

ARTICLE 5
Subdivision Standards

SECTION 5-100. Purpose.

The purpose of this article is to:

- A. Promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City by providing for the orderly growth and development of the City;
- B. Coordinating streets and roads within proposed subdivisions with the City's planned street system, and with other public facilities;
- C. Providing right-of-way easements for streets and utilities;
- D. Avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets;
- E. Ensuring there is adequate open space and recreation facilities to serve development;
- F. Ensuring there is proper recordation of landownership records; and
- G. Ensuring the provision of such other matters as the City Council may deem necessary in order to protect the general health, safety, and welfare of the City.

SECTION 5-200. Subdivisions.

- A. Applicability.
 1. General. Unless specifically exempted by Section 5-200A-3, any subdivision of land, within the incorporated limits if the City of Crystal Lake or contiguous territory not more than 1 1/2 miles beyond the incorporated boundary of the City of Crystal Lake, will require the subdivider or his/her agent, to follow the procedures outlined in this article. Plans, proposed improvements, and all procedures relating thereto, shall in all respects be in full compliance with the regulations hereinafter contained in this article.
 2. Lands offered to the City. All lands offered to the City, as part of a subdivision, for use as streets, highways, alleys, parks and other public use shall be referred to the Planning and Zoning Commission of the City of Crystal Lake for review and recommendation, before being accepted by the City Council or by any other governing authority.
 3. Exemptions. The following development shall be exempt from the requirements of this article:
 - a. Combination or recombination of previously platted lots. The combination or recombination of previously platted (subdivided and recorded) entire lots (not portions thereof) where the total number of lots is not increased, and where the City Engineer determines there are no significant changes to or encroachment upon the public street systems required.

- b. Public acquisition of land. The public acquisition of strips of land for the widening or opening of new streets or for installation of water or sewer infrastructure.
 - c. Court decree. The partition of land by court decree.
 - d. Interior space rent or lease. The creation of an interior space leasehold such as the rent or lease of apartments, offices, stores or similar space within a building. **[Amended 9-4-2012 by Ord. No. 6843]**
 - e. Agricultural rent or leasehold. The creation of rent or leasehold for agricultural use of a property, provided that the use does not involve the construction of a building to be used as a residence or for any purpose not directly related to the agricultural use of the land or crops or livestock raised thereon. **[Amended 9-4-2012 by Ord. No. 6843]**
- B. Approvals, interpretation and exceptions.
1. After the adoption of this Ordinance, no land shall be subdivided or filed for record, no streets laid out, nor any improvements made to the land, until the plan or plans of the subdivision or street improvements shall have been certified to and approved per the provisions of this article. This approval must be in writing and placed on the original tracing of the final plans, according to the procedure outlined in this article.
 2. No lot, tract or parcel of land within any such subdivision shall be offered for sale nor shall any sale, contract for sale, or option be made or given until such subdivision plans have been approved per the provisions of this article.
 3. Subdivisions of land lying outside of the City and within 1 1/2 miles of the City limits shall also be required to conform with the requirements of this article.
 4. All interpretations of these rules and regulations are reserved to the administrative bodies referred to herein.
 5. The City Council may vary and make exceptions as set forth herein, in instances where there is sufficient evidence, in its opinion, or hardship caused by topographic conditions, or where any other reasonable deterrents prevail.
 6. Whenever a parcel is divided into lots containing one to three acres, inclusive, and there are indications that such lots will eventually be re-subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.
 7. Because of their potential impact on the Crystal Lake Comprehensive Land Use Plan of the City of Crystal Lake, as adopted and amended, planned unit developments, as defined in Section 4-500, Planned unit developments, of this Ordinance, are considered subdivisions and shall be subject to the standards of this article, whether the PUD is in the corporate limits of the City or within the extraterritorial one-and-one-half mile planning jurisdiction of the City of Crystal Lake.
- C. Activity prohibited prior to subdivision approval.

1. No building permit or certificate of occupancy shall be issued for construction on any parcel or plat which was created by subdivision after the effective date of the adoption of this Ordinance, and not in conformity with, the provisions of this article.
 2. No improvements, including but not limited to sidewalks, water supply, stormwater drainage, sewerage facilities, gas service, electric service or lighting, or grading, paving or surfacing of streets, shall hereafter be made within any such subdivision by any owner or owners or his, her or their agent, or by any public service corporation at the request of such owner or owners or his, her or their agent until the plans for the subdivision and also the plans for improvements thereto have been formally recommended by the Planning and Zoning Commission and approved by the City Council of the City of Crystal Lake per the provisions of this article.
- D. Subdivision types. There are four types of subdivision review with differing levels of approval required for each. The criteria for establishing the applicable review process and the corresponding level of approval for each are indicated below. Other standards within the Ordinance may also be applicable depending on the specific characteristics of the subdivision. **[Amended 9-4-2012 by Ord. No. 6843]**
1. Administrative subdivisions. An administrative subdivision is a process for subdividing land or rearranging lot lines that is limited and only permitted under specific circumstances. In general, administrative subdivisions do not require a meeting before the Crystal Lake Planning and Zoning Commission and the Crystal Lake City Council.
 - a. Intent. The intent of the administrative subdivision is to eliminate the requirement that all subdivision plats be approved by the City Council under the following circumstances:
 - (i) The subdivision involves only a minor change in the configuration of land.
 - (ii) The subdivision will not impact surrounding property in a manner significantly different than if the property had not been subdivided.
 - (iii) The subdivision otherwise conforms to all other applicable regulations.
 - b. Applicability. Land can be subdivided through the administrative subdivisions process, provided it is:
 - (i) A subdivision of land into four or fewer lots of which all lots are at least five acres in area and meet all the dimensional standards for the districts they are located in.
 - (ii) A subdivision of land for the transfer of a lot(s) or portions of lots between adjoining lots (lot line shift), provided that no additional principal use building sites are created by the subdivision and all lots meet the dimensional standards for the zone districts they are located in.
 - (iii) A division of land into cemetery plots.
 - c. Not permitted. Administrative Subdivisions are not permitted where:

- (i) Public improvements (except installation of sidewalks, underground placement of public utilities and street trees) are involved or required.
 - (ii) Variations are required.
 - (iii) Access to lots can only be obtained through an access easement.
 - (iv) Parcels or lots have previously been created through the administrative subdivision process.
- d. Deferral from the installation of sidewalk. An administrative deferral from immediate sidewalk construction, as required by these regulations, may be requested, if sidewalks do not exist within or adjacent to the proposed administrative subdivision. The decision to grant the sidewalk installation deferral shall be made by the Director of Community Development and City Engineer based on the following criteria: **[Amended 6-3-2014 by Ord. No. 7034]**
- (i) Lack of sidewalks in the immediate vicinity;
 - (ii) Location on a street which is in need of reconstruction;
 - (iii) Unique site conditions, such as uneven topography, vegetation, etc. which make immediate sidewalk construction unfeasible;
 - (iv) If granted, the sidewalk installation deferral shall be conditioned upon the owner's recording a covenant, approved by the City Attorney, that states any current or future owners of the property will be required to participate in an area wide program for sidewalk construction, if initiated and will not object to any special assessment for sidewalk construction, if deemed necessary, by the City in the future. In general, deferral from the installation of a sidewalk, where granted, shall be reviewed by the City one year after the grant of the deferral.
- e. Deferral of underground placement of public utilities. An administrative deferral from immediate underground placement of public utilities, as required by these regulations, may be requested. The decision to grant the waiver shall be made by the Director of Community Development and City Engineer based on the following criteria: **[Amended 6-3-2014 by Ord. No. 7034]**
- (i) The subdivision is an in-fill project within an existing neighborhood where utility service is provided aerially rather than underground;
 - (ii) It would not be practicable to serve the new subdivision underground without also serving the neighboring uses.
- f. Procedure for approval. The procedures and requirements for submission and review of an application are established in the handout for administrative subdivisions available through the Community Development Department. **[Amended 6-3-2014 by Ord. No. 7034]**
2. Minor subdivisions. A minor subdivision is an alternative expedited procedure to the major subdivision procedure. This procedure is specifically intended for projects

which do not require any public improvements (except installation of sidewalks, underground placement of public utilities and street trees), such as construction of new roads.

