

6

PARKS & OPEN SPACE

6.1 PURPOSE & INTENT

It is the intent of this ordinance to require that new development provide centrally-located, unencumbered land as neighborhood parks for human use as well as cohesive and viable natural habitats as preserved open space. Parks, as defined by this chapter, are distinct from those areas that are environmentally significant and must be otherwise protected from human transgression.

For the purposes of this ordinance, parks are publicly accessible areas set aside for public use and recreation and which are improved to the requirements of one or more of the park types outlined in this Chapter. By contrast, open space comprises those areas set aside and protected from development which may be left in a generally unimproved state.

It is the intent of this Section to:

- Ensure that new development provides centrally-located, unencumbered land as improved park space for resident use,
- Preserve rural views, significant hardwood forests, wildlife habitats, and watersheds in pristine form, and
- Conserve areas which are inappropriate for development because they contain stream buffers, floodplains or steep slopes.

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6.2 DEDICATION & CONSERVATION REQUIREMENTS

Any person developing and/or subdividing property for residential purposes shall be subject to the park dedication and open space conservation requirements as follows:

6.2.1 MINIMUM PARK DEDICATION & OPEN SPACE CONSERVATION

The minimum amount of park space required for dedication and open space required for conservation (measured as a percentage of the gross area of development) shall be as follows:

CONTEXT	DISTRICT	REQUIRED PARK SPACE (IMPROVED) – SEE SECTION 6.4	REQUIRED OPEN SPACE (UNIMPROVED) – SEE SECTION 6.5	TOTAL REQUIRED DEDICATED SPACE
Mixed-Use	N-R	5%	5%	10%
	D-MX, UC-MX	2% for projects \geq 5 acres	Exempt	2% for projects \geq 5 acres
Conventional	GR-2, GR-5	10%	15%	25%
	MF-R, MH-R	10%	15%	25%
	N-B, G-B	No Minimum	No Minimum	10%
Special District	LI, HI	No Minimum	No Minimum	20%
	AC, PL	Exempt	Exempt	Exempt

6.2.2 CREDIT TOWARD REQUIRED PARKS DEDICATION

- A. Proximity to Existing Parks: Developments that are near an existing town-owned, publicly accessible park, which meets the park standards in Section 6.4, may count all such lands in their park dedication requirement, as follows:
 1. Adjacent (sharing a property boundary): Credit of area of adjacent park up to 50% of required park space dedication.
 2. Within $\frac{1}{4}$ Mile: Credit of area of park area or shared park use up to 25% of required park space dedication.
- B. Greenways: Greenways within the development site may be credited toward the minimum park dedication requirements at the rate of the length of the greenway times 20 feet in width.

6.2.3 CREDIT TOWARD REQUIRED OPEN SPACE CONSERVATION

- A. Viewshed Bonus: If dedicated Open Space is within a viewshed or similar preserved landscape designation shown on the Zoning Map, Comprehensive Plan map, or any similar town document, such Open Space shall count for 50% more than its actual area.
- B. Greenway Connection Bonus: If greenways are constructed as shown on any town document, such Open Space shall count for 20% more than its actual area.
- C. Parkway Streets: The Open Space requirements for a development may be reduced by building Parkway Streets (see Section 5.6) including construction of a Multi-Purpose Trail, alongside designated park and open space areas which are not encumbered by utility easements, wetlands or other unbuildable areas. The Open Space reduction shall equal 50% of the area of the Parkway Street within the development site.

- D. Reservation of School/Public Building Sites: Sites reserved for schools and/or public buildings in accordance with the standards of Section 5.12 may include up to 50% of their total area towards the open space dedication requirement.

6.3 PAYMENT IN LIEU OF DEDICATION AND CONSERVATION

6.3.1 APPLICABILITY

Any person developing a property subject to this chapter may, upon approval of the Administrator, make a payment in lieu of any required Park or Open Space, except that the dedication requirement for any areas designated as future greenways on an adopted plan are not eligible to be met by payments in lieu of dedication. Reasons for permitting payments in lieu of dedication may include, but are not limited to, sufficient proximity to existing public parks; the presence of severe topographic or geographic conditions which limit the potential development area of a site; the small size of a proposed infill or redevelopment project; and other similar reasons as determined by the Administrator.

