CHAPTER 12

CONSERVATION SUBDIVISION DEVELOPMENT STANDARDS

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11-12-010 Purpose.

The purpose of this Chapter is to provide for subdivision development within the CS Overlay Zone and elsewhere in Farmington City in a manner that:

(a) Protects constrained and sensitive lands, including those areas containing sensitive and undevelopable features such as steep slopes, floodplains and wetlands, by setting them aside from development;

(b) Conserves conservation and open space land, including those areas containing unique or natural features such as meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat, historical buildings and/or sites, archeological sites, and green space, by setting them aside from development;

(c) Provides greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development;

(d) Reduces erosion and sedimentation by the retention of existing vegetation and the minimization of development on steep slopes and other constrained and sensitive lands;

(e) Provides for a diversity of lot sizes to accommodate a variety of age and income groups and residential preferences, so that the community's population diversity may be enhanced;

(f) Provides incentives for the creation of greenway systems and open space within the City for the benefit of present and future residents;

(g) Implements adopted City policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Comprehensive General Plan;

(h) Implements adopted land use, environment, natural hazards, transportation, and community policies, as identified in the Comprehensive General Plan;

(i) Protects areas of the City with productive agricultural soils for continued agricultural use by conserving blocks of land large enough to allow for viable farm operations;

(j) Creates neighborhoods with direct visual and/or recreational access to constrained, sensitive and conservation land;

(k) Provides for the conservation and maintenance of constrained, sensitive and conservation land within the City to achieve the above-mentioned goals;

(l) Provides incentives and design alternatives for landowners to minimize impacts on environmental resources such as, sensitive lands, wetlands, floodplain, and steep slopes, and to minimize disturbance of natural or cultural features such as, mature woodlands, tree lines, wildlife habitats and corridors, historic buildings, and floodplain walls;

(m) Provides standards accommodating to some extent the varying circumstances and interests of individual landowners and the individual characteristics of their properties; and

(n) Conserves scenic views and elements of the City's rural and scenic character and minimizes perceived density by minimizing views of new development from existing roads.

11-12-020 Applicability.

a. Any lot or parcel located within the CS Overlay Zone, as shown on the Official Zoning Map, depicted within the Future Land Use Map of the General Plan shall be subject to the standards and regulations of this Chapter. The CS is in an overlay zone. Such standards and regulations are intended to be in addition to the existing standards and

regulations of the underlying zone of the property and other applicable regulations of this Zoning Ordinance.

AND

Any lot or parcel located in agriculture and single family residential zones greater than 5 and 10 acres respectively and not located in the CS Overlay Zone.

b. The election to apply and develop property as a conservation subdivision is voluntary and provided to developers as an alternative to development of property as a Conventional Subdivision pursuant to other applicable provisions of this Title. The intent of this Chapter and the Conservation Subdivision options is to encourage the creation and development of flexibly-designed open space subdivisions. Conservation Subdivisions may be developed within applicable agricultural and residential zones of the City. Conservation Subdivisions shall be developed in accordance with and subject to the development standards, conditions, procedures and regulations of this Chapter and with all other applicable subdivision ordinances and zoning regulations of the City which are not otherwise in conflict with the provisions of this Chapter.

11-12-030 Definitions.

For purposes of this Chapter, the following words shall have the meanings set forth herein:

(a) Conservation Land. Conservation land means land containing unique, historic, cultural, archeological, natural or other significant features, including, but not limited to, meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, and open space.

(b) Constrained and Sensitive Land. Constrained and sensitive land means land which is generally unbuildable and which contains constrained and sensitive features including, but not limited to, wetlands, floodplains, steep slopes, faults and other geologically or environmentally sensitive features.

11-12-040 Development.

Developers desiring to develop property as a Conservation Subdivision in accordance with and subject to the development standards, conditions, procedures and regulations of this Chapter may submit a subdivision application for residential development at the base density permitted in the relevant zone provided herein which may result in more lots than using conventional lot dimensions standards set forth in Chapters 10 and 11 of this Title. The development must utilize a conservation design which sets aside and preserves all constrained and sensitive lands, natural hazards and

resources, and provides the required percentage of conservation land within the development.

11-12-050 Approval Process.

