

SECTION 10.21 CONSERVATION DEVELOPMENT SINGLE-FAMILY OVERLAY ZONE (CD-SF ZONE)

A. **PURPOSE:** The CD-SF Overlay Zone provides an alternative option for subdividing property. The purpose of the CD-SF Overlay Zone is to provide for designated open spaces for the protection of natural resources and for a higher development density than standard residential zoning consistent with the recommended land use, objectives, policies, and strategies as stated in the Comprehensive Plan. This includes promoting the environmental, economic, social, and recreational benefits of conservation design through (1) the preservation of critical natural resources such as woodlots, stream buffers, and viewsheds through the clustering of residential units; (2) higher densities to create the synergy of population needed to be supportive of nearby non-residential uses; (3) the use of design flexibility.

Additionally, the purpose of this zone is:

1. To enhance subdivision value and reduce development costs through conservation and cluster design.
2. To promote environmentally-sensitive and efficient use of land by clustering houses, thereby reducing the need for infrastructure and reducing erosion and sedimentation by minimizing land disturbance and removal of vegetation.
3. To provide for more efficient provision of infrastructure through reduction of the amount of pavement for streets and materials for utilities.
4. To create, promote, and preserve interconnected green space as a means to; (a) promote convenient walkable connections; (b) reduce reliance on automobiles; (c) provide a nonstructural stormwater runoff and watershed protection measure and; (d) provide contiguous green space as habitat and for water quality protection.
5. To help ensure interaction within the community by orienting houses closer to the street and providing public gathering spaces, parks, and community facilities.
6. To promote community character and diversity by allowing for increased housing density through the encouragement of a mix of housing styles and types, and provision of open space.

B. **APPLICABILITY:**

1. The CD-SF Overlay Zone regulations apply only if the subdivider of property chooses to follow these regulations. Otherwise, the subdivision of land shall meet the requirements of the underlying zone.

C. **APPLICATION AND PROCESSING:** Developments within the CD-SF Overlay Zone require review and approval in accordance with the following procedures:

1. Pre-application meeting: Prior to filing for development plan review, the developer, petitioner, applicant, or property owner shall attend a pre-application meeting. The pre-application meeting is intended to be an informal meeting with the City staff and with the Kenton County Planning Commission's duly authorized representative/NKAPC staff to discuss the development review process and the requirements of the zoning ordinance.

The pre-application meeting is intended to discuss the proposed development and identify any issues in applying the CD-SF Overlay Zone. The applicant shall include a conceptual development plan encompassing the proposed street and pedestrian networks and the proposed types of land uses. The applicant should also be prepared to discuss the proposed building façades and finish materials, the area, height and amount of proposed signage, as well as other design features, if applicable. Any plans brought to the pre-application meeting do not have to be engineered drawings, but should be clear enough to convey the nature and character of the proposed development.

No person should rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application meeting as a representation or implication that the proposal ultimately will be approved or rejected in any form.

2. Applications for a map amendment to the CD-SF Overlay Zone shall include a development plan in accordance with the requirements of Section 9.20, A., Stage I Plan Requirements.
3. Stage II Development Plan Review: Projects may be built as a matter of right when they meet all of the standards of the CD-SF Overlay Zone regulations. Incomplete applications will not be accepted for review. Following the formal submission of a Stage II Development Plan, which shall include elevation views, the KCPC's duly authorized representative/NKAPC staff shall prepare a recommendation of approval, approval with conditions, or disapproval. This recommendation shall be forwarded to the Independence City Council.
4. The City Council shall review the submitted Stage II Plan with regard to its compliance with the required elements of Section 9.20, B., for Stage II plans, other applicable elements of this ordinance, and other applicable regulations, and its conformity with the Stage I approved plan, if applicable.

Upon City Council approval of the Stage II Plan, a copy of said plan shall be forwarded to the city's zoning administrator, who shall grant permits

only in accordance with the Stage II approved plan and other regulations, as may be required by this ordinance.

5. Compliance with the Ordinance: Compliance with these regulations shall be evaluated based on the intent of the Ordinance, how well the development conforms to the regulations and whether it is consistent with the city’s goals and plans.

D. PERMITTED USES: Single-family residential dwelling units (attached or detached).

For the purposes of the CD-SF Overlay Zone, an attached single-family dwelling unit is defined as a single dwelling unit located on its own lot that shares one or more common or adjacent walls with one or more dwelling units. An attached dwelling unit does not share common floor/ceilings with other dwelling units. An attached dwelling unit is also called a “townhouse” or a “rowhouse”.

E. ACCESSORY USES

1. Customary accessory buildings and uses
2. Fences and walls, as approved on the Stage II development plan;
3. Home occupations, subject to the restrictions and limitations established in Section 9.11 of this ordinance
4. Signs as approved on the Stage II development plan

F. DENSITY AND OPEN SPACE STANDARDS:

1. The base density of dwelling units in a CD-SF Overlay development shall be determined from the development of a Yield Plan. Yield Plans illustrate the maximum number of lots that can be created in a conventional subdivision based on the underlying zone and density requirements. This density shall be applied to the total project area excluding the land devoted to streets (public and private). Yield Plans do not have to meet formal design plan requirements but must be capable of being constructed given site features and all applicable regulations. The Yield Plan must be reviewed and approved at the pre-application meeting prior to the submittal of a Stage II development plan.
2. The required amount of open space as well as the maximum net density of a development shall be as follows:

Minimum % Open Space	R-1C Density (max)	R-1D density (max)	Any other Residential Zone (max)
30%	Yield Plan + 10%	Yield Plan + 10%	Yield Plan + 10%
40%	Yield Plan + 20%	Yield Plan + 20%	Yield Plan + 20%
50%	Yield Plan + 30%	Yield Plan + 30%	Yield Plan + 30%

Net density shall be determined by the total number of dwelling units divided by the project area, excluding the land devoted to streets (public and private).

2. OPEN SPACE REQUIREMENTS/NATURAL RESOURCE PROTECTION

- a. Open space areas are to remain undisturbed unless designated for active or passive open space purposes on the Stage II development plan.
- b. The natural resources of the development area shall be designated within the open space requirement and permanently protected as shown on the Stage II development plan. Designated open space within the development area should be designated prior to the placement of roadways, infrastructure, parcels, or structures and shall include the protection of blueline streams, the riparian areas surrounding blueline streams, and tree canopy when possible.
- c. No higher development use – dedicated open space areas shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the City's Legal Counsel and duly recorded in the office of the Kenton County Clerk.

3. MAINTENANCE AND OWNERSHIP OF OPEN SPACE

- a. A detailed ownership and management plan for the open space areas shall be filed with the Stage II development plan for any proposed CD-SF Overlay Zone development. The plan shall:
 - i. Identify the owner, entity responsible for maintenance, and long-term funding strategies such as homeowners' fees or assessments.
 - ii. Demonstrate the financial feasibility of the ownership and maintenance program.
 - iii. Specify guidelines for how the maintenance of the conservation areas and any facilities eligible for location in the conservation areas will occur.
- b. Any management organization shall be bona fide and in perpetual existence and the conveyance instrument shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its function (Management Entity). Options for ownership and management of preserved area may include:
 - i. Fee Simple dedication to the City of Independence or other public entity subject to acceptance by and at the sole discretion of the City of Independence or other public entity.

- ii. Creation of or dedication to a Homeowners Association capable of carrying out the ownership and management plan. The Association's bylaws or code of regulations specify the following requirements:
 - (1) Membership in the Association shall be mandatory for all purchasers of lots in the development or units in the condominium.
 - (2) The Association shall be responsible for maintenance, control, and insurance of common areas, including the dedicated open space areas.
 - (3) Establishment of an endowment where the principal generates sufficient annual interest to cover the yearly costs of ownership and maintenance of the preserved area.
- iii. Dedication to a private or not-for-profit entity such as a land trust or similar conservation-oriented organization with the legal authority and financial capacity to accept such dedications.
- iv. A permanent conservation easement or an equivalent legal tool (such as a restrictive covenant for conservation purposes) 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) a governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the City of Independence, then a third right of enforcement favoring the City of Independence shall be included in the easement.

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.

- v. It shall be a violation of this zoning ordinance in the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition according to the Management Plan. If the zoning administrator finds that any of the provisions of this ordinance are being violated, they shall take such action as is permitted by law.

G. HEIGHT, YARD, AND SETBACK REQUIREMENTS

1. Requirements for individual lots shall be as approved on the Stage II development plan.
2. Minimum site perimeter setback – Fifty (50) feet. The minimum site perimeter setback shall only count towards the required open space if recorded on the plat as dedicated conservation easement. The perimeter setback may be located on private property, provided that no permitted use is located within the perimeter setback. Customary accessory structures may be located within the perimeter setback, subject to all the other requirements of this zoning ordinance.

H. REVIEW GUIDELINES: When evaluating a proposed development within the CD-SF Overlay Zone, the City Council shall base their decision on the following criteria:

1. Lots and buildings should be grouped together to minimize the disturbance to woodlands, wetlands, grasslands, mature trees, and steep slopes; protect riparian areas and their stream buffer areas; and retain and protect the existing natural cover and wooded areas to protect and enhance greenway resources. The preservation and protection of natural cover is preferable, but may be supplemented by additional landscaping where necessary.
2. A mix of housing types and styles is encouraged to accommodate different lifestyles and markets.
3. The arrangement of streets in new developments shall make provision for the proper continuation of existing streets in adjoining areas, unless determined otherwise by the City Council. Where adjoining areas are not subdivided and are appropriate for future subdivision, arrangement of streets in new developments shall make provision for the proper projection of streets to those adjoining areas in a manner which shall provide for the practical development of the adjacent property.
4. Open space areas shall be contiguous throughout the site forming an open space network, which includes open space that is protected by conservation easements or other equivalent legal tool. Smaller pockets of open space may be permitted, if, in the opinion of the City Council, the design of the overall development still meets the intent of the CD-SF Overlay Zone.

5. When passive and/or active open space is proposed, reasonable access should be provided for the residents within the development.
 6. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational paths.
- I. **AMENDMENTS:** Any amendments to plans shall be made in accordance with the procedure required by this ordinance. The City’s zoning administrator may authorize minor adjustments to the approved Stage II Development Plan, provided that the adjustments do not change land uses, increase overall density, significantly alter circulation patterns (vehicular and pedestrian), or decrease the amount and/or usability of open space or recreation areas, or affect other applicable requirements of this ordinance.

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