

## **SECTION 11 - JR-JESSENLAND SUBURBAN RESIDENCE DISTRICT**

### Subdivision 1. Purpose.

The JR-1 JESSENLAND SUBURBAN RESIDENCE DISTRICT is intended to provide a district that will allow medium density residential development and on-lot utilities in areas where municipal utilities are not available in the near future and an agriculture/residential mix land use pattern exists or trends point so due to the topography and recent growth patterns.

SECTION 14, Subdivision 18 (the "Land Protection Section") shall apply to all parts of this section. That Section requires conservation easement placement on three times the acreage of the suburban residence development district proposed. This shall be referred to as the 'Permanent Conservation Easement' acreage of the development.

### Subdivision 2. Permitted Uses.

The following uses shall be permitted within the R-1 RESIDENCE DISTRICT:

1. One family detached dwellings.
2. Parks, waysides, historical sites, wildlife management, preserves and trails (not including overnight camping).
3. Home occupations, level 1.
4. Flood control and watershed structures.
5. Agriculture, except feedlots.
6. Accessory uses.
7. Solar production, up to forty (40) kW, as regulated by SECTION 14 General Regulations, Subdivision 19, Solar Production.

### Subdivision 3. Conditional Uses.

1. Temporary dwellings and two family dwellings.
2. Churches, schools and cemeteries
3. Essential services and public buildings
4. Home occupation, level 2
5. Commonly owned swimming pools and tennis courts
6. Railroad rights-of-way, but not including railroad yards.
7. Solar production, forty-one (41) kW to one hundred (100) kW, as regulated by SECTION 14 General Regulations, Subdivision 19, Solar Production.
8. Solar production, greater than one hundred (100) kW, as regulated by SECTION 14 General Regulations, Subdivision 19, Solar Production.

### Subdivision 4. District Regulations.

1. Height Regulations:  
No buildings hereafter erected or altered shall exceed thirty-five (35) feet in height.
2. Front Yard Regulations:
  - a. There shall be a minimum front yard setback of two hundred (200) feet from the centerline of any public road or highway.

- b. When the front of a property does not meet a public roadway there shall be a minimum front yard setback that is at least as great as the required rear yard setback.
3. Side Yard Regulations:  
There shall be a side yard having a width of not less than sixty (60) feet on each side of a building.
4. Rear Yard Regulations:  
There shall be a rear yard having a depth of not less than sixty (60) feet.
5. Lot Area Regulations:  
Every lot shall contain a minimum area of two (2) acres.
6. Lot Width and Depth Regulations:  
Every lot or plot of land on which a dwelling is erected shall contain a width of not less than two hundred (200) feet and a depth of not less than two hundred (200) feet.
7. Dwelling Regulations  
All dwellings, except temporary dwellings, must be at least twenty (20) feet wide and on a permanent foundation.
8. Slopes
  - a. No building shall be erected on more than an eighteen (18) percent slope without a licensed engineer's approved plan.
  - b. No building shall be erected within seventy-five (75) feet of the top or bottom of a slope exceeding eighteen (18) percent without a licensed engineer's approved plan.
9. Covenant Regulations.  
All covenants, restrictive covenants or other restrictions to be placed against real property within the JR-SUBURBAN RESIDENCE DISTRICT at the time of platting or subdivision, or within two (2) years thereof, shall be submitted for approval to the Town Planning and Zoning Commission and Town Board, and upon approval can be recorded.
10. Administrative Procedure:
  - a. The proponents of a development shall submit a preliminary subdivision plat and a site plan, along with an application for a Conditional Use Permit to the Town Planning and Zoning Commission and Town Board. Such preliminary plat and site plan shall conform to the provisions of this Ordinance and the County Subdivision Regulations. Such site plan shall show:
    - 1) Proposed sanitary sewer and water system, including size, type and capacity.
    - 2) Proposed roadway, type and capacity of paving.
    - 3) The proposed site and existing adjacent development.
    - 4) Size and location of buildings.
    - 5) Landscaping.
    - 6) Parking areas and arrangement of stalls.
    - 7) Site and lot dimensions.
    - 8) Allocation and disposition of park and open space.

- 9) Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two family units.
  - 10) Location, type, size and signing.
- b. If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a resubmission to, and approval by, the Town Planning and Zoning Commission and the Town Board.
  - c. If the Conditional Use Permit is approved, the final plat shall be submitted to the County in accordance with the County Subdivision Regulations and the provisions of this Ordinance.

#### Subdivision 5. Planned Unit Developments.

##### 1. Purpose:

The purpose of this Subdivision is to make provision for planned unit projects within the JR RESIDENCE DISTRICT for larger tracts of land under single or unified ownership developed with community or public sewer and water systems, such residential subdivision unit projects to allow modification of individual lot area and width requirements and to allow multiple dwellings and mobile home parks. Residential subdivision unit projects shall be developed in accordance with an overall design and an integrated development plan and otherwise in accordance with the Sibley County Subdivision Regulations. Such project shall be consistent with the intent and purpose of this Ordinance and shall not adversely affect the property adjacent to the land included in the project.

