

CITY OF DRIPPING SPRINGS

ORDINANCE No. 1245.1

CONSERVATION DESIGN ORDINANCE

AN ORDINANCE ENACTING VOLUME 2 , ARTICLE 15, CHAPTER 21, OF THE DRIPPING SPRINGS CODE OF ORDINANCES; ESTABLISHING REGULATIONS, STANDARDS AND PROCEDURES FOR THE CONSERVATION DESIGN OPTION FOR SUBDIVISION DEVELOPMENT AND OPEN SPACE PRESERVATION

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to promote sound development and responsible construction; and

WHEREAS, the City Council recognizes that significant public gains can be achieved through subdivision development options that allow increased density in exchange for the perpetual set aside of valuable open space; and

WHEREAS, the City Council finds that the standards and specifications contained in the attached document are reasonable and necessary to protect the public health, safety and welfare; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapters 211, 212, 214, and 217 of the Texas Local Government Code, the City has the authority to adopt reasonable rules and regulations establishing construction standards and specifications; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt an ordinance providing for the exercise of the Conservation Development Option.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Dripping Springs:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Volume 2, Article 15, Chapter 2, Subchapter B of the City of Dripping Springs Code of Ordinances is hereby established, and after such amendment, shall) read in accordance with *Attachment A*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED this, the 19th day of April 2005, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS

by: _____
Mayor Todd Purcell

ATTEST:

Amanda Craig, City Secretary

APPROVED AS TO FORM:
Alan J. Bojorquez, Special Counsel

Attachment “A”

**City of Dripping Springs
CODE OF ORDINANCES**

VOLUME 2

ARTICLE 15: DEVELOPMENT

CHAPTER 20: SUBDIVISIONS

SUBCHAPTER B: CONSERVATION DEVELOPMENT

TABLE OF CONTENTS

CONSERVATION SUBDIVISION DEVELOPMENT OPTION

1. Intent1
2. Principal Permitted Uses.....2
3. Accessory Uses2
4. Conditional Uses.....3
5. Prohibited Uses3
6. Site Analysis & Conceptual Plan.....4
7. Density and Dimensional Standards5
8. Calculation of Site Capacity6
9. Design Standards for Cluster Groups7
10. Design Standards for Common Open Space.....8
11. Landscaping10
12. Ownership and Maintenance of Common Facilities and Open Space....11
13. Sewage and Water Supply Facilities.....15
14. Evaluation Criteria16

ADDITIONAL OPTIONAL REGULATIONS

1. Density Bonus Option.....17
2. Lot Averaging17

DEFINITIONS RELATING TO CONSERVATION DEVELOPMENT ...18

SECTION 1. ENACTMENT PROVISIONS

1.1. **Popular Name:**

This Ordinance shall be commonly cited as the “Conservation Design Ordinance.”

1.2. **Intent:**

The purpose of the Conservation Development Option is to preserve rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting development in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:

- 1.2.1. To maintain and protect the region's rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, prairies, woodlots, ridge tops, steep slopes, critical species habitat, and natural areas by setting them aside from development. Such areas contained in city limits and the extraterritorial jurisdiction of Dripping Springs, as identified by the 2004 Existing Land Use Inventory maps, are of particular significance for conservation of the natural Central Texas Hill Country landscape.
- 1.2.2. To preserve scenic views and to minimize views of new development from existing streets and roadways
- 1.2.3. To provide for the unified and planned development of parcels 50 acres or larger in size for clustered, single-family, residential uses, incorporating large areas of permanently protected common open space.
- 1.2.4. To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard subdivision regulations in order to minimize the disturbance of rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- 1.2.5. To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
- 1.2.6. To create groups of dwellings with direct visual and physical access to common open space.
- 1.2.7. To permit active and passive recreational use of common open space by residents of a cluster development or by the public.
- 1.2.8. To reduce erosion and sedimentation by retaining existing vegetation and minimizing development on steep slopes.
- 1.2.9. To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
- 1.2.10. To permit various means for owning common open space and for protecting it from development in perpetuity.

1.2.11. To create an attitude of stewardship, or caring, for the land within common open space by requiring a land management, or stewardship, plan for the common open space.

1.2.12. To implement the objectives of the Dripping Springs Comprehensive Plan.

1.3. Scope:

This Chapter applies to all property within the city limits and the ETJ.

