

ARTICLE 5

GENERAL DESIGN REQUIREMENTS

5.0 INTENT

The purpose of good subdivision and site design is to create a functional and attractive development for its future inhabitants, to minimize adverse impacts to adjoining properties and residents, to minimize adverse impacts to the natural environment and to ensure that a project will be an asset to the community. To promote this purpose, the subdivision plat or site plan shall conform to the following standards that are intended to result in a well-planned community without adding unnecessarily to development costs.

5.1 SUITABILITY OF THE LAND AND SITE ANALYSIS MAP

5.1.1 The following specific areas are hereby defined as unsuitable for development and therefore Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article. The open space shall be protected by a conservation easement in perpetuity in accordance with Georgia law and city regulations:

- a. Unique and/or fragile areas, including wetlands as defined by the Army Corps of Engineers pursuant to the Clean Water Act;
- b. The regulatory 100-year floodplain;
- c. Steep slopes in excess of 25 percent, as measured over a 20 foot horizontal interval, of at least 5000 square feet contiguous area;
- d. Buffer zones of at least 75 feet width along all U.S.G.S. perennial and intermittent streams;
- e. Habitats for or populations of endangered or threatened wildlife, as identified on federal or state lists;
- f. Historically significant structures and sites, as listed on federal, state, city or county lists of historic places; and
- g. Archaeological sites; cemeteries, and burial grounds.

The following are considered secondary Open Space Areas and should be included within the Open Space to the maximum extent possible:

- a. Existing healthy, native forests of at least one contiguous acre;
- b. Individual, existing healthy trees greater than eight (8) inches caliper, as measured at the Diameter Breast Height (DBH);
- c. Other significant natural features and scenic viewsheds, such as ridge lines, peaks, and rock outcroppings, particularly those that can be seen from public roads;
- d. Important historic sites;
- e. Prime agricultural lands of at least five (5) acres; and,
- f. Existing trails that connect the tract to neighboring areas.

5.1.2 Development of Unsuitable Land is Prohibited

Land deemed unsuitable for development in these regulations shall not be subdivided for

residential occupancy or be developed for any uses that may be reasonably concluded to be harmful to the health, safety, life, property, or general welfare. The following lands or conditions are deemed unsuitable for development:

Lands defined under Section 5.1.1 Suitability of the Land and Site Analysis Map

5.1.3 Site Analysis Map Required

- g. A site analysis map shall be made in the form of a sketch plat or concept plan of characteristics of the development site and site context including; geology of soil, topography; ecology; existing vegetation; surrounding structures and road networks; visual features; and past and present use of the site. Development of the site shall be based on the site analysis. To the maximum extent practicable, development shall be located to preserve the natural features of the site, to avoid areas of environmental sensitivity, and to minimize negative impacts and alteration of natural features.
- h. Design of the development shall take into consideration all existing local and regional plans for the surrounding community including but not limited to the areas designated as Conservation Lands on the City of Snellville Future Land use Map.
- i. The development shall be laid out to avoid adversely affecting ground water and aquifer recharge; to reduce cut and fill; to avoid unnecessary impervious cover; to prevent flooding; to provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

5.1.4 Design of Lots Containing Unsuitable Land

- a. Land within a proposed subdivision or development which is deemed unsuitable for development shall be incorporated into open space owned in common if it complies with the minimum lot area required by the Zoning Ordinance. Otherwise, it shall be placed in a buildable lot as excess land.

5.2 OFFERS OF LAND DEDICATION

- 5.2.1 Whenever a developer proposes the dedication of land to public use, and the reservation is not envisioned in the Comprehensive Plan or is otherwise deficient, the Director of Planning and Development or his/her designee shall obtain approval of the proposed reservation of land from the Mayor and Council prior to approval of the preliminary plat. If the Director of Planning and Development or his/her designee or the appropriate agency finds that such land is neither required nor is it suitable for public use, the Director of Planning and Development or his/her designee shall require the rearrangement of lots to include such land in private ownership.

5.3 RELATIONSHIPS TO ZONING AND OTHER REGULATIONS

- 5.3.1 Whenever there is a discrepancy between minimum standards or dimensions required herein and those contained in zoning regulations, building codes, or other ordinances, regulations or resolutions, the most restrictive shall apply. In those instances where the required right-of-way width or roadway improvements for a specific project have been established as a condition of zoning approval, the requirements of the zoning condition shall control, whether more or less restrictive than the requirements of these Regulations.

- 5.3.2 Building setback lines shall conform to the minimum yard requirements of the applicable zoning district in the Zoning Ordinance.

5.4 REQUIRED PUBLIC IMPROVEMENTS

5.4.1 General Requirements

Every developer of lands within the jurisdiction of these Regulations shall provide the Project Access improvements included in these Regulations as shall be appropriate to serve the project, in accordance with these Development Regulations and other pertinent Codes, Ordinances, and regulations of the City of Snellville. Said improvements and associated lands shall be provided at no cost to the City of Snellville, and shall be dedicated or otherwise transferred, as required, to the public in perpetuity and without covenant or reservation, except as otherwise provided herein.

5.5 LOTS

- 5.5.1 Lots shall at least conform to the minimum requirements of the Snellville Zoning Ordinance except as provided in Section 5.8 Open Space Conservation and its subsections.

- 5.5.2 Double frontage and reverse frontage lots shall be required for residential subdivisions along major thoroughfares where internal access can be provided. A no-access easement of at least ten feet in width, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery. When located along a major thoroughfare, the no-access easement shall be planted and/or screened as required by the Zoning Ordinance.

5.6 SURVEY MONUMENTS

- 5.6.1 All corners shall be marked with an iron rebar or pin, at least one-half inch in diameter and 18 inches long and driven so as to extend no less than one inch above the finished grade.
- 5.6.2 On subdivisions containing floodplains, flood elevation references shall be set in accordance with the requirements of the Flood Damage Prevention Ordinance.

5.7 STANDARD DRAWINGS

- 5.7.1 The Department shall maintain on file for consultation and distribution a set of Snellville and Gwinnett County Department of Planning and Development Standard Drawings as amended illustrating details of construction and design of streets, storm water drainage facilities, site improvements and other elements related to the development of land in accordance with these Regulations and under the jurisdiction of the Department.
- 5.7.2 The Standard Drawings shall illustrate minimum acceptable standards for land development activities authorized under these Regulations, but shall not supersede more restrictive prudent design requirements or good engineering practice as applied to specific situations on a case-by-case basis.
- 5.7.3 The Standard Drawings shall be treated as though a part of these Regulations for application to the minimum standards for design and construction of improvements required herein and

subject to the modification and appeal provisions of Article 13.

5.8 OPEN SPACE CONSERVATION

In order to achieve the following public purposes, all residential subdivisions greater than ten (10) acres or other residential developments greater than five (5) acres or consisting of more than thirty-six (36) units shall be required to provide open space, in order to achieve the following purposes:

- a. Conserve open land, including those areas containing historic or cultural resources, or sensitive natural features and wildlife habitats;
- b. Provide greater design flexibility and efficiency in the siting of utilities and streets and the opportunity to reduce the length of roads, utility runs, and the amount of paving and land disturbance.
- c. Reduce erosion and sedimentation by minimizing land disturbance;
- d. Create neighborhoods with direct visual access to open land, open space amenities, and a strong community identity;
- e. Provide active and passive recreational opportunities for residents;
- f. Provide multiple options for landowners in order to minimize the impact on environment resources and provide standards reflecting the variety of circumstances and interests of individual property owners; and
- g. Implement the Comprehensive Plan, and other adopted land use and transportation policies of the City of Snellville and Gwinnett County and to implement the Georgia Greenspace Act (OCGA 36-22-1 to OCGA 36-2-12).

Subject to the review of the Mayor and City Council, The Director of Planning and Development, may require that existing features which would add value to residential subdivision, non-residential subdivision, and/or Planned Center development or to the City as a whole, such as trees, watercourses and falls, historic sites, and similar irreplaceable assets, be preserved in the design of the subdivision.

5.8.1 Open Space— Calculation of Required Amount

- a. A minimum of twenty percent (20%) of the land in all residential subdivisions, 10 acres or greater in area, shall be set aside as open space.
- b. Open space required by this section may be used in a variety of ways, including natural areas for wildlife and ecological functions, parks, gardens, landscaped medians, squares, village greens, courtyards, recreational space, or recreational facilities, provided the use is consistent with the requirements of this Section 5.8.1 Open Space.
- c. Land designated as unsuitable under Sec. 5.1.1 may count toward the twenty percent (20%) open space requirement. Where the unbuildable area of a subdivision is equal to or greater than twenty percent (20%) of the total area in the subdivision, the open space requirement has been fulfilled. Where the unbuildable area is less than twenty percent (20%) of the total subdivision area, additional land shall be set aside so that the overall twenty percent (20%) open space requirement is fulfilled.
- d. Open space shall not include areas devoted to public or private vehicular streets or any land which has been, or is to be, conveyed to a public agency, via a purchase agreement for such uses as parks, schools, or other public facilities, or which lies

within any required private recreation facility, overhead power easement, or storm water detention facility. No more than fifty percent (50%) of required stream buffers, 100-year floodplain, delineated wetlands, and proposed permanent lakes may be credited as open space.

- e. Open space shall meet the following requirements:
 1. Undeveloped and natural. Open space shall remain undeveloped and natural except for the provision of non-motorized passive recreation opportunities such as running, walking, biking, and similar outdoor activities. Exceptions: "pocket parks" and "greens" may be constructed and maintained in open space. A "pocket park" or "green" is a landscaped area larger than 0.33 acres constructed for community gathering or play, or visual enhancement. "Pocket parks" or "greens" shall not exceed ten percent of the total open space. At least seventy-five percent (75%) of the open space shall be contiguous with a minimum width of forty-feet (40').
 2. The Open Space shall adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space, as defined by the Comprehensive Plan and/or the Gwinnett County Open Space and Greenway Master Plan.
 3. Uses of open space may include the following:
 - a) Conservation of natural, archaeological, and/or historical resources;
 - b) Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
 - c) Walking or bicycle trails, provided they are constructed of porous paving materials;
 - d) Passive recreation areas, such as open fields;
 - e) Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways. They may be credited to no more than twenty-five percent (25%) of the required open space or ten acres, whichever is less and may not be located within Primary Conservation Areas. Active recreation areas in excess of this limit must be located outside of the protected Active recreation areas may include impervious surfaces. Parking facilities for the same shall also be permitted provided they shall not be included in the required minimum open space;
 - f) Agriculture, horticulture, silviculture, and/or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts and such activities are not conducted within Primary Conservation Areas;
 - g) Pastureland for horses and other grazing livestock used solely for recreational purposes. Equestrian facilities, including commercial facilities, shall be permitted but may not consume more than twenty-five percent (25%) of the minimum required Greenway Land. Outdoor riding arenas are permitted. Rodeo facilities, indoor arenas, seating areas, and facilities for audiences are specifically excluded;

- h) Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Department of Planning and Development;
 - i) Golf courses may comprise up to fifty percent (50%) of the minimum required open space, but shall not include driving ranges or miniature golf. Golf course parking areas and any associated structures shall not count toward the minimum required area of open space;
 - j) Other conservation-oriented uses compatible with the purposes of this regulation.
4. Prohibited uses of open space shall include the following:
- a) Roads, parking lots and impervious surfaces, except as specifically authorized in this article;
 - b) Agricultural and forestry activities not conducted according to accepted Best Management Practices;
 - c) Commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
 - d) Impoundments;
 - e) Other activities as determined by the applicant and recorded on the legal instrument for permanent protection.
5. Exclusions. Excluded from meeting the minimum amount of open space are the following:
- a) Environmentally critical areas such as required stream buffers, 100-year floodplain, delineated wetlands, and proposed permanent lakes. No more than fifty percent (50%) of land area located within an environmentally critical area may be credited.
 - b) Recreation area improvements. Impervious surfaces in recreation areas may be included within the protected Open Space but shall not be credited toward meeting the minimum requirement of open space.
 - c) Utility rights-of-way and/or easements for drainage, access, and underground utilities may be included within the protected Open Space but may not count towards the minimum requirement of open space.
 - d) Storm water management facilities and practices shall not be credited.
 - e) Land area devoted to public or private streets or any land that has been, or is to be, conveyed to a public agency via a purchase agreement for such uses as parks, schools, or other public facilities shall not be credited.
6. Ownership. Open space shall be owned in fee-simple by a mandatory property owner's association; or other entity approved in advance by the Mayor and City Council during their normal course of business. The developer shall record the deed to the open space prior to, or concurrent

with, the recording of the first final subdivision plat. An access easement following the alignment of future public streets is acceptable. However, "pocket parks" or "greens" may be deeded concurrent with the unit or phase of the final subdivision plat of which it is a part.

7. Property owner's association. The property owner's association bylaws or covenants, at a minimum, shall contain the following provisions:
 - a) Governance of the association by the Georgia Property Owner's Association Act (O.C.G.A. § 44-3-220 et seq.) or a successor to that Act that grants lien rights to the association for maintenance expenses and tax obligations.
 - b) Responsibility for maintenance of the open space.
 - c) Responsibility for insurance and taxes.
 - d) Automatic compulsory membership of all lot purchasers and their successors; and compulsory assessments.
 - e) Conditions and timing of transferring control of the association from the developer to the lot owners.
 - f) Guarantee that the association will not be dissolved without the advance approval of the Mayor and City Council.

