

ARTICLE 13

E-1 ECOLOGICALLY SENSITIVE DISTRICTS

SECTION 13.01- INTENT:

- A. To carefully regulate the uses and intensity of development to protect important public and private water supplies and groundwater recharge areas. To recognize the impacts of potential development in these watersheds upon water quantity and quality. To provide for development with a low average intensity to conserve significant important natural features such as wetlands, creeks, riparian areas, flood-prone lands, and steeply sloped areas. To vary density based upon the natural features of the land. To protect the water quality and habitats along creeks and around water bodies, and promote groundwater recharge. To promote riparian buffers of thick vegetation along waterways. To provide incentives and a certain amount of flexibility in lot layout through open space development so that development can be concentrated on the most suitable portions of a tract of land, while avoiding overly intense development.
- B. To avoid conflicts between agricultural uses and homes by promoting open space as a buffer between new homes and agricultural activities.
- C. To recognize that many roads in the E-1 District are not suitable for large amounts of additional traffic and would be very difficult to improve because of slopes, floodplains, and wetlands. To avoid winter driving hazards from use of steep roads and driveways. To recognize that other zoning district(s) of the Township with better road access allow for mineral extraction activities.
- D. To recognize the U.S. Geological Survey report entitled Geohydrology of the Furnace Creek Basin and Vicinity. That report found that the geology of much of this district has limited ability to store ground water. In many areas groundwater occurs only in fractures in the rock. To recognize that these fractures are few in number and extremely limited in cross sections. To recognize that the slow weathering of the granites and quartzites has left only a very thin soil cover and steep slopes. To recognize that many types of intensive development could interfere with the hydrological conditions and adversely affect water supplies.

SECTION 13.02 – PERMITTED BY RIGHT USES IN THE E-1 DISTRICT:

- A. Agricultural activities, including but not limited to orchards, crop farming, horticulture, plant nurseries, greenhouses, vineyards, raising of horses, closely similar uses, and raising of poultry and livestock, provided that “intensive animal husbandry operations” shall need special exception approval under Section 13.03.D.
- B. Single family detached dwellings.
- C. Open Space Development Option, in compliance with Section 13.06.
- D. Publicly-owned, or publicly-operated parks, conservation and recreation areas.

- E. Nature preserves hunting and fishing clubs, fish hatcheries, golf courses, picnic groves, archery ranges, and closely similar outdoor recreation uses.
- F. Collection of naturally occurring surface water for wholesale purposes, subject to Delaware or Susquehanna River Basin Commission and Pennsylvania Department of Environmental Protection approvals, as applicable, including structures necessary for the collection, storage, and removal of such water, but not including water bottling operations. The term collection shall not include extraction, by bore hole or any other method. A Traffic Impact Study shall be required in conjunction with each such use. Traffic Impact Studies shall be prepared in accordance with PA Dot Standards and the Institute of Transportation Engineer's Trip Generation Manual. Studies shall include:
1. Certification of preparation by a qualified Transportation Engineer.
 2. A general description of the study area and project, including vehicle trip generation and distribution. Also, provide an examination of the existing and proposed transportation network within ½ mile of the project.
 3. An analysis of the existing and future traffic conditions, with and without the proposed use, for a ten (10) year period, including study of the A.M. and P.M. peak traffic periods. Analysis shall examine safety and capacity aspects of the highway network.
 4. Study conclusions shall be itemized and levels of service must be listed for all street segments and intersections.
 5. Recommendations for site access and transportation improvements necessary to maintain safe and uncongested traffic flows in the vicinity of the project.
- Where levels of service "D" or lower are projected, or other traffic improvements are recommended, the applicant shall be responsible for the improvements necessary to satisfy the recommendations and assure a level of service of "C" or higher.
- G. Accessory uses and structures that are customarily incidental to allowed principal uses.
- H. Communications Antenna attached to a pre-existing Communications Tower, Electric Transmission Tower, other Public Utility Transmission Tower, water tank, or existing non-residential building or structure, and which may include a Communications Equipment Building, subject to the provisions in Section 16.22.
- I. Forestry, not including Christmas Tree Farms, provided that all of the following additional requirements shall be met, as determined by the Zoning Officer, after considering any reports from professional consultants or review agencies that are provided to him/her:
1. clearcutting of areas covering more than 10 percent of the lot area in any five year period shall only be allowed if justified by a forestry management plan prepared by a qualified forestry professional;