6.3.2 FEE DETERMINATION & DISBURSEMENT

- A. Determination of Payment In Lieu: Payment in lieu of dedication shall be the product of the post-development appraised value of the land to be developed (per gross acre) multiplied by the number of acres to be dedicated. The following formula shall be used to determine the fee:

$$\frac{\text{Post Development Appraised Value of Entire Development (per gross acre)} \times \text{Required Park Space Dedication (acres)}}{1} = \text{Payment in Lieu of Dedication Fee}$$

- B. Determination of Post Development Appraised Value: The Post Development Appraised Value of the Entire Development shall be established prior to Subdivision or Site Plan approval by an Appraiser who is a Member of the Appraisal Institute (MAI) or a South Carolina General Certified Appraiser. This should be done at the developer's expense.
- C. Credit for Park and Greenway Connections: Credit toward a payment in lieu shall be given for the cost of constructing pedestrian/bicycle accessways that connect to existing parks or greenways, up to a maximum of 50% of the required payment in lieu. Such pedestrian/bicycle accessways shall meet the standards of Sections 5.8 and 5.9
- D. Disagreements Regarding Payments In Lieu: Any disagreement in the amount of required payment shall be resolved by conducting a professional appraisal of the fair market value of the property. The professional appraiser shall be mutually agreed upon by the developer and town. An appraiser shall be appointed by the Town, at the developer's expense, should an agreement not be reached.
- E. Disbursement of Payments In Lieu: All payments made in lieu of dedication shall be made at the time of Site Plan or Subdivision - Final Plat approval or prior to the issuance of the first Certificate of Occupancy (whichever comes first as appropriate). Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered. All funds received for payment in lieu of dedication shall be deposited in a general fund with a line item to be used only for the acquisition, development, or redevelopment of public recreation space by the town.

6.4 PARK STANDARDS

6.4.1 STANDARDS FOR ALL PARKS

A. Location

1. Land for parks shall be centrally and internally located so as to serve the needs of the residents of the neighborhood or the residents of the immediate area within which the development is located.
2. Required park spaces shall provide focal points for community activity amidst development in the center of neighborhoods and the town.
3. Easements for public utility transmission lines shall not receive credit toward required Park area.
4. For developments which abut or include areas set out as parks in the Summerville Parks and Recreation Master Plan or any other adopted plan, the Administrator may require that the minimum required park area(s) be located in accordance with the site, or portion thereof, as shown on the applicable plan.
5. For developments that abut or include areas designated as future greenways on an adopted plan, the Administrator shall require a 20-foot minimum width public pedestrian and non-motorized vehicle easement be dedicated along all such areas.
6. All required park area shall be located outside protected areas as designated in Chapter 11 (Environmental Protection Regulations), except that up to 25% of required park area may be comprised of lakes, ponds, streams, or man-made stormwater features provided that these areas meet the following criteria to establish them as a usable park area as determined by the Administrator:
 - a. Such areas shall be subject to all provisions of Chapter 11.
 - b. Such areas must be designed as a focal point of the development, and must be part of a larger park area that meets all of the standards of this Section.
 - c. Such areas must be designed explicitly for recreational use through the inclusion of a dock, pier, boardwalk or other structure or feature that permits users direct access to the water feature.
 - d. The perimeters of such areas must be improved with native plantings and landscaping or a vertical retaining wall constructed of brick, stone or other natural material. Rip rap, shot rock, rock armor or other typical large aggregate reinforcement mechanisms shall not be used as a visible finishing material.

B. Topography

1. The average slope of land for active recreation shall not exceed 7.5%
2. The average slope of land for passive recreation shall not exceed the average slope of the entire neighborhood or development, and in no case shall the average slope exceed 15%.

C. Shape and Dimension

1. The shape and dimensions of required parks shall be such as to be deemed usable for the recreational activities proposed, as determined by the Administrator with reference to established recreational standards and the provision of 6.4.2.
2. All parks shall have at least 50 feet of frontage on at least one public street within the development.

D. Accessibility

1. All parks shall be conveniently accessible to all residents of the development.
2. No residential unit within a development shall be further than ¼ mile from a publicly accessible park facility.

E. Unity

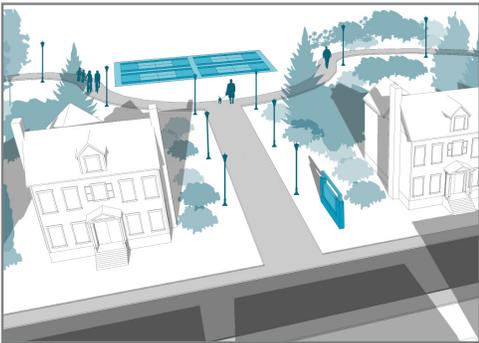
1. Where the amount of required park area is ½ acre or less, such park area shall be dedicated as a single parcel of land, except where 2 or more parcels are necessary to meet the ¼ mile accessibility requirement above, or where it is determined by the Administrator that 2 or more parcels would be in the public interest.

