e.g., tennis courts, basketball courts and pools) and golf courses shall be excluded.
- 6.5.2.1. **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 areas and facilities may be counted as open space.
- 6.6. **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)). Fulton County reserves the right to enforce all restrictive covenants and conservation easements.
- 6.6.1. **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, the holder of the easement and Fulton County as a third party beneficiary with rights to enforce the easement if Fulton County is not the holder;

- 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 Fulton County;
- h. Provide for maintenance of the property;
- i. Be shown on the final plat and duly recorded with the Clerk of Superior Court prior to the issuance of a Land Disturbance Permit; and
- j. Provide for amendments only with the express written permission of the property owner(s), the holder of the easement and Fulton County. Amendments to the easement shall be filed with the Director and shall be recorded in Superior Court.

6.6.2. **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 Fulton County;
- f. Provide for maintenance of the property;
- g. Be shown on the final plat 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 Fulton County. Amendments to the covenant shall be filed with the Director and shall be recorded in Superior Court.

6.7. **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.

- 6.8. **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, or Fulton County. If accepted by the County, the property must be in accordance with the provisions herein.
- 6.8.1. **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.
- 6.9 **CONSERVATION SUBDIVISION DENSITY.** The maximum number of lots shall be based upon 80% of the net buildable area's density allowed by zoning, with net buildable area defined as the total acreage minus primary conservation areas. Density bonuses are allowed in accordance with section 6.10.
- 6.10. **CONSERVATION SUBDIVISION DENSITY BONUSSES.** The number of lots in a Conservation Subdivision may exceed the number of lots as specified in section 6.9 with one or more of the following bonus options:
- a. A density increase is permitted when more than 40% of the total acreage of the project is designated as permanent, protected open space. For each additional whole acre, greater than 40 percent, additional lots or units may be developed as follows:

Current Zoning	Additional Lots Allowed Per Development for each acre of protected open space greater than 40%
AG-1	1
R-1	0.5
R-2	1
R-2A	1
R-3	2
R-3A	2
R-4	4
R-4A	3
R-5	5
R-5A	10

- b. In lieu of providing additional open space over 40% in the development, the applicant may purchase, in fee simple, additional land in unincorporated Fulton County within one (1) mile of the development comprised of primary and/or secondary conservation areas. The density increase within the development shall be based on the same criteria as in Sec. 6.10.a. As with conservation areas within a development, protected open space, purchased in fee simple outside a development, shall also be protected in perpetuity from further development or unauthorized use by a conservation easement held by Fulton County or other conservation organization, land trust, or homeowners association.
 - c. Dedication of land for a public use, excluding roads and utility easements, shall entitle an owner to an additional unit per acre of dedicated land as detailed in Section 6.10.a. Prior to the issuance of a Land Disturbance Permit, dedications of land for public use shall be approved by the Fulton County Board of Commissioners or the Fulton County Board of Education if for school purposes, based upon recommendations of existing and future recreation and park plans, comprehensive plans, school board plans and the County's Capital Improvements Program.
 - d. At no time shall the number of lots exceed 95% of the net buildable area's density allowed by zoning.
- 6.11. **LOT REQUIREMENTS.** 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 except with the allowable density bonuses described herein.
- 6.12. **MINIMUM LOT FRONTAGE.** The minimum lot frontage on a right-of-way shall be 20 feet.

- 6.13. **SETBACKS AND BUILDING SEPARATION REQUIREMENTS.** Setbacks and building separations are subject to the provisions of the Standard Building Code.
- 6.14. **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 or used properties, and existing roads, or as may be approved by the Director.
- 6.15. **STREET STANDARDS.** Conservation subdivision streets shall be designed based on the following standards:
- a. Streets should follow existing contours with a minimum of cut and fill and shall be designed for interparcel access.
 - b. The maximum length for an interior block is 600 linear feet with the total perimeter length not to exceed 1,680 linear feet. The total area of an interior block shall not exceed 3.30 acres.
 - c. All newly created lots should derive access from internal subdivision streets.
- 6.16. **ZONING MODIFICATION REQUIREMENTS.** Proposed conservation subdivisions for properties where zoning is conditional shall require an approved modification to the site plan and other conditions pertinent to use, number of lots and density, as applicable, prior to the approval of a final plat.
- 6.17. **TAX ASSESSMENT OF OPEN SPACE.** Once a legal instrument for permanent protection has been placed upon the open space, the Fulton County Tax Assessor shall reassess the value of the open space.

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