2. clearcutting shall be prohibited on: slopes greater than 25 percent; within the 100-year floodplain; within 50 feet from the centerline of a perennial creek; and within 50 feet of natural lakes and ponds (as shown on USGS topographic maps);
3. a forestry management plan prepared by a qualified forestry professional shall be submitted to the Township and the Zoning Officer if the plan will involve more than 2 acres and will involve more than routine thinning of woods;
4. the forestry management plan shall be consistent with Timber Harvesting Guidelines of the Pennsylvania Forestry Association or published standards of a similarly recognized professional association and shall address protection of perennial and intermittent creek corridors, including creek crossings and skidding of logs across them;
5. when forestry involves over 2 acres, a minimum of 30% of the forestry cover shall be kept and the residual trees shall be well-distributed, except in areas where clearcutting has been approved;
6. if the forestry involves 20 acres or more, the forestry management plan shall be provided to the Township Planning Commission and the Township Board of Supervisors for a review, provided such review shall not extend more than 60 days after a complete forestry management plan is filed, and an additional \$1,000.00 fee shall be paid to the Township to cover the costs of a professional review to provide recommendations to applicant and to advise the Zoning Officer on compliance, and such fee shall be returned to the applicant to the extent it was not used for such purposes; and
7. if the forestry involves 2 acres or more, an erosion control plan shall be submitted, which shall need approval by the Lebanon County Conservation District prior to any disturbance or tree removal.

J. Churches and similar places of worship.

SECTION 13.03 – SPECIAL EXCEPTION USES IN THE E-1 DISTRICT:

- A. Communication Towers subject to the requirements of Section 21.02.
- B. Campgrounds and camps, which shall meet the same requirements as would apply to such uses, if they would be located within the A-Agricultural District, subject to Section 6.04(M).
- C. Firearms target range, provided that the shooting area and the target area shall each be setback a minimum of 450 feet from any dwelling on another lot, and provided that the applicant proves that a sufficient barrier will be in place behind the target area. The applicant shall compare the proposed barrier to published standard of the National Rifle Association, and the Board may condition approval upon meeting some or all of such standards. A 25 acre minimum lot size shall be required. If within 100 feet of another lot occupied by a dwelling, existing trees shall be maintained to serve as a buffer, except as necessary for a driveway. This subsection “C” shall not regulate routine use of firearms

by a resident or owner of a lot on such lot during daylight hours.

- D. Intensive animal husbandry operations, which shall meet the same requirements as would apply to such uses, if they would be located within the A-Agricultural District, subject to Section 6.04(C).

SECTION 13.04: DIMENSIONAL REQUIREMENTS: The following requirements shall apply to every principal building, except as may be modified by the Open Space Development Option:

A. Minimum Lot Area.

- 1. A 2 acre minimum lot size shall apply, except as follows, provided the most restrictive requirement shall apply:

- a. A 25 acre minimum shall apply to firearms target ranges;
- b. A 3 acre minimum shall apply if a new principal building is proposed to be located on more than 500 square feet of land area with slopes of 20 to 25 percent;
- c. A 5 acre minimum shall apply if a new principal building is proposed to be located on more than 500 square feet of land area with slopes of greater than 25 percent; and
- d. If an Open Space Development is approved under Section 13.06.

2. Slopes. This subsection “2” applies if a proposed lot could involve the placement of a new principal building on slopes of 20 percent or greater. In such case, the applicant’s plan shall show the outer extent of the land area that is proposed to be used for a new principal building. This may include an actual location for a new principal building or may include additional land areas if such building location is not yet know. In many cases, the larger lot size requirements that would apply under the above subsection for building on a steep slope may be avoided if the plan states and shows that any new principal building will not intrude into more than 500 square feet of land area within 20 percent or greater slopes.

- a. The applicant shall prove compliance with these lot area requirements prior to receiving final approval for any new lot.
- b. The applicant shall provide to the Zoning Officer, prior to the issuance of a Zoning or Building Permit, a written statement from a Registered Architect, Registered Landscape Architect, or Professional Engineer certifying that the proposed construction methods will address foundation challenges, protect water quality and prevent soil erosion and sedimentation. The specific proposed construction methods shall be set forth in detail in the applications to the Zoning Officer and the Building Code Official.

- B. Minimum Lot Width, measured at the minimum building setback line – 200 feet, except 300 feet if minimum lot area of 3 acres or more applies, unless provided otherwise in the

Open Space Development provisions.