SECTION 2. USES

2.1. Principal Permitted Uses:

2.4.1. Single-family residential uses as follows:

(a) Clustered single-family detached or attached residential dwellings, with at least forty percent (40%) of the gross development parcel in common open space.

(b) Single-family farmstead dwellings with or without associated agricultural structures such as barns, silos, storage sheds, and stables.

2.4.2. Agricultural/Horticultural activities including:

(a) The small-scale cultivation, harvesting, and sale of crops and related products.

(b) Orchards, nurseries, greenhouses, and related horticultural enterprises.

(c) Growing and sale of Christmas trees.

2.4.3. Open space uses, primarily passive in nature, including wildlife sanctuaries, forest preserves, nature centers, trails, picnic areas, and similar uses.

2.4.4. Improved recreational or athletic facilities, comprising no more than ten percent (10%) of the total Common Open Space

2.4.5. Conservation of natural features in their existing state.

2.4.6. Stormwater management facilities for the proposed development, including detention and retention basins.

2.4.7. Essential services such as neighborhood-oriented retail and office facilities, when the total acreage of the development site is five hundred (500) acres or more.

2.4.8. The following uses are permitted in common open space in cluster development:

(a) Uses listed above.

(b) Water supply and sewerage facilities for individual lots, groups of lots, or the entire development.

(c) Utility and street rights-of-way except that their land areas shall not count toward the fifty percent (50%) minimum open space requirement.

(d) Parking areas where necessary to serve active recreation facilities.

2.2. Accessory Uses:

2.4.1. Attached and detached private garages and storage structures, provided that:

(a) One detached garage, equal in area to not more than eight hundred (800) square feet or twenty percent (20%) of the square footage of the primary dwelling, shall be permitted.

(b) One detached storage structure, not exceeding five hundred (500) square feet, shall be permitted on a lot, in addition to any attached or detached garage.

2.4.2. Home occupations which are clearly incidental to the principal residential use, provided that the requirements of the Dripping Springs City Code of Ordinances are met.

2.3. Conditional Uses:

The following conditional uses may be permitted by the City, provided the proposed use shall not adversely impact the rural character of the development and shall be consistent with the overall objectives of the Subdivision Ordinance of Dripping Springs:

- (a) Community gardening uses for storage of equipment and/or supplies requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed three thousand (3,000) square feet.
- (b) Camping or picnic facilities for private organizations such as civic, professional or community groups provided such facilities are compatible with adjacent uses.
- (c) Recreational uses requiring the installation of new buildings or other structures in the common open space of a cluster development. The total building coverage of such new buildings or structures shall not exceed six thousand (6,000) square feet.

2.4. Prohibited Uses & Activities:

2.4.1. The use of non-recreational motor vehicles except on public streets and parking areas. Maintenance, law enforcement, emergency, and farm vehicles are exempt from this limitation.

2.4.2. The cutting of healthy, mature or protected trees, re-grading, topsoil removal, altering, diverting, or modifying water courses or bodies, or encroachment on any critical environment feature, such a sinkholes, karst formations, steep slopes caves, or wetlands in the Common Open Space areas. (This requirement shall not apply to the removal of noxious or invasive species of trees for the purpose of woodlands or landscape management or for the protection of public safety and health, or to such activities on a homeowner's property, in keeping with the Dripping Springs Landscaping Ordinance).

2.4.3. Commercial animal feed lots or poultry operations.

3. SITE ANALYSIS

3.1. Required:

To aid the City in determining whether the applicant has accomplished the intent and objectives as described in this Chapter, and the design standards for cluster groups and common open space as described in this Chapter, the initial application for any development shall include a Site Analysis of the parcel and a Conceptual Plan for the development.

3.2. Review:

The applicant or his/her official representative shall submit these documents to the City Administrator for staff review, who will then submit the application with staff comments

to the Planning & Zoning Commission for the purpose of obtaining early agreement on the apparent suitability of the parcel to conservation development and the completeness of the applicants Conceptual Plan.

