

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )  
 )  
TOWN OF CLOVER )

**ORDINANCE 22-01**

**AN ORDINANCE AMENDING THE ZONING AND LAND DEVELOPMENT  
ORDINANCE OF THE TOWN OF CLOVER BY REPEALING AND  
REPLACING SECTION 7.4, SITE DESIGN STANDARDS FOR  
CONSERVATION SUBDIVISIONS**

WHEREAS, on July 12, 2021, the Clover Town Council approved Ordinance 21-18 which established a temporary moratorium on all activities relating to the acceptance of, review of, and action upon applications for zoning approvals, permits, site plan approvals, and any other official municipal action that would authorize or permit a conservation subdivision or create any vested rights that would authorize a conservation subdivision development; and

WHEREAS, on December 13, 2021, the Town Council approved Resolution 21-15 which extend the for an additional ninety (90) days; and

WHEREAS, Town staff and the Planning Commission studied the history and purpose of conservation subdivisions, examined the Town’s zoning and land development requirements for conservation subdivisions, and reviewed requirements for such developments that have been implemented by other municipalities and counties; and

WHEREAS, on January 20, 2022, the Planning Commission reviewed and recommended approval of amendments to Section 7.4, Site Design Standards for Conservation Subdivision; and

WHEREAS, the amendments include restricting conservation subdivisions to only R-12 and R-20 zoning districts, restricting dimensional requirements, requiring a minimum of 75% of the open space be contiguous and other changes; and

WHEREAS, a public hearing, as required by law and after proper public notice, was held on the \_\_\_\_ day of \_\_\_\_\_, 2022; and

WHEREAS, the Town Council finds that it is necessary and in the best interests of the Town and the citizens of the Town to amend the Town of Clover Zoning and Land Development Ordinance to incorporate said amendments.

NOW, THEREFORE, BE IT ORDAINED in Council duly assembled this \_\_\_\_ day of \_\_\_\_\_, 2022, that the Clover, South Carolina, Code of Ordinances, Zoning and Land Development Ordinance, shall be and hereby is amended so that after amendment the specific sections of the Zoning and Land Development Ordinance enumerated in the attached Exhibit A shall read as set forth in Exhibit A.

All other sections and provisions of the Town of Clover Zoning and Land Development Ordinance not amended herein shall remain in full force and effect.

**Effective Date.** This ordinance is effective immediately upon its adoption.

**Severability.** If any part of this Ordinance is held to be invalid or unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such invalid or unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

AND IT IS SO ORDAINED.

\_\_\_\_\_  
Mayor

Council:  
\_\_\_\_\_

(Town Seal)

Attest:

\_\_\_\_\_  
Town Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

## Ordinance 22-01 Exhibit A

### Section 4.4 Common Open Space shall be amended as follows: Section 4.4-4 Where Required

The following uses/developments consisting of eight (8) or more dwelling units, and commercial developments shall provide common open space in the amounts prescribed:

<u>Proposed Uses/Developments</u>	<u>Ratio (% Lot)</u>
Single-family Residential	
Major Subdivision	15%
Conservation Subdivision	<del>40%</del> <u>50%</u>
Townhouse Projects	15%
Manufactured Home Parks	20%
Multi-family Projects	20%
Commercial	
Major Land Development	15%

**Note:** Up to 25% of landscaped buffer areas provided to meet the requirements of Section 4.1 for multi-family residential projects and manufactured home parks may be applied toward meeting the above requirements.

*No other changes shall be made to this section.*

### Section 10.3 Types of Applications shall be amended as follows:

Types of applications for processing matters subject to the requirements of this Ordinance include:

#### Applications to Develop or Alter the Use of Land

**Conservation Subdivision** - is a major subdivision with not less than ~~40%~~50% percent of the site devoted to open space and the protection, preservation and improvement of the natural environment.

*No other changes shall be made to this section.*

### Section 7.4 Site Design Standards for Conservation/Cluster Subdivisions shall be repealed and replaced in its entirety with the following:

#### Section 7.4-1 Purpose

1. To provide for the preservation of greenspace as a nonstructural stormwater runoff and watershed protection measure.

2. To provide a residential development tool that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
3. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
4. To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
5. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
6. To promote interconnected greenways and corridors throughout the community.
7. To promote contiguous greenspace with adjacent jurisdictions.
8. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood.
9. To encourage street designs that reduce traffic speeds and reliance on main arteries.
10. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.
11. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.
12. To preserve important historic and archaeological sites.

#### **Section 7.4-2 General Regulations**

1. Applicability of regulations. This Conservation Subdivision option is available in the ~~R-12 and~~ R-20 districts as a use by right. Applicant shall comply with all other provisions of the zoning and land development ordinance and all other applicable laws, except those that are incompatible with the provisions contained herein.
2. Ownership of development site. The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
3. Housing Density Determination. The maximum number of lots in the Conservation Subdivision shall be determined by either of the following two methods, at the discretion of the Zoning Administrator:
  - a. Calculation: The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in Table 2. In making this calculation, the following shall not be included in the total area of the parcel:
    - i. slopes over 25 percent of at least 5,000 square feet contiguous area;
    - ii. the 100-year floodplain;
    - iii. bodies of open water over 5,000 square feet contiguous area;
    - iv. wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; or,
    - v. anticipated right-of-way/easement area for roads and utilities.

