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611. Open Space Residential Overlay District: Developments under this ordinance would be allowed in the Residence District A, Residence District B, Residence District C, and Rural District zones.

611.1 Authority and Purpose: This section is enacted in accordance with the provisions of RSA 674:21. The purpose of the Open Space Overlay District is to encourage flexibility in the design and development of land in order to provide for the conservation of open space, to plan for a more efficient use of Town services, and to promote the development of balanced residential communities in harmony with natural land features.

611.2 Objectives: The objectives of this Section are to:

611.2.1 Preserve open space, forests, farms, orchards and wetlands; especially intending to increase the amount of permanently usable undeveloped land (without steep slopes and wetlands) and to decrease the infringement upon the Wetland and Watershed Protection District.

611.2.2 Maintain or decrease existing residential densities allowing the same or fewer homes per development as would be permitted in a ~~traditional~~ conventional subdivision (complying with zoning provisions such as, but not limited to, those governing lot design, wetland setbacks, road length, and all other applicable regulations);

611.2.3 Promote the more efficient use of land by requiring shorter networks of streets and utilities thus saving the town the expense of additional infrastructure;

611.2.4 Provide an organized procedure which can allow appropriate, high quality design and site planning.

611.2.5 Encourage developments with a variety of housing designs

611.2.6 Encourage a smaller scale neighborhood with a more clustered development pattern than is typical in a ~~traditional~~ conventional subdivision.

611.3 Definitions: The following definitions specifically apply to this Section of the Zoning Ordinance:

Common Facilities: Land or built facilities serving the Open Space Residential Development; includes wells and water and waste water treatment systems. Common facilities may be proposed, but are not required. Common facilities may also be owned or operated by regulated utility companies.

Conventional Subdivision: A subdivision of land, other than a condominium subdivision, intended for single-family residential construction on fee simple lots, laid out in conformance with applicable dimensional requirements of the Windham Zoning Ordinance and Land Use Regulations as well as Design Standards for residential streets and lots specified in Sections 602 and 605 respectively of the Windham Subdivision Regulations.

Open Space: Land that is not currently developed for residential tract development which is to be maintained in an open, non-built condition, and shall be protected by covenants recorded with the plans and deed restrictions. Common facilities are permitted. Open space land shall be owned as appurtenant to lot ownership, either as an undivided fractional interest as tenants in common or owned by an association whose membership consists of lot owners. If an Applicant elects to proceed under 611.6.7.3, this land may be subsequently conveyed to the Conservation Commission.

Open Space Residential Development: A minimum ten (10) acre tract of single or consolidated ownership, where a number of single family structures may be grouped together with minimum lot area, frontage and yard requirements as specified in this section of the ordinance. The density of the tract as a whole shall be equal to that density achieved by using soil type lot size requirements as described in the Windham Zoning Ordinance. The remaining area in the tract, not built upon, is reserved as either open space or may be dedicated as Conservation Land, by following the procedure outlined in Section 611.6.7.3.

Tract: One (1) or more adjacent lots. For the purpose of this definition, lots shall be considered adjacent, notwithstanding the fact they are separated by a brook, stream, or river; a public road or right of way (except the Interstate Highway); a railroad right of way; or by a private access way. The lots shall be merged into a single lot as a condition of approval under the Open Space Residential Overlay District.

Yield Plan: A layout that demonstrates the number of potential single-family lots that would be obtained in a conventional subdivision employing only such waivers or variances which would likely meet the specific criteria for such waivers or variances.