- a. Intent. The expedited procedure for approval of minor subdivisions is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. Minor Subdivisions are only permissible where they do not adversely affect the development of adjoining property.
 - b. Applicability. Land can be subdivided through the minor subdivision process, provided it:
 - (i) Is a subdivision of land in to no more than 10 lots;
 - (ii) Is comprised of one phase only.
 - c. Not permitted. Minor subdivisions are not permitted where:
 - (i) Installation of any public improvements as required by Section 4-1000, Public utility standards, except installation of sidewalks, underground placement of public utilities, parkway trees, monuments, lateral extensions of sanitary and storm sewers and water mains is required.
 - d. Procedure for approval. The procedures and requirements for submission and review of an application are established in the handout for minor subdivisions available through the Community Development Department. **[Amended 6-3-2014 by Ord. No. 7034]**
3. Major subdivisions. All other divisions of land not exempted in Section 5-200A-3 or outlined in Sections 5-200D-1 and 5-200D-2 above shall be considered major subdivisions.
 - a. Procedure for approval. The procedures and requirements for submission and review of an application are established in the handout for major subdivisions available through the Community Development Department. **[Amended 6-3-2014 by Ord. No. 7034]**
 4. Condominium plat.
 - a. Applicability. The provisions of this section apply to all multiple-family dwellings containing more than four dwelling units located on any one parcel or lot within the City, which are to be developed as new condominium construction or as condominium conversion and to all nonresidential condominiums containing more than four units, whether being developed as new construction or as condominium conversion. The provisions stated herein do not apply to the resale of any Condominium unit.
 - b. New construction. Land divided under the condominium act of the State of Illinois is considered a subdivision for purposes of complying with these regulations. Prior to any development, the applicant is required to submit a final site plan. The final site plan shall be a true representation of the intended ground level location of the buildings and other improvements to the property. Designated streets are to be indicated on the final site plan. The plat shall be

fully dimensioned by a registered professional engineer or surveyor. Final plat review and approval procedures contained herein are to be followed for the final site plan. Upon approval of the final site plan by the Mayor and City Council, with recommendations from the Planning and Zoning Commission, it shall be placed on file with the Community Development Department and need not be recorded. Individual condominium plats required under the Condominium Act of the State of Illinois shall be submitted to the Director of Community Development for review. The Director of Community Development will review the ground level condominium plat to verify that it is in substantial compliance with the previously approved final site plan. If found in compliance, the Director of Community Development shall sign the plat and it shall be recorded.

- c. Condominium conversions. Owners of existing structures which are intending to convert to condominium ownership shall submit plats of survey required under the Condominium Act of the State of Illinois to the Director of Community Development for review. The ground level plat of survey shall be forwarded to the Planning and Zoning Commission for review and follow the requirements and procedures for final plat approval. Applicable signature blocks are required on the plat. Units may not be sold until said plat is approved by the Mayor and City Council. For public improvements, condominium conversion shall be considered a new subdivision and shall be subject to the codes and ordinances of the City at the time of conversion.
 - d. Procedure for approval. The procedures and requirements for submission and review of an application are established in the handout for condominium plats, available through the Community Development Department. Additional requirements for condominium conversion are established in the handout, as may be amended from time to time. **[Amended 6-3-2014 by Ord. No. 7034]**
5. Subdivisions created by rent or lease. **[Amended 9-4-2012 by Ord. No. 6843]**

A subdivision created by rent or lease, including a mobile or manufactured home or recreational vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common). Subdivisions created by rent or lease are not subject to the dimensional standards of this Ordinance. **[Amended 9-4-2012 by Ord. No. 6843]**

Subdivisions created by rent or lease are exempt from the survey requirements of this article, but must be submitted for review and be approved by the City before possession of any portion thereof may be conveyed in any manner. Subdivisions created by rent or lease will be reviewed in accordance with the procedures listed for minor subdivisions. **[Amended 9-4-2012 by Ord. No. 6843]**

E. Parks, schools and public areas.

- 1. As a condition of approval of the final plat of subdivision for administrative subdivisions (only when new principal building sites are created), Minor Subdivisions, Major Subdivisions and new residential condominium construction, each subdivider shall be required to dedicate land for park and recreational purposes, land for school sites, to serve the immediate and future needs of the residents of the development or to contribute cash in lieu if said actual land dedication, or to make a

combination of cash contribution and land dedication in accordance with the criteria and formula outlined in the Appendix.

2. As a condition of approval of the final plat of subdivision for administrative subdivisions (where new principal building sites are created), minor subdivisions, major subdivisions and condominium plat (new construction) approval, within the City or within 1 1/2 miles of the corporate limits, each subdivider shall be required to pay a fire/rescue capital facility fee as outlined in the Appendix.
- F. Required land improvements.
1. Public utilities: All existing utility lines, conduits or cable for telephone, electric and cable television services shall be placed underground within the easements or dedicated public ways as recommended by the City Engineer and as approved by the Mayor and City Council in conjunction with the approval of any final plat of subdivision or final planned unit development, except that the Mayor and City Council may allow a variation for the continued use of existing aboveground utilities in those instances where the Mayor and City Council determine that it is not practical to require the existing aboveground utilities to be placed underground. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public.
 2. Streetlighting: Each subdivider or subdivision owner shall provide for the adequate lighting of public streets within the proposed subdivision in accordance with the standards and requirements established by the City Engineer, Commonwealth Edison or any subsequent power supplier, in accordance with the provisions of this Code, and subject to the approval of the corporate authorities of the City. It shall be the responsibility of the subdivider or subdivision owner to pay the installation cost of all such lighting.
 3. Landscaping:
 - a. All parkways within the dedicated street area or other public use areas shall be graded, topsoiled, and seeded in an approved manner.
 - b. Trees shall be spaced at thirty-five-foot to fifty-foot intervals. All lots shall have a minimum of one tree, and corner lots shall have a minimum of one tree on each street.
 - c. Maintenance of the parkway area, defined as the portion of a public street right-of-way that is typically planted or landscaped lying between the curb or edge of pavement and the property line and including the bulb of a cul-de-sac, if applicable, shall be the responsibility of the adjacent property owner or, in the case of a cul-de-sac, the maintenance responsibility is shared by the properties that are accessed via the cul-de-sac, including but not limited to:
[Amended 1-18-2011 by Ord. No. 6641; 10-6-2020 by Ord. No. 7656]
 - (i) Mowing of grass or ground cover.
 - (ii) Private driveway approaches.
 - (iii) The flare from the pavement edge extended, for a private driveway approach.