- b. Yield Plan: The applicant shall prepare a conventional subdivision design plan showing maximum number of lots of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.

### **Section 7.4-3. Application Requirements**

1. Pre-application conference with staff prior to submittal of a formal application;
2. Site visit by staff and the applicant;
3. Site Analysis Map Required. Concurrent with the submission of a Preliminary Plat, Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this section. The preliminary site plan shall include the following features:
  - a. Property boundaries;
  - b. All streams, rivers, lakes, wetlands and other hydrologic features;
  - c. Topographic contours of no less than 10-foot intervals;
  - d. All Primary and Secondary Conservation Areas labeled by type, as described in Section 7.4-5;
  - e. General vegetation characteristics;
  - f. Tree survey displaying mature or new tree stands;
  - g. General soil types;
  - h. The planned location of protected Open Space;
  - i. Existing roads and structures; and,
  - j. Potential connections with existing greenspace and trails;
  - k. Buildable land plan (Areas excluding wetlands, slope, riparian buffers, required buffers, and the like).
4. Open Space Management Plan: An open space management plan, as described in Section 7.4-5, shall be prepared and submitted prior to the issuance of a land disturbance permit.
5. Instrument of Permanent Protection Required. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in 7.4-5 5., shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.
6. Other Requirements. The Applicant shall adhere to all other applicable requirements of the Town of Clover Zoning and Land Development Ordinance.

### **Section 7.4-4 Dimensional Standards**

Provided the arrangement, design, and shape of house lots is such that lots provide satisfactory and desirable sites for building, and contribute to the preservation of designated Primary and/or Secondary Conservation Areas, minimum lot area, lot width, and setback requirements may be reduced as set forth below.

- a. Minimum lot area requirements may be reduced by up to sixty percent (60%) but shall be no smaller than 5000 square feet.
- b. Minimum lot width requirements may be reduced by fifty percent (50%) but shall be no less than 40 feet.
- c. Minimum front setback requirements may be reduced to no less than fifteen (15) feet; front loaded garages setback at least 25 feet.
- d. Minimum rear setback requirements shall not fall below 15 feet; may be reduced to 5 feet for rear loaded garage accessing an alleyway.
- e. Side setback requirements shall be no less than 5 feet.
- f. Side setback for corner lots shall have a setback of 15 feet

### **Section 7.4-5 Open Space**

1. Definition. Open Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.
  
2. Standards to Determine Open Space.
  - a. The minimum restricted Open Space shall comprise at least 50% of the gross tract area.
  - b. The following are considered Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this article:
    - i. The regulatory 100-year floodplain;
    - ii. Buffer zones of at least 75 ft width along all perennial and intermittent streams;
    - iii. Slopes above 25 percent of at least 5,000 square feet contiguous area;
    - iv. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
    - v. Populations of endangered or threatened species, or habitat for such species; and,
    - vi. Archaeological sites, cemeteries and burial grounds
  - c. The following are considered Secondary Conservation Areas and should be included within the Open Space to the maximum extent feasible.
    - i. Important historic sites;
    - ii. Existing healthy, native forests of at least one-acre contiguous area;
    - iii. Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;
    - iv. Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
    - v. Prime agricultural lands of at least five acres contiguous area; and,
    - vi. Existing trails that connect the tract to neighboring areas.

- d. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Open Space but cannot be counted towards the 50% minimum area requirement (exception: historic structures and existing trails may be counted).
  - e. At least 75 percent of the Open Space shall be in a contiguous tract. The Open Space should adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.
  - f. The Open Space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.
3. Permitted Uses of Open Space. Uses of Open Space may include the following:
- a. Conservation of natural, archeological or historical resources;
  - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
  - c. Walking or bicycle trails, provided they are constructed of porous paving materials;
  - d. Passive recreation areas;
  - e. Active recreation areas, provided that they are limited to no more than 10 percent of the total Open Space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space;
  - f. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
  - g. Nonstructural stormwater management practices;
  - h. Easements for drainage, access, and underground utility lines; or
  - i. Other conservation-oriented uses compatible with the purposes of this ordinance.
4. Prohibited uses of Open Space
- a. Golf courses;
  - b. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
  - c. Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,
  - d. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.
5. Ownership and Management of Open Space.

- a. Ownership of Open Space. The applicant must identify the owner of the Open Space who is responsible for maintaining the Open Space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the owner.
- b. Management Plan. Applicant shall submit a Plan for Management of Open Space and Common Facilities ("Plan") that:
  - i. allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
  - ii. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
  - iii. provides that any changes to the Plan be approved by the Town Council; and,
  - iv. provides for enforcement of the Plan.
- c. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the Town of Clover may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.
- d. Legal Instrument for Permanent Protection.
  - i. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
    - A. A permanent conservation easement in favor of either:
      1. a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
      2. The Town of Clover;



- B. A permanent restrictive covenant for conservation purposes in favor of the Town of Clover; or,
  - C. An equivalent legal tool that provides permanent protection, if approved by the Town of Clover.
- ii. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.