

**ARTICLE 6 – RURAL CONSERVATION DISTRICT**

**Section 600 - Purposes** - The purposes of this Article, among others, are as follows:

- A. To protect prime agricultural land and encourage the continuity, development and viability of agricultural operations as provided for in Section 603 (g) and (h) of the Pennsylvania Municipalities Planning Code, as amended, and the Conestoga Township Comprehensive Plan, considering soil type, topography, and present use;
- B. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
- C. To provide for the reasonable development of minerals;
- D. To allow greater design flexibility and efficiency in the provision of services and infrastructure, including the opportunity to reduce road lengths, utility runs, and the amount of paving required for development;
- E. To reduce erosion and sedimentation;
- F. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups and residential preferences, so that the Township's "fair share" population may be accommodated;
- G. To allow controlled commercial and industrial land uses;
- H. To create neighborhoods with direct visual and physical access to open land and with a strong neighborhood identity;
- I. To encourage active or passive recreational uses;
- J. To provide multiple options for landowners in order to minimize the adverse effects of development on sensitive environmental resources, and limit disturbance to natural or cultural features such as woodlands, hedgerows and tree lines, critical wildlife habitats, and historic buildings;
- K. To provide standards reflecting the varying circumstances and interests of individual landowners and the individual characteristics of their properties; and
- L. To conserve scenic views and the Township's rural character, and to minimize perceived development density by limiting views of new development from existing roads.

**Section 601 - Description of the Residential Development Options in this District**

To achieve the purposes of Section 600, this Article provