

# CHAPTER 8: OPEN SPACE

## SECTION 8.1: GENERAL PROVISIONS

Open space is defined as all areas not covered by building or parking lots, dry detention structures, streets, required setbacks, impounded waters of Lake Norman, or golf courses. Required open space will be permitted by the Town Board within sub-surface and aerial utility easements and rights-of-way provided that such areas are functionally designed and the easement or right-of-way holder grants written permission for its use. The intent of these requirements is to allow for the usage of centrally located unencumbered land as neighborhood open spaces and not to permit the use of leftover or otherwise unusable land to fulfill the requirements of this Chapter.

1. Certain wet detention facilities (BMPs) may be permitted for use as required open space subject to the following design criteria:
  - a. Open spaces that incorporate a BMP shall be privately maintained as common area open space.
  - b. Any stormwater management structure to be classified as open space should be a permanent pond not less than one acre in surface area with a minimum depth of four feet (4'). Exceptions can be made for smaller water bodies but shall not have a permanent pond of less than three feet (3').
  - c. Consideration of such water bodies should be based upon the individual merit of the open space typology, access, location, vistas, overall aesthetic design including proposed landscaping, and specific amenity improvements. Stormwater management structures should be aesthetically designed to provide variety and interest in the composition, shape, configuration, location of littoral shelves, and diversity in plant material selection.
  - d. At least one aerator or aerator fountain should be included in the pond design and shall be operated in accordance with applicable governmental regulations.
  - e. An esplanade with a minimum width of five feet (5') shall be provided around the perimeter of the pond.
  - f. A landscape plan showing vegetation for the shoreline and surrounding land area to prevent erosion and provide for an aesthetically appropriate environment for pedestrian use should be submitted for administrative approval.
  - g. Modifications to the above requirements for BMP's may be made by the Planning Director on a site-specific basis concurrent with the overall requirements for and use as open space.
  
2. Usable open space shall be planned and improved\*, accessible and usable by persons living nearby. Usable open space shall meet the following criteria unless otherwise determined by the Board of Commissioners:
  - a. Unity. The dedicated land shall form a single parcel of land except where the Town Board determines two (2) parcels or more would be in the public interest, and determines that a connecting path or strip of land is in the public interest, and in which case the connector shall not be less than 50 feet wide.
  - b. Shape. The shape of the dedicated parcel of land shall be usable for active or passive recreational activities.
  - c. Location. The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the subdivision for which the dedication was required.
  - d. Access. Access shall be provided by adequate street frontage or a public pedestrian easement with a minimum width of 15 feet.
  - e. Topography. No more than 25% of the gross land dedicated may be on a slope greater than 5%.



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- f. Floodplain. No more than 25% of the open space dedication may be located within the 100-year floodplain or SWIM buffer.
- g. Land on an approved greenway/bikeway master plan may fulfill the open space requirement.

\*Improved shall mean cleared of underbrush and debris and may contain one or more of the following improvements: landscaping, walls, fences, greenway trails, bikeways, walks, statues, fountains, recreation fields, and/or playground equipment.

- 3. Significant stands of trees, streambed areas, and other valuable topographic features shall be preserved within the required open space areas where practical. Areas noted on the approved plan as open space shall be preserved and dedicated where practical and feasible and may be left unimproved in accordance with the Plan.
- 4. Playground equipment, statues, and fountains should be located toward the interior of squares and parks.
- 5. Waterfront development shall provide 50% of the required open space as waterfront parks along its shoreline. This requirement may be reduced to a minimum of 25% if off-water open space is dedicated with an area equal to one and one-half (1 ½) times the required waterfront dedication. The design shall be such as to form a central public space or esplanade for the neighborhood to provide waterfront access and views to residents. A minimum of 30% of the perimeter of the park shall be bordered by the water.
- 6. Open space should provide focal points for the neighborhood and town. A central square or green, for example, may comprise a majority of the area required for dedication.
- 7. Dedicated open space shall be separately deeded to a homeowner's association, a non-profit land trust or conservancy, Mecklenburg County, or to the Town of Cornelius (upon approval by the Board of Commissioners).
- 8. Dedication denoted on the Town of Cornelius Parks and Greenways Master Plan shall be required to be public open space pending approval by the Town Board of Commissioners.

### SECTION 8.2: TYPES OF DEDICATION

Open space land dedication requires that developers dedicate usable open space and/or provide payment in lieu of to the Town of Cornelius. The procedure for determining whether the developer is to dedicate land, pay a fee, or both, shall be as follows:

- 1. Developer. At the time of filing a site development plan for approval, the Developer of the property shall, as a part of such filing, indicate whether the Developer desires to dedicate property for open space, greenways, parks and recreational purposes, or whether the Developer desires to pay a fee in lieu thereof. If the Developer desires to dedicate land for this purpose the Developer shall designate the area thereon on the preliminary plat as submitted.
- 2. Action of the Town. At the time of preliminary plat approval, the Board of Commissioners shall recommend, based upon Planning Board recommendations and PARC Board input, whether to require a dedication of land within the development or accept payment of a fee in lieu thereof or a combination of both.



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Whether the Board of Commissioners accepts the land dedication or requests payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- Recreational element of the Comprehensive Parks and Greenways Master Plan, Comprehensive Pedestrian Plan, and the Bicycle Master Plan;
- Topography, geology, access and location of land in the development available for dedication;
- Size and shape of the development and land available for dedication, as defined in Section 8.1 General Provisions;
- The recommendations of the Planning Board and the PARC Board.

Prerequisites for approval of final plat. Where payment of a fee in lieu of is required, the same shall be deposited with the Town prior to recording of the final plat.

### SECTION 8.3: OPEN SPACE DEDICATION

#### 8.3.1: General Open Space

All developments with more than four (4) total residential units shall be required to dedicate open space as follows:

RP District Conservation Subdivision Rural	60%
RP District Conservation Subdivision Low	50%
RP District Conservation Subdivision Medium	40%
RP District All Other Subdivisions	30%
GR District	25%
NR District	20%
NMX District	20%
Village Center District	20%
Town Center District	15%

In mixed use developments, the open space requirement only applies to the area designated for residential development.

#### 8.3. Improved Open Space

A percentage of the total open space required in Section 8.3.1 must be improved in either a passive or active manner. Areas labeled undisturbed may still include improved passive types of open space such as trails, open meadows, etc. as long as they are accessible. Types of improved open space are further defined in this Chapter. The following percentages of improved open space are to be provided:

RP District Conservation Subdivision Rural	= 15% of the total required open space
RP District Conservation Subdivision Low	= 20% of the total required open space
RP District Conservation Subdivision Medium	= 25% of the total required open space
RP District All Other Subdivisions	= 15% of the total required open space
GR District	= 20% of the total required open space
NR District	= 25% of the total required open space
NMX District	= 25% of the total required open space
Village Center District	= 50% of the total required open space
Town Center District	= 50% of the total required open space



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