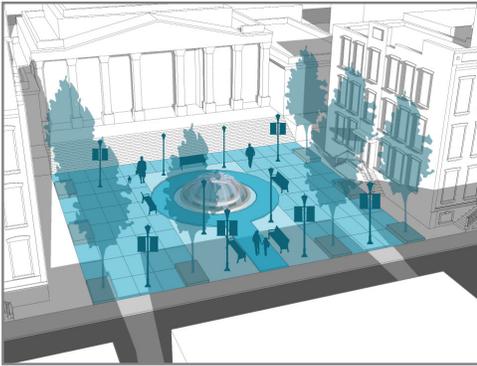
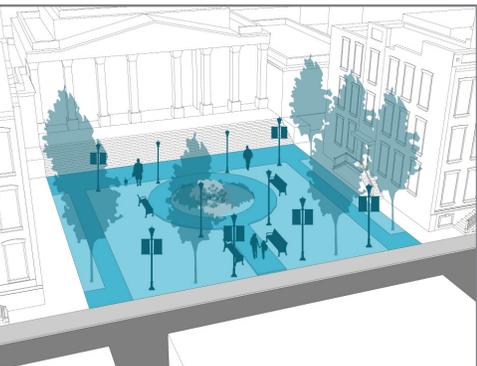
F. Minimum Amenities

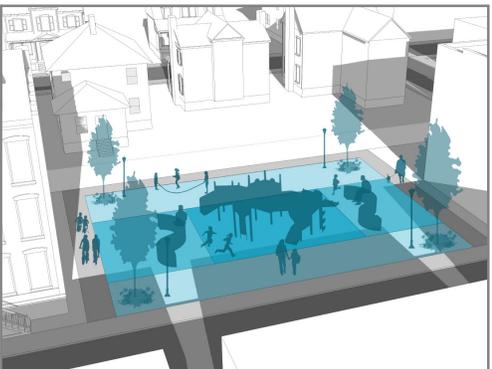
1. Public seating areas shall be provided which are appropriate to the intended use of the park area (e.g., benches and/or durable chairs may be appropriate for formal/active spaces; garden wall seats and landscape terraces may be appropriate for informal/passive spaces). A minimum of 2.5 linear feet of seating shall be provided for every 2,500 square feet of Park area.
2. Garbage and recycling receptacles shall be required at each public entrance and gathering space.
3. At least four (4) Class III bicycle parking spaces shall be required for every ¼ acre of park area and every ½ mile of greenway. (See Sections 5.8 and 5.9 for Greenways and Bicycle Standards).
4. These provisions may be managed by the appropriate Homeowners Association (HOA) in lieu of Town Services.

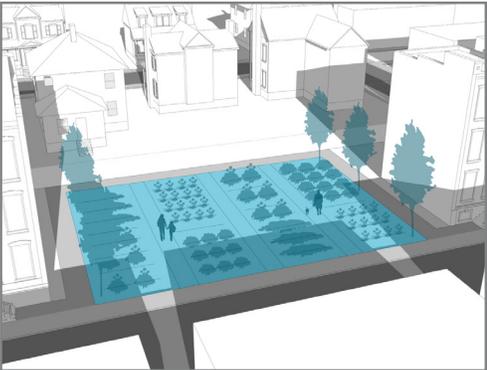
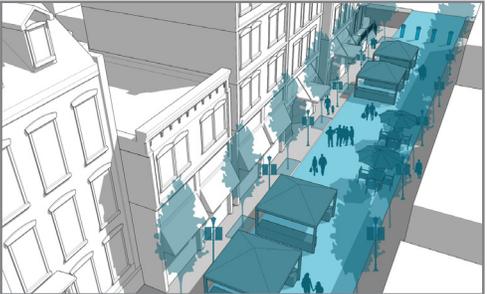
6.4.2 PARK TYPES

All Parks shall be designed in accordance with the requirements of one or more of the eight (8) park types established in this section.

PARK/OPEN SPACE TYPE		MINIMUM STANDARDS
<p>A. NEIGHBORHOOD PARK Neighborhood Parks are protected natural spaces that provide opportunities for active and passive recreation. They may include ball fields, tennis courts, basketball courts, fitness areas, paths, trails, meadows, water bodies, woodland, open shelters, performance areas and other recreational amenities.</p>	 	<ol style="list-style-type: none"> 1. Parks should be designed for both passive and active recreational use. 2. There shall be no active recreation within a park area that has undergrowth or limbs lower than 8 feet from the ground where contact could present injury to people or damage to property. 3. At least 25% of the park area shall be dedicated to active recreation purposes such as playgrounds, tennis courts, ball fields, volleyball courts, etc.

PARK/OPEN SPACE TYPE	MINIMUM STANDARDS	
<p>B. PLAZA A plaza is a paved, open area adjacent to or between civic or commercial buildings. Plazas function as gathering places and may contain a variety of intermittent activities, such as vendors and display stands. These can add vitality, promote security, and draw people to the ground level retail.</p>	 	<ol style="list-style-type: none"> 1. Plazas shall be paved primarily with brick, pavers or similar material and may include areas of crushed stone or soft landscape. 2. Plazas shall be level, stepped, or gently sloping (less than 3% grade). 3. The shorter dimension of a plaza shall be no less than ½ the average height of surrounding buildings. 4. Plaza design should incorporate sculpture, fountains, or other focal points and gathering spaces. 5. A minimum of one linear foot of seating shall be provided for every two (2) linear feet of the Plaza perimeter.
<p>C. SQUARE / GREEN Squares and Greens are open spaces that are spatially defined by building frontages and/or landscaping. They provide space for unstructured recreation and civic purposes.</p>	 	<ol style="list-style-type: none"> 6. Horizontal dimensions of Squares and Greens should not exceed six (6) times the average vertical height of buildings enclosing the space at the perimeter. 7. The walkways within Squares and Greens shall be paved in universally accessible surfaces such as concrete, asphalt, crushed gravel, brick pavers, or similar material, or partially paved with areas of soft landscape. 8. Where adjacent to street ROW's, Squares and Greens shall be planted parallel to such ROW's with one tree species a minimum of 10 feet and a maximum of 30 feet on center.

PARK/OPEN SPACE TYPE	MINIMUM STANDARDS	
<p>D. CLOSE A Close is a front space for buildings interior to the block. The close is a superior alternative to the cul-de-sac, as the focus is a green rather than vehicular paving.</p>	 	<ol style="list-style-type: none"> 1. A Close may be used in a residential or a commercial area, but must be fronted by buildings with operable doors that provide ingress and egress to the primary space within the building. 2. Closes may be designed with only pedestrian access, or they may have a roadway loop around a green area. 3. If a roadway loop for cars is included, the paved area used for cars shall not exceed 50% of the total area of the Close. The roadway shall be designed to minimize the amount of paved surface while maintaining an adequate vehicular travelway.
<p>E. PLAYGROUND Playgrounds provide permanent play equipment within sunny and shaded play areas for children as well as shelters with benches for parents. Playgrounds may be built within squares or parks or may stand alone within a residential block.</p>	 	<ol style="list-style-type: none"> 1. Playing surfaces shall be covered in sand, wood chips or other equivalent material. 2. Paths and walkways shall be paved in concrete, crushed gravel, brick pavers or similar material. 3. Playground equipment shall be equivalent to the standards established by the Consumer Products Safety Commission and the American Society for Testing and Materials (ASTM) for playgrounds.

PARK/OPEN SPACE TYPE		MINIMUM STANDARDS
<p>F. COMMUNITY GARDEN A Community Garden is a grouping of garden plots available for small-scale cultivation, generally to residents of nearby neighborhoods.</p>	 	<p>1. Community Gardens must include garden sheds for the storage of gardening equipment and access to a public water source.</p>
<p>G. PEDESTRIAN PASSAGEWAY Pedestrian Passageways are relatively narrow public spaces between buildings, allowing pedestrian access from rear parking areas to the public sidewalk or between two other public spaces. These passageways can be attractive, successful locations for store entries, window displays, and cafe seating.</p>	 	<p>1. Pedestrian passageways may be covered or uncovered, shall be a minimum of 6 feet wide with a paved surface.</p>

PARK/OPEN SPACE TYPE		MINIMUM STANDARDS
<p>H. GREENWAY Greenways are corridors of protected open space managed for conservation and recreation purposes, often following natural land or water features. Greenways include pathways for walking and cycling which are separated from vehicular traffic, providing users a safe transportation corridor. Greenways link parks, cultural features and historic sites with each other and with developed areas.</p>	 	<ol style="list-style-type: none"> 1. Greenways shall include a paved pathway, a minimum of 10 feet wide. 2. The minimum easement for a greenway shall be 20 feet wide.

