

ARTICLE XIV COMMON OPEN SPACE AND NEIGHBORHOOD PARKS

Section 1. Provision of Common Open Space

The minimum common open space that shall be provided is as specified in Article XIII, Section 9. Open space (spaces designed and intended for the use and enjoyment of all residents of the development) may contain such complimentary structures, improvements as are necessary and appropriate for the use, benefit and enjoyment of residents of the development. Common open space areas shall meet the following requirements:

1. Common open space areas shall be exclusive of non-tidal or tidal wetlands, road rights-of-way and parking areas.
2. Common open space may serve recreational purposes, preserve significant site features, and preserve open space. The uses authorized shall be appropriate to the purposes intended to be served. Open space designed to serve recreational purposes shall be appropriate to the scale and character of the development, considering its size, density, expected population, and the number and type of dwelling units proposed.
3. Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of protection may be left unimproved. The buildings, structures, and improvements to be permitted in the common open space must be appropriate to the uses which are authorized for the common space.

Section 2. Neighborhood Parks Required

In order to implement the Community Facility Goals and Objectives of the Comprehensive Plan, neighborhood parks shall be required for all new residential development in accordance with the following requirements:

1. For developments up to 100 dwelling units, .005 acres/dwelling unit shall be required.
2. For developments over 100 dwelling units, .015 acres/dwelling unit shall be required.
3. Except as provided below, it is the intent of this section that the required land area for neighborhood parks is in addition to the open space required in Section 1. above.
4. In the case of apartment developments, the requirement, as stated in Article XII, Section 29.2 of this Ordinance that 25% of the required 30% open space be suitable for usable recreational, said 25% shall satisfy the neighborhood park requirement of this Section.

Section 3. Neighborhood Parks: Purpose and Standards

1. The purpose of the neighborhood park is to provide adequate active recreational facilities to serve the residents of the immediately surrounding neighborhood within the development. The following are illustrative of the types of facilities that shall be deemed to serve active recreational needs and therefore to count toward satisfaction of the neighborhood park requirements of this article: tennis courts, racquetball courts, swimming pools, sauna and exercise rooms, meeting or activity rooms within clubhouses, basketball courts, swings, slides, and play apparatus.

2. Each development shall satisfy its neighborhood park requirement by installing the types of recreational facilities that are most likely to be suited to and used by the age bracket of persons likely to reside in that development. However, unless it appears that less than 5 percent of the residents of any development are likely to be children under 12, then at least 15 percent of the neighborhood park must be satisfied by the construction of "tot lots" (i.e., areas equipped with imaginative play apparatus oriented to younger children as well as seating accommodations for parents).
3. Neighborhood parks shall be attractively landscaped and shall be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences.
4. Each neighborhood park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. For neighborhood parks to be dedicated to the Town (see Section 5 below), said park shall have frontage on, or fee-simple access to, a public street. Said access shall be of suitable configuration to allow for regular maintenance by the Town and access by the general public.
5. Neighborhood parks shall not be less than 5000 square feet in size.
6. Each neighborhood park shall be constructed on land, the final grade of which shall not exceed a five percent (5%) slope, that is free of nontidal wetlands, and capable of serving the purposes intended by this article.

Section 4. Open Space/Neighborhood Park – Ownership and Management

1. It is the intent of this Ordinance that the required common open space and neighborhood park for residential subdivisions be dedicated to the Town of Elkton and be available for public use. Said dedication shall be at the sole discretion of the Town.
2. It is the intent of this Ordinance that the required common open space and neighborhood park for apartment developments not be dedicated to the Town of Elkton and be privately maintained in accordance with subsection 3. Below.
3. Where the Town determines that it is not in the best interest of the Town to accept dedication of the required open space and neighborhood park (such as in apartment developments), the Planning Commission shall require legal arrangements sufficient to assure their maintenance and preservation for whatever purpose they are intended. Instruments in the form of deed restrictions and/or covenant shall be provided to insure the purpose for which the open space is provided will be achieved. Said instruments shall be approved by the Planning Commission prior to recordation among the Land Records of Cecil County.

Section 5. Financial Surety for Improvements

Prior to final approval of the development plan where common open space and neighborhood parks are required, the developer shall submit a financial surety in the form of a Public Works Agreement acceptable to the Town in an amount as specified by the Town, which surety shall secure an agreement to construct the required physical improvements such as but not limited to landscaping, play equipment and athletic field construction as identified on the approved plans.

Section 6. Flexibility in Administration Authorized

1. The requirements set forth in this article concerning the size, location, nature and amount of common open space and the required neighborhood parks within residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and open space that is consistent with officially adopted Town plans. The Town recognizes, however, that due to the particular nature of a tract of land, or the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Commission may permit minor deviations from these standards whenever it determines that: (1) the objectives underlying these standards can be met without strict adherence to them; and (2) because of peculiarities in the developer's tract of land or the facilities proposed it would be unreasonable to require strict adherence to these standards.
2. Whenever the Planning Commission authorizes some deviation from the standards set forth in this article pursuant to Subsection 1., the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

Section 7. Reserved