Applications for a Conservation Subdivision shall be submitted and processed in accordance with the requirements and procedures set forth in the City Subdivision Ordinance, including submission and approval of schematic, preliminary and final plans or plats, and any additional procedural requirements set forth in this Chapter, including, but not limited to, submission of a Subdivision Yield Plan, Sensitive Area Designation Plan and/or Master Development Plan.

The Planning Commission shall consider all applications for conservation subdivisions and prepare a recommendation to the City Council as an amendment to the Zoning Ordinance in accordance with Chapter 6 of this Title and the Municipal Land Use Development, and Management Act as set forth in the Chapter 9a of the Utah State Code. The City must provide notice of meetings and public hearings, and required third party notices, related thereto. As part of its recommendation, the Planning Commission and the City Council must determine whether or not a proposed conservation subdivision meets the purpose of this chapter and the review standards set forth in Chapter 6 and elsewhere in the Farmington City Code.

11-12-060 Development Activities Prohibited.

In order to ensure the preservation and enhancement of existing conditions of certain property within the City, including, but not limited to, constrained and sensitive lands, natural and cultural resources, wildlife habitat and other unique and sensitive lands, no new development activity shall be permitted on property proposed for development as a Conservation Subdivision prior to final plat approval as provided herein. Upon final plat approval, all development activity shall be conducted in accordance with and subject to applicable permit and development approval processes required by City Ordinances, rules and regulations. For purposes of this Section, "development activity" shall include any disturbance or alteration of the property in any way, but shall not include continuation of any currently existing permitted use of the property.

11-12-065 Waiver.

Subject to the provisions set forth herein, any provision of this Chapter may be waived by the City upon a vote of not less than four (4) members of the City Council. Such waiver(s) shall be granted only in limited circumstances as deemed appropriate and necessary by the City Council. No waiver shall be granted absent a finding of good cause based upon specific special circumstances attached to the property. No waiver should be granted that would be contrary to the public interest or contrary to the underlying intent of this Chapter. Any waiver of the required minimum conservation land dedication shall

require comparable compensation, off-site improvements, amenities or other consideration of comparable size, quality and/or value.

Good cause as referenced herein shall include, but not be limited to the following standards:

(1) The subdivision shall be located within a half mile of an existing public park located within the Farmigton City limits. This distance shall be determined by the actual walking distance from the subdivision to the park.

(2) In the event the park is located off-site pursuant to sub-paragraph 1, or on-site, a waiver shall not result in usable park space less than 1 acre in size.

(3) A waiver shall not result in lots, or building set-backs, smaller than the minimum lot size.

(4) All subdivision standards regarding dead-end street length, ingress and egress, and block dimensions shall be met.

(5) No waiver shall result in the creation of additional lots or a flag lot.

11-12-068 Fee in Lieu; Conservation Land Dedication.

In the event a proposed conservation land dedication does not, in the City's legislative discretion, produce sufficient public benefit, the City may require the payment of a fee in lieu of the dedication of conservation land. The fee to be paid to the City shall be established as follows:

(1) The City shall establish the amount of the fee to be paid by determining the value of land of the same general characteristics as the conservation land dedication which would be required absent the application of the provisions of this section. The City's determination of value may be based on land sales data in the City's possession or reasonably available, and the basis of the City's determination shall be made available to the Applicant.

(2) In the event the Applicant disagrees with the City's determination of the amount of the fee in lieu, the Applicant may, at its sole expense, submit an appraisal report from a licensed and Certified General Appraiser to establish the value of the proposed conservation land dedication. The value as established in a qualifying appraisal shall be the amount of the fee in lieu of conservation land dedication.

(3) Any amount received by the City in lieu of conservation land dedication shall be set aside solely for open space and/or park acquisition and/or development.

11-12-070 Subdivision Yield Plan.

All applications for a Conservation Subdivision shall include a Subdivision Yield Plan prepared in accordance with the provisions set forth herein. The Subdivision Yield Plan is utilized to determine and calculate the base number of dwelling units for any given property to be developed as a Conservation Subdivision.

(a) Subdivision Yield Plan. Applicants shall prepare a Subdivision Yield Plan for the proposed project showing how the property within the project could be developed under a Conventional Subdivision layout using the dimensional standards set forth in Subsection (c). The Subdivision Yield Plan is not intended to propose or permit the actual development of the property in accordance with the dimensional standards set forth herein, but is prepared merely to determine the base number of dwelling units to be used in calculating the permitted number of dwelling units and lot size for the actual Conservation Subdivision. No subdivision may be developed in accordance with the dimensional standards set forth in Subsection (c) or a proposed Subdivision Yield Plan.