3.3. Specifications:

The specific requirements for the Site Analysis and Conceptual Plan shall include, at minimum:

- (a) A topographical map with elevation contours to scale and showing ten (10) foot intervals.
- (b) The location of severely constraining elements such as steep slopes (over twenty-five percent (25%)), wetlands, watercourses, intermittent streams, the 100-year floodplain, all rights-of-way and easements, karsts, caves, sinkholes and other critical environment features.
- (c) The location of significant features such as woodlands, treelines, open fields or meadows, scenic views, watersheds divides, existing fences or stone walls, rock outcroppings, cliffs, and existing roads or trails.
- (d) Locations of any existing structures or ruins
- (e) The approximate location(s) and dimensions of proposed Open Space Areas.
- (f) Configuration and location(s) of proposed housing clusters groups.
- (g) Locations of areas of low and moderate septic tank tolerant soils.
- (h) Clear identification of Primary and Secondary Conservation Zones.

3.4. City Site Inspection

After the Site Analysis has been prepared, City staff shall schedule a mutually convenient date to walk the property with the applicant and his/her designer. Elected or appointed officials may be invited to this inspection. The purpose of this visit is to familiarize local officials with the property’s special features, and to provide them an informal opportunity to offer guidance or, at minimum, a response to the applicant’s conceptual plan for the development, including areas identified for preservation and areas identified for the location of housing clusters, community amenities, and infrastructure.

3.5. Density & Dimensional Standards

The following density and dimensional standards shall apply to residential cluster development:

	Lots or Parcels Served by Private Onsite Waste Treatment Systems	Lots or Parcels Served by Centralized Sewerage Facilities
Maximum Density ^a	1 dwelling unit per 1 net buildable acres	1 dwelling unit per .75 net

	Lots or Parcels Served by Private Onsite Waste Treatment Systems	Lots or Parcels Served by Centralized Sewerage Facilities
		buildable acres
Minimum Lot Area ^a	35,000 square feet	5,000 square feet
Minimum Lot Width: Measured at Front Lot Line	50 feet	40 feet
Minimum Front Yard	25 feet	25 feet
Minimum Rear Yard	15 feet	15 feet
Minimum Side Yard	5 feet	NA
Accessory Building Setback ^b		
From Side Lot Lines	5 feet	5 feet
From Rear Lot Line	10 feet	10 feet
Minimum Usable Common Open Space (percentage of gross acres)	40%	40%
Maximum Height	35 feet	35 feet
Principal Structure	35 feet	35 feet
Non-agricultural Accessory Structures	25feet	25 feet
Agricultural Accessory Structures	25feet	25 feet
Maximum Building Coverage Per Lot	20 percent	Detached: 50 percent Attached: 70 percent

^a Existing dwellings that will remain on the site shall be included in the calculation of maximum density.

^b Accessory buildings shall not be permitted within the front yard.

3.6. Separation Distances for Cluster Groups.

3.6.1. The outer boundaries of all cluster groups shall conform to the following separation distances:

- (a) From existing or proposed arterial street rights-of-way, such as highways, entrance boulevards, and other major non-internal streets: 200 feet.
- (b) From existing scenic highways or rustic roads: 100 feet.
- (c) From all perimeter subdivision boundaries: 100 feet.
- (d) From cropland or pasture land: 25 feet.
- (e) From other cluster groups: 100 feet.
- (f) From wetlands, floodplains, or water courses: 150 feet.
- (g) From active recreation areas, such as courts or playing fields: 100 feet.

3.6.2. All separation areas for cluster groups along existing streets shall be landscaped in accordance with this Chapter, in order to block views of new residential development, preserve scenic views, and protect rural landscape character.

- 3.6.3.** The dimensional standards specified in this Chapter may be reduced under the following circumstances:
- (a) The separation distances from existing arterial streets and the perimeter of the subdivision may be reduced, by no more than fifty percent (50%), if the applicant can demonstrate that existing vegetation or topography or a combination of these form an effective visual screen.
 - (b) All other separation distances may be reduced by up to fifty percent (50%) if the applicant can demonstrate to the satisfaction of the Planning Commission and City council that such reduced setbacks improve the plan's compliance with the cluster group design standards in Section I, the Intent of this Ordinance, and the objectives of the Dripping Springs Comprehensive Plan.

