

409.3 Open Space

All areas of a development not conveyed to individual owners; and not occupied by buildings and required or proposed improvements shall remain as permanent open space or be dedicated to recreation area to be used for the sole benefit and enjoyment of the residents of the particular units being proposed. Such open space shall be part of the same parcel and contiguous and shall be subject to the following regulations:

- A. Recreation areas shall be immediately adjacent to the proposed units and freely and safely accessible to all residents of the development and shall not be used to fulfill open space requirements or provide recreational areas for residents of other units.
- B. Land designated as open space shall be maintained as open space and may not be separately sold, used to meet open space or recreation area requirements for other developments, subdivided or developed excepting that a holding zone may be reserved for future development pursuant to density and other zoning requirements as they presently exist, provided such lands are specifically defined and indicated as "reserved for future development" on all plats. Such lands shall not be included in calculating permitted density for the proposed development. These provisions, however, shall not be construed as granting or reserving to the developer any rights or privileges to develop on the basis of a "pre-approved plan" if density or other zoning requirements shall have been modified to preclude such development.
- C. Open space areas shall be maintained so that their use and enjoyment as are not diminished or destroyed. Such areas may be owned, and maintained by either one or both of the following mechanisms:
 - 1. Dedication to a property owners association which assumes full responsibility for maintenance of the open space.
 - 2. Deed-restricted private ownership which shall prevent development of the open space, provide for its maintenance and protect the rights of owners or occupants of dwelling units to use and enjoy, in perpetuity, the open space as shall have been dedicated to recreation area for the project.

Whichever mechanism(s) may be used, the developer shall provide, to the satisfaction of the Township and prior to the granting of any Final Plan approval, for the perpetual maintenance of the open space and also the use and enjoyment of the recreation area by residents of the units being approved. No lots shall be sold nor shall any building be occupied until and unless such arrangements or agreements have been finalized and recorded.

- D. At least fifty (50) percent of the designated recreation area shall be usable for active recreational activities and shall not include swamps, quarries, slopes over twenty-four (24) percent in grade, or acreage used for improvements. Storm drainage facilities are considered improvements.
- E. Developments of fifty (50) units or more shall also include parks and playgrounds according to the following formula; one-half acre per fifty (50) units.