- C. Maximum Percent of Lot that May be Covered by the total of all Buildings – 10 percent. See varying provisions for an Open Space Development. If a portion of a lot or structure is covered by an impervious surface for more than 90 days per year, it shall be considered to be impervious (such as plastic covered greenhouses).
- D. Minimum Yards in feet – Front: 50, Each of 2 Sides: 20, Rear: 50. See varying provisions for an Open Space Development.
- E. Maximum Height: 2.5 stories or 35 feet, whichever is more restrictive, except for allowed communications towers and agricultural silos.
- F. Parking shall comply with Article 17.
- G. An applicant shall map the approximate location of wells and septic systems on adjacent properties that are within 100 feet of a lot line, unless the applicant agrees in writing to not construct wells or septic systems within 100 feet of an exterior lot line.

SECTION 13.05 – ECOLOGICAL AND NATURAL FEATURE STANDARDS:

- A. If more than 5,000 square feet of land will be disturbed, an erosion and sediment control plan shall be submitted, and shall require approval by the Lebanon County Conservation District prior to any earth disturbance. The approved plan shall be complied with.
- B. Where trees are removed as part of a subdivision or land development, a maximum total of 15 percent of the existing forest cover of all land area within such subdivision or land development may be removed. This section shall only apply where the forest predominantly consists of trees with a trunk diameter of greater than 6 inches, measured 4.5 feet above ground.
 - 1. If forestry occurred within the last five years in the vicinity of the building sites, then additional tree removal shall not be allowed under this Section, except for the minimum necessary to construct buildings, driveways and utilities.
 - 2. The applicant shall submit plans to the Township showing areas of trees proposed to be removed and areas proposed to be maintained. These plans shall also be submitted and approved as part of the subdivision or land development plan review process and prior to plan approval and recording. The Township may require a written statement by a qualified professional to be periodically provided by the applicant to certify that the tree removal requirement is being met.
- C. If any area of 15 percent or greater slope, or more than 5,000 square feet of total land area, whichever is more inclusive, will be disturbed as part of development, then a detailed grading plan shall be submitted to the Township for that lot prior to regrading. Such grading plan shall show existing and proposed contours, area where natural vegetation will be disturbed, preserved, or replaced, and shall show the proposed building site, driveway, any well or septic location, stormwater management measures, and erosion control measures.

1. Such grading plan shall be submitted to the Township for review and approval by the Township prior to the issuance of a Zoning Permit. The review may consider advice of appropriate professional consultants. The review shall be based upon responsible drainage and grading practices. Driveway design and grade shall allow for access by emergency vehicles. The approval period shall not exceed 60 days from date of submission. If revisions are necessary the sixty day period begins again upon the resubmission. Applicant shall be responsible for any review fees that may be incurred.
 2. The Township may require submittal to and approval by the County Conservation District.
 3. The approved grading plan shall then be binding upon the applicant unless a revised grading plan is submitted to the Township for approval in advance of any changes.
 4. For development subject to subdivision or land development approval such grading plans shall also be submitted and approved as part of the subdivision or land development plan review process and prior to plan approval and recording
- D. No materials that are toxic to humans, no infectious or radioactive materials, and no highly hazardous materials shall be stored, kept, processed, or mixed in the E-1 District, except for types and amounts found in the typical dwelling unit. This requirement shall not apply to chemicals necessary for water treatment or substances customarily used as part of normal farming operations.
- E. All areas within 50 feet from the top of the primary bank of a perennial stream, natural lake or pond, or wetland shall not be occupied by any of the following: a building, vehicle parking, or business outdoor storage. This setback shall be applied unless a more restrictive requirement is established by another regulation, such as regulations of the Pennsylvania Department of Environmental Protection.
1. This 50 feet width may be reduced to 20 feet around an isolated wetland of less than 10,000 square feet of land area that is not connected to other wetlands and which is not a natural spring.
 2. No setback shall apply to wetlands that a qualified professional has delineated and provided a written statement attesting that they were man-made, such as within detention basins or man-made drainage ditches.
- F. Vegetation. Where existing trees and/or shrubs are removed from lands that are less than 50 feet from the top of the primary bank of a perennial stream, as part of, or in preparation for, a subdivision, land development, or permitted construction of a new building, then new trees and shrubs shall be planted and maintained. The new trees and shrubs shall have an equal or better ability to control erosion and filter pollutants from runoff than the trees and/or shrubs that were removed. Mature healthy trees shall only be removed within this 50 foot wide area as part of a development for necessary improvements in locations where there is no feasible alternative, such as to allow a utility crossing.

1. The Pennsylvania Stormwater Best Management Practices Manual or equivalent standard should be used as a basis for the planting of the buffer.
2. During the time any maintenance agreement with the Developer is in effect, the Developer shall replace any such trees or plants that have not survived for 100 days after being planted. All such replacement trees and plants shall be planted as soon as is reasonably possible.