(b) Realistic Layout. The Subdivision Yield Plan must be drawn to scale and must exhibit a realistic layout reflecting a Conventional Subdivision layout that could reasonably be expected to be implemented in consideration of dimensional standards set forth herein and calculating and addressing the presence of non-buildable or infrastructure areas, including, but not limited to, rights-of-way, public improvement areas, wetlands, floodplains, steep slopes, restricted areas subject to the Farmington City Foothill Development Standards, and existing easements or encumbrances. A sample Subdivision Yield Plan is set forth in Exhibit "A," attached hereto and incorporated herein by this reference, providing an example of a hypothetical Yield Plan for land zoned Large Suburban.

(c) Dimensional Standards. The Subdivision Yield Plan shall reflect the following dimensional standards:

Subdivision Yield Plan Dimensional Standards			
Zone	Lot Area	Lot Width	
		Interior	Corner
R (Residential)	8,000 s.f.	75'	85'
LR (Large Residential)	10,000 s.f.	85'	95'
S (Suburban)	15,000 s.f.	95'	100'
LS (Large Suburban)	20,000 s.f.	100'	110'
AE (Agriculture Estates)	½ Acre	100'	110'
A (Agriculture)	1 Acre	100'	110'

Subdivision Yield Plan Dimensional Standards			
Zone	Lot Area	Lot Width	
		Interior	Corner
AA (Agriculture-Very Low Density)	5 Acre	150'	160'

(d) Approval. The Subdivision Yield Plan must be approved in writing by the City Planner for compliance with the standards and provisions of this Section prior to the submission of a Schematic Plan for a Conservation Subdivision.

11-12-080 Sensitive Area Designation Plan.

All applications for a Conservation Subdivision shall include a Sensitive Area Designation Plan prepared in accordance with the provisions set forth herein. The Sensitive Area Designation Plan shall identify all constrained and sensitive lands within the property boundaries and within four hundred (400) feet outside of the property boundaries, including, but not limited to, floodplains, wetlands, steep slopes, and restricted areas as regulated by the Farmington City Foothill Development Standards. The Sensitive Area Designation Plan shall also clearly identify all natural or cultural resources present on the property and within four hundred (400) feet outside of the property, including, but not limited to, geographic features, including, but not limited to, meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmland, wildlife corridors and/or habitat; historic buildings and/or sites; archeological sites; cultural features and green space. Some, but not all, of certain constrained and sensitive lands are designated and shown on the Farmington City Resources and Site Analysis Plan which may be utilized by applicants for the purpose of preparing a Sensitive Area Designation Plan. Applicants are solely responsible for checking and ensuring the accuracy and designation of constrained and sensitive lands and natural and cultural resources on the Sensitive Area Designation Plan for their particular project and applicable adjacent property. If site analysis, surveying and/or identification of constrained and sensitive lands and natural and cultural resources require entry onto adjacent properties, applicants are solely responsible for obtaining all required permits and/or approvals for such entry and analysis, surveying and/or identification.

11-12-085 Master Development Plan.

When deemed necessary or desirable by the City, application and approval for a Conservation Subdivision may require the submission and approval by the City of a Master Development Plan and/or Development Agreement. Such Master Development Plan and/or Development Agreement may be required by the City at any stage of the subdivision approval process.

11-12-090 Dimensional Standards.

(a) Minimum Required Conservation Land. All Conservation Subdivisions shall provide at least the minimum percentage of conservation land within the Conservation Subdivision in accordance with the following chart, hereinafter referred to as the "Development Chart". The minimum percentage of required conservation land for any given Conservation Subdivision shall be calculated based upon the total acreage of property within the proposed subdivision less areas containing constrained and sensitive lands. Required conservation land shall not include any constrained or sensitive lands as defined herein. Except as otherwise provided herein, conservation land shall not be included within any residential lot.

Zone	Conservation Land	Typical Lot Area	Lot Size Minimum
R	15%	6,800 s.f	5,500 s.f.
LR	15%	8,500 s.f.	6,500 s.f.
S	20%	12,000 s.f.	8,000 s.f.
LS	30%	16,000 s.f.	9,000 s.f.
AE	30%	11,667 s.f.	9,000 s.f.
A	40%	20,000 s.f.	12,000 s.f.
AA	40%	108,900 s.f.	12,000 s.f.