6.5 OPEN SPACE STANDARDS

6.5.1 STANDARDS FOR ALL OPEN SPACE

The location, nature, configuration, and use of the Open Space shall be determined by the following regulations and criteria:

A. Location

1. **Primary Conservation Areas:** Primary conservation areas have been determined as inappropriate for development because they contain stream buffers, flood plains, or slopes greater than 20%. Dedication of Open Space shall include all primary conservation areas, and designate any additional Open Space for preservation as necessary to attain the minimum required percentage of Open Space.
2. **Additional Open Space:** Additional required Open Space may lie within other protected areas as designated in Section 11 (Environmental Protection Regulations) or elsewhere in this ordinance, but shall be subject to all applicable provisions of this ordinance as well as any applicable State or Federal regulatory jurisdiction. The following criteria should be considered in the conservation of Open Space beyond primary conservation areas:
 - a. Proximity or relationship to other Open Space within or outside the proposed development;
 - b. The presence of significant natural features (rock outcroppings, forests, ponds, streams, etc.), viewsheds, wildlife habitats, trails, and/or community farms and gardens.
3. **Non-Contiguous Open Space Areas:** The open space requirement for a development may be met by property such as a town park that is not contiguous with the development, nor owned by the applicant, as long as a 10% minimum requirement for Open Space is met on-site and

the non-contiguous property is approved by the Administrator. The Administrator will consider the following factors in approving/disapproving the use of non-contiguous property to meet the minimum Open Space conservation requirement:

- a. Size and location of utility and/or road right-of-way on the property;
- b. Legal or practical restrictions to the development of the property - e.g. maintained as open space by covenant;
- c. Size of the property;
- d. Location of the property in relation to roads or other open space;
- e. The number of non-contiguous properties proposed; and
- f. Environmental conditions on the property.
- g. Applicability of property to be so used by more than one development.
- h. A conservation easement or similar restrictive covenant shall be placed on the non-contiguous area to ensure its conservation in perpetuity.

6.6 OWNERSHIP AND MAINTENANCE

6.6.1 OWNERSHIP OF PARKS AND OPEN SPACE

A. Permitted Ownership Entities

Parks and Open Space shall be separately deeded to one of the following:

- The Town of Summerville
- Berkeley County
- Charleston County
- Dorchester County
- A non-profit land trust or conservancy,
- A homeowner's association
- A private owner.

B. Ownership Conditions

1. Non-public ownership strategies (i.e., ownership by non-profit land trust or conservancy, a homeowner's association, or a private owner) must be accompanied by a long-term maintenance plan.
2. Ownership by a non-profit land trust or conservancy must be recorded by contract in a form approved by the town or relevant county.
 - a. Ownership by a homeowner's association or private owner must be accompanied by a permanent conversation easement placed upon the land.
 - b. The Town reserves the right to designate a third party to maintain, manage, and/or hold ownership of any Parks and Open Space land dedicated to the Town.

C. Property Description: A metes and bounds description of the Park or Open Space and limits on its use shall be recorded on the development plan, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common.

6.6.2 MAINTENANCE OF PARKS AND OPEN SPACE

- A. **Cost and Responsibility:** Unless accepted for dedication or otherwise agreed to by the Town of Summerville, another unit of government, or a private non-profit land conservancy, the cost and responsibility of maintaining Park or Open Space and any associated facilities shall be borne by the property owner.
- B. **Maintenance of Designated Open Space Areas:** Natural features shall be maintained in their natural condition, but may be modified to improve their appearance, functionality, or overall condition, at the discretion of the Administrator in consultation with other experts in the particular area. Permitted modifications may include:
- Reforestation,
 - Woodland management,
 - Pasture or cropland management,
 - Buffer area landscaping,
 - Stream bank protection, and/or
 - Wetlands management.

6.6.3 PERMANENT PROTECTION

- A. **Legal instrument for Permanent Protection:** The open space shall be protected in perpetuity by a binding legal instrument that is recorded simultaneously with the final subdivision plat. The instrument shall be one of the following:
- a. A permanent conservation easement in favor of either:
 - i. A land trust or similar conservation-oriented non-profit organization with legal authority to accept the easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or
 - ii. A governmental entity with an interest in pursuing goals compatible with the purposes of this section. If the entity accepting the easement is not the Town of Summerville, then a third right of enforcement favoring the Town of Summerville shall be included in the easement.
 - b. A permanent restrictive covenant for conservation purposes in favor of the Town of Summerville; or
 - c. An equivalent legal tool that provides permanent protection, if approved by the Town of Summerville.
- B. 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 section, as well as any further restrictions the applicant chooses to place on the use of the open space.
- C. The recipient of any general use, special use, or sign permit, or the recipient's successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. Without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping or shading must be replaced if they die or are destroyed.

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