SECTION 13.06 – OPEN SPACE DEVELOPMENT OPTION:

- A. Purposes. To allow reasonable amounts of flexibility in site planning of residential development to: a) protect environmentally sensitive areas and avoid severe soil erosion and sedimentation; b) avoid severely increased storm water flows and speeds; c) preserve areas of prime farmland; d) provide additional recreation land; e) direct development to those areas that are more physically suited for it; f) avoid construction of steep roads that are difficult, time-consuming, and expensive to maintain and plow snow upon; g) avoid increased use of steep roads and driveways that are dangerous to drive upon in snow and ice; h) conserve forested areas that are an important part of the ecological cycle, providing for groundwater recharge, air pollution reduction and wildlife habitats; i) reduce construction costs and municipal maintenance costs; j) provide for transitional forms of development between residential and agricultural or industrial areas or highways, with open space serving as a buffer; and k) allow each property owner a reasonable use of their land, related directly to the features and location and accessibility of the land. This option will encourage the establishment of significant areas of preserved open space.
- B. Applicability. This Section 13.06 allows an applicant to option to reduce the minimum lot areas on tracts of land if the applicant proves compliance with all of the requirements of this Section 13.06 to the satisfaction of the Township.
1. An “Open Space Development” is a residential development that meets the requirements of this Section 13.06 and is granted approval by the Zoning Officer as an Open Space Development, after a review by the Township Planning Commission and Township Board of Supervisors. An Open Space Development shall only be allowed in the E-1 District. An Open Space Development shall need subsequent or concurrent approval as a subdivision.
 2. Uses. An Open Space Development shall only include the following uses: single family detached dwellings, nature preserves, Township-owned recreation, recreation uses that the Township approves to be within the preserved open space, crop farming, raising and keeping of horses, customary keeping of livestock as accessory to crop farming, utilities necessary to serve the development, and customary permitted accessory uses. In addition, single-family semi-detached dwellings, and townhouse/rowhouse forms of multi-family dwellings shall be allowed where specifically provided in this Section. A mobile/manufactured home park shall not qualify as an Open Space Development.

3. A tract shall be eligible for approval for an Open Space Development if it includes a minimum of 20 acres of lot area in common ownership. All parts of the land area shall be contiguous, except that portions of the tract may be separated only by existing or proposed streets or creeks.
 - a. The amount of Preserved Open Space shall be based upon the total tract area of all lots within the development, prior to subdivision, less any area of existing street right-of-ways and/or any lands intended for a future offer of dedication to the Township or Commonwealth for purposes of increasing said existing street right-of-ways, also know as the “ultimate” right-of-way.
 1. Areas that were preserved by a conservation or agricultural preservation easement or deed restriction prior to the submittal of the Open Space Development plan shall not be counted towards the area of the tract in calculating Preserved Open Space or allowed density.
 2. See the definition of “Open Space, Preserved” in Article 1. That definition provides that certain features not count towards Preserved Open Space.
 - b. Areas used for a principal non-residential use (other than uses approved by the Township to be part of the preserved open space, such as an agricultural barn) shall not be included within the land area used to calculate residential density.
 - c. Conservation easements or deed restrictions shall be established on lots as necessary to ensure that the maximum density requirement is met over time. Such conservation easements shall prevent the resubdivision of lots in a manner that would violate this Section 13.06.
 1. If a conservation easement was established to meet a Township requirement, and the easement is violated or proposed to be violated, and the Township takes legal action to enforce the easement, then the landowner shall be responsible to reimburse the Township for all legal and other expenses that the Township incurs to enforce the easement. If the landowner defaults in such reimbursement, the Township may cause a municipal lien to be imposed upon the land affected or any part thereof.
4. An Open Space Development shall be designed as a unified, coordinated residential development and shall be approved with a single development plan proposed by a single development entity. After final subdivision approval and within an approved development agreement(s) that have been approved by the Township Solicitor and phasing plan, portions of the development may be transferred to different entities, provided that there is compliance with the approved development plan and this Section 13.06.
5. Procedures.
 - a. To determine zoning compliance for a Open Space Development, the applicant is required to submit an Existing Features Map, a Yield Plan and an Open Space Development Plan showing the proposed layout to the Township

and Zoning Officer. The Open Space Development Plan is intended to be the basis of zoning approval of the overall concept of lot, road, and open space locations before the applicant spends time and money on detailed fully-engineered preliminary subdivision plans. Detailed Stormwater, grading, utility, profile, and erosion control plans shall not be required at the zoning compliance review stage, if such matter will be submitted as part of the subdivision or land development approval process. As an alternative, an applicant may submit plans for zoning and subdivision/land development compliance at the same time.