3.7. Calculation of Site Capacity

3.7.1. For cluster development, the calculation of site capacity, or the number of dwelling units permitted on a site, shall be based on net buildable acreage. The applicant shall determine the net buildable acreage (NBA) using the following method, substantiated by sufficient plans and data to verify the calculations:

Gross Acreage of Site:	_____	acres
From the gross acreage of the site, subtract the following:		
All lands located within existing street rights-of-way:	_____	acres
All lands located within existing utility and railway rights-of-way:	_____	acres
All lands located within a floodplain:	_____	acres
All lands located within a wetland:	_____	acres
All of the area located within a pond or lake:	_____	acres
All of the land area having a slope of 25 percent or greater:	_____	acres
Twenty-five percent of the area located within a woodland:	_____	acres
The result is the net buildable acreage (NBA):	- _____	
acres		

- 3.7.2.** In the calculation in above, the following shall apply:
- (a) The elevation of the 100-year recurrence interval floodplain determined through floodplain studies shall be used where available. Where such flood stage data are not available, the regulatory flood elevation shall be determined by a registered professional engineer and the sealed report of the engineer setting forth the regulatory flood stage and the method of its determination shall be approved by the City Engineer.
 - (b) Where two or more categories overlap, the overlapping acreage shall be counted only once, using the most restrictive classification.

4. DESIGN STANDARDS FOR CLUSTER GROUPS

- 4.1.** The following standards shall apply to all cluster groups:
- 4.1.1.** All dwelling units shall be grouped into cluster groups, each of which shall be surrounded by common open space.

- 4.1.2. The maximum number of lots in a cluster group may be increased, and cluster groups may be assembled into larger groupings, with the approval of the City and provided that the applicant can demonstrate that such an alternative plan is more appropriate for the development parcel and will meet both the general intent and design standards of this Chapter.
 - 4.1.3. A plat may contain one or more cluster groups.
 - 4.1.4. Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and cluster group open space. When the development does not include individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is less than one hundred feet (100') from any unit.
 - 4.1.5. The outer boundaries of each cluster group shall meet the separation distance requirements specified in this Chapter.
 - 4.1.6. Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- 4.2. Internal open space provided within cluster groups shall meet the following standards:
- (a) Common open space located within cluster groups shall be counted toward meeting the overall forty percent (40%) open space requirement.
 - (b) The open space shall be configured as a cul-de-sac island, an island within a larger loop or an "eyebrow" (a semi-circular loop), an island in a boulevard street, or a common green area. Common green areas surrounded by lots on up to three sides shall be designed as a space for common use by all residents within the cluster group.
 - (c) The open space shall have a minimum street frontage of one hundred twenty-five feet (125').
 - (d) Internal open space may contain parking areas, but parking areas shall not be counted toward meeting the overall forty percent (40%) open space requirement.
- 4.3. All lots in a cluster group shall abut and have access to common open space to the front or rear. Common open space across a street shall qualify for this requirement.
- 4.4. In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime soils and large areas of contiguous land suitable for common open space or community uses, dwellings may be located within woodlands, provided that no more than twenty percent (20%) of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private onsite waste treatment system.

5. DESIGN STANDARDS FOR COMMON OPEN SPACE

- 5.1. On all parcels developed under the cluster development regulations, a minimum of forty percent (40%) of the gross land area shall be set aside as protected common open space.

- 5.1.1.** This open space shall meet the following standards:
- 5.1.2.** For the purposes of this Subsection, gross land area includes all lands within the parcel, except existing street, railway, and utility rights-of-way.
- 5.1.3.** Common open space shall comply with the following design standards:
- (a) The location of common open space shall be consistent with the objectives of the Dripping Springs Comprehensive Plan.
 - (b) All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least seventy-five percent (75%) of the common open space areas shall be contiguous to another common open space area. For the purposes of this Subsection, areas shall be considered contiguous if they are within one hundred feet (100') of each other and there are no impediments to access between the areas.
 - (c) Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Environmental corridors and isolated natural resource areas are of particular significance for protection.
 - (d) Natural features shall generally be maintained in their natural condition, but may be managed to improve their appearance, or restore their overall condition and natural processes, as recommended by natural resource professionals and in compliance with an approved Land Stewardship Plan, as described in this Chapter. Permitted management activities may include:
 - (1) Woodland management.
 - (2) Reforestation.
 - (3) Meadow management.
 - (4) Wetlands management.
 - (5) Streambank protection.
 - (6) Buffer area landscaping.
 - (7) Wildlife management
 - (e) All wetlands, floodplains, wildlife habitat areas, slopes over 12.25 percent, 100 percent of lowland environmental corridor, and a minimum of 80 percent of Primary Conservation Area corridors shall be contained in common open space.
 - (f) The common open space shall maximize common boundaries with existing or future open space on adjacent lands, as shown in the Dripping Springs Comprehensive Plan.
 - (g) To preserve scenic views, ridge tops and hilltops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
 - (h) A minimum of fifty percent (50%) of the area of existing woodlands shall be contained within common open space. Up to twenty percent (20%) of the area of existing woodlands may be located within lots or used for residential development. This limitation may be exceeded under the following conditions:

- (1) The site is primarily wooded and development at the permitted density would not be possible without encroaching further into the woodlands.
- (2) Any encroachment on woodlands beyond twenty percent (20%) shall be the minimum needed to achieve the maximum permitted density, as determined by the City.
- (i) No area of common open space shall be less than thirty feet (30') in its smallest dimension or less than 10,000 square feet in area, with the exception of landscape islands and landscaped areas separating existing house lots. Open space not meeting this standard shall not be counted toward the total required forty percent (40%) common open space.
- (j) The boundaries of common open space shall be marked, insofar as possible, by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees.
- (k) Trails in common open space that are located within fifty feet (50') of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
- (l) Under no circumstances shall all common open space be isolated in one area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
- (m) Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

5.2. Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas in accordance with the following:

5.2.1. At least one access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than fifty percent (50%) feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Section.

5.2.2. Access to common open space used for agriculture may be restricted for public safety and to prevent interference with agricultural operations.

5.3. The following areas shall not be included in the calculation of common open space areas:

- (1) Private lot areas.
- (2) Street and highway rights-of-way, public or private.
- (3) Railway and utility rights-of-way.
- (4) Parking areas.
- (5) Areas not meeting the requirements of this Chapter.

6. LANDSCAPING

6.1. Preservation of Existing Natural Landscape:

- 6.2.1. For the purpose of conserving the natural landscape and in recognition of the time value of existing vegetation, the preservation of existing vegetation shall always be preferred to the installation of new plant material.
- 6.2.2. Existing woodlands and hedgerows shall be retained to the maximum extent possible. Where possible, existing woodlands and hedgerows shall be incorporated into the required separation areas between cluster groups and external streets and site boundaries.
- 6.2.3. Suitable existing vegetation shall be credited toward the landscaping requirements of this Section, when, in the opinion of the City Council, it would equal or exceed the visual impact of the new required plant material after two years of growth.
- 6.2.4. All new landscaping to be installed and existing vegetation to be preserved shall be protected in accordance with the guidelines found in the City of Austin's *Grow Green* booklet and the LCRA *Hill Country Landscape* program. New plantings shall be of draught-tolerant and native Central Texas plant varieties, installed in a manner which preserves moisture and controls invasive weeds, using only natural and organic fertilizers.

6.2. Street Trees:

- 6.2.1. Street trees shall be planted along internal streets within cluster groups.
- 6.2.2. Street trees may be planted, but are not required, along internal streets passing through common open space.
- 6.2.3. Informal arrangements are encouraged for street trees, to avoid the urban appearance that regular spacing may invoke.
- 6.2.4. Street trees shall be located so as not to interfere with the installation and maintenance of utilities and paths, trails, or sidewalks that may parallel the street.
- 6.2.5. The species of street trees shall be selected from the "List of Recommended Species for Landscaping" adopted by the City Council.
- 6.2.6. Street tree plantings shall comply with all applicable regulations in the Dripping Springs Code of Ordinances.

6.3. Buffers

- (a) A buffer area at least fifty feet (50') in width shall be established within all required separation areas between external streets and cluster groups.
- (b) Planted buffers within separation areas between cluster groups are encouraged to enhance privacy and a rural appearance between lots.
- (c) Buffers consisting of an informal arrangement of native plant species combined with infrequent mowing are strongly encouraged, to create a low-maintenance, natural landscape.
- (d) Increasing the edge condition between wooded areas and adjacent fields is encouraged as an aid in increasing wildlife habitat.

6.4. Ownership & Maintenance

To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, common parking areas and driveways, private streets, and other common or community facilities (hereinafter referred to as common facilities), the following regulations shall apply:

6.4.1. Ownership.

The following methods may be used, either alone or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this Subsection, and then only when there is no change in the common facilities. Ownership methods shall conform to one or more of the following:

(a) Homeowners Association.

Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein:

- (1) The applicant shall provide to the City a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. Such documents shall be approved as to form by the City Attorney.
- (2) The organization shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development.
- (3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
- (4) The organization shall be responsible for maintenance and insurance of common facilities.
- (5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
- (6) The organization shall have or hire adequate staff to administer, maintain, and operate common facilities.
- (7) The applicant for any cluster subdivision or development proposed to contain common facilities shall arrange with the County Tax Assessor a method of assessment of the common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities.
- (8) Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given to all members of the organization and to the City at least thirty (30) days prior to such event.

(b) Condominium Agreements.

Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved as to form by the City Attorney and shall comply with the requirements of the Texas Statutes. All common open space and other common facilities shall be held as “common

elements” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

(c) Fee simple dedication to a public agency.

The City or other public agency acceptable to the City may, but shall not be required to, accept any portion of the common facilities, provided that:

- (1) There shall be no cost of acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- (2) Any facilities so dedicated shall be accessible to the residents of the City, if the City so chooses.
- (3) The City or other public agency shall maintain such facilities.
- (4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.

(d) Dedication of conservation easements to a public agency.

The City or other public agency acceptable to the City may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:

- (1) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
- (2) A satisfactory maintenance agreement shall be reached between the owner and the City.
- (3) Lands under a City easement may or may not be accessible to residents of the City.

(e) Fee simple dedication to a nonprofit conservation organization.

With the approval of the City Council, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:

- (1) The organization is acceptable to the City.
- (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
- (3) A maintenance agreement acceptable to the City is established between the owner and the organization.

(f) Dedication of conservation easements to a nonprofit conservation organization.

With the approval of the City, an owner may dedicate conservation easements on any portion of the common facilities to a nonprofit conservation organization, provided that:

- (1) The organization is acceptable to City.
- (2) The conveyance contains appropriate provisions for proper reverter or re-transfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
- (3) A maintenance agreement acceptable to the City is established between the owner and the organization.

- (g) Ownership retained by the original landowner.
Ownership of common open space and facilities may be retained by the original landowner provided that:
 - (1) The City and residents of the development shall hold conservation easements on the land protecting it from any further development.
 - (2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- (h) Other methods acceptable to the City upon recommendation by the City Attorney.

6.5. Maintenance & Operation of Common Facilities

6.5.1. A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the City prior to preliminary plat approval. Such plan shall:

- (a) Define ownership.
- (b) Establish necessary regular and periodic operation and maintenance responsibilities.
- (c) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- (d) Include a Land Stewardship Plan specifically focusing on the long- term management of open space lands. A draft Land Stewardship Plan shall be submitted with a preliminary plat, and a final Plan shall be submitted with the final plat. The Land Stewardship Plan shall comply with the requirements of this Chapter.
- (e) At the discretion of the City, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.

6.5.2. In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the City may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor organization, shall be considered in violation of this Ordinance, in which case the City shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the City shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

6.5.3. The Land Stewardship Plan shall include a narrative describing:

- (a) Existing conditions, including all natural, cultural, historic, and scenic elements in the landscape;
- (b) Objectives for each common open space area, including:

- (1) The proposed end state for the area and the measures proposed for achieving the end state.
- (2) Proposed restoration measures, including:
 - (a) Measures for correcting increasingly destructive conditions, such as erosion.
 - (b) Measures for restoring historic features.
 - (c) A maintenance and operations plan identifying activities needed to maintain the stability of the resources, including mowing schedules, weed control measures, planting schedules, and clearing and cleanup measures and schedules.

6.6. Leasing of Common Open Space Lands

Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

- 6.6.1.** The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
- 6.6.2.** The common open space lands to be leased shall be maintained for the purposes set forth in this Section.
- 6.6.3.** The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
- 6.6.4.** The lease, and any transfer or assignment thereof, shall be subject to the approval of the City.
- 6.6.5.** Lease agreements shall be recorded in the office of the County Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the City.

6.7. Conservation.

Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the City upon recommendation of the City Attorney and duly recorded in the office of the County Register of Deeds.