- (iv) Tree watering to assure a healthy, well-shaped appearance and maintaining adequate roadway and sidewalk clearances.
- (v) Keeping culvert opening free of debris.
- (vi) Mailboxes and support structures.
- (vii) Sidewalk maintenance.
- (viii) Planting of shrubs and trees other than those approved by the City Engineer shall be prohibited.
- (ix) Standards for acceptable private driveway approach and curb (depressed) or flare shall be as established by the City Engineer or designee.

Refer to the Appendix for furnishing and planting of parkway trees.

G. Procedures and requirements.

1. Conceptual plat. Any owner of land which is within the corporate limits of the City of Crystal Lake wishing to divide the same into building lots for the purpose of sale or assessment, or both, which will require following the major subdivision process can apply for a conceptual plat review by the Planning and Zoning Commission. Conceptual plats shall not be reviewed by the City Council. Neither the Planning and Zoning Commission nor the applicant shall be required to provide a formal position statement on the proposal, and any position statements offered are not binding on either body. Submittal requirements are available in the handout outlining procedures and requirements for submission and review of conceptual subdivision plats, with the Director of Community Development. **[Amended 6-3-2014 by Ord. No. 7034]**
2. Approval of preliminary plat.
 - a. Filing. **[Amended 6-3-2014 by Ord. No. 7034]**
 - (i) Any owner of land which is within the corporate limits of the City of Crystal Lake or within 1 1/2 miles of the corporate limits on unincorporated land, wishing to divide the same into building lots for the purpose of sale or assessment or both, develop as a planned unit development or wishing to dedicate streets, alleys or other lands for public use, shall first file, if required, per the handout outlining procedures and requirements for submission and review of subdivision plats, with the Director of Community Development, copies of a preliminary plat and preliminary engineering sufficient in number to meet the current review needs of the City. Said preliminary plat shall be filed for all the land held in ownership or controlled by the subdivider.
 - (ii) The Director of Community Development shall initiate a review of the preliminary plat by City staff and forward recommendations to the Planning and Zoning Commission prior to their consideration of the preliminary plat.

- (iii) The Planning and Zoning Commission shall, within 90 days from initial consideration, submit its written recommendations for approval or disapproval to the City Council, unless an extension is agreed upon by the owner or his/her agent.
 - (iv) The fee for filing preliminary plats shall be as specified in this Ordinance. Such fee shall be paid by the subdivider to the City of Crystal Lake at the time of filing the preliminary plat with the Director of Community Development.
- b. The preliminary plat shall contain the following:
- (i) Proposed name of the subdivision;
 - (ii) Location by township, section, town and range, or by other legal description;
 - (iii) Location map;
 - (iv) Names and addresses of developer and designer who made the plat;
 - (v) Scale of plan, one inch to 100 feet or larger. Tracts of 200 acres or more may be drawn at a scale of one inch to 200 feet;
 - (vi) Date;
 - (vii) North point;
 - (viii) Elevations. USGS datum shall be used;
 - (ix) Floodplain designation;
 - (x) Boundary line of proposed subdivision shall be clearly indicated and the total approximate acreage encompassed thereby;
 - (xi) Location, widths, and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, houses or permanent easements, and section and corporation lines, within or adjacent to the tract;
 - (xii) Existing and proposed sewers, water mains, culverts or other underground facilities within the tract indicating pipe sizes, manholes and exact location;
 - (xiii) Boundary lines of adjacent tracts of unsubdivided and subdivided land;
 - (xiv) Existing zoning of proposed subdivision and adjacent tracts in zoned areas;
 - (xv) Contours at two-foot intervals except where topography of the tract demands one-foot contour intervals;
 - (xvi) Layout of streets, widths of right-of-way and pavement and also the widths of cross-walkways and easements;

- (xvii) Layout, numbers, areas and dimensions of lots;
 - (xviii) Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision;
 - (xix) Building setback lines, showing dimensions;
 - (xx) Easements shall be provided for any and all public utilities where alleys are not provided. Proper continuity for the utilities from block to block shall be maintained;
 - (xxi) A preliminary stormwater management plan should be presented indicating an emergency overflow routing, detention areas showing preliminary size and depth and ownership and maintenance responsibilities for detention areas. Soil borings may be required when it is determined by the City Engineer that questionable soils or groundwater levels exist. Designation of any wetland as defined by the United States Army Corps of Engineers shall also be verified and addressed;
 - (xxii) A growth management (development) schedule shall be approved which indicates the number and type of residential units to be constructed in each calendar year. The maximum number of units to be constructed shall be 25 residential units or 15% of the total number of residential units, whichever is greater, in any calendar year. At the time of the final plat review process, if the applicant has submitted clear and convincing proof to the Planning and Zoning Commission and City Council that an accelerated development schedule is warranted, the Planning and Zoning Commission and City Council may approve an accelerated development schedule upon finding that such schedule will promote the achievement of the development goals of the City.
- I. The Planning and Zoning Commission and City Council shall consider the following, as well as any other relevant criteria in evaluating the applicant's request for an increase in the annual percentage of the total development project.
- [a] Advance dedication of school and park sites and advance payment of school, park and other impact fees.
 - [b] Smaller subdivisions which encourage in-fill development within an established part of the community.
 - [c] Completion of major and collector road networks and critical linkages in the street system.
 - [d] Fulfill a need for various unit types and income levels such as low and moderate housing.
 - [e] Provisions which satisfy needed public facilities.
 - [f] Innovative architectural design, quality of exterior materials and creative use of landscaping.

- [g] Projects incorporating energy conservation, passive solar and shading design strategies, gray water systems and the use of green building technologies and products into development design.
 - [h] Other criteria or extraordinary amenities not listed above which may meet the development goals of the City.
- II. As a part of the preliminary plat or preliminary planned unit development, the Planning and Zoning Commission and City Council shall have the right to recommend approval of the percentage of increase, denial of the percentage of increase or adjustment of the percentage of increase of the annual percentage. The final determination shall be made by the Planning and Zoning Commission and Mayor and City Council at the time of final plat or final planned unit development approval.
- III. Exemptions.
- [a] Dwelling units located in a subdivision or multifamily dwelling development that are permanently limited by deed, covenant or other legally enforceable restriction as affordable housing units in accordance with the provisions of this Ordinance.
 - [b] Dwelling units located in a subdivision or multifamily dwelling development that are designated through deeds, covenants or other legally enforceable restrictions as housing for older persons or age-restricted housing.
 - [c] Projects that are developed using conservation design standards as outlined in this Ordinance.
- c. The following qualifications shall govern approval of the preliminary plat:
- (i) The approval of the preliminary plat by the Planning and Zoning Commission and the City Council is tentative only, involving merely the general acceptability of the layout as submitted.
 - (ii) The Planning and Zoning Commission or the City Council may require such changes or revisions as are deemed necessary in the interest and needs of the community.
 - (iii) Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, sewerage and sewage disposal, gas and electric service, streetlighting, fire hydrants, grading, gradients and roadway widths, and the surfacing of streets by the City Engineer and the county officials, where concerned, prior to the approval of the Final Plat by the City of Crystal Lake.
 - (iv) No plan will be approved for a subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities and which would make adequate drainage of the streets impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the

City Engineer or the County Superintendent of Highways, or other state or federal authority having jurisdiction, where concerned, make the area completely safe for occupancy and provide adequate street drainage, the preliminary plat of the subdivision may be approved.