(b) Minimum Required Conservation Land. All Conservation Subdivisions shall provide at least the minimum percentage of conservation land within the Conservation Subdivision as set forth in the Development Chart in Subsection (a). The minimum percentage of required conservation land for any given Conservation Subdivision shall be calculated based upon the total acreage of property within the proposed subdivision less areas containing constrained and sensitive lands. Required conservation land shall not include any constrained or sensitive lands as defined herein. Except as otherwise provided herein, conservation land shall not be included within any residential lot.

(c) Lot Area. The lot area and minimum lot size for lots within a Conservation Subdivision shall be determined in accordance with the Development Incentive Chart set forth in Subsection (a). The typical lot area is likely to be much closer in size to the established threshold for each zone because that lot size can be delivered by developers while still meeting the minimum conservation land requirements set forth herein.

(d) Lot Width at Building Line. The minimum lot width at the building line for main buildings within a Conservation Subdivision shall be seventy-five (75) feet, except in the R and LR zones the minimum lot width shall be sixty (60) feet.

(e) Street Frontage. The minimum street frontages for lots within a Conservation Subdivision shall be determined in accordance with the street frontage regulations provided for the relevant zone.

(f) Yard Regulations. The builder or developer of a Conservation Subdivision may consider variations in the principal building position and orientation, but shall observe the following minimum standards for buildings within a Conservation Subdivision. Exceptions to these minimum setback regulations may be approved by the City, in its sole discretion, during plat approval process when deemed appropriate and desirable under the circumstances.

i. Front Setback. The minimum front yard setback for main buildings in a Conservation Subdivisions shall be twenty (20) feet . Notwithstanding the foregoing, the minimum front yard setback for attached garages which extend past the front of the dwelling towards the front property line in any Conservation Subdivision shall be thirty (30) feet.

ii. Rear Setback. The minimum rear yard setback for main buildings within a Conservation Subdivisions shall be thirty (30) feet.

iii. Side Setback. The minimum side yard setback for main buildings within a Conservation Subdivision shall be ten (10) feet for lots within the S, LS, AE, and AA zones, and a minimum of five (5) feet for lots within the R and LR zones but the total of both sides set backs in the R and LR zones shall be no less than 13 feet.

iv. Side Corner Setback. The minimum side corner setback for main buildings within a Conservation Subdivision shall be fifteen (15) feet from the property line in compliance with clear vision standards set forth in Section 11-28-150 of this Title.

v. Accessory buildings on lots less than ½ acre in size shall be located at least six (6) feet to the rear of the dwelling, shall not encroach on any recorded easement, shall not occupy more than twenty-five percent (25%) of the rear yard, and shall be located at least fifteen (15) feet from any dwelling on an adjacent lot. Such buildings may be located within one (1) foot of the side or rear property line. Accessory buildings shall, without exception, be subordinate in height and area to the main building.

vi. Animal shelters, hay barns, coops, corrals or other similar buildings or structures shall be located not less than ten (10) feet from any side or rear property line and one hundred (100) feet from any public street or from any dwelling on an adjacent property.

vii. A detached garage, or other architecturally compatible structure as approved by the Planning Commission, may be located in the side yard of a lot providing that a six (6) foot separation is maintained from the residence and all front, side, and rear setbacks are provided as specified in Section 11-11-050.

viii. On double-frontage lots, accessory buildings shall be located not less than twenty-five (25) feet from each street upon which the lot has frontage.

(g) Building Height on lots less than one-half (½) acre.

(1) Main buildings:

i. Main buildings shall not exceed twenty-seven (27) feet in height;

ii. No dwelling or structure shall contain less than one story.

(2) Accessory buildings or structures shall not exceed fifteen (15) feet in height unless an increased height is approved by the Planning Commission after review of a conditional use application filed by the property owner. No fee shall be assessed for such application.

(h) Accessory buildings on lots greater than ½ acre in size shall meet the setback and height requirements of the underlying zone in which they are located.

11-12-100 Design Standards.

(a) Individual Lots. Individual lots in Conservation Subdivisions shall be laid out pursuant to the dimensional standards set forth herein. Except as otherwise provided for herein, individual residential lots shall not encroach upon or contain any of the required minimum designated conservation land for the Subdivision or any constrained or sensitive lands, as defined herein.

