

§267-31. Open Space

A. Purpose and use. **ACTIVE** Open space shall be used for recreation. **PASSIVE** open space shall be used for protection of natural resource areas, **AND** passive green way amenity **or agriculture**; be accessible to all residents of the development, **except when used for agricultural purposes**; and be accessible to the general public, if accepted by a public agency. Open space shall not be occupied by non-recreational buildings or non-recreational parking and shall not include required lot areas of dwelling units.

FOH: Agriculture is a business. A farmer's land should not be viewed as someone else's recreation. Land used for agricultural purposes should not be considered recreational.

B. Open space requirements. Open space shall be provided, subject to the following:

(1) A minimum of 50% of the required open space shall be usable for active recreation, such as swimming pools, community centers, tennis courts, tot-lots, ball fields, trails and other similar activities. The area defined as active open space must be a minimum of 10,000 contiguous square feet. Water bodies **BUT NOT TO INCLUDE STORM WATER MANAGEMENT PONDS** shall not exceed 15% of the required active open space area.

FOH: Active open space has been increased from 40% to 50% of the total. Minimum space from 100 square feet and 10 feet wide to 10,000 contiguous square feet. We endorse this change.

(a) Trails shall be a minimum of 6 feet wide, **and must be paved**. Trails **within the Natural Resource District (NRD) may SHALL** utilize stone dust **OR OTHER PERVIOUS MATERIAL**, and construction plans must be approved by the Department of Planning and Zoning.

FOH: Trails should not be impervious surfaces. They are often found along streams. We recommend using stone dust or other pervious material for all areas.

(2) Open space may be owned, preserved and maintained by any of the following:

(a) Dedication of open space to the County or other appropriate public, nonprofit agency, upon written acceptance of such dedication. The County shall not accept designation of open space less than 500 square feet unless it is adjacent to another open space area of greater or equal square footage.

(b) Common ownership by a homeowners' association, which assumes responsibility for its maintenance.

(c) Private ownership in which restrictive covenants in the deeds prevent development of the open space, and provide for maintenance responsibilities.

C. Fee in lieu option. If the County and developer or property owner mutually agree, that the open space requirements cannot be placed in the parcel, in whole or in part, the developer or property owner shall deposit, with the County, a fee in lieu of the dedication. This fee will be based on 110% of the average cost per acre of land within the Development Envelope and acreage which would otherwise be required to be designated as open space. Such funds shall be utilized for capital improvements at a site within the general vicinity and/or recreation service area of the planned development. Alternatively, if the County and developer agree, the developer shall provide to the County, in-kind services and/or products which are deemed to be commensurate in dollar value to the established fee-in-lieu, at a mutually agreed upon site within the general vicinity, and/or recreation service area of the planned development. Any dollar difference in the fee-in-lieu and the agreed upon value of the in-kind service, or product, shall be deposited with the County.

FOH : We have always opposed fee-in-lieu for any reason. Everyone, especially children, who live in a development deserves the right to walk to a recreation area. Fee in lieu forces residents to drive to a recreation area. We are seeing the consequences of forced vehicular travel in the high prevalence of

obesity and generally poor physical condition of people. The use of Fee in lieu negates the definition of Open Space stated above.