- b. Although not required, the applicant is strongly encouraged to resolve major zoning, density, and layout issues at a sketch plan level of detail before submitting the detailed map and plans required by this subsection and other applicable ordinances and regulations.
- c. The applicant, Township officials, and County Planning Agency officials are strongly encouraged to walk the tract after a detailed Existing Features Map has been provided to the Township and Zoning Officer.

C. Density, Open Space, and Lot Standards. The maximum number of dwelling units on the tract shall be determined based upon an Existing Features Map and a Yield Plan.

- 1. At a minimum, the Existing Features Map shall accurately show the locations of the following: wetlands, 100 year floodplains, areas of woodland, existing topography, existing drainage patterns, existing buildings with a description of any buildings over 70 years old, highlighting of 15 to 25 percent slopes and 25 percent or greater slopes, and any major scenic views from within the tract or from outside of the tract.
- 2. A Yield Plan shall be submitted to the Township by the applicant. The Yield Plan shall accurately show the maximum number of dwelling units that would be possible under current Township and Lebanon County ordinances if the Open Space Development provisions would not be used. The Yield Plan shall be completed to an accurate scale, including accurately showing the Existing Feature Map information described above. The Yield Plan shall show potential lots, streets and retention/detention pond locations. However, the Yield plan shall not serve as, and is not required to contain, the engineering detail requirements of a preliminary subdivision plan.
- 3. After review by the Township Engineer and the Township Planning Commission, the Zoning Officer shall determine whether the Yield Plan complies with this Ordinance. The Zoning Officer shall determine whether the Yield Plan represents a reasonably accurate estimate of the number of dwelling units physically possible and legally allowable on the site. If such estimates are determined to be not accurate, the applicant shall be required by the Zoning Officer to revise the Yield Plan until it is accurate.
 - a. The maximum number of dwelling units allowed on the tract through Open Space Development shall be 25 percent greater than the number of dwelling units that are determined by the Township to be possible under the Township

accepted Yield Plan.

- b. The number of dwelling units may be rounded to the nearest whole number.
 - c. The Yield Plan shall not have any legal standing except for the purpose of determining density for an Open Space Development.
4. All provisions of the Zoning Ordinance and the applicable zoning district shall apply, except for the provisions that are specifically modified by this Section 13.06. For example, lots in an Open Space Development shall comply with any requirements of this Ordinance to delete certain natural features from lot area of individual lots. The following dimensional requirements shall apply, provided that the total maximum density for the tract is not exceeded. An Open Space Development may use more than one of the following options, provided that each option shall be used in a separate phase of development and provided each phase of development fully complies with this Ordinance even if other phases are not completed.
- a. Option 1 – The minimum lot area shall be 43,560 square feet. The same dimensional requirements shall apply as are provided for in conventional development without public water and public sewage service in the R-1 district, except that the minimum lot width shall be reduced to 150 feet and the minimum front yard may be reduced to 40 feet. A minimum of 40 percent of the total lot area of the tract (prior to subdivision) shall be preserved as Preserved Open Space. The only allowed dwelling type shall be single family detached dwellings.
 - b. Option 2 – For lots that have all their principal building sites located within 1,500 feet of Bethany Road (T-361), that will be served prior to occupancy by public water and public sewage service, and at are within 2,000 feet of a public sewage line that was in existence at the time of enactment of this Section of the Township Zoning Ordinance, 10,000 square feet minimum single family detached dwelling lots shall be allowed. Under Option 2 the minimum percentage of the tract that is in Preserved Open Space shall be 70 percent. Such lots shall meet the dimensional requirements that would apply within the R-1 district for lots with public water and public sewage service, except the minimum lot width shall be reduced to 80 feet. No more than 40 percent of each lot shall be covered by impervious surfaces.
 - c. Option 3 – For lots that have all their principal building sites located within 1,500 feet of Bethany Road (T-361), that will be served prior to occupancy by public water and public sewage service, and that are within 2,000 feet of a public sewage line that was in existence at the time of enactment of this Section of the Township Zoning Ordinance, single-family semi-detached dwellings and townhouse/rowhouse style multi-family dwellings shall be allowed, provided that the minimum percentage of the tract that is in Preserved Open Space shall be 70%.