- (v) Preliminary plat approval shall be effective for a maximum period of 12 months following City Council approval unless upon application of the developer, the City Council grants an extension.
3. Approval of final plat.
- a. Filing.
 - (i) After approval of the preliminary plat by the City Council and the fulfillment of the requirements of these regulations, plans may be submitted for Final Plat approval. Copies of the final plat of subdivision and final engineering plans sufficient in number to meet the current review needs of the City must be submitted to the Director of Community Development to initiate the final plat review process. **[Amended 6-3-2014 by Ord. No. 7034]**
 - (ii) The Director of Community Development shall initiate a review of the final plat by City staff and forward recommendations to the Planning and Zoning Commission prior to their consideration of the final plat. **[Amended 6-3-2014 by Ord. No. 7034]**
 - (iii) The Planning and Zoning Commission shall, within 60 days from initial consideration, submit its written recommendations for approval or disapproval to the City Council, unless an extension is agreed upon by the owner or his/her agent.
 - (iv) Upon submission of a written recommendation and plat from the Planning and Zoning Commission, the City Council shall have 60 days in which to take action on the final plat.
 - (v) Upon approval by the City Council, the developer shall record the plat with the Recorder of McHenry County within 12 months following City Council approval unless, upon application of the developer, the City Council grants an extension. If not recorded within this time, the approval shall be null and void and the final plat would have to be resubmitted for approval.
 - (vi) Four prints and one reproducible (Mylar copy) of the final plat, after the plat is recorded, must be submitted prior to the issuance of any building permit within the subdivision and will be filed and retained in the offices of the City of Crystal Lake. Final plan, as-built plans and plat shall be submitted in electronic format compatible with City networks as specified in the handout available through the Community Development Department. **[Amended 6-3-2014 by Ord. No. 7034]**
 - b. The final plat shall contain:
 - (i) Name of subdivision;

- (ii) Location by township, section, town and range, or by other legal description;
- (iii) Names of owners and certification by a licensed surveyor;
- (iv) Scale one inch to 100 feet or larger (shown geographically);
- (v) Date;
- (vi) North point;
- (vii) Boundary of plat, based on an accurate traverse, with angular and lineal dimensions;
- (viii) Exact location, width and name of all streets within and adjoining the plat, notation as to whether previously dedicated, dedicated in this plat, or private, and the exact location and widths of all cross-walkways. Proposed street names shall be checked with proper City officials. Where street direction changes of more than 90° are provided, names of such streets shall change;
- (ix) True angles and distances to the nearest established street lines or official monuments (not less than two) which shall be accurately described in the plat;
- (x) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and angles;
- (xi) Radii, internal angles, points and curvatures, tangent bearings and lengths of all arcs;
- (xii) All easements for rights-of-way provided for public services and utilities, and a statement of purpose for each indicated thereon;
- (xiii) All lot numbers (numbered consecutively) and lines, with accurate dimensions in feet and hundredths, and area of each lot indicated on each lot or in a key on the plat;
- (xiv) Accurate location of at least two monuments, which shall be concrete six inches by six inches by 30 inches with metal pipe or rod case in center. Permanent stone or concrete monuments shall be set at two corners or angles on the outside boundary. Pipes or other physical markers shall be placed at each intersection of street center lines. All United States, state, county, or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position;
- (xv) Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, with the purpose indicated thereon, and of any area to be reserved by deed covenant for common uses of all property owners;
- (xvi) Building setback lines accurately shown by dimensions;
- (xvii) Protective covenants which meet with the approval of the Planning and Zoning Commission shall be made a part of the final plat and filed on

record with the County Recorder. Existence of other covenants or declarations pertaining to common responsibilities of individual owners shall be cited by reference on the plat;

- (xviii) Certification by a registered surveyor to the effect that the plat represents a survey made by him/her and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct;
- (xix) Notarized certification, by owner or owners, or by any mortgage holder on record, of the adoption of the plat and the dedication of streets and other public areas;
- (xx) Certifications showing that all taxes and special assessments due on the property to be subdivided have been paid in full;
- (xxi) Proper form for the approval of the City Council with space for signature;
- (xxii) Approval by signature of City, county, and state officials concerned with the specification of utility installations and road access pursuant to the State Plat Act (765 ILCS 205/0.01 et seq.) and a drainage certificate by a registered professional engineer;
- (xxiii) Approval by signature of the Planning and Zoning Commission.

The approval of the final plat shall not be deemed to constitute or effect an acceptance by the public of the dedication of any street or other proposed public way or space shown on the plat.

- c. Agreements. The final plat to be filed for record shall be accompanied by the following:
 - (i) Plans and specifications for such improvements previously approved by the City.
 - (ii) Agreements executed by the owner and the subdivider wherein they agree to make and install the improvements, in accordance with the provisions of this Ordinance, per the plans and specifications accompanying the final plat.
 - (iii) A bond, letter of credit, cash deposit, as may be designated by the City, or other security approved by the City, in a form approved by the City (hereinafter, "performance security"), in the amount of 120% of improvements detailed on the approved engineer's estimate of cost of the installation of such improvements. Upon completion of any portion of such improvements, a reduction to the performance security may be requested and the City may grant a reduction at its sole discretion. If, at any time, the City determines that the funds remaining in the performance security are not sufficient to pay in full the remaining unpaid costs of such improvements, within 30 days of written notice, the performance security shall be increased to an amount determined by the City to be sufficient to pay in full the remaining costs of such improvements. Failure to increase the amount of the performance security shall be grounds to draw down the

entire remaining balance of the performance security. Any performance security submitted to the City in the form of a bond shall be issued by an insurance company that has a current rating of A++, A+, or A as rated by A.M. Best rating company. Any performance security must be issued by a business licensed to do business in the State of Illinois and redeemable in the State of Illinois. Any security required pursuant to the provisions of the Stormwater Management Ordinance shall be in accordance with the provisions of that ordinance. **[Amended 3-1-2016 by Ord. No. 7200]**

- (iv) A bond, letter of credit, cash deposit, as may be designated by the City, or other security approved by the City, in a form approved by the City (hereinafter, "maintenance security"), in the amount of not less than 5% of the approved engineer's estimate of the cost of the installation of such improvements, providing guarantee of workmanship and materials for a period of two years from the final inspection and acceptance of such improvements. If, at any time, the City determines that the funds remaining in the maintenance security are not sufficient to pay for correcting defects and deficiencies of such improvements, within 30 days of written notice, the maintenance security shall be increased to an amount determined by the City to be sufficient to pay for correcting defects and deficiencies of such improvements. Failure to increase the amount of the maintenance security shall be grounds to draw down the entire remaining balance of the maintenance security. Any maintenance security submitted to the City in the form of a bond shall be issued by an insurance company that has a current rating of A++, A+, or A as rated by A.M. Best rating company. Any maintenance security must be issued by a business licensed to do business in the State of Illinois and redeemable in the State of Illinois. **[Amended 3-1-2016 by Ord. No. 7200]**
- H. As-built drawings. One Mylar copy of as-built drawings of all items covered in this section shall be furnished to the City, in electronic format compatible with the City's specifications, within 60 days after the City's acceptance of the improvements covered therein.
- I. Cost participation. A developer/owner of any project that involves the City as a participant in certain defined costs by agreement shall include the City Engineer in the notification process coincidental with the advertisement for bids. A representative of the City shall become a required party at the bid opening to consider the acceptance or rejection of the concerned bid items.
- J. Inspection at subdivider's expense. All public improvements proposed to be made under the provisions of this chapter shall be inspected during the course of construction by the City Manager or a duly designated representative. All fees and costs connected with such inspection and in reviewing the plans and specifications for such improvements shall be paid by the subdivider in accordance with the latest permit fee schedule adopted by the City.
- K. Variations and exceptions. The Planning and Zoning Commission may recommend variations from these requirements, in specific cases which, in its opinion, do not affect the general plan or the spirit of this Ordinance. Such recommendations shall be communicated to the City Council or the governing county authorities in writing with the reasons therefor. The City Council may upon receipt of recommendations of the Planning and Zoning

Commission approve, deny or refer back to Planning and Zoning Commission for further consideration, variations from these requirements in specific cases which, in its opinion, do not affect the general plan or the spirit of this chapter, and when applicable forward approval of such variations to the county authorities.

