

ARTICLE V. OPEN SPACE

Sec. 407.51. Purpose.

This Article implements the open space policies contained in the future land use and conservation and open space elements of the comprehensive plan and provides for permanently preserved public open space areas designed to protect natural resources, provide recreation, and augment the community network of bicycle and pedestrian infrastructure.

Sec. 407.52. Minimum open space requirement.

At least ten percent of the area of any development shall be designated as open space and delineated on development plans and plats except as provided for in Subsections (a) and (b) below. Multiphase developments shall designate the required open space for all phases with the first final development plan or an instrument acceptable to the County Attorney that details timing of improvements and management of the open space. Open space shall not be contained on lots except as provided in Subsection (b) below. No provision of this Article shall be interpreted to reduce the protection of conservation areas or significant habitats as provided for in Chapter 406.

- (a) Rural/agriculture clustered subdivisions, as addressed in Section 407.77 of this Chapter, shall include open space on at least 50 percent of a development and shall meet all provisions of that Section.
- (b) Nonresidential developments, family homestead subdivisions as addressed in Section 407.75, and rural ~~agricultural-residential~~ subdivisions with ~~no more than 9 lots unpaved roads~~ as addressed in Section 407.76 shall not be required to include open space beyond the conservation management areas identified in Subsection 407.54(a). Nonresidential developments not required to include open space shall still provide pedestrian and bicycle connections to adjacent open space, parks, and bicycle and pedestrian facilities. Open space provided under this Section is not required to comply with Sections 407.56 and 407.57 and may be contained on a single lot under the ownership and maintenance responsibility of a single property owner.

Sec. 407.53. Open space identification process.

Prior to the submittal of a preliminary development plan or planned development rezoning, an applicant shall consult with County staff to identify the most appropriate portion of the development to be designated as open space. ~~Open space identification shall utilize mapping data of adjacent properties in order that potential open space networks may be created through multiple open space set asides.~~

Sec. 407.54. Open space areas.

- (a) When land development involves a parcel that contains regulated historic and natural resources ~~conservation management areas~~, the open space requirement shall first be fulfilled with these areas, ~~which shall be protected in accordance with Chapter 406, Article XVII.~~
- (b) After the requirements of Subsection (a) above have been met, ~~the any additional required~~ open space shall be located to minimize the fragmentation of a development project's open space areas ~~be one piece of contiguous land, at the periphery of the development to allow for connection to adjacent open space, except as specified in Section 407.55.~~ Open space designated per this Section shall have an average width of no less than 50 feet and shall be located within the development in a location that best meets the following goals:
 - (1) Augments ~~conservation management areas-protected regulated natural and historic resources or open space on adjoining parcels.~~
 - (2)—Promotes preservation of other tree canopy to meet the requirements of Article II, Chapter 406
 - (3) Promotes connectivity to greenways, trails, public parks, and existing or potential open space on adjoining parcels.

Sec. 407.55. Exceptions to open space areas.

The following criteria may be considered for deviation from the requirements of Subsection 407.54(b):

- ~~_(a) Open space can be designated in two locations where proposed residential units within a development would otherwise be located further than one-half mile from a single designated open space location as measured in a straight line.~~
- ~~_(b) There are no adjacent undeveloped lands or designated open space areas and open space is more appropriately located internal to the site.~~
- (c) There is an opportunity for the open space to link to a designated greenway.
- (d) Open space in cottage neighborhoods shall be provided per Section 407.155.
- (e) Mixed Use TND/TODs approved per Chapter 407 Article VII that have a minimum density of six units per acre may have open space(s) in multiple locations so long as the minimum width of any individual space is not less than 25 feet and that all designated open space conforms with the uses in Section 407.56.
- (f) Notwithstanding the requirements in Subsection 407.54(b), developments with a valid preliminary development plan or planned development that identifies open space and was approved prior to ~~March 10, 2020~~XXXX 2025 may provide open space consistent with the approved preliminary development plan or planned development.

Sec. 407.56. Open space uses.

- (a) Open space shall either be left in a natural condition or provide accessible spaces such as community gardens, community fields, greens, or pocket parks.
- (b) Open space shall be primarily pervious except for limited impervious surfaces associated with bicycle/pedestrian paths and unconditioned structures that augment the open space such as gazebos and picnic pavilions. Impervious surfaces associated with hardscaped civic space are an allowable open space use within a TND or TOD approved per Article VII of this Chapter.
- (c) Open space shall not include stormwater retention or detention areas constructed per Article IX of this Chapter. The integration of low impact design (LID) best management practices to manage stormwater runoff shall not eliminate an otherwise qualifying open space within a TND or TOD approved per Article VII of this Chapter.
- (d) Open space shall not include spoil piles or berms.

Sec. 407.57. Access to open space.

Required open space shall be accessible from the development. Access to open space areas shall be provided in the form of Americans with Disabilities Act compliant hard surfaced paths that connect the open space to the transportation network and adjacent open spaces, parks and bicycle and pedestrian facilities. Impassable fences or obstacles that impede connectivity between adjacent open space or greenspace are not allowed. These paths shall be shown clearly on the development plan, maintained, and marked. The level and type of access to a conservation management area ~~will~~ be determined by the adopted conservation management plan. Any pedestrian facilities proposed near Champion Trees, Landmark Live Oaks, or other tree canopy will be required to meet the standards outlined Article II of Chapter 406.

Sec. 407.58. Protection and maintenance of open space areas.

- (a) All open space shall be maintained and remain in a condition consistent with uses in Section 407.56 and accessibility requirements of Section 407.57. An open space management plan shall be approved with any final development plan that includes open space. It shall be a condition of all development approval that

such open spaces shall remain as shown on the development plan or plat, shall remain accessible as required by this Article, and shall be maintained according to the approved management plan. Any failure to abide by this condition shall be deemed a violation of the development plan or plat. Open space shall be protected by appropriate barricades where necessary to prevent vehicular damage during construction.

- (b) All conservation management areas including those that contribute towards the required open space shall be identified and protected in accordance with Chapter 406 of this ULDC.
- (c) A responsible entity, which may include the owner, a property owner's association, the County, another public agency or a non-profit organization, shall be designated to be responsible for maintaining the open space in a manner that is consistent with all applicable County requirements and the purpose for which it was created.

Sec. 407.59. Alternative compliance.

- (a) The provisions of this Article shall be liberally construed to effectively carry out the purpose and the intent of the comprehensive plan and of this Article in the interest of the health, safety and welfare of the residents of the County.
- (b) An applicant may submit an open space plan which varies from the strict application of the requirements of this Article in order to accommodate unique site features or characteristics or to take advantage of innovative design. In no event, however, shall there be variation from the requirement to provide a minimum of ten percent of the development site as open space area.
- (c) An alternative compliance open space plan may be approved only upon a finding that it fulfills the purpose and intent of the comprehensive plan and of this Article as well as or more effectively than would adherence to the strict requirements.