1. Each dwelling shall be a minimum of 20 feet wide, except a 24 feet dwelling width shall be required if 2 or more vehicles will enter garage doors on the front of the dwelling.
2. The following minimum setbacks shall apply: a 25 feet minimum setback from any street, a 30 feet setback from any lot line that is not part of the townhouse development, a 50 feet separation between the rears of each grouping of townhouses, and a 30 feet separation between any other grouping of townhouses (such as end to end). These setbacks and separations shall apply regardless of whether the townhouses are on their own fee-simple lots, on one lot with the units being rented, or in a condominium form of ownership.
3. A maximum of 6 townhouses may be attached in any grouping. Building facades shall be offset every three units at a minimum.
5. Options 2 and 3 shall each require a 250 feet minimum vegetated buffer area adjacent to any pre-existing public roads and a 200 foot minimum vegetated buffer area setback shall be required from any remaining lot lines. Trees and shrubs shall be used to filter views from such road or lot line. Such buffers may be used as part of the preserved open space if it meets the requirements for such purposes. Only one motor vehicle access point to an existing road (other than an access limited to emergency vehicles) shall be allowed through buffers. If such a buffer is required along a lot line and a future phase of Open Space Development is proposed on the other side of such lot line, then the Township may allow such buffer along the edge of the next phase to be established in a manner that would allow it to be replaced in location with a new buffer once the adjacent phase of development is approved and starts construction.
6. Central or public water and central or public sewage services shall not be extended from the Open Space Development to serve other properties that are in the E-1 district and that are not in the same Open Space Development.
7. At no time shall there be any disturbance of soils or vegetation for any reason, including, but not limited to, roads, water detention, stormwater controls, utilities, building sites, and walkways in excess of 25% of the total areas of woodlands on the entire parcel. See definitions of the areas that may count towards "Open Space, Preserved" in Article 1.
8. Utilities. Any water or sewer system serving more than one lot shall be publicly owned and/or publicly operated.
9. Subdivision of Part of a Tract. In those cases where only part of a lot is proposed to be developed as an Open Space Development under this Section 13.06, and the applicant at the time of application does not intend to develop the maximum number of dwellings allowed by this Section, the applicant shall establish a permanent conservation easement covering 100 percent of the Preserved Open Space that would be required if the applicant would be developing the maximum number of dwellings allowed by this Section. The applicant's recorded subdivision or land development plan shall include a statement listing the number of dwelling units that are being

approved and the number of dwelling units that may remain to be developed under the current zoning provisions.

10. A minimum of 50 percent of the required Preserved Open Space shall be in one lot, except that the Preserved Open Space may be separated by creeks or water bodies.
 - a. The Township may approve the following, if the applicant proves to the satisfaction of the Township that such configuration would serve the purposes of this Section and be in the best interests of the Township, considering the unique circumstances of the tract:
 1. allowing less than 50 percent of the preserved open space to be in one lot;
or
 2. the crossing of the preserved open space by one street.
 - b. An accessway limited to emergency vehicles may also cross the preserved open space.
 - c. All proposed utilities shall be installed underground. New underground utility lines and facilities shall not be placed within the preserved open space where they would interfere with the intended open space purposes.
 - d. Sewage treatment and disposal facilities and storm water detention basins shall not be allowed within the preserved open space.
 11. The Township may require that the majority of the required Preserved Open Space be placed:
 - a. adjacent to an existing or planned public or homeowner association-owned recreation area or water authority land,
 - b. adjacent to existing farmland,
 - c. at the edge of a neighboring undeveloped lot, where the preserved open space could be connected in the future to open space on that neighboring lot, or
 - d. along a ridgeline or an area that is particularly valuable for groundwater recharge.
- D. Conditions for Approval. An Open Space Development shall only be approved if the applicant proves to the satisfaction of the Township that the following additional conditions shall be met:
1. That the Open Space Development would clearly serve a valid public purpose that would result in a development that would be superior to what would result if the land would be developed as a conventional development. Such valid public purposes include but are not limited to the following:

- a. The permanent preservation of dense forests, steep slopes, wetlands, creek valleys, mountain ridges, important wildlife corridors/habitats, highly scenic areas, or other sensitive natural features.
 - b. The permanent preservation of a substantial area of land in agricultural uses in a tract of proper size and configuration that allows for efficient agricultural use and that properly considers the issue of compatibility between the agricultural uses and homes. In such cases, new dwellings shall be concentrated adjacent to existing dwellings and residential zoning districts.
 - c. The dedication of the recreation land at a site deemed appropriate by the Township and that involves land that is clearly suitable for active and/or passive recreation.
 - d. The provision of preserved open space in a location that will protect water supplies and promote groundwater recharge.
2. The applicant shall prove that the proposed Open Space Development has been designed in full consideration of important natural features, including mature woodlands, creek valleys, steep slopes, and wetlands.
 - a. At minimum, the applicant shall prove that areas along perennial creeks shall be preserved in their natural state, except for landscaping, erosion control improvements, public recreation improvements, needed utility crossings that are permitted under Section 13.06.C.10 above, and allowed street and driveway crossings. Low-maintenance landscaping is encouraged along creeks and other areas where maintenance would be otherwise difficult. Native species of plantings are encouraged.
 - b. The natural features of the site shall be a major factor in determining the siting of dwellings units and streets.
 3. The Township may require the use of conservation easements within an Open Space Development to limit the disturbance of natural slopes over 20 percent, wetlands, mature forests, creek valleys, and other important natural features.