(b) Views of Houselots. Views of houselots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the City's landscaping requirements for residential subdivisions.

(c) Conservation Lands. Standards pertaining to the quantity, quality, configuration, use, permanent protection, ownership, and maintenance of the conservation land within a Conservation Subdivision shall be complied with as provided herein.

(d) Constrained and Sensitive Lands. Restrictions and regulations regarding the preservation, protection, ownership and maintenance of constrained and sensitive lands within a Conservation Subdivision shall be complied with as provided herein.

11-12-120 Use Regulations.

(a) Subdivision. Subject to use and development restrictions of constrained and sensitive lands as set forth herein, land within Conservation Subdivisions may be used for the following purposes:

(1) Permitted Uses. Any uses permitted in the relevant zone.

(2) Conservation Land. Conservation land, subject to the use and development restrictions of conservation land as set forth herein.

(3) Accessory Uses. Any permitted accessory uses as provided in the relevant zoning regulations.

(b) Conservation Land. Conservation land may be used for the following purposes:

(1) Permitted Uses. The following uses are permitted in conservation land areas:

(a) Conservation of open land in its natural state; e.g., meadow, grassland, tree stands, farmland, etc.

(b) Agricultural and horticultural uses, including raising crops or Class "B" livestock and associated buildings that support an active, viable agricultural or horticultural operation, excluding commercial livestock operations involving swine, poultry, and mink.

(c) Pastureland for sheep, cows and horses.

(d) Equestrian facilities for Class "B" animals.

(e) Underground utility easements for drainage, access, sewer or water lines, or other public purposes.

(f) Above-ground utility and street rights-of-way may traverse conservation land if permitted under City Ordinances; provided, areas encumbered by such facilities and/or rights-of-way shall not be counted towards the minimum required conservation land for the Subdivision.

(2) Conditional Uses. The following uses shall be considered as conditional in conservation land areas:

(a) Agricultural uses, not otherwise permitted, including Class "C" Animals, but excluding commercial livestock operations involving swine, poultry and mink.

(b) Wholesale nurseries and associated buildings that are specifically needed to support active, viable horticultural operations.

(c) Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.

(d) Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact.

(e) Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways.

(f) Golf courses, not including miniature golf.

(g) Water supply and sewage disposal systems, and storm water detention areas designed, landscaped, and available for use as an integral part of the conservation land.

(h) Fencing, when deemed necessary and appropriate for the particular use, condition, purpose and/or location of the conservation land.

(3) Prohibited Uses. Except as otherwise approved and permitted by the City as a permitted or conditional use in conjunction with the Conservation Subdivision approval, the following uses shall be considered prohibited in conservation land areas:

(a) Any residential, commercial or industrial activity;

(b) Any development, construction or location of any man-made modification or improvements such as buildings, structures, roads, parking lots, or other improvements;

(c) Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the property;

(d) Any dumping or storing of ashes, trash, garbage or junk;

(e) Burning of any materials, except as necessary for agricultural, drainage and fire protection purposes;

(f) The use of motor vehicles, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except as may be necessary to maintain and operate the property and/or utility facilities within the property;

(g) Hunting or trapping for any purpose other than predatory or problem animal control;

(h) Advertising of any kind or nature and any billboards or signs; provided, directory and information signs may be displayed describing the easement and prohibited or authorized use of the same;

(i) Any cutting of trees or vegetation, except as necessary for fire protection, thinning, elimination of diseased growth, control of non-native plant species, maintenance of landscaped areas, and similar protective measures or those activities relating to permitted agricultural uses;

(j) The change, disturbance, alteration, or impairment of significant natural ecological features and values of the property or destruction of other significant conservation interests on the property;

(k) The division, subdivision or de facto subdivision of the property;

(l) Changing the topography of the property by placing on it any soil, dredging spoils, land fill, or other materials, except as necessary to conduct specific permitted purposes;

and

(m) All other uses and practices inconsistent with and detrimental to the stated objectives and purpose of the easement.

(4) Constrained and Sensitive Lands. No development or residential uses shall be permitted within constrained and sensitive lands.

11-12-130 Conservation Land Design Standards.