8. Conservation Surety.

Open space delineated in the Concept Plan, except for "pocket parks" or "greens," shall be permanently protected by the conveyance of (i) a covenant or scenic easement which runs in perpetuity under O.C.G.A. Section 44-5-60 in favor of any corporation, trust, or other organization holding land for the use of the public or certain governmental entities; or (ii) a conservation easement running in perpetuity to a third party "qualified organization" recognized by Federal Treasury Regulation Section 1.170A-14(c)(1). Qualified organizations recognized by this Treasury Regulation include, but may not be limited to: governmental entities, certain publicly supported charities, local and national land trusts, or other conservation groups that are organized or operated primarily or substantially for one of the conservation purposes specified in the Internal Revenue Code. Governmental entities qualifying to be named in covenants under O.C.G.A. Section 44-5-60 or to receive conservation easements under the Treasury Regulation referred to above for purposes of this ordinance shall include the Federal government, the State of Georgia, Gwinnett County, or political subdivisions or authorities of the State of Georgia or Gwinnett County. If a covenant or conservation easement is recorded in favor of a governmental entity, the written acceptance of the covenant or conservation easement by the governmental entity shall be obtained prior to the recording of the covenant or easement. The developer shall record the necessary legal instrument to accomplish protection of the open space prior to, or concurrent with, the recording of the final subdivision plat.

The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the open space or the Mayor and Council impose as a condition of zoning.

9. Maintenance. The property owner's association, or other entity approved in advance by the Mayor and City Council, shall be responsible for the continuous maintenance of buffers, open space and recreation areas.

An open space management plan shall be prepared and submitted prior to the issuance of a site development permit. The open space management plan shall:

- a) allocate responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- b) estimate the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
- c) provide that any changes to the Plan be approved by the Mayor and Council;
- d) and provide for enforcement of the Plan.

In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the City of Snellville may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

10. Tax Assessment of Open Space: Once a legal instrument for permanent protection has been placed upon the open space, the City of Snellville shall reassess the open space at a lower value to reflect its more limited use. If the open space is used purely for passive recreational purposes and the terms of the instrument for permanent protection effectively prohibit any type of significant economic activity, then the assessment shall be at a value of zero.

5.8.2 Subdivision Landscape Features

The creation of an unbuildable lot in a proposed subdivision for the exclusive purpose of subdivision identification signage or subdivision entrance landscape features is authorized under the following circumstances (modification applications from the circumstances of this exception shall not be accepted):

- a. The lot shall be located at an entrance to the subdivision as an "island" in the right-of-way of a local or minor collector street; and,
- b. A mandatory homeowner's association shall be required for the subdivision for ownership and maintenance of the lot as common area; and,
- c. Right-of-way of a minimum width of six-feet (6') from back of curb shall be provided adjacent to the perimeter of the lot.

- d. Landscape plantings within the right-of-way shall not obscure the sight lines of motorists, cyclists, or pedestrians.

5.8.3 Ownership Requirements

- a. Open space provided in a development shall be owned and maintained by the property owner, or in the case of a subdivision, by a homeowner's or property owner's association or by a private land trust as defined O.C.G.A. 44-10-1. The association shall be established by the developer prior to or concurrent with the recording of the Final Plat of the subdivision. The association bylaws shall include the following provisions:

1. Automatic (mandatory) membership of all purchasers of lots therein and their successors;
2. Conditions and timing of transferring control of the association from the developer to the lot owners shall be specified which shall not exceed two (2) years from the date of recording of the Final Plat of the subdivision;
3. Responsibility for maintenance, insurance and taxes;
4. Equitable sharing of the costs of maintenance with shares defined by the association bylaws;
5. Authority to place liens on the real property of members who fail to pay their dues or assessments;
6. Prohibition on the dissolution of the association without the approval of the Mayor and City Council.

- b. Maintenance

The property owner, or the property owner's association, shall be responsible for the maintenance of open space.

- c. Conservation Easement.

1. Open space delineated in the Concept Plan, preliminary plat, or in development plans except for landscape features, pocket parks or greens, shall be permanently protected by the conveyance of (i) a covenant and a scenic easement which runs in perpetuity under Georgia's Uniform Conservation Easement Act O.C.G.A. Section 44-10-1 et seq. in favor of any corporation, trust, or other organization holding land for the use of the public or certain governmental entities; or (ii) a conservation easement running in perpetuity to a third party "qualified organization" recognized by Federal Treasury Regulation Section 1.170A-14(c)(1). Qualified organizations recognized by this Treasury Regulation include, but are not limited to: governmental entities, certain publicly supported charities, local and national land trusts, or other conservation groups that are organized or

operated primarily or substantially for one of the conservation purposes specified in the Internal Revenue Code.