- L. Building permits. No building permit shall be issued by any governing official for the construction of any building, structure or improvement to the land or any lot within a subdivision as defined herein, which has been approved for platting or replatting, until all requirements of this Ordinance have been fully complied with.
- M. Occupancy permit. No occupancy permit shall be granted by any governing official for the use of any structure within a subdivision approved for platting and replatting until required utility facilities have been installed and made ready to service the property, and that roadways providing access to the subject lot or lots have been constructed, or are in the course of construction sufficiently completed to meet the approval of the City Engineer, which in the case of corner lots shall include both streets upon which the property is located.
- N. Enforcement. No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it shall have been approved in the manner prescribed by this article.

SECTION 5-300. Conservation developments.

- A. Purpose and intent. The primary purpose of the conservation development regulations is to promote the health of the community and to protect its natural and environmental resources through the application of flexible land development techniques to the arrangement and construction of structures, rights-of-way and infrastructure improvements. In general, "Conservation design" provides flexible development options, allows for common or public open areas within a development project, supports reductions in development costs, reduces the amount of grading and infrastructure needed and reduces the amount of impervious area for improved stormwater runoff while maintaining and preserving the most valuable natural features and functions of a site. The purpose of the conservation development regulations is:
 - 1. Conserve open land, including areas containing unique and sensitive natural features such as woodlands, wetlands, steep slopes, streams, groundwater recharge areas, floodplains, etc. by setting them aside from development;
 - 2. To preserve and restore remnant wetlands, woodlands and prairies and provide for the long-term ecologic management of these areas;
 - 3. To preserve the hydrologic condition and infiltrative capability of the soil by minimizing mass grading and impervious surfaces;
 - 4. To preserve natural groundwater recharge functions and protect the quality of surface water and groundwater;
 - 5. Reduce soil erosion by retaining and/or reintroducing native plant species and minimizing development on steep slopes;

6. Reduce the infrastructure costs and the cost of public services required for new development and increase future property value;
 7. To promote interconnected greenways and wildlife corridors throughout the county;
 8. To provide convenient walking trails and bike paths within subdivisions and connecting to neighboring communities and businesses;
 9. To create more livable and sustainable communities. **[Amended by Ord. No. 6543]**
- B. **Applicability.** Any subdivision of property or planned unit development within the Conservation Overlay (CO) District is required to follow the conservation development regulations. Properties outside the CO District that meet the automatic and cumulative triggers in Section 5-300D are also required to follow the conservation development regulations. In addition, applicants may voluntarily choose to apply as a conservation development and thereby conform to all of the applicable requirements of this chapter.
- C. **Exceptions.**
- Administrative subdivisions and minor subdivisions that are less than 10 acres are exempt from the provisions of this section.
- Subdivisions for which a preliminary plat has been approved and planned unit developments for which a preliminary PUD approval has been received, prior to the adoption of this Ordinance are not required to meet the provisions of this section.
- D. **Automatic and cumulative triggers.**
1. **Automatic trigger.** A development site contains or abuts within 100 feet.
 - a. A Designated McHenry County Natural Area Inventory (MCNAI) sites; or
 - b. A stream, river, lake and/or wetland designated as advanced identification (ADID) high value or high quality.
 2. **Cumulative trigger.** Development of a site that contains, or abuts within 200 feet, the following areas whose cumulative acreage (of the areas) equals or exceeds 20% of the total area of the site and the two-hundred-foot abutting zone:
 - a. Regulatory wetlands, except farmed wetlands.
 - b. Regulatory floodplains and flood of record areas.
 - c. Glacial kettle holes.
 - d. Woodlands and savannas based on on-site determination, mature stands of Species Group A and B trees.
 - e. Remnant prairies based on an on-site determination.
 - f. Soils characterized as having one or more of the following characteristics:
 - (i) Excessive permeability as defined in Table 6, Soil survey of McHenry County, Illinois, USDA-NRCS, 2002 (or current version).

- (ii) High leach potential, reflecting conditions where pesticides/herbicides have a high potential to reach the bottom of the soil profile as defined by CRP Manual, USDA-NRCS, Leaching Index Values, McHenry County, Illinois, 4-25-2006.
 - (iii) High Potential for aquifer contamination based on Illinois State Geological Survey Circular 559, "Geologic Mapping for Environmental Planning, McHenry County, all A units.
 - (iv) "E" slopes and greater, reflecting highly erodible slopes of 12% and greater as defined in Soil survey Legend, Soil Survey of McHenry County, Illinois, USDA-NRCS, 2002.
 - (v) Depressional hydric soils based on a coverage developed by NRCS using the USDA-NRCS Hydric Soil List, McHenry County: Detailed Soil Map Legend, 12-3-2003.
- g. State-designated Class III special resources groundwater areas.
 - h. Publicly owned or private deed-restricted natural open spaces and preserves.



Commentary

Most of the preceding natural resource data categories are available digitally from the City of Crystal Lake, McHenry County Department of Planning and Development, MCSWCD, MCCD or McHenry County Department of Health. A few of these categories such as woodlands, savannas, prairies and kettle holes will need to be determined via on-site analysis.

[Amended by Ord. No. 6543]

- E. Application process. The approval of a conservation development or a planned unit development following the provisions of this section shall follow the approval process for a major subdivision. Additionally, a preapplication meeting shall be required following the provisions of Section 5-300E-1.
 - 1. Preapplication meeting. Prior to submitting an application for a plat of subdivision or a planned unit development approval, the applicant must schedule a preapplication meeting with the Department of Community Development. The applicant must present an existing resources and site analysis plan that provides the following information for the entire site as well as the property within 200 feet of the development site: **[Amended by Ord. No. 6543; 6-3-2014 by Ord. No. 7034]**
 - a. Topography, the contour lines for which shall be at two feet intervals. Where exceptionally steep or flat sites exist, the City Engineer or his/her assigned designee may require greater or lesser intervals. Slopes between 12% and 15%, 15% and 20%, 20% and 30% and greater than 30% shall be clearly labeled. Surveying of off-site topography shall not be required. Off-site contours shall be displayed at the highest level of detail available.
 - b. Ponds, streams, rivers, lakes, watercourses and the ADID classification of each.