##### 2. Regulations

- a. The minimum area of land to be included in a planned unit development project shall be twenty (20) acres.
- b. The planned unit development project shall be served by public or community water systems and by public or community sewer systems.
- c. With the exception of individual lot area and frontage requirements, the planned unit development project shall conform to the density requirements of the R-1 RESIDENCE DISTRICT, two (2) units/acre.
- d. The planned unit development project shall have a minimum individual lot size of:
  - 1) A front yard setback of not less than fifty (50) feet from the right-of-way line of any public roadway except that it shall be one hundred (100) feet from any expressway.
  - 2) A side yard of not less than ten (10) feet.
  - 3) A minimum rear yard of not less than forty (40) feet in depth.
  - 4) A width of not less than sixty (60) feet for single family and ninety (90) feet for multiple or two (2) family dwellings.
  - 5) An average depth of not less than one hundred twenty (120) feet for single family and multiple or two (2) family dwellings.
  - 6) An area of not less than:
    - a) Nine thousand (9,000) square feet for single family dwellings.
    - b) Nine thousand (9,000) square feet for the first unit plus two thousand (2,000) square feet for each additional unit in a multiple dwelling.

3. Administrative Procedure:

- a. The proponents of a planned unit development shall submit a preliminary subdivision plat and a site plan, along with an application for a Conditional Use Permit to the Town Planning and Zoning Commission and Town Board. Such preliminary plat and site plan shall conform to the provisions of this Ordinance and the County Subdivision Regulations. Such site plan shall show:
  - 1) Proposed public or community sanitary sewer and water system, including size, type and capacity.
  - 2) Proposed roadway, type and capacity of paving.
  - 3) The proposed site and existing adjacent development.
  - 4) Size and location of buildings.
  - 5) Landscaping.
  - 6) Parking areas and arrangement of stalls.
  - 7) Site and lot dimensions.
  - 8) Allocation and disposition of park and open space.
  - 9) Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two family units.
  - 10) Location, type size and signing.
- b. If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a resubmission to, and approval by, the Town Planning and Zoning Commission and the Town Board.
- c. If the Conditional Use Permit is approved, the final plat shall be submitted to the County in accordance with the County Subdivision Regulations and the provisions of this Ordinance.

Subdivision 6. Cluster Option to Planned Unit Development.

1. Introduction:

Jessenland Township, Sibley County, Minnesota has determined that it is in the best interest of its citizens and the physical and natural landscape of the governed area, for an optional ordinance to be in place to accommodate subdivision development. This zoning ordinance for rural cluster development, which may also be referred to as open space subdivisions, is intended to be used as an option to SECTION 11 Subdivisions 1-5 JESSENLAND SUBURBAN RESIDENCE DISTRICT (adopted July, 2017). Competent legal, planning, and engineering assistance should be sought when determining feasibility and technical application.

The Land Protection Section (SECTION 14, Subdivision 18 of this Ordinance) shall apply to all parts of this Section. That section requires permanent conservation easement placement on three times the acreage of the suburban residence development or planned unit development proposed. This shall be referred to as the 'Project Permanent Conservation Easement' acreage of the development. Permanent conservation easement acreage does not apply to the common open space requirement of the suburban residence district or planned unit development.

The Lot Averaging and Density Exchange Options are included in the optional cluster zoning ordinance. The use of one or both of these Subsections is intended to improve the design flexibility and serve the policy objectives of the district for rural landscape preservation.

2. Purpose:

The purpose of the Optional Cluster Development Ordinance for Planned Unit Development and Suburban Residence Development (“Cluster Option” or “option”) is to offer an option to conventional Planned Use Subdivision regulations in accordance with overall Township provisions. This Cluster Option applies to Subdivisions in the JC-Conservation District and the JA-General Agriculture Districts and does not require re-zoning. Provisions in this Option apply to larger tracts of land, community sewer and water systems and preservation of valued tracts of highly productive agricultural land and/or common open space. Such development projects shall be developed in accordance with the Jessenland Township Community-Based Plan and Subdivision Regulations. This Ordinance is intended to increase flexibility within the subdivision and maximize overall land and wildlife protection. Projects made pursuant to this Ordinance shall be consistent with the intent and purpose of this Ordinance and shall not adversely affect the property adjacent to the land included in the project.

