

## **ARTICLE 21**

### **OPEN SPACE**

#### **21.1 Purpose.**

The open space standards contained herein are established to provide for the reservation of various forms of open spaces, including parks and greenways in all forms of developments located in the Town of Stallings territorial jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality.

Where applicable, the addition of active open space shall adhere to the Stallings Recreation and Greenway Master Plan. The standards set forth below establish regulations for open space. *(Amended May 10, 2021)*

#### **21.2 Open Space.**

The following standards are hereby established for open space. Percentage of required open space is calculated on the gross project acreage. Open space areas shall be identified and calculated on development proposals. For Greenways as identified on the Stallings Parks and Greenway Master plan, open space shall be calculated by creating a fifty (50') foot buffer, unless obstructed by property lines.

Open Space shall consist of improved and unimproved areas. The total requirement for open space is shown in Table 21.1. Improved open space shall be fifty percent (50%) of the total requirement as shown in Table 21.1. The remaining 50% of open space may be unimproved open space and consist of land as listed in Section 21.2-10. The maximum unimproved open space allowed, as defined in Section 21.2-10(A)(B)(C), may be less than twenty five percent (25%) of the total required open space. If this is the case, the remaining total open space must be met with either improved open space or unimproved open space as defined in Section 21.2-10(D)(E). *(Amended May 10, 2021)*

21.2-1 Open space land area requirements. Open space shall be provided in accordance with the following table for:

- (A.) initial residential development containing eight or more units,
- (B.) redevelopment or additional development that adds eight or more residential units,
- (C.) initial non-residential or mixed-use development greater than 0.6 acres, and

- (D.) re-development or additional development that adds 25 percent more non-residential or mixed-use floor area on a site that exceeds 0.6 acres within any 36-consecutive month period.

TABLE 21.1 (*Amended May 10, 2021*)

<b>ZONING DISTRICT</b>	<b>REQUIRED TOTAL OPEN SPACE</b>	<b>REQUIRED IMPROVED OPEN SPACE</b>
Single Family Residential (SFR-1)	25%	12.5%
Single Family Residential (SFR-2)		
Single Family Residential (SFR-3)		
Multi-Family Residential Transitional (MFT)	15%	7.5%
Traditional Neighborhood Development Overlay (TNDO)	10%	5%
Mixed Use (MU-1)	12%	6%
Mixed Use (MU-2) – When residential components are included, open space shall be centrally and internally located so as to provide focal points throughout the development.	10%	5%

<b>ZONING DISTRICT</b>	<b>REQUIRED TOTAL OPEN SPACE</b>	<b>REQUIRED IMPROVED OPEN SPACE</b>
Conditionally Zoned (CZ) <i>Requirements listed are a minimum but may be amended by the Town Council through the Conditional Zoning process.</i>	10%	5%
US Highway 74 Commercial (C 74) Interstate Highway 485 Corporate Park (CP 485) Vehicle Service and Repair (VSR) Industrial (IND) Heavy Industry Overlay (HIO)	10%	5%
Agriculture (AG) Civic (CIV) Scenic Corridor Overlay (SCO)	n/a	n/a
Town Center (TC) as <i>defined in Article 8. New development must adhere to the Parks and Greenway Master Plan when applicable.</i>	n/a	n/a

**21.2-2** Land designated as future open space. Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the *adopted Comprehensive Land Use Plan and/or the Stallings Parks and*

*Greenway Master Plan*, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development. (Amended May 10, 2021)

**Greenway, Park and Open Space Access:** When a development abuts greenways, parks and/or public open space areas, public access to such features must be provided at a minimum of every one-thousand (1000') feet when feasible, as determined by the Development Administrator. Such access shall be provided through greenway connectors a minimum of six feet wide. Connectors shall be paved, engineered to allow water runoff, and connected to the pedestrian system within the development, and will be maintained by the Owner's Association. (Amended May 10, 2021)

If the total amount of land designated as future open space or greenway is less than the total amount of open space required for the development by Table 21.1, then the developer shall provide additional open space to meet the requirement of Table 21.1. If the amount of land designated as future open space or greenway exceeds the total amount of open space required by Table 21.1, then the developer must provide the open space designated in the official adopted plan.