Designated conservation land within a Conservation Subdivision shall meet the following standards:

(a) Significant Areas and Features. Conservation land should include the most unique and sensitive resources and locally significant features of the property within the Subdivision such as meadows, grasslands, tree stands, streams, stream corridors, flood walls, berms, watercourses, farmlands, wildlife corridors and/or habitat, historic buildings and/or sites, archeological sites, cultural features, green space, scenic views, etc.

(b) Contiguous Land. Conservation lands within a development shall be contiguous to provide for large and integrated open space areas within the Subdivision. Non-contiguous parcels of conservation lands may be approved by the City during plat approval process upon a finding that such exception is necessary and/or desirable based upon consideration of the size of the project, the size of the conservation parcels, the types of features and resources included within the conservation lands, and other relevant considerations. Long thin strips of conservation land (less than one hundred (100) feet wide) are prohibited, unless approved by the City during plat approval process upon a finding that such configuration of the conservation land is necessary and/or desirable to connect other significant areas, to protect linear resources such as streams or trails, or to provide a buffer.

(c) Open Space Network Connection. Conservation land within a Conservation Subdivision shall be designed and laid out as part of a larger continuous and integrated open space system in general accordance with the Farmington Resource and Site Analysis Plan to ensure that an interconnected network of open space will be provided throughout the City.

(d) Visibility. Conservation land shall be located and designed within the Conservation Subdivision to add to the visual amenities of neighborhoods and to the surrounding area by maximizing the visibility of internal open space. Such enhanced visibility of conservation land may be accomplished through design and location of such open space as terminals at the ends of streets or along "single-loaded" street segments, particularly along the outside edges of street curves, and by maximizing the visibility of

external open space as perimeter "greenbelt" conservation land.

(e) Resource Uses. A substantial amount of the minimum required conservation land may be devoted to active resource uses such as agriculture, horticulture, or equestrian uses; provided, at least a portion of the minimum required conservation land remains available for the common use and enjoyment of the subdivision residents or the public.

(f) Recreational Uses. A substantial amount of the minimum required conservation land may be comprised of active recreation facilities such as playing fields, golf courses, tennis courts, etc., exclusive of parking lots; provided, at least a portion of the minimum required conservation land remains available for common use and enjoyment of the subdivision residents or the public.

(g) Buffering. Conservation land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and from public parks. Where the proposed development abuts a national forest or other public park, open space, wildlife sanctuary or preserve, a natural greenway buffer at least fifty (50) feet wide shall be provided within the development along its common boundary with said land, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction or fire safety). Where this buffer is unwooded, the City may require vegetative screening to be planted at developer's sole cost and expense and/or that the buffer be managed to encourage natural forest succession through 'no-mow' policies and the periodic removal of invasive alien plant and tree species.

(h) Pedestrian Access. Developer shall provide adequate pedestrian access to conservation land which is open to public or resident use.

(i) Maintenance Access. Developer shall provide sufficient maintenance access to all conservation land and constrained and sensitive lands within the Conservation Subdivision.

(j) Landscaping. All conservation land that is not wooded, farmed, or maintained as conservation meadows, grassland, or other approved open space, shall be landscaped at developer's sole cost and expense in accordance with landscaping requirements for subdivisions.

11-12-140 Permanent Protection of Conservation Lands.

(a) Conservation Easement. All conservation land shall be permanently restricted from future development by a conservation easement or other method of protection and preservation acceptable to the City. Under no circumstances shall any development be permitted in the conservation land at any time, except for those permitted or conditional uses listed herein and approved in conjunction with the Conservation

Subdivision. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Subdivision, shall be approved by the City and recorded prior to or concurrent with the recording of the final plat for the Conservation Subdivision.

(b) Terms and Conditions. All conservation easements, or other acceptable method of protection and preservation of the conservation land within a Conservation Subdivision, shall be in substantially the same form as the standard conservation easement form provided by the City and shall include, at a minimum, the following terms and/or conditions:

(1) legal description of the easement;
(2) description of the current use and condition of the property;
(3) permanent duration of easement;
(4) permitted and conditional uses;
(5) prohibited development and/or uses;
(6) maintenance responsibilities and duties; and
(7) enforcement rights and procedures.