3. Intent:

The intent of the Cluster Option is to preserve rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting residential development at low, rural densities, in an open- space setting, located and designed in a way that reduces the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

- a. To maintain and protect the Town’s rural character by preserving important landscape elements, including those areas containing unique and environmentally-sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, critical species habitat, and natural areas.
- b. To preserve scenic views and to minimize views of new development from existing streets.
- c. To provide for the unified and planned development of parcels twenty (20) acres or larger in size for clustered, single-family, low-density residential uses, incorporating large areas of permanently-protected common open space.
- d. To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- e. To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
- f. To create groups of dwellings with direct visual and physical access to common open space.
- g. To permit active and passive recreational use of common open space by residents of a cluster development or by the public.
- h. To reduce erosion and sedimentation by retaining existing vegetation and minimizing

development on steep slopes.

- i. To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
- j. To permit various means for owning common open space and for protecting it from development in perpetuity.
- k. To create an attitude of stewardship, or caring, for the land within common open space by requiring a land management, or stewardship, plan for the common open space.
- l. To implement the objectives of the adopted Township Comprehensive Plan, or elements thereof.

4. Principal Permitted Uses:

- a. Single family residential uses as follows:
  - 1) Clustered single-family detached dwellings, with at least forty (40) percent of the gross development parcel in common open space.
  - 2) Single-family farmstead dwellings with or without associated agricultural structures such as barns, silos, storage sheds, and stables.
- b. Agricultural activities including:
  - 1) The cultivation, harvesting, and sale of crops and related products produced on the farm.
  - 2) The raising and sale of livestock or fowl, with associated pasture and barnyards.
  - 3) Owning, operating, and maintaining orchards, nurseries, greenhouses, and engaging in related horticultural uses.
  - 4) Growing and sale of Christmas trees.
  - 5) Owning, operating, and maintaining agricultural structures such as barns, silos, storage sheds, and stables.
- c. Community living arrangements, and community-based residential facilities (CBRF), which have a capacity for eight (8) or fewer persons.
- d. Common open space uses, primarily passive in nature, include wildlife sanctuaries, forest preserves, nature centers, trails, picnic areas, ball fields and similar uses. Note: common open space shall be the area within the developed cluster area required to remain un-built. Undeveloped lots do not count as common open space. The required 'project permanent conservation easement' area shall be that protected area required of the entire site outside of the clustered residential development area.
- e. Conservation of natural features in their existing state.
- f. Stormwater management facilities for the proposed development, including detention and retention basins.
- g. Essential services.
- h. The following uses are permitted in common open space in cluster development:
  - 1) Uses listed in b, d, e, f, and g above.

- 2) Water supply and sewerage facilities for individual lots, groups of lots, or the entire development.
  - 3) Utility and street rights-of-way except that their land areas shall not count toward the forty (40) percent minimum open space requirement.
  - 4) Parking areas where necessary to serve active recreation facilities.
5. Accessory Uses:
- a. Attached and detached private garages and storage structures, provided that:
    - 1) One (1) detached garage, not exceeding eight hundred (800) square feet, shall be permitted.
    - 2) One (1) detached storage structure, not exceeding five hundred (500) square feet, shall be permitted on a lot, in addition to any attached or detached garage.
  - b. Home occupations which are clearly incidental to the principal residential use provided that the requirements of SECTION 14 Subdivision 16 are met.
6. Conditional Uses:
- The following conditional uses may be permitted by the Plan Commission, provided the proposed use shall not adversely impact the rural character of the district and shall be consistent with the overall objectives of the district as listed in #2, Purpose and #3, Intent.
- a. Agricultural uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new agricultural buildings or structures shall not exceed ten thousand (10,000) square feet.
  - b. Commercial storage or other adaptive reuse of barns in order to provide for an adaptive and compatible reuse and promote the preservation of such structures, provided such barns have existed for at least twenty (20) years prior to the effective date of this Ordinance.
  - c. Recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed ten thousand (10,000) square feet.
7. Prohibited Uses:
- a. The use of non-recreational motor vehicles except on public streets and parking areas. Normal, intended uses of maintenance, law enforcement, emergency, and farm vehicles are exempt from this limitation.
  - b. Cutting of healthy trees, re-grading, topsoil removal, altering, diverting, or modifying water courses or bodies, except in compliance with an approved land stewardship plan, as described in #16 (Ownership and Maintenance of Common Facilities and Common Open Space) of this subdivision.
  - c. Intensive animal feed lot operations. (see SECTION 14, subdivision 13).
8. Administrative Procedure:
- a. Permit applicants under the Cluster Option to the Suburban Residence and Planned Unit Development Subdivision shall submit a preliminary subdivision plat, site plan and the project permanent conservation easement along with the application for

Conditional Use Permit to the Jessenland Township Planning Commission and the Town Board. Such preliminary plat, site plan and project permanent conservation easement shall conform to the provisions of the ordinance and Township Subdivision Regulations. Such site plan shall show:

- 1) Proposed public and community sanitary sewer and water system, including size, type and capacity;
- 2) Proposed roadway, type and capacity of paving;
- 3) The proposed site and any existing adjacent development;
- 4) Size and location of buildings;
- 5) Landscaping;
- 6) Parking areas;
- 7) Site and lot dimensions;
- 8) Allocation and disposition of park and open space;
- 9) Type of use and density of each building, including relief drawing of the general building design and theme intended for all buildings other than single and two family units;
- 10) Location, type size and signing;
- 11) Location and sizing of the Common Open Space requirement within the proposed developed acreage (development plat); and
- 12) Location and sizing of the Project Permanent Conservation Easement required in SECTION 14, Subdivision 18 (total project acreage).

b. If the Conditional Use Permit for the preliminary plat and site plan is approved, the preliminary plat and site plan shall be attached to and become a part of the Conditional Use Permit. Any modification to the preliminary plat or site plan will require a re-submission to, and approval by, the Township Planning Commission and the Township Board.

c. If the Conditional Use Permit is approved, the final plat shall be submitted to the Township in accordance with the Township Subdivision's Regulations, Planned Unit Development and the provisions of this ordinance.

9. Open Space Requirements:

All remaining acreage within the subdivision (lots), including undevelopable land shall be designated as common open space for natural habitat, active or passive recreational and forestry uses. Such uses as ball fields, community gardens, parks, etc. shall apply. The open space requirements within the platted development acreage (lots) do not apply to the Land Preservation regulation referred to in SECTION 14, Subdivision 18.

Example: A twenty (20) acre proposed development will have an additional sixty (60) acres of project permanent conservation easement land (ag, forest, CRP, WMA, etc) to comply with SECTION 14, Subdivision 18, ("Land Protection"). Within the twenty (20) acre development there may be ten (10) homes on ten (10) acres and an additional ten (10) acres complying with the Common Open Space requirement, used as ball fields, wetland (fifty (50%) percent), park, picnic area, etc.

a. Designated open space must be contiguous acreage within the platted development area.

- b. Not more than fifty (50) percent of designated open space shall be floodplains and/or wetlands.
  - c. Access to open space for active or passive recreational use shall be provided by one or more streets within the development.
  - d. Access is not required if open space uses remain agricultural or forestry and if the area contains sensitive habitat where public access should be restricted.
  - e. Designated open space shall be surveyed and subdivided as a separate parcel.
  - f. Designated common open space may be restricted from further development by a permanent conservation easement in accordance with Minnesota statutes or by homeowner association agreement, when owned by the association and registered to the deed with appropriate restrictions.
  - g. When a permanent conservation easement applies, it may be held by: Jessenland Township or another government body; or a private, non-profit organization designated to do so by the Internal Revenue Service as a qualifying 501 (c) (3) of the Internal Revenue Code or the homeowners association.
  - h. The permanent conservation easement must specify:
    - 1) Which entity will maintain the designated open space
    - 2) The purpose of the conservation easement
    - 3) The legal description of the land under the easement
    - 4) The restrictions on the land
    - 5) To what standards the open space will be maintained; and
    - 6) Who will have access to the designated open space
  - i. Ownership of the designated common open space parcel(s), subject to the conservation easement may be held by:
    - 1) Common ownership association which owns non-open space land within the development and in which membership in the association by all property owners is mandatory;
    - 2) An individual or group who will use the land in accordance with the permanent conservation easement or deed restriction. (this entity would typically be the developer/owner);
    - 3) A private non-profit organization that has been designated by the Internal Revenue Service as a qualifying 501 (c) (3) of the Internal Revenue Code;
    - 4) Jessenland Township or other government entity; or
    - 5) A combination of entities 1-4 above.
10. Density, Dimensional Standards and Regulation:
- a. The minimum area of land to be included in a Cluster Option to the Planned Unit Development Subdivision shall be twenty (20) acres in JC-Conservation Agriculture District and forty (40) acres in the JA-General Agriculture District. Proposed projects including both districts shall be determined by proportion of each district.
  - b. The Cluster Option to the Planned Unit Development Subdivision shall be served by

public or community water systems and by public or community sewer systems.

- c. Lot area and size shall be determined by density (see Table A below) and may vary between one-half (1/2) acre and two (2) acres. Lot size shall not exceed two (2) acres and shall maintain a minimum equal to setback requirements.