As compensation for any open space dedication associated with implementing any official adopted plan above that requirement listed in Table 21.1, the developer is eligible for a density bonus of one dwelling unit per each four-thousand and three-hundred and fifty-six (4,356) square feet of land area in excess of that required in Table 21.1 or five-hundred (500) square feet of non-residential gross floor area per each 2,178 square feet of land area in excess of that required in Table 21.1, up to a maximum of a fifteen (15%) percent increase above the maximum density or intensity allowed in the applicable zoning district. The density bonus in the proposed development is limited to additional yield that can be configured with less than a ten (10%) percent reduction in(s) in lot area and/or setback dimensions specified in Article 8.

21.2-3 Minimum open space area. Individual areas designated as open space areas shall not contain less than five-hundred (500) square feet, although smaller areas may be approved by the *Development Administrator* if the intent of this Ordinance is determined to be met.

21.2-4 Improved open space. Improved open space shall be planned, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain improvements that include, but are not limited to: landscaping, walls/fences, walks, statues, fountains, demarked ball fields, picnic areas, pools, gazebos, barbeque areas, and/or playground equipment.

Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or playgrounds. *(Amended May 10, 2021)*

21.2-5 Design and location. In major subdivisions and multi-building developments in all zoning districts, except Agricultural, open space shall be integrated into the design of the site. In subdivisions where fifty (50%) percent or more of the lots are less than 0.75 acres in size, open space shall be located within one-quarter (¼) mile of at least ninety (90%) percent of the building lots, as measured along the rights-of-way of streets providing access between the two. In subdivisions where fifty (50%) percent or more of the lots are 0.75 acre or more in size, open space shall be located within one-half (½) mile of at least ninety (90%) percent of the building lots, as measured along the rights-of-way of streets providing access between the two.

21.2-6 Focal point. Open space features should provide focal points for the neighborhood. *(Amended May 10, 2021)*

21.2-7 Intentionally left blank. *(Amended May 10, 2021)*

21.2-8 Open Space Ownership and Conservation Easement. Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a property association; or by individual private ownership such as a farmer, developer or other private entity that maintains the open space (i.e. farming, equestrian facility, etc.)

All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.

Public use of the open space may be limited to residents of the development, except for land used for public sidewalks and multi-use trails, provided that such open space is held in private or property association ownership.

21.2-9 Maintenance. The owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space area.

Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. Failure to maintain the area shall constitute a violation of this or other applicable ordinances. Alternatively, if acceptable to the Town Council, as applicable, the land may be dedicated to the Town for

public use and thereafter maintained by the Town.

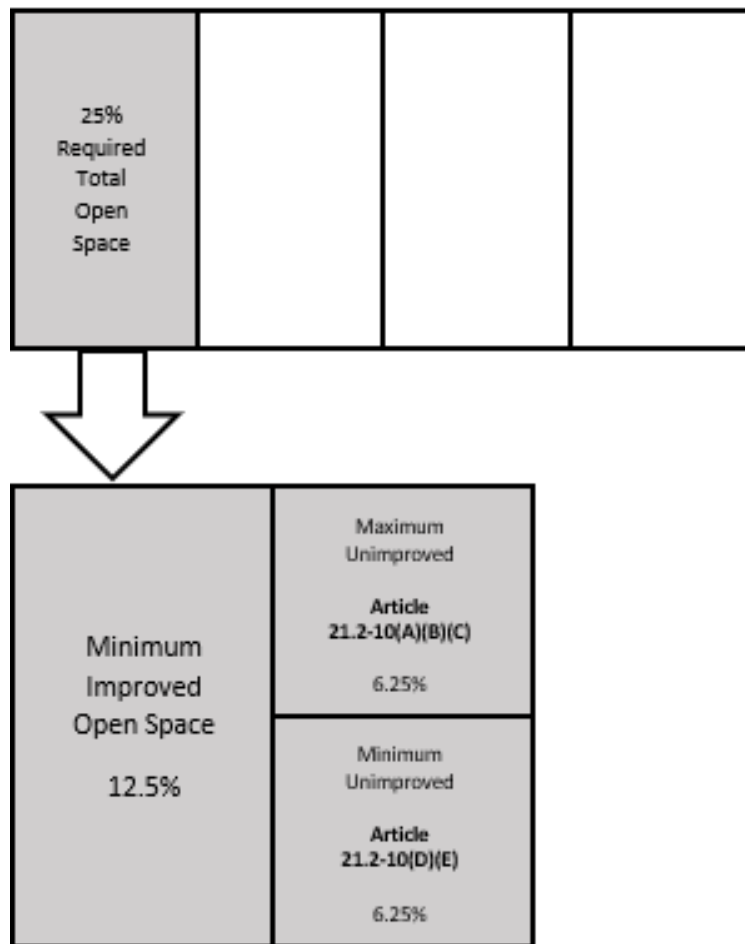
**21.2-10 Land Acceptable for Unimproved Open Space Designation.** The classes of land enumerated below may be utilized to meet the requirements of this section. For unimproved open space to be counted towards the total open space requirement, the area(s) must include a maintained access point. (*Amended May 10, 2021*)