- c. Wetlands (U.S. Army Corps of Engineers jurisdictional, County/City jurisdictional, and farmed and the ADID classification).
 - d. Floodplain/floodway.
 - e. Depressional storage areas/flood of record from USGS HA series and soil maps showing soils that are depressional.
 - f. Drainage ditches, field tiles (from tile survey), storm sewers and outlets.
 - g. Existing drainage patterns, drainage divides, and flow paths.
 - h. Designated natural areas (INAI and MCNAI).
 - i. Threatened and endangered species.
 - j. Woodlands, savannas, prairies.
 - k. Tree inventory per Section 4-300, Tree preservation, of this Ordinance.
 - l. Soils classifications/types, especially hydric/organic soils.
 - m. Soil interpretation/suitability assessment: including excessive permeability, leach potential, groundwater recharge or discharge potential, septic suitability, basement suitability, aquifer sensitivity (the Illinois State Geological Survey Circular 559, Geologic Mapping for Environmental Planning, McHenry County, Illinois), prime farmland, soil erosion potential.
 - n. Farmland.
 - o. Location of public open space and preserves, trails that have been in public use (pedestrian, equestrian, bicycle, all-terrain vehicle and/or other similar trails), or any private trails that will be integrated into the final development plans.
 - p. Location of all historically significant buildings, sites or structures and archeological sites.
 - q. Significant vistas and scenic areas.
 - r. Location of any existing septic systems and sewer lines.
 - s. Location of all easements of property which are or have been filed of record with the McHenry County Recorder's office (ALTA Survey).
2. Conservation development site design. The goal of utilizing a conservation design strategy for development is to take into account the natural landscape and ecology of a development site and facilitate development while still maintaining the most valuable natural features and functions of the site. The general steps indicated below shall be followed when designing the layout and arrangement of a development site. **[Amended by Ord. No. 6543]**
- Step 1: Identify all existing resources on site as indicated in Section 5-300E above. These features shall be preserved and protected to the greatest extent possible from any negative impacts generated as a result of the development or other land disturbing

activities taking into consideration the open space hierarchy protection outlined in this article. **[Amended by Ord. No. 6543]**

Step 2: The next step is to locate all the building sites. Once natural resources and conservation areas are identified, building sites should be located to take advantage of open space and scenic views. Smaller lot areas and smaller lot widths which maximize the number of lots abutting natural resources and conservation areas should be considered in order to provide more efficient use of the land. **[Amended by Ord. No. 6543]**

Step 3: Design the circulation network necessary to provide access to building sites and to allow movement throughout the subdivision and onto adjoining lands. The street layout should minimize encroachment onto sensitive natural resources such as wetlands, designated natural areas, woodlands, significant tree stands, and wildlife habitats, and should be designed to take advantage of open space vistas. Interconnection of internal streets and street connections to adjoining land parcels should be provided to create opportunities for future connectivity. **[Amended by Ord. No. 6543]**

Step 4: Establish lot lines and lot sizes in order to take maximum advantage of conservation concepts. This step creates individual building lots and allows ownership of said lots to be transferred from one landowner to the next.

Step 5: Prepare engineering plans to illustrate how each building site can be served by essential public utilities, while at the same time acknowledging the need to preserve and protect the environmental resources on a site. This may require innovation on the part of the engineering professional in order to provide utility service while protecting natural resources and amenities. Minimize the area of earth grading. An exhibit that delineates where soils shall not be disturbed as a result of earthwork, grading or other construction activities must be submitted.

[Amended by Ord. No. 6543]

3. Site capacity analysis.

Residential Subdivisions.

The maximum total number of units (or lots) permitted (dwelling unit/net acre) for a conservation subdivision shall be calculated as follows:

- a. The entire area of the parcel (the acres of land within the bounds of the legal description) shall be determined and considered the "gross area."
- b. Ten percent of the gross area shall be deducted for infrastructure area.
- c. Fifty percent of any unbuildable area on site (including but not limited to wetlands, floodplain, etc.) shall be deducted from the gross area.
- d. The resulting acreage shall then be multiplied by the maximum allowable dwelling units per acre for the underlying zoning district with the following exceptions:
 - (i) Properties with the Watershed "W" zoning designation shall refer to the Future Land Use Plan in the Northwest Sub-Area Plan (as adopted and

amended) for determining the maximum allowable dwelling units per acre. Properties that are recommended for future residential uses shall use the maximum allowable dwelling units per acre permissible for the Single-family residential (R-1) zoning district. Properties that are recommended for future mixed uses shall use the maximum allowable dwelling units per acre permissible for the Multifamily (R-3B) Zoning District if the proposed residential subdivision is part of a mixed use development. Where the proposed development for the property is not in accordance with the recommended Future Land Use Plan, a subarea plan amendment is necessary prior to proceeding with the subdivision.

- (ii) The maximum allowable dwelling units per acre for properties that are within the conservation overlay, but outside the City limits shall be determined by the zoning classification granted to these properties as part of their annexation proceedings.
- (iii) Properties that are allowed a specific number of dwellings units per acre as part of their annexation are permitted that number through the period of validity of the annexation agreement. Upon expiration of the annexation agreement, the maximum allowable dwelling units per acre shall meet the requirements of this section.
- (iv) Properties that are allowed a specific number of dwellings units per acre as part of a legal settlement or court order are permitted that number of dwelling units.

Nonresidential Subdivisions

Commercial, office and light industrial uses shall not exceed a maximum impervious surface coverage of 60%, prior to any bonus that may be approved.

- 4. Density bonuses and floor area ratio bonuses. For residential subdivisions, the applicant can request the City Council with recommendations from the Planning and Zoning Commission to approve an increase in density if it is demonstrated that the proposed conservation design plan offers a superior layout and quality of design which incorporates environmentally sensitive design features that substantially exceed the minimum requirements of the ordinance. Recommended percent increase in density for certain design features are delineated below. It is the applicant's responsibility to authenticate all site amenities and improvements and to present appropriate evidence and documentation that each standard, for every density bonus requested, has been met or exceeded for City Council consideration. The maximum increase in density shall be limited to 20% of the permitted density. In determining the number of additional units allowed, fractions will be rounded to the nearest whole number.
 - a. Recommended increases in density.

Design Feature	Percent Increase Recommended¹
Internal trails and open spaces that are connected with existing or potential open spaces and multi-use trails outside of the development and provide access to the public.	5
The amount of open space provided exceeds the minimum required for the development by 10% or more.	5
Open space within the development is placed into a conservation easement with a legally incorporated land conservation organization or donated to a public open space agency.	5
Wetland restoration and/or enhancement is performed that is substantially in excess of the county and U.S. Army Corps of Engineers permit requirements. Restored enhanced wetlands must exceed U.S. Army Corps of Engineers (USACE) Floristic Quality Index (FQI) requirements by at least 5 points or obtain a score of 30 points or higher, whichever score is greater.	5
Remnant prairies, savannas, and woodlands are substantially restored prior to the turnover of the property to the homeowners' association or land conservation organization. Such restoration will consist of the removal of invasive trees, brush, and herbaceous species and the establishment of native herbaceous species.	5
The development proposes a mix of housing types and price ranges (offers at least 10% of available units to households at 80% of the median income for McHenry County residents as established annually by the U.S. Department of Housing and Urban Development).	3
Recognized Historical Buildings and structures are preserved and reused.	3
More than 35% of residential dwellings are served by side load attached garages.	1
More than 75% of the lots or building sites abut open space on at least 1 side.	1

- d. Avoid encroachment in floodplains, natural depressions, drainage ways, and sensitive recharge areas to facilitate their use for runoff infiltration and filtering. In all cases, the subdivider shall preserve at least 90% of floodplains by area.
- e. Maintain and protect scenic views of open land from adjacent and proposed roads. Minimize visual impact through the use of natural landscaping.
- f. Protect buildings and sites of historic significance or incorporate them through adaptive reuse.
- g. Landscaping around the building clusters shall be provided, where appropriate, to reduce off-site views of the buildings, and such landscaping shall be comprised to the greatest extent possible of native plant species.

G. Open space requirements and standards.

1. Required open space.

For residential developments, at least 40% of the site shall be set aside as required open space.