(c) Grantee. Unless otherwise approved by the City, the grantee of a conservation easement shall consist of one of the following acceptable entities which entity shall be qualified to maintain and enforce such conservation easement: land trust, conservation organization or governmental entity. The City may, but shall not be required to, accept, as grantee, a Conservation Easement encumbering conservation lands within a Conservation Subdivision, provided there is no cost of acquisition to the City for the easement and sufficient access to and maintenance responsibilities regarding the conservation land are provided.

11-12-150 Ownership of Conservation Lands.

(a) Undivided Ownership. Unless otherwise approved by the City and subject to the provisions set forth in this Chapter, the underlying fee ownership of the conservation land shall remain in single ownership and may be owned and maintained by one of the following entities: homeowners' association, land trust, conservation organization, governmental entity, or private individual.

(b) Property subject to a conservation easement, or other acceptable method of protection and preservation, shall not be subdivided.

(c) Owners' Association. Conservation land may be held in common ownership by a condominium homeowners' or other acceptable owners' association, subject to all of the provisions for owners' associations set forth in State regulations and the City's Subdivision regulations. In addition, the following regulations shall be met:

(1) A description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions

for conservation land, including restrictive covenants for the Subdivision, shall be submitted by the developer with the Preliminary Plat application.

(2) The proposed association shall be established and operating (with financial subsidization, if necessary) prior to or concurrent with the recording of the Final Plat for the Subdivision.

(3) Membership in the association shall be mandatory for all purchasers of property within the Subdivision and their successors in title.

(4) The association shall be responsible for maintenance and insurance of conservation land.

(5) The by-laws of the association and restrictive covenants for the Subdivision shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in dues. Such dues shall be paid with the accrued interest before the lien may be lifted.

(6) Written notice of any proposed transfer of conservation land by the association or the assumption of maintenance for the conservation land must be given to all members of the association and to the City no less than thirty (30) days prior to such event.

(7) The association shall have adequate staff to administer, maintain, and operate such conservation land.

11-12-160 Maintenance of Conservation Lands.

(a) Costs. Unless otherwise agreed to by the City, the cost and responsibility of maintaining conservation land shall be borne by the owner of the underlying fee of the conservation land.

(b) Plan. The developer shall submit a Maintenance Plan providing for and addressing the means for permanent maintenance of the conservation land within the proposed Conservation Subdivision with the Preliminary Plat application for the Subdivision. The Maintenance Plan shall provide the following:

(1) The Plan shall define ownership.

(2) The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (e.g., lawns, playing fields, meadow, pasture, wetlands, stream corridors, hillsides, cropland, woodlands, etc.).

(3) The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the conservation land and operation of any common facilities on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.

(4) At the City's discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for up to one year.

(c) Approval. The Maintenance Plan must be approved by the City prior to or concurrent with Final Plat approval for the Subdivision. The Maintenance Plan shall be recorded against the property and shall include provisions for the City's corrective action rights as set forth herein. Any changes or amendments to the Maintenance Plan shall be approved by the City.

(d) Failure to Maintain. In the event that the organization established to maintain the conservation land and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the City may assume responsibility, as a right but not an obligation, for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.

(e) Corrective Action. The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the County Recorder's office. The Maintenance Plan and all other documents creating or establishing any association or conservation organization for the property shall reference the City's corrective action authority set forth herein and shall be recorded against the property.

Formerly "Residential Zone R-22", repealed 4/1/92, Ord. 92-08
Recodified as "Multiple Family Residential Zones", 4/15/92, Ord. 92-14
Chapter 12 Amended, 12/8/93, Ord. 93-44
11-12-106 Amended, 3/2/94, Ord. 94-12
11-12-104(1) Amended, 4/19/95, Ord. 95-15
Recodified from Chapter 12 to Chapter 13, 4/21/99, Ord. 99-19
New Chapter 12 Adopted, 4/21/99, Ord. 99-21
Chapter 12 Amended and Recodified, 10/17/01, Ord. 2001-38
Amended - 4/19/06 11-12-090 (f) Yard Regulations
Amended 11-12-090(f) & enacted 11-12-090(g) & (h); 10/3/06 Ord. 2006-68
Amended 11-12-090(f)(1) & 11-12-090 (f)(5) 08/18/2011 Ord. 2011-10
Enacted 11-12-068 Fee in Lieu; Conservation Land Dedication 05/17/2011 Ord. 2011-10
Amended 11-12-100 and 11-12-110, 09/17/13 Ord. 2013-20
Amended several sections 10/07/14, Ord 2014-33