7. SEWERAGE AND WATER SUPPLY FACILITIES

7.1. Sewerage Facilities.

- 7.2.1.** Sewerage facilities for cluster development may consist of any system meeting the requirements of the County, the City of Dripping Springs, and the Texas Commission on Environment Quality.
- 7.2.2.** If approved by the City Council, sewerage facilities or portions thereof may be located within common open space areas.
- 7.2.3.** All public community sewerage facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

7.2. Water Supply Facilities

7.2.1. Water supply facilities may consist of any of following systems, provided they meet the requirements of the County, the City of Dripping Springs, and the Texas Commission on Environment Quality:

- (a) Private, community wells.
- (b) Rainwater harvesting systems
- (c) Public water supply system.
- (d) Private individual wells, only where neither (a) nor (c) is available.

7.2.2. All public water supply facilities shall be owned, operated, and maintained by a general or special purpose unit of government.

8. EVALUATION CRITERIA

8.1. The planning for a subdivision development under this Section should be accomplished utilizing a Four-Step Approach: **Step One** consists of identifying the land to be permanently protected. **Step Two** involves locating the sites of housing clusters within the net buildable area. **Step Three** involves ‘connecting the dots’ with streets, utilities and informal trails. **Step Four** is the drawing of individual lot lines.

8.2. The Planning & Zoning Commission and City Council shall evaluate proposals for Conservation Developments to determine whether the proposed development:

- (a) Protects and preserves all floodplains, wetlands and steep slopes from clearing, grading, filling or construction (except as may be approved by the governing body for essential infrastructure or active or passive recreation amenities.
- (b) Preserves and maintains rural land features such as woodlands, existing fields, meadows or orchards, and preserves the natural topographical profile.
- (c) Maintains or creates an upland buffer of natural native species vegetation of not less than 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- (d) Minimizes impact on large woodlands (greater than five acres), especially those containing many mature trees or significant wildlife habitat.
- (e) Leaves scenic views or vistas unblocked and uninterrupted, particularly as seen from public thoroughfares.
- (f) Avoids siting new construction on prominent hilltops or ridges.
- (g) Protects wildlife habitat, especially areas of species which are endangered, threatened, or of special concern.

- (h) Designs around and preserves sites of historic, archeological of cultural value.
- (i) Protects rural roadside character and promotes public safety by not locating development with direct access to existing public roads or highways.
- (j) Landscapes common areas, cul-de-sacs, community greens and roadway edges using native specie trees and shrubs with high drought resistance and wildlife conservation value.
- (k) Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from adjacent house lots.
- (l) Includes a pedestrian circulation system that provides safety for residents walking, jogging or bicycling within the development.
- (m) Provides open space which is reasonably contiguous

9. ADDITIONAL OPTIONAL REGULATIONS

9.1. Density Bonus Option

9.1.1. On all parcels developed under this Conservation Development Option a minimum of forty percent (40%) of the gross land shall be set aside as protected common open space. At the developer's option, additional housing density on the remaining parts of the land may be approved in return for additional protected open space land as follows:

- (a) In exchange for preserving forty-five to fifty percent (45% to 50%) of the gross land as protected common open space, the developer shall be entitled to a density bonus within the net buildable area of ten percent (10%).
- (b) In exchange for preserving more than fifty percent (>50%) of the gross land as protected common open space, the developer shall be entitled to a density bonus within the net buildable area of twenty percent (20%).

9.1.2. Buildings added by density bonus exchanges may be:

- (a) distributed as evenly as feasible throughout all housing cluster groups as single-family residences, or
- (b) concentrated in one or more housing cluster groupings, to provide for garden homes, town homes, or very low-intensity multi-family housing

9.2. Lot Averaging

For the purpose of providing additional design flexibility beyond that already gained by the use of cluster development, lot averaging shall be permitted as follows:

- 9.2.1. The area of a lot may be reduced below the minimum provided that the area by which it is reduced is added to another lot, and further provided that, in all cases, proper water supply and sewerage facilities shall be provided.
- 9.2.2. Lot areas, widths, and setbacks shall not be reduced below the following minimums:
 - (a) Lots served by centralized sanitary sewerage systems:
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot width: 50 feet.
 - (3) Minimum front yard: 25 feet.
 - (4) Minimum side yard: 0 feet.
 - (5) Minimum rear yard: 25 feet.
 - (b) Lots served by private onsite waste treatment systems:
 - (1) Minimum lot area: 20,000 square feet
 - (2) Minimum lot width: 70 feet.
 - (3) Minimum front yard: 25 feet.
 - (4) Minimum side yard: 15 feet.
 - (5) Minimum rear yard: 25 feet.
- 9.2.3. All other density and dimensional standards of this Section shall apply to lots whose areas are averaged.
- 9.2.4. All lots that are large enough to be further subdivided shall be deed restricted against further subdivision designating the owner, his heirs, successors, and assigns as the grantee of the easement. The City shall hold a conservation easement on such lots. The restrictions of the easement shall be enforceable either by the grantee, his heirs, successors, and assigns, or by the City.