For nonresidential developments, required open space shall be based on the allowable maximum impervious surface coverage and any associated impervious surface coverage bonuses.

2. Allowable open space. For the purposes of this section, open space shall include land and water areas retained for passive or active recreation uses and/or for resource protection and in most cases in an undeveloped state. Open space includes, but is not limited to:

- a. Woods and savannas;
- b. Wetland buffers;
- c. Prairies and grasslands;
- d. Naturally landscaped common areas and buffers (parkways, landscape islands or similar features will not counted towards the required open space);
- e. Walking or bicycle trails (sidewalks or bicycle lanes within the right-of-way are not counted towards required open space);
- f. Naturally landscaped stormwater detention and drainage facilities;
- g. Areas of greater than 12% slope that are maintained in an undisturbed state;
- h. Pasture and agricultural cropland areas;
- i. Manicured turf grass areas such as those on golf courses, playgrounds, and recreational fields (credited up to 10% of the required open space);
- j. Naturally landscaped areas utilized for spray irrigation of treated wastewater (excluding treatment facilities and associated detention areas). **[Amended by Ord. No. 6543]**

- k. Other conservation-oriented uses compatible with the purposes of this section and
- l. Inherently unbuildable areas, including but not limited to wetlands, floodplains, etc., may be, though not necessarily be, credited for 50% of their areas towards the required open space requirement on a site-by-site basis.

Yard and setback areas on individual lots shall not be considered natural areas or open space unless designated on a final plat or similar recorded document as "deed" restricted open space" or as having similar restricted use status.

3. Open space protection hierarchy. [**Amended by Ord. No. 6543**]

In developing open space areas to meet the requirements specified above, preference shall be given to land, that is not necessarily undisturbed, but which either retains or has been substantially restored to its original natural or native character. The areas to be preserved shall be identified on a site-specific basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.

The following is a list of different types of open space areas that identifies various levels of quality, from highest to lowest. Written documentation regarding areas for open space protection must be submitted for review and approval at preliminary plat stage.

- a. Intact natural communities; known habitats of rare and endangered species; natural and restored wetlands, prairies, savannas, and woodlands; environmental corridors; significant historic and archaeological properties and areas with steep slopes.
- b. Natural landscaped areas created to provide plant and wildlife habitat and open space amenities.
- c. Areas providing little habitat but providing viewshed, recreation, or a sense of open space.

4. Open space standards. [**Amended by Ord. No. 6543**]

- a. An open space conservation theme, or combination of themes, shall be identified at the time of initial application. Conservation themes shall be based on the natural resource features of the development site and may include, but are not limited to groundwater recharge protection, woodland stewardship, water quality preservation and enhancement, native landscape restoration and preservation, natural habitat restoration, viewshed preservation, and/or archeological and historical preservation.
- b. Conservation developments shall preserve, restore, and/or create environmentally sensitive areas, as identified above, and shall include plans and the means to restore, manage, and maintain such areas. More specifically, created natural landscapes shall meet all required performance criteria that require only routine ecologic management in the future. Where feasible,

degraded remnant natural areas shall be restored to a natural state that will require only routine ecological management in the form of controlled burns and weed vigilance to maintain that state. Feasibility shall be determined considering the relative quality of the remnant, degree of difficulty involved in returning it to a natural state, and the likelihood of meeting designated performance criteria. If the site contains highly degraded extant wetland communities where the likelihood of restoration success is uncertain, the subdivider may propose alternative plant monitoring and performance criteria. Examples of the latter include large stands of reed canary grass or cattails that dominate the wetland community.

- c. The development layout shall take into consideration how abutting land with significant natural areas and resources will impact or be impacted by the development. Natural areas on adjacent properties shall be buffered with open space, and existing wildlife corridors and sensitive ecosystems shall be preserved and enhanced.
- d. To the extent practicable, open space shall be preserved as large contiguous areas to optimize habitat conservation, minimize fragmentation, and facilitate efficient ecologic management.
- e. To the extent practicable, the open space network shall be designed to facilitate easy access from all streets and neighborhoods within the development. Open space should be interconnected with greenways and trail systems both within the development site and connecting to adjacent subdivisions and to local and regional trails.
- f. Open space shall be dedicated as "common open space" to be jointly owned by a qualified conservation agency or organization or the homeowners or property owners association. Where the subdivider determines that common open space is not practical, a portion of the required open space may be dedicated as deed restricted open space (DROS) occurring on individual platted lots. DROS shall not be used for detention areas or required buffers, which shall always be designated "common open space." Where DROS is utilized it shall be managed and maintained consistent with all the requirements of this Ordinance.
- g. Re-use of recognized historical buildings and structures is encouraged unless the City determines otherwise for good cause.
- h. Designated open space areas shall not be enclosed with man-made fencing, with the exception of areas containing natural or cultural features that may require special protection and exclusions for equestrian facilities and trails.
- i. Open space areas shall be maintained in perpetuity and shall not be improved with any buildings, structures, or other development unless approved by the City and where such buildings or structures will not negatively impact the natural and open space areas. Exceptions include, but are not limited to simple shelters, viewing stands, interpretive signs, and benches that are compatible with passive open space uses and any applicable permits are obtained from the City for all applicable structures. This restriction shall run with the land and be binding on future owners, successors and assigns of the grantee.

5. Prohibitions. Open space uses and disturbances that conflict with the stated conservation purposes of this Ordinance are prohibited. These include, but are not limited to:
 - a. Dumping of grass clippings, yard waste, debris or other objectionable material;
 - b. Storage of material, vehicles, etc.;
 - c. Removal of native vegetation or trees, except as identified in the approved maintenance and management plan;
 - d. Introduction of exotic plant species;
 - e. Filling, dredging, grading, drilling, or removal of soil or other natural materials; and
 - f. Manipulation or alteration of natural watercourses or wetlands, except to enhance natural conditions as identified in the approved maintenance and management plan.
 - g. All such uses shall be identified in, and enforced through, the subdivision covenants.
6. Open space ownership and funding.
 - a. Ownership options.

The ultimate owner of dedicated open space, as well as the entity responsible for maintaining it, shall be identified and shall be made part of the covenants and restrictions for the development. Ownership options for common open space include qualified public or private land conservation organizations.

Where the ownership of the common open space resides with the homeowners or condominium association, membership in the association shall be mandatory and automatic for all lot and parcel owners and their successors. The association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining open space and any facilities located thereon shall be borne by the owner. In the event an association ceases to exist the responsibility for maintaining the open space and any facilities located thereon shall be borne by subdivider until 80% of the lots are sold and ownership shall then be passed to a public agency, a not-for-profit entity whose primary purpose is the preservation and maintenance of open space or the homeowners/property owners association. In the event the not-for-profit entity or homeowners/property owners association ceases to exist, the responsibility for maintaining the open space and any facilities thereon shall be borne by all lot and parcel owners and their successors.

