

Section 117-050 Open Space Ownership and Preservation

Not less than 60 percent of the total site shall be preserved as open space. The open space shall consist of "Conservation Open Space" and "Other Open Space".

1. Conservation Open Space Areas: Fifty percent (50%) of the total area of the MPRDD shall be maintained in its natural state as Conservation and Open Space Areas subject to sound forest management, agricultural and wildlife management practices and shall be used only for the following purposes:
 - a. Protection of areas with unique or environmentally sensitive features.
 - b. Protection of the quality and quantity of underground and surface waters.
 - c. Conservation of soils, wetlands or marshes.
 - d. Protection of natural drainage systems for assurance of safety from flooding.
 - e. Conservation of forest, wildlife, agricultural and other natural resources.
 - f. Pedestrian paths and horseback riding trails.
 - g. Preservation of sites or areas of scenic beauty or historic interest.
2. Other Open Space Areas: Other Open Space Areas may be used for the following purposes:
 - a. Leaching fields for on-site subsurface sewage disposal systems
 - b. Storm water management
 - c. Active recreation facilities
3. Open Space Connections: Small areas of open space scattered throughout the development shall be avoided. To the extent possible, a contiguous system of open space areas shall be achieved by linking open space areas with pedestrian pathways. When open space exists in a development that adjoins the MPRDD, the open space in the MPRDD shall be connected to the open space in the adjoining development when such connection is deemed by the Commission to be feasible.
4. Open Space Ownership and Maintenance: Land in the MPRDD not allocated to building and streets shall be permanently reserved as open space and shall be transferred to a common interest association of the homeowners. Membership in said association shall be mandatory. The association shall be liable for all maintenance costs of the open space. In the event that the association fails to maintain the open space in accordance with the provisions of the final site plan, the Town may elect to undertake such maintenance. Any costs incurred by the Town because of default on the part of the association shall become a lien on the property of the homeowner and/or the association and said lien may be foreclosed by the Town in exactly the same manner in which unpaid real estate taxes due the Town are encumbered and foreclosed. Open space transferred to an association of homeowners shall be made in accordance with the standards established by the Commission to include, but not be limited to, the following:

- a. Creation of the homeowners association under the Common Interest Ownership Act (CIOA).
 - b. Mandatory membership by the original homeowner and any subsequent buyer.
 - c. Powers to assess and collect from each homeowner a fair share of the associated costs.
 - d. Permanent restrictions of the use and development of such open space ensuring that the use of open space shall continue in perpetuity for the specified purpose.
 - e. Responsibility for liability insurance, local taxes and the adequate maintenance of recreational and other facilities.
 - f. Approval of Articles of Incorporation and deed restrictions by the Commission's attorney.
5. Deed Restrictions: Any land dedicated for open space purposes shall contain appropriate covenants and deed restrictions (approved by the Town Attorney for Town dedicated property) ensuring that:
- a. The use of open space will continue in perpetuity for the purpose specified.
 - b. Appropriate provisions will be made for the maintenance of the open space.
 - c. Rights of public access to the open space are provided when appropriate.
 - d. All open space shall be restricted by a conservation restriction pursuant to Section 47-42a of the Connecticut General Statutes which shall be duly recorded with the Town Clerk.