

CRITERIA FOR INCLUSION OF LAND AS REQUIRED SUBDIVISION OPEN SPACE
Adopted by Pender County Planning Board July 6, 2004

General Criteria for Required Open Space in Subdivisions

The area must meet or comply with all of the following criteria:

1. It must be owned by the Developer of the Subdivision and Fee Simple Title, clear of any encumbrances except easements for “preservation” or “public utilities,” must be transferred to the Homeowners Association or a public entity for “Open Space/Recreation Area,”
2. The preliminary and final subdivisions plats must designate the area as “Open Space/Recreation Area,”
3. The area shall not contain any impervious surfaces, unless the impervious surface is a constructed, active recreation area or facility or serves such a facility or area,
4. The area shall not be part of any required lot area or any required area to meet density standards,
5. The area must be accessible to and usable by all residents of the development by access from a public street, private street or 30’ access easement,
6. The area is an integral part of the Subdivision or is adjacent and contiguous to the Subdivision,
7. Cul de sac islands or other traffic islands shall not be counted as open space unless such island facilities are over sized to save significant existing trees and such area is approved by the Planning Department or Planning Board.
8. The required and calculated area shall not include any drainage ditch or drainage swales unless the ditch or swale is proven necessary to provide drainage for active or developed recreation facilities included in the area,
9. The required and calculated open space area shall not include any individual storm water retention pond or facility less than 5000 sq. ft. in area. The area around any storm water pond/retention facility included as open space shall be landscaped with at least 2 under story trees and 2 canopy trees per 100 linear ft.
10. The area shall not have any dimension less than 50’, unless it covers specifically one of the following:
 - a. a natural or hazard area, included in a printed inventory sponsored by a DNER Agency or approved by the Planning Board,
 - b. a developed or constructed pedestrian trail network at least 20 ft. wide,
 - c. a buffer area at least 20’ wide that is planted with at least 3 canopy and 3 under story trees per 100 linear ft. and the plantings are shown as part of the subdivision improvements.
 - d. an area at least 20’ in width that contains existing canopy and under story trees that are in a natural state with a density of at least 3 canopy and 3 under story trees per 100 ft. and destruction of the area is restricted by note on the preliminary and final plat.
11. All tree plantings required or proposed in open space areas to qualify the area as open space shall meet the planting specifications contained in Section 14.10 of the Pender County Zoning Ordinance.

The area must also serve one of the following functions or purposes:

1. The area provides identifiable aesthetic or other direct benefits to the entire subdivision,
2. The area preserves a significant natural area such as hydric soils, wetlands, flood prone areas, floodway areas, unique plants or other natural features, perennial or intermittent streams, historic structures, sites or facilities, etc. “Significant natural areas, unique plants, other natural features, historic structures, sites or facilities must be included on a printed inventory sponsored by an appropriate State or Federal Agency or approved by the Planning Board.
3. The area preserves existing trees, specifically canopy and under story trees,
4. The area provides for a planted, wooded, tree (canopy & under story) natural area that serves as a buffer between the subdivision and other subdivisions or different land use types in the subdivision.
5. Provides for a constructed system of pedestrian walks or trails,
6. Provides for a developed active recreation area or a constructed active or passive recreation facility.

Criteria for Dual or Multi-purpose Use of Open Space/Recreation Areas:

1. Any alternate or additional use should be secondary to the primary purpose of the open space/recreation use.
2. The use shall not interfere with, subjugate or restrict the Homeowners Association or individual lot owners overall use of the area for recreation use or facilities or effect the aesthetic value of the area.
3. The use should benefit all of the lots or units in the development.
4. The use should not restrict the areas potential to be left in its natural state or to be planted with canopy trees or under story trees.
5. The secondary use shall not interfere with, subjugate or restrict the Homeowners Association’s fee simple ownership or control of the area to any non public individual or entity, in the form of long term easements or special privileges.

**LOCAL ORDINANCE AND NC STATUTORY PROVISIONS
FOR OPEN SPACE/RECREATION AREA**

Subdivision Ordinance Definition of Open Space

“**Open Space** – an area that is left in its natural state or maintained for passive or active recreation activities, is typically void of buildings other than recreation related buildings and is dedicated to public use, owned by a homeowners association or specifically and clearly reserved for the benefit of residents of the subdivision or immediate area.”

Subdivision Ordinance Requirement for Open Space

Open space and/or recreation areas equaling 15 percent of the total development area shall be required to be reserved for any minor or major subdivision with any lots of less than three fourths acre (32,500 sq. ft.) or any major subdivision with lots less than one acre in size. Such areas shall be shown on the preliminary and final plats as “reserved open space/recreation, not for building development” with an indication of ownership. The open space areas shall be accessible by a dedicated access easement at least 30’ in width. Wetlands, Hydric Soils and SFHAs areas may be included in the required open space. Ownership of the open space areas shall be transferred to the development homeowners association or to a public entity or non profit conservation entity for the benefit of the subdivisions property owners. When ownership is not indicated to the homeowners association, evidence of acceptance by the public entity or non profit conservation entity shall be provided with the final plat.

Statutory Provisions for Open Space in Subdivisions (GS 153A-331)

“A subdivision control ordinance may provide for the orderly growth and development of the county; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivisionand for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare.”

“A subdivision control ordinance may provide that a developer may provide funds to the county whereby the county may acquire recreational land or areas to serve the development or subdivision, including the purchase of land which may be used to serve more than one subdivision or development within the immediate area.”

**ADOPTED PENDER COUNTY POLICIES
RELATED TO OPEN SPACE/RECREATION AREAS**

20/20 Policies Related to Open Space/Recreation Areas

1. Policy 1.1: Pender County shall encourage developments which contribute to a distinct “town and country” or “village and country” growth pattern. The intent of this policy is to allow for the preservation of true open space and productive farm and timberland, to coordinate and minimize costs of extending infrastructure and services, to avoid higher taxes, and to minimize traffic congestion associated with suburban sprawl.
2. Policy 3.4: Sidewalks, trails, bikeways, public transit and other means of transportation shall be encouraged.
3. Policy 4.6: Green space development away from centralized sewage treatment facilities may employ package sewage treatment plants or other alternative sewage treatment systems as a means of achieving more efficient land use.
4. Policy 5.5: Pender County will work, whenever possible, to require the retention and management of natural vegetation in buffer areas along its creeks and rivers.
5. Policy 7.6: All new residential development should provide for adequate open space and recreation area in proportion to the demand created by the development. This may be determined according to the number of dwelling units in the development and/or by a percentage of the total acreage in the development.
6. Policy 12.2: All developments in the unincorporated county shall be encouraged to employ green space development as an environmentally sound, economically cost effective, and visually attractive alternative to large lot sprawl.
7. Policy 12.9: New developments shall provide for the installation of infrastructure (e.g. paved roads, storm water facilities, park and open space areas, etc.) at the time of development. This policy is intended to prevent the creation of substandard developments which must later pay for infrastructure that should have been installed from the beginning.
8. Policy 20.5: The significance of street trees in providing visual relief, summer cooling, improved air quality and livability shall be recognized through public policies to encourage their planting and maintenance.

OTHER LOCAL SUPPORT FOR OPEN/SPACE RECREATION REQUIREMENTS

2005 Land Use Plan, Goals Identified in Public Participation Process Related to Open Space

1. Encourage development patterns that contain extensive open spaces and preserve natural area.
2. Encourage preservation and development of wildlife and natural areas.
3. Provide protection for trees, wetlands and other natural resources during the development process.
4. Encourage recreation areas that are accessible to communities.
5. Encourage activities that will preserve the quality of air and water.