7. Conservation easement required. Dedicated open space shall be protected in perpetuity by a binding conservation easement or similar binding legal instrument recorded with the McHenry County Recorder and granted in favor of one or more of the following entities, which entities shall be responsible for all maintenance, control, and insurance of common areas, including dedicated open space and natural areas:

- a. A public agency with demonstrated expertise in natural area and open space management. This is the preferred option. Such agency may, but is not required to, accept dedication in the form of fee simple ownership of the designated natural area, provided it has access to and agrees to maintain such natural areas and open space.
 - b. A not-for-profit entity whose primary purpose is the preservation and maintenance of conservation areas and natural resources. This also is another preferred option. Such conservation areas and natural resources shall be established in the form of conservation easements.
 - c. A homeowners or property owners association is an acceptable option if it is not practical or appropriate based on correspondence from public agencies to make arrangements for options 1 or 2.
8. Funding requirements and options. Secure and permanent funding arrangements shall be established for the long-term management and maintenance of both common open space and deed-restricted open space. Funding options may include: **[Amended by Ord. No. 6543]**
- a. The cost estimates for natural landscaping and ecological restoration activities shall be prepared by a City-approved specialist and be submitted with infrastructure and stormwater estimates. The amount of the performance bond(s) or letter(s) of credit furnished by the subdivider shall be in the amount of 150% of the estimated cost of the work and materials required for these activities. This shall be a separate bond from that furnished for road but may be combined with the cost estimate for stormwater work.
 - b. Partial reductions of the performance bonds and/or letters of credit may be granted as performance criteria are met. However, final approval and release of performance bonds and/or letters of credit shall not occur until a final inspection by the City verifies that all initial performance criteria have been met. Upon this verification, the City shall allow the areas to be placed under the control of an approved conservation organization or homeowners/property owners' association to implement long-term management. In the event that conditions of performance criteria cannot be met, an alternative plan shall be prepared and submitted to the City for approval. Refer to the appropriate sections of this Ordinance for additional information regarding bonds and letters of credit.
 - c. Secure and permanent funding arrangements shall be established for the long-term management and maintenance of common open space, deed-restricted open space, and stormwater facilities once said responsibilities are turned over to a conservation entity or the homeowners/property owners association. Said funding arrangements shall be noted and made part of the covenants and restrictions.
 - d. A back-up special service area (SSA) shall be established and detailed in the covenants and restrictions for the development in order to provide funds necessary to support the maintenance and upkeep of land set aside as open space and stormwater management areas. Such requirements shall be a condition of the final plat and shall give the City the ability to levy an ad valorem special tax

against all taxable property within the proposed SSA in order to fund necessary maintenance and other associated costs.

9. Corrective action.

If at any time the City determines that the open space management entity is in violation of the terms of this Ordinance or that a violation is threatened, the City shall give written notice of such violation and demand corrective action sufficient to cure the violation, and where necessary, restore the portion of the property so injured. If the open space management entity fails to cure the violation within 30 days after receipt of notice thereof from City, or, under circumstances where the violation cannot reasonably be cured within thirty-day period, fails to commence or fails to continue diligently to cure such violation until finally cured, the City may bring an action to enforce the terms of the Ordinance and recover the costs of such corrective action from the property owner, condominium association, homeowners' association, conservation organization or not-for-profit organization, or individual property owners, and may include administrative costs and penalties. Such costs shall become a lien on said properties and shall be filed by the City with the McHenry Country Recorder.

If the City, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the property, the City may pursue its remedies under this section without prior notice to the open space management entity. Under such circumstances, the City may enter dedicated open space areas in order to take corrective action necessary to ensure compliance with this Ordinance and the provisions of long-term management and stewardship. A maintenance easement shall be granted to the county and recorded on the plat.

H. Open space management and stewardship.

1. Stewardship plan.

Every conservation design development must include a plan that provides a means to properly manage dedicated open space in perpetuity and the long-term means to properly manage and maintain all dedicated open space. The plan shall be approved as part of the applicable development review process. The plan shall be in textual form and may include graphic renderings. The plan shall provide specific details and methods regarding the preservation, reestablishment, maintenance, and management of open areas and natural resources in perpetuity on the subject site. It shall be in a format that is easily understood and shall identify specific tasks which must be completed in order to ensure the viability of current and future resources on the site. It shall allocate responsibility and guidelines for performing said tasks, and shall include provisions for long-term capital improvements. It shall also serve as an educational resource for future residents and property owners.

The plan shall address and/or allocate:

- a. The short-term enhancement and restoration of remnant natural areas and the establishment of new natural landscapes; and
- b. The long-term ecologic stewardship of such areas.

- c. The responsibility and guidelines for performing said tasks, and shall include any necessary provisions for replacement costs and long-term capital improvements.
 - d. Serve as an educational resource for future residents and property owners;
 - e. Designate and map the ownership of natural features and dedicated open space;
 - f. Allocate responsibility and guidelines for the maintenance and operation of the dedicated open space and any facilities located thereon, including provisions for ongoing maintenance and long-term capital improvements;
 - g. Estimate the cost and staffing requirements needed for maintenance and operation of, and insurance for, the dedicated open space and describe the means by which such funding will be obtained or provided;
 - h. Provide that the plan shall not be changed without the approval of the City and describe how the plan will be enforced.
2. Performance standards. The stewardship plan shall include performance standards for all natural open space areas and naturalized stormwater management facilities and buffers. The performance standards shall identify proposed methods for establishing the areas and shall require monitoring and maintenance for at least three full growing seasons following initial enhancement, restoration, and planting, or until initial performance standards have been met. The purpose of establishing and ensuring compliance with performance standards is to ensure that the overall design intent for these areas is achieved and maintained. The design intent for such areas is to provide an aesthetic, healthy, diverse community of Native vegetation to meet the objectives of soil stabilization, water quality improvement, and wildlife habitat. Minimum performance standards for restoration, planting, maintenance, and monitoring of natural open space and naturalized stormwater facilities are included in Attachment A. Under circumstances where the minimum performance standards cannot be achieved, alternative performance standards must be presented to and approved through the development review process. Beyond the initial establishment and restoration period, regular maintenance and management shall be performed in perpetuity to continue to meet the performance criteria and to enhance natural ecologic conditions over time.
3. Annual reporting. As described in the Appendix, an annual monitoring report shall be submitted to the City for review. The report shall include a summary of vegetation monitoring results, a description of vegetation maintenance needs, photographs and accompanying descriptions, a summary of maintenance activities for the current year and a schedule of planned maintenance for the coming year, and the landscape maintenance budget for the current year and the planned budget for the coming year.
4. Performance bonding. The cost of natural landscaping and ecological restoration activities shall be included in the infrastructure estimate. The amount of the performance bond or letter of credit furnished by the developer shall cover the cost of the work and materials required for these activities. This shall be a separate bond from that furnished for other public improvements. Final approval of the initial landscape installation and restoration activities shall not occur until final inspection by the City

or its designee verifies that all performance criteria have been met. Upon this approval, the performance bond or letter of credit will be released.

5. Professional land and property management.

In identifying both short- and long-term management responsibilities for open space and natural areas, the applicant shall identify a management entity with demonstrated experience and qualifications in natural land management and ecologic stewardship. Such entity may be a public or not-for-profit conservation agency as identified under "Open Space Ownership and Funding." Alternatively, the entity may be a professional natural land management specialist or company.

In identifying the institutional arrangements for the management entity, the applicant's stewardship plan shall address responsibilities for each of the following institutional provisions.

- a. Enforcement of CCRs and the stewardship plan.
- b. Proper budgeting and managing finances for HOA or easement holders.
- c. Collection of dues and/or fees.
- d. Filing of required reports and taxes.
- e. Education and communication with residents.
- f. Insurance and risk management.
- g. Maintenance of proper reserves.
- h. Outsourcing.

These provisions shall be in place prior to any turn-over of the property from the applicant to the HOA or other management entity.

6. Applicability of other standards. All other applicable standards of this Ordinance, including but not limited to Article 2, Land Use, and Article 4, Development and Design Standards, shall apply to development developed under the provisions of this section.