A minimum of fifty (50%) percent of the total open space requirement shall be improved open space. The remainder of the open space shall be considered unimproved open space. A maximum of twenty-five (25%) percent of the total open space requirement may be areas of unimproved open space considered unbuildable as listed in 21.2-10(A)(B)(C). A minimum of twenty-five (25%) percent of the total open space requirement shall consist of the unimproved open space natural areas as listed in 21.2-10(D)(E). If unimproved open space that is considered unbuildable is less than twenty-five (25%) percent of the total open space requirement, the remainder shall be either unimproved open space that consists of natural areas as listed in 21.2-10(D)(E) or improved open space. Nothing in this section shall be intended to limit the entirety of open space to be improved open space.

- (A.) Land which exceeds sixteen percent (16%) slope if existing slopes and vegetation remain undisturbed;
- (B.) Land used for stormwater retention provided such land is natural in appearance and is not separately fenced. Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater at the discretion of the *Development Administrator*;
- (C.) Stream buffers;
- (D.) Grassed lands with no improvements that are accessible and maintained;
- (E.) Naturally wooded areas not including required buffers, steep slopes, or stormwater retention areas as defined in this section.

*Example Improved/Unimproved Open Space Calculation:*

**Single Family Residential Open Space  
Total Requirement: 25%**



*(Amended May 10, 2021)*

21.2-11 Land not Acceptable for Open Space Designation: The classes of land enumerated below shall not be utilized to meet the requirements of this section:

- (A.) Land that is contaminated with hazardous or toxic waste or materials as defined by state or Federal regulations, with the exception of land covered by an approved mitigation plan and deemed acceptable by the Town Council or land that is designated in an officially adopted Open Space, Park or Greenway master plan.
- (B.) Land occupied by streets, drives, parking areas, or structures other than recreational structures.
- (C.) Land with a minimum width less than twenty (20') feet. Mixed use developments in the TND district are exempt from the minimum width

requirement.

- (D.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape, and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open space amenities. Sidewalks that run through or are internal to improved open space shall be counted toward improved open space. *(Amended May 10, 2021)*
- (E.) Surface water, wetlands, utility transmission rights-of-way, and undisturbed floodplains. *(Amended May 10, 2021)*

### **21.3 Fee-in-Lieu.**

All proposed developed within the Town shall provide the improvements identified in the Stallings Parks, Recreation and Greenway Master Plan when those improvements are located on property involved with the proposed development.

When no improvements as identified by the Stallings Parks, Recreation and greenway Master Plan are associated with a proposed project, the developer shall be required to pay a fee in lieu thereof, in accordance with this section. This fee shall be calculated as follows:

1/35 of an acre per lot X tax value of the property (per acre).

Example:

100-lot subdivision with a per acre tax value of \$10,000:

$(1/35) * 100 \text{ [acres in property]} = 2.85714286$

$2.85714286 * \$10,000 \text{ [per acre value]} = \$28,571.43$

- (1.) At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plan or development.
- (2.) The payment of fees, in lieu of the dedication of land under subsection above shall be made to the Town of Stallings after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the town's Parks, Recreation and Greenway Master Plan.
- (3.) The fees in lieu of dedication shall be paid prior to final plat approval.
- (4.) The amount of the payment shall be the product of:
  - (a.) The number of acres to be dedicated, as required by subsection, above;
  - (b.) The assessed value for property tax purposes of the land being subdivided,



adjusted to reflect its current fair market value at the time the payment is due to be paid.

*(Amended May 10, 2021)*