E. Preserved Open Space.

1. Preserved Open Space. The minimum amount of “Preserved Open Space” shall be provided, which shall meet the requirements of this Ordinance and the definition in Article 1 of “Open Space, Preserved”. The Preserved Open Space requirements of this Section 13.06 shall be in addition to any Recreation Land or Fee-in-Lieu of Land requirements of any applicable Subdivision and Land Development Ordinance (SALDO), unless the applicant proves to the satisfaction of the Township that the proposed Preserved Open Space would include suitably improved land that will meet the intent of the recreation land requirements of SALDO.
2. Open Space Standards. Required Preserved Open Spaces shall meet all of the following requirements:

- a. Preserved open space shall be permanently deed-restricted and/or protected by an appropriate conservation easement to ensure the continued preservation of the land as open space as required by this Ordinance. Notwithstanding anything set forth in Section 13.02(I), any forestry on preserved open space shall meet Township requirements, and the removal of healthy mature trees shall be limited to selective cutting following a Township and Zoning Officer approved forest management plan for the site that follows best management practices. Land approved as required Preserved Open Space shall only be used for non-commercial active or passive recreation, nature preserve, or approved agricultural uses, but not intensive agriculture. To encourage the retention of agricultural lands the Township may approve the lease of all or portions of the open space lands to a farmer to be used for agricultural purposes only. Approval of such a lease shall be conditioned upon the execution of appropriate agreements between the titleholder of the open space lands and the farmer setting forth the farming practices permitted and the use of the land in the event that those farming practices cease. Any such agreements shall be approved by the Township upon the advice of its solicitor.
- b. Improvements to Open Spaces. Where Preserved Open Space is proposed to be used for recreation and/or offered for dedication to the Township, the applicant shall include a detailed and legally binding (if approved) description of the improvements the applicant will make to any land to make it suitable for its intended purpose.
 1. Examples of such improvements include preservation and planting of trees, development of trails, stabilization of creek banks, removal of undesirable vegetation, and grading of land for recreation (such as informal open play field for youth).
 2. Type of Maintenance. The final subdivision and land development plan shall state and development agreements shall include:
 - (a.) the intended type of maintenance of the open space, such as lawn areas that are regularly mowed or natural areas for passive recreation that are intended for minimal maintenance, and
 - (b.) the entity that will be responsible for the maintenance.
- c. All proposed Preserved Open Space shall be cleared of construction debris, materials from illegal dumping, and any rocks that were not naturally on the land, unless these rocks are incorporated into landscaping improvements.
- d. The applicant shall prove that all required Preserved Open Space would be suitable for its intended and Township-approved purposes. The Township may require the grant of a trail easement and/or the construction of a recreation trail through Preserved Open Space. If a developer installs a trail, it shall be completed prior to the final sale of any adjacent residential lots.