611.4 Intentionally Omitted.

611.5 ~~Intentionally Omitted. Procedures:~~ Review Process: An Open Space Residential Development shall require subdivision approval, and whose process shall be as described by current subdivision regulations, except as noted below:

~~611.5.1 Any required legal open space ownership and protection covenants or cooperative open space ownership and protection agreements or similar forms of land protection and ownership shall be reviewed by Town Counsel to ensure legal form, ownership and enforceability. This land shall be dedicated as Open Space prior to the issuance of the first certificate of occupancy.~~

~~611.5.2 The subdivision plan shall show the location of proposed buildings, common facilities, if any, and other development, as well as the remaining open space. The plan shall also indicate the natural features of the open space, such as open fields, water features, woodlands, wetlands, trails, stone walls, and historic features, as well as any proposed modifications to that open space.~~

~~611.5.3 The subdivision shall show the layout of all roads and shall differentiate between primary roads which move traffic through the development and secondary roads which provide access to the development and dwelling units. It is intended that all roads will be public roads.~~

~~611.5.4 Density: The number of lots allowed in a subdivision under this ordinance would be calculated by the procedure outlined below but in no case would the number of lots allowed under this ordinance exceed the number of lots under a traditional subdivision.~~

~~611.5.4.1 Determine the number of lots by soil type lot size requirements per ordinance. This figure will be the maximum number of lots possible. A yield plan establishing the maximum number of lots allowed by a traditional subdivision is a required component of an application under Section 611.~~

611.6 Development Standards: Development standards shall be as prescribed in the Windham subdivision control, except as noted below:

611.6.1 Permitted Uses: All uses allowed in the underlying district.

611.6.2 Road Standards as detailed in the Subdivision Regulations shall apply to Open Space Developments. Road widths shall be at or as close to the minimum paved road widths as possible, but no less than the minimum.

611.6.3 Building Lot Size: The minimum lot size shall be 20,000 sq. ft. with a minimum buildable area of 8,000 sq. ft. The maximum lot size shall be 30,000 sq. ft. with a minimum buildable area of 8,000 sq. ft.

611.6.4 Frontage and Yard Regulations: Structures may be located in any manner on the site which meet this district's objectives, and provided that the following dimensional standards are met:

611.6.4.1 Intentionally Omitted

611.6.4.2 At Adjacent Properties: Building lots within the project that back up to other properties shall have rear yard and side yard, but not frontage, front yard or area, requirements as required for the underlying district.

611.6.4.3 Internal Dimensional Requirements: The following minimal dimensions shall apply for the layout of the structures within the parcel:

611.6.4.3.1 Front yard setback – minimum of twenty feet (20') and a maximum of fifty feet (50') from the edge of the right of way.

611.6.4.3.2 Frontage – minimum frontage of sixty feet (60') and a maximum frontage of 100 feet (100') at the minimum required front yard setback.

611.6.4.3.3 Structures shall be set back at least fifteen feet (15') from side and rear lot lines.

611.6.5 Intentionally Omitted

611.6.6 Water and Waste Treatment Systems: The development may be served by common water and waste water systems. Wells and waste water systems may be located within the open space and shall have a protective radius as required by the New Hampshire Water Supply and Pollution Control Commission or the Town of Windham. Such radius shall be wholly contained within the Open Space Subdivision. Any waste water treatment system or backup system shall have appropriate state approval.

611.6.7 Open Space:

611.6.7.1 Permanent Open Space: A minimum of sixty-five percent (65%) of the total area of the development shall be set aside as permanent Open Space.

611.6.7.2 Use of Open Space: Such land shall be restricted to open space recreational uses such as nature trails, residential agricultural use, passive recreation, conservation lands, existing agricultural uses and water and wastewater systems as allowed under Section 611.6.6. If the land is subsequently conveyed to the Town in accordance with 611.6.7.3 such space may be used by the general public for the same open space uses or as may be otherwise restricted by the Town.

611.6.7.3 As part of the application process, an applicant for approval of an Open Space Residential Development may elect to deed the designated open space to the Town, acting through its Conservation Commission in accordance with RSA 36-A:4. If an applicant elects to complete such conveyance, it will deed such land to the Town by warranty deed conveying title free and clear of encumbrances except any open space covenants required hereunder which will be recorded immediately prior to the conveyance and contemporaneously with the recording of the Open Space Subdivision plan.

611.6.7.4 All open space and conservation parcels, must be marked by placards and placed in clear view, designating the boundary of the open space or conservation land. Placard

locations must be demarcated on the Final **Open Space** Subdivision Plan. The Planning Board may work with the Applicants and/or the Conservation Commission to determine the number, spacing, and location of placards.