10. DEFINITIONS

10.1. General

This list of definitions includes only those terms or phrases that are particular to cluster zoning ordinances and may not already be included in typical current local zoning ordinances. These terms or phrases should be added to any existing list of definitions contained in zoning ordinances to which these model cluster development provisions might be added. It should be noted that these definitions are particular to this model. If provisions of the ordinance are changed, some definitions will also need to be changed. For example, the maximum number of units in a “cluster group” may be reduced or increased; similarly, the amount of required open space may be reduced or increased.

10.2. Specific

Italicized words within definitions are further defined in this section.

Cluster Development: A form of residential development that concentrates buildings or lots on a part of the site to allow the remaining land to be used for common open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one or more *cluster groups* surrounded by common open space.

Cluster Group: A group of single-family detached dwellings within a cluster development, surrounded by common open space that comprises at least 60 percent of the gross parcel area. The outer boundary of a cluster group shall be defined by the rear lot lines of the lots within the group.

Common Element: The *common facilities* in a *condominium*.

Common Facilities: All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation areas, drainage easements, and any utilities that service more than one unit, such as sewerage and water supply facilities.

Common Open Space: Undeveloped land within a cluster development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

Community Association. A *condominium* or *homeowners association*.

Condominium: A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of the Texas Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.

Condominium Association: An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

Conceptual Plan: A plan furnished by the applicant and submitted to the City, which provides a generalized view of the proposed development, site conditions and limitations, open space areas, housing cluster locations and groupings, and critical environment features of the parcel.

Conservation Easement: The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

Deed Restriction: A restriction on the use of a property set forth in the deed.

Density Bonus: An increase in the number of dwelling units permitted within the net buildable area, in exchange for the preservation of a larger percentage of common open space in the development.

Development Rights: A broad range of less than fee-simple ownership interests. An owner may keep fee-simple rights to his land and sell the development rights to another. The owner retains the title, but agrees to keep the land natural and undeveloped, with the right to develop resting with the holder of the development rights.

Environmental Corridor: An area of contiguous or near-contiguous undeveloped rural land which constitutes a historic habitation or migration route for native fauna and/ or flora.

Floodplains. Those lands, including the floodplain, flood fringe, floodway, and channel, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record.

Hedgerow. A row of shrubs or trees planted for enclosure or separation of fields.

Height of Building. The vertical distance measured from the average elevation of the existing grade of the building to the highest point of a flat or multi-level roof or, for gable or hip roofs, to the mean height between the eaves and the ridge. Chimneys, spires, towers, mechanical penthouses, tanks, and similar projections not intended for human occupancy shall be excluded.

Homeowners Association. An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division or cluster development.

Net Buildable Acreage or Net Buildable Area (NBA). A calculated area upon which the density for cluster development is computed. Net buildable acreage is the area of a site remaining after subtracting all or a percentage of the following areas from the site's gross area: existing street rights-of-way, floodplains, wetlands, woodlands, ponds and lakes, steep slopes, and utility and railway rights-of-way.

Nonprofit Conservation Organization. A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code, which includes the “acquisition of property or rights in property for conservation purposes” as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.

Primary Conservation Areas. This category consists of wetlands, lands which are generally inundated (within ponds, lakes, creeks, etc.), land within the 100-year floodplain or on slopes exceeding twenty-five percent (25%). These sensitive lands are deducted from the total parcel acreage to produce the Net Buildable Acreage on which density shall be based.

Restrictive Covenant. See *Deed Restriction*.

Secondary Conservation Area. Areas totaling not less than forty percent (40%) of the remaining tract acreage, after the removal of Primary Conservation Area acreage.

Separation Distance: The required dimensional distance between the outer boundary of a cluster group and another specified feature of the development.

Street Tree: A tree planted within the right-of-way of an arterial, collector, or neighborhood street and maintained by the property owners’ association or condominium association.

Woodland: An area of land characterized by dense or moderately dense tree covering. Overgrowths of non-native, invasive species of trees are not included in this definition.