- e. Lots and Preserved Open Spaces shall be located to promote pedestrian and visual access to preserved open spaces whenever possible.
 - f. Sufficient access points from each preserved open space shall be provided to streets for pedestrian access and maintenance access. The Township may require that maintenance and/or pedestrian access points be paved and be up to 8 feet in width. The construction materials and depths for any paths shall be submitted to the Township. Maintenance access points shall be of a slope that is suitable for access by vehicles and equipment.
3. Open Space Ownership. The method(s) to be used to own, preserve and maintain any Preserved Open Space shall be acceptable to the Township. The Township shall only approve an Open Space Development if the applicant proves there will be an acceptable method to ensure permanent ownership, preservation and maintenance of land that will not be included in individual home lots.
- a. The method of ownership and use of any required preserved open space shall be determined prior to preliminary subdivision or land development approval. All maintenance responsibilities shall be the developer's until such time that transfer to another entity takes place. The Township shall only accept ownership of open space if the Township Board of Supervisors has agreed in writing in advance to accept such ownership. If the preserved open space will not be owned by the Township, the preserved open space shall be preserved by one or a combination of the following methods as determined by the Township:
 - 1. Dedication to Lebanon County as public open space, if the Lebanon County Commissioners agree in writing to accept such dedication.
 - 2. Dedication to a School District if its Board of Education agrees in writing to accept such dedication and to use and maintain the land for school recreation, public recreation, environmental education and/or related purposes.
 - 3. Dedication to a homeowners association as preserved open space, with the homeowners legally bound to pay fees for maintenance and other expenses of owning such land, and with such homeowners association being incorporated with covenants and bylaws providing for the filing of assessments and/or municipal liens for the non-payment of maintenance costs for preserved open space that is not publicly owned.
 - a. Such responsibilities shall be specified as part of each deed prior to sale of each lot or dwelling unit. The Township may delay the assignment of maintenance responsibilities by a developer to a homeowners association until such association is incorporated and able to maintain such land. In such case all maintenance responsibilities shall continue to be the developer's until such time that assignment to the homeowner's association takes place.

4. Dedication of the land to an established nature conservation organization acceptable to the Township for maintenance as a nature preserve or passive recreation area.
 5. Dedication to the State Game Commission, State Fish and Boat Commission or similar public agency, if such agency agrees in writing in advance to accept the dedication and to maintain the land for public recreation.
 6. Dedication to a Public Water Provider, if such provider agrees in writing in advance to maintain such land primarily for watershed conservation purposes.
 7. Preservation of Preserved Open Space as part of one privately-owned lot that is restricted against subdivision by a conservation easement, if the applicant proves that none of the other alternatives are feasible. In such case, the Preserved Open Space shall be in addition to the land area that would be needed to meet the requirements for any dwelling on the lot. The conservation easement shall control alteration of natural features on the lot and shall prohibit non-residential uses and non-agricultural uses.
- b. Legal documents providing for ownership and/or maintenance of required preserved open space shall be reviewed by the Township Solicitor and be subject to approval by the Township Board of Supervisors prior to recording of the final subdivision or land development plan. Proposed homeowners association regulations shall also be reviewed by the Township Solicitor and be subject to approval by the Township Board of Supervisors prior to recording of the final subdivision or land development plan and shall be recorded simultaneously therewith.
 - c. A legally binding system shall be established to oversee and maintain land that will not be publicly-owned. The applicant shall prove compliance with State law governing homeowner associations. Proper notations shall be required on the recorded subdivision or land development plan. For example, if the preserved open space is intended to be owned by a homeowner association as recreation land, a statement must be included that the designated open space “shall not be further subdivided and shall not be used for the construction of any non-recreation buildings”.
4. Changes in Open Space Uses. If the required Preserved Open Space is proposed to be used for purposes that were not authorized in the Township approval, then a revised approval shall be required for the changed use. At no time shall further subdivision be allowed, and a statement to that effect shall be included on the recorded subdivision or land development plan.
- F. Steep Slopes. Within an Open Space Development no new building shall be constructed on slopes exceeding 20 percent.

- G. Phasing. The development shall include a phasing system that shall be approved by the Township. The phases shall ensure that the requirements of this Article will be met after the completion of any one phase, and that the development could properly function without the construction of additional phases.
- H. Landscaping Plan. An application for an Open Space Development shall include a landscape planting and preservation plan prepared by a registered landscape architect, unless the land will remain forested.
1. Such plan shall show the locations, general species, and initial sizes of landscaping to be planted within the preserved open space and throughout the tract.
 2. Such plan shall also show that the existing substantial healthy trees will be preserved to the maximum extent reasonable. The methods to ensure preservation during construction shall be described.
 3. Landscaping shall also be used as appropriate to filter views of denser housing from any adjacent housing that is less dense.
 4. The use of native species is strongly encouraged.
- I. Review expenses. The review fees of the Township's professional consultants, as defined in Section 107 of the Pennsylvania Municipalities Planning Code, with respect to an applicant's Open Space Development plan and related documents, shall be paid by the applicant to the Township. Review fees shall include all reasonable and necessary charges by the Township's professional consultants for review and report thereon to the Township. Such review fees shall be based upon a schedule established by resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the professional consultant for comparable services to the Township for services that are not reimbursed or otherwise imposed on applicants. Any dispute regarding such review fees shall be resolved in accordance with the procedures set forth in Section 503(1) of the Pennsylvania Municipalities Planning Code. All fees, charges, and expenses related to an applicant's Open Space Development plan, other than professional consultant fees, shall be controlled by Article 24 of this Ordinance.