2. Governmental entities qualifying to be named in covenants under O.C.G.A. Section 44-10-1 et seq. or to receive conservation easements under the Treasury Regulation referred to above for purposes of this ordinance shall include the Federal government, the State of Georgia, Gwinnett County, or the City of Snellville. If a covenant or conservation easement is recorded in favor of a governmental entity, the written acceptance of the covenant or conservation easement by the governmental entity shall be obtained prior to the recording of the covenant or easement. The developer shall record the necessary legal instrument to accomplish protection of the open space prior to, or concurrent with, the recording of the final subdivision plat.

5.9 RECREATION AREAS

5.9.1 Recreation Areas

Land for use as project open space or a private recreation facility shall be provided in single family detached subdivisions having a gross area of fifty (50) acres or more and a minimum lot size less than 1 acre; in duplex subdivisions having a gross area of ten (10) acres or more; and in single family attached, townhouse, and multi-family developments having a gross area of five (5) acres or more or forty (40) dwelling units.

- a. For each development, six percent (6%) of the gross land areas shall be provided for the recreational use, but in no case shall the area required exceed six (6) acres. Not over sixty percent (60%) of the area may be within the 100-year floodplain.
 1. The land so provided shall be contiguous or separated only by parking areas and private drives, and of suitable shape and condition for construction of at least one (1) swimming pool and one (1) regulation-size tennis court.
 2. If the developer constructs at least a swimming pool and tennis court, or other acceptable active recreation facilities, as part of the project, then the land so provided need not be a single contiguous parcel and the total set-aside area required by this paragraph can be reduced to the amount actually required for the construction and maintenance of the facilities, but not less than fifty percent (50%) of the gross recreational set-aside requirements outlined herein.
- b. In subdivisions, land provided for recreational use in accordance with "a" (1), above, and not proposed for improvement by the developer shall be deeded to a qualified Property Owners Association or City of Snellville (upon approval of Mayor and City Council) upon the approval of the final plat containing said land and shall be used exclusively for recreational purposes. The qualified Property Owners Association shall provide for the mandatory membership of all the owners of property within the subdivision, and shall be established under the laws of Georgia; it shall be responsible for the perpetuation, maintenance and function of the recreation areas and all uses or facilities therein. The association shall have the authority and duty to

assess its members for such maintenance and improvements as set forth in the instrument creating the association. All covenants shall be recorded simultaneously with the final subdivision plat.

- c. If the developer constructs recreational facilities as approved under “a”(2), above, on the recreational land in a subdivision, the land area shall be deeded to a Homeowner's Association or other legal entity incorporated under the laws of Georgia. The land shall be deeded to said organization with a restriction that the land shall be used exclusively for recreational purposes and shall be made available to all residents of the subdivision project on an equal basis. The deed shall be filed with the Department simultaneously with the final plat, and shall be held by the Department until a Certificate of Occupancy is issued for the recreational improvements, whereupon the deed shall be recorded.
- d. In multi-family rental or condominium projects, land provided for recreational use in accordance with these requirements shall be held in the ownership of the owner of the project.
- e. The City of Snellville may lease or sell land reserved for public parks to a qualified Property Owners Association with a deed restriction that the land be used exclusively for open space or public recreational purposes in perpetuity. The organization of a qualified Property Owners Association and its adequate financing for the discharge of its responsibilities shall be assured through acceptable private deed covenants running with the land or other such documents as approved by the City Council of the City of Snellville.

5.10 WETLANDS

5.10.1 National Wetland Inventory Maps

The National Wetland Inventory Maps, prepared by the United States Fish and Wildlife Service, shall be the official wetland maps of the City of Snellville. These maps show the general locations of wetlands and should be consulted by persons contemplating activities in or near wetland areas.

5.10.2 Plans

Design Professionals, after consulting the National Wetland Inventory Maps, shall indicate wetlands on plans required for land disturbance permit applications.

5.10.3 Design Professional Statement

Prior to the issuance of a land disturbance permit, the design professional who prepared the required plans accompanying the permit application, shall add a statement to the plan sheet indicating land disturbance and the statement shall read as follows:

Wetland Certification:

The design professional, whose seal appears hereon, certifies the following: 1) the National Wetland Inventory Maps have been consulted; and, 2) the appropriate plan sheet [] DOES / [] DOES NOT (mark appropriate box)

indicate areas of United States Army Corps of Engineers jurisdictional wetlands as shown on the maps; and, 3) if wetlands are indicated, the land owner or developer has been advised that land disturbance of protected wetlands shall not occur unless the appropriate federal wetlands alteration ("Section 404") permit has been obtained.