Table A:

|   | Planned Unit<br>Development Without<br>Clustering                         | Cluster<br>Projects                          | Development |
|---|---|--|-------------|
| Minimum Site Area   | 20 acres  | 20 acres                                     |             |
| Maximum Density <sup>a</sup>  | 1 dwelling unit per 2<br>net buildable acres                              | 1 dwelling unit per 2 net<br>buildable acres |             |
| Minimum Lot Area <sup>b</sup>   | 40,000 square feet  | 20,000 square feet                           |             |
| Minimum Lot Width   | 60 feet for single family<br>90 feet for multiple/two<br>family dwellings | NA   |             |
| Minimum Front Yard:<br>Except: Front Yard Setbacks as<br>Measured from Expressways  | 50 feet<br>150 feet   | 40 feet                                      |             |
| Minimum Rear Yard   | 50 feet   | 40 feet                                      |             |
| Minimum Side Yard   | 20 feet one side;<br>50 feet total  | 15 feet one side;<br>35 feet total           |             |
| Minimum Average Depth   | 120 feet for single family<br>And multiple/two family<br>dwellings        | NA   |             |
| Accessory Building Setback <sup>c</sup><br>From Side Lot Lines<br>From Rear Lot Line  | 10 feet<br>10 feet  | 10 feet<br>10 feet                           |             |
| Minimum Yard or Common Open Space<br>Depth as measured from all streets,<br>public or private, from side and rear lot<br>lines<br>(percentage of net acres) | 40%   | 60%  |             |
| Minimum Separation between<br>Principal Structures  | 15 feet   | 15 feet                                      |             |
| Minimum Access to public or<br>Private road (may be shared)   | 18 feet   | 18 feet                                      |             |
| Maximum Height<br>Principal Structure<br>Non-agricultural Accessory<br>Structures<br>Agricultural Accessory Structures                                      | 35 feet<br>18 feet<br>100 feet  | 35 feet<br>18 feet<br>100 feet               |             |
| Maximum Building Coverage Per Lot   | 10 percent  | 15 percent                                   |             |

<sup>a</sup> Existing dwellings that will remain on the site shall be included in the calculation of maximum density.

<sup>b</sup> For an existing farmstead on a parcel used for cluster development, the minimum lot area shall be five (5) acres or a lot large enough to accommodate all structures within a building envelope created by a one hundred (100) foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to two hundred (200) feet.

<sup>c</sup> Accessory buildings shall not be permitted within the front yard.

11. Separation Distances for Cluster Groups.

- a. The outer boundaries of all cluster groups shall conform to the following separation distances:
  - 1) From existing or proposed arterial street rights-of-way as defined in the Town Comprehensive Plan: one hundred (100) feet.
  - 2) From existing scenic highways or rustic roads: one hundred (100) feet.
  - 3) From all perimeter subdivision boundaries: one hundred (100) feet.
  - 4) From cropland or pasture land: one hundred (100) feet.
  - 5) From buildings or barnyards housing livestock: three hundred (300) feet.
  - 6) From other cluster groups: one hundred (100) feet.
  - 7) From wetlands, floodplains, or water courses: fifty (50) feet.
  - 8) From active recreation areas, such as sporting courts or playing fields: one hundred (100) feet.
  
- b. All separation areas for cluster groups along existing streets shall be landscaped in accordance with #15, Landscaping, in order to block views of new residential development, preserve scenic views, and protect rural landscape character.
  
- c. The dimensional standards specified in #10, Density, Dimensional Standards and Regulation, clause a. may be reduced under the following circumstances:
  - 1) The separation distances from existing arterial streets and the perimeter of the subdivision may be reduced to no less than fifty (50) feet if the applicant can demonstrate that existing vegetation or topography or a combination of these form an effective visual screen.
  - 2) All other separation distances may be reduced by fifty (50) percent if the applicant can demonstrate to the satisfaction of the Planning Commission that such reduced setbacks improve the plan's compliance with the cluster group design standards in #13 below, the Purposes and Intent of this Ordinance, and the objectives of the Town Comprehensive Plan.

12. Calculation of Site Capacity:

- a. For cluster development, the calculation of site capacity, or the number of dwelling units permitted on a site, shall be based on net buildable area ("NBA") measured in acres and tenths of an acre. The applicant shall determine the NBA using the following method, substantiated by sufficient plans and data to verify the calculations:

Gross Area of Site: \_\_\_\_\_ acres

From the gross area of the site, subtract the following:

Area of public and/or private streets and other publicly Dedicated improvements (except floodplain and/or wetland, and designated open space areas): \_\_\_\_\_ acres

Fifty (50) percent of lands having a slope between twelve (12) and twenty (20) percent: \_\_\_\_\_ acres

All of the land area having a slope of twenty (20) percent or greater: \_\_\_\_\_ acres

Twenty percent of the area located within a woodland: \_\_\_\_\_ acres

The result is the net buildable acreage: \_\_\_\_\_ acres

Net Buildable Area Converted into Square Feet, where one (1) acre equals 43,560 square feet: \_\_\_\_\_ Square Feet

Divide the NBA by the smallest minimum lot size (square feet) per unit for a dwelling unit permitted in the zoning district. Then round the figure down to the nearest lower number to establish the maximum number of dwelling units permitted in the cluster development \_\_\_\_\_ Maximum No. Units

*Note: The Town Planning Commission may approve an increase of up to twenty-five (25) percent of the maximum number of dwelling units in the cluster development if the percent of density bonus is no greater than the percent of gross area of the cluster development that is both set aside and conveyed as common open space and made accessible to the public.*

13. Design Standards for Cluster Groups:

The following standards shall apply to all cluster groups:

- a. All dwelling units shall be grouped into cluster groups, each of which shall be surrounded by common open space.
- b. The maximum number of lots in a cluster group may be increased, and cluster groups may be assembled into larger groupings, with the approval of the Town Board and provided that the applicant can demonstrate that such an alternative plan is more appropriate for the development parcel and will meet both the general intent and design standards of this Ordinance.
- c. A plat may contain one or more cluster groups.
- d. Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and cluster group open space. When the development does not include individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is less than one hundred (100) feet from any unit.
- e. The outer boundaries of each cluster group shall meet the separation distance requirements specified in #11, Separation Distances for Cluster Groups.
- f. Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- g. No cluster group shall contain more than fifteen (15) dwelling units.
- h. Cluster groups containing eleven (11) or more dwelling units must provide internal open space at a minimum rate of two thousand (2,000) square feet per dwelling unit, and shall meet the following standards:
  - 1) Common open space located within cluster groups shall be counted toward meeting the overall sixty (60) percent open space requirement.

- 2) The open space shall be configured as a cul-de-sac island, an island within a larger loop or an “eyebrow” (a semi-circular loop), an island in a boulevard street, or a common green area. Common green areas surrounded by lots on up to three (3) sides shall be designed as a space for common use by all residents within the cluster group.
  - 3) The open space shall have a minimum street frontage of one hundred twenty-five (125) feet.
  - 4) Internal open space may contain parking areas, but parking areas shall not be included in the required two thousand (2,000) square feet of internal open space per dwelling unit.
- i. All lots in a cluster group shall take access from interior streets.
  - j. All lots in a cluster group shall abut common open space to the front or rear. Common open space across a street shall qualify for this requirement.
  - k. In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20) percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private onsite waste treatment system.

#### 14. Design Standards for Common Open Space:

On all parcels developed under the cluster development regulations, forty (40) or sixty (60) percent of the net land area shall be set aside as protected common open space in planned unit development without clustering or sixty (60) percent of the net land area in cluster development projects (see #10, Density and Dimensional Standards). This open space shall meet the following standards:

- a. For the purposes of this Subsection, gross land area includes all lands within the parcel, except existing street, railway, and utility rights-of-way.
- b. Common open space shall comply with the following design standards:
  - 1) The location of common open space shall be consistent with the objectives of the Town Comprehensive Plan.
  - 2) All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least seventy-five (75) percent of the common open space areas shall be contiguous to another common open space area. For the purposes of this Subsection, areas shall be considered contiguous if they are within one hundred (100) feet of each other and there are no impediments to access between the areas.
  - 3) Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance.
  - 4) Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural

processes, as recommended by natural resource professionals and in compliance with a Town-Planning-Commission- approved land stewardship plan. Permitted modifications may include:

- a) Woodland management.
  - b) Reforestation.
  - c) Meadow management.
  - d) Wetlands management.
  - e) Streambank protection.
  - f) Buffer area landscaping.
- 5) All wetlands, floodplains, wildlife habitat areas, slopes over eighteen (18) percent, one hundred (100) percent of lowland environmental corridor, and a minimum of eighty (80) percent of upland primary environmental corridors shall be contained in common open space.
  - 6) The common open space shall maximize common boundaries with existing or future open space on adjacent lands, as shown in the Town or County Comprehensive Plans.
  - 7) To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
  - 8) A minimum of eighty (80) percent of the area of existing woodlands shall be contained within common open space. Up to twenty (20) percent of the area of existing woodlands may be located within lots or used for residential development. This limitation may be exceeded under the following conditions:
    - a) The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands; or
    - b) Any encroachment on woodlands beyond twenty (20) percent shall be the minimum needed to achieve the maximum permitted density, as determined by the Town Board.
  - 9) No area of common open space shall be less than thirty (30) feet in its smallest dimension or less than ten thousand (10,000) square feet in area, with the exception of landscape islands as described in #13, clause h.2. Open space not meeting this standard shall not be counted toward the total required sixty (60) percent common open space.
  - 10) The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features should be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences, are used, they shall be the minimum needed to accomplish this objective.
  - 11) Trails in common open space that are located within fifty (50) feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
  - 12) Under no circumstances shall all common open space be isolated in one area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other

common facilities.

13) Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

c. Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:

1) At least one (1) access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than fifty (50) feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Section.

2) Access to permanent easement space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.

d. The following areas shall not be included in the calculation of common open space areas:

1) Private lot areas.

2) Street and highway rights-of-way, public or private.

3) Railway and utility rights-of-way.

4) Parking areas.

5) Areas not meeting the requirements of #14 clause b.9.

15. Landscaping:

a. Preservation of Existing Natural Landscape.

1) For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.

2) Existing woodlands and hedgerows shall be retained to the maximum extent possible. Where possible, existing woodlands and hedgerows shall be incorporated into the required separation areas between cluster groups and external streets and site boundaries.

3) Suitable existing vegetation shall be credited toward the landscaping requirements of this Section, when, in the opinion of the Town Board, it would equal or exceed the visual impact of the new required plant material after two years of growth.

4) All new landscaping to be installed and existing vegetation to be preserved shall be protected in accordance with the methods specified in the applicable Township and County ordinances, Land Division Control Ordinance or other applicable Town ordinances.

b. Street Trees

1) Street trees shall be planted along internal streets within cluster groups.

2) Street trees may be planted, but are not required, along internal streets passing through

common open space.

- 3) Informal arrangements are encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.
- 4) Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.
- 5) The species of street trees shall be selected from the "List of Recommended Species for Landscaping" provided by the developer and adopted by the Town Board.

c. Buffers

- 1) A planted buffer area at least twenty-five (25) feet in width shall be established within all required separation areas between external streets and cluster groups.
- 2) Planted buffers within separation areas between cluster groups are encouraged to enhance privacy and a rural appearance between lots.
- 3) Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.

16. Ownership and Maintenance of Common Facilities and Common Open Space:

To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, common parking areas and driveways, private streets, and other common or community facilities (hereinafter referred to as common facilities), the following regulations shall apply:

a. Ownership.

The following methods may be used, either alone or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common facilities. Ownership methods shall conform to one or more of the following:

1) Homeowners Association.

Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:

- a) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be approved as to form by the Town Attorney.
- b) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.
- c) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
- d) The organization shall be responsible for maintenance and insurance of common facilities.
- e) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.

- f) The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.
- g) The applicant for any cluster subdivision or development proposed to contain common facilities shall arrange with the Town Assessor a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.
- h) Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given to all members of the organization and to the Town at least thirty (30) days prior to such event.

2) Condominium Agreements.

Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the Town Attorney and shall comply with the requirements Minnesota Statutes. All common open space and other common facilities shall be held as "common elements" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

3) Fee simple dedication to a public agency.

The Town or other public agency acceptable to the Town may, but shall not be required to, accept any portion of the common facilities, provided that:

- a) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- b) Any facilities so dedicated shall be accessible to the residents of the Town, if the Town so chooses.
- c) The Town or other public agency shall maintain such facilities.
- d) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

4) Dedication of conservation easements to a public agency.

The Town or other public agency acceptable to the Town may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- a) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- b) A satisfactory maintenance agreement shall be reached between the owner and the Town.
- c) Lands under a Town easement may or may not be accessible to residents of the Town.

5) Fee simple dedication to a nonprofit conservation organization.

With the approval of the Town Board, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:

- a) The organization is acceptable to the Town.
  - b) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
  - c) A maintenance agreement acceptable to the Town is established between the owner and the organization, in accordance with #16.b, Ownership and Maintenance of Common Facilities and Common Open Space.
- 6) Dedication of conservation easements to a nonprofit conservation organization. With the approval of the Town Board, an owner may dedicate conservation easements on any portion of the common facilities to a nonprofit conservation organization, provided that:
- a) The organization is acceptable to Town.
  - b) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
  - c) A maintenance agreement acceptable to the Town is established between the owner and the organization, in accordance with #16.b, Ownership and Maintenance of Common Facilities and Common Open Space.
- 7) Ownership retained by the original landowner.

Ownership of common open space and facilities may be retained by the original landowner provided that:

- a) The Town and residents of the development shall hold conservation easements on the land protecting it from any further development.
  - b) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- 8) Other methods acceptable to the Town Board upon recommendation by the Town Attorney.
- b. Maintenance and operation of common facilities.
- 1) A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Town Board prior to preliminary plat approval. Such plan shall:
    - a) Define ownership.
    - b) Establish necessary regular and periodic operation and maintenance responsibilities.
    - c) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
    - d) Include a Land Stewardship Plan specifically focusing on the long- term management of open space lands. A draft Land Stewardship Plan shall be submitted with a preliminary plat, and a final Plan shall be submitted with the final plat. The Land Stewardship Plan shall comply with the requirements of #16.c, Ownership and Maintenance of Common Facilities and Common Open Space.
    - e) At the discretion of the Town Board, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one (1) year.

- 2) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Town may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor organization, shall be considered in violation of this Ordinance, in which case the Town shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the Town shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.
- c. The Land Stewardship Plan shall include a narrative, based on the site analysis required by #9, Open Space Requirements, describing:
- 1) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;
  - 2) Objectives for each common open space area, including:
    - a) The proposed end state for the area and the measures proposed for achieving the end state.
    - b) Proposed restoration measures, including:
      - i. Measures for correcting increasingly destructive conditions, such as erosion.
      - ii. Measures for restoring historic features.
      - iii. A maintenance and operations plan identifying activities needed to maintain the stability of the resources, including mowing schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.
- d. Leasing of common open space lands.  
Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
- 1) The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
  - 2) The common open space lands to be leased shall be maintained for the purposes set forth in this Section.
  - 3) The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
  - 4) The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.
  - 5) Lease agreements shall be recorded in the office of the County Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Town.

e. Conservation.

Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board upon recommendation of the Town Attorney and duly recorded in the office of the Sibley County Register of Deeds.

17. Sewerage and Water Supply Facilities:

a. Sewerage Facilities.

- 1) Sewerage facilities for cluster development may consist of any system meeting the requirements of the County, the Town, the State of Minnesota, the Minnesota Pollution Control Agency, and the Minnesota Department of Natural Resources.
- 2) If approved by the Town Board, sewerage facilities or portions thereof may be located within common open space areas.
- 3) All sewerage facilities shall be consistent with the requirements of the County Office of Environmental Services.
- 4) All public community sewerage facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

b. Water Supply Facilities.

- 1) Water supply facilities may consist of any of following systems, provided they meet the requirements of the County, the Town, the Minnesota Pollution Control Agency, the Minnesota Department of Natural Resources, and the Minnesota Department of Health:
  - a) Private, individual wells.
  - b) Private, community wells.
  - c) Public water supply system.
- 2) All water supply facilities shall be consistent with the requirements of all applicable Township and County ordinances.
- 3) All public water supply facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

18. Definitions Relating to Cluster Development:

This list of definitions includes only those terms or phrases that are particular to cluster zoning ordinances and may not already be included in typical current local zoning ordinances. These terms or phrases should be added to any existing list of definitions contained in zoning ordinances to which these model cluster development provisions might be added. It should be noted that these definitions are particular to this model. If provisions of the ordinance are changed, some definitions will also need to be changed. For example, the maximum number of units in a "cluster group" may be reduced or increased; similarly, the amount of required open space may be reduced or increased.

Italicized words within definitions are further defined in this section.

Cluster Development. A form of residential development that concentrates buildings or lots on a part of the site to allow the remaining land to be used for common open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a

reduction in lot size. A cluster development will consist of one or more cluster groups surrounded by common open space.

Cluster Group A group of single-family detached dwellings within a cluster development, surrounded by common open space that comprises at least 60 percent of the gross parcel area. The outer boundary of a cluster group shall be defined by the rear lot lines of the lots within the group.

Common Element. The common facilities in a condominium.

Common Facilities. All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation areas, drainage easements, and any utilities that service more than one unit, such as sewerage and water supply facilities.

Common Open Space. Undeveloped land within a cluster development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

Community Association. A condominium or homeowners association.

Condominium. A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Minnesota Statutes, chapter 515A, the "Uniform Condominium Act". Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.

Condominium Association. An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

Deed Restriction. A restriction on the use of a property set forth in the deed.

Density Exchange Option. An optional transfer of density between parcels within the RC Rural Cluster District.

Density Transfer. See Density Exchange Option.

Development Rights. A broad range of less than fee-simple ownership interests. An owner may keep fee-simple rights to his land and sell the development rights to another. The owner retains the title, but agrees to keep the land natural and undeveloped, with the right to develop resting with the holder of the development rights. See Transfer of Development Rights.

Farmstead. A group of existing buildings with accessory structures used for agricultural purposes, such as barns, silos, storage sheds, cribs, and coops, and which may or may not include a dwelling.

Floodplains. Those lands, including the floodplain, flood fringe, floodway, and channel, subject to

inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record.

Hedgerow. A row of shrubs or trees planted for enclosure or separation of fields.

Height of Building. The vertical distance measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level roof or, for gable or hip roofs, to the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks, and similar projections not intended for human occupancy shall be excluded.

Homeowners Association. An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division or cluster development.

Net Buildable Acreage or Net Buildable Area (NBA). A calculated area upon which the density for cluster development is computed. Net buildable acreage is the area of a site remaining after subtracting all or a percentage of the following areas from the site's gross area: existing street rights-of-way, floodplains, wetlands, woodlands, ponds and lakes, steep slopes, and utility and railway rights-of-way.

Nonprofit Conservation Organization. A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code, which includes the "acquisition of property or rights in property for conservation purposes" as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.

Open Space. That parceled area of land designated within the development (lot) area to be used for recreational or community use as required in the ordinance.

Permanent Conservation Easement. The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

Restrictive Covenant. See Deed Restriction.

Separation Distance. The required dimensional distance between the outer boundary of a cluster group and another specified feature of the development.

Transfer of Development Rights. The conveyance by deed, easement, or other legal arrangement of the right to develop or build from one parcel to another, expressed in number of dwelling units, where such transfer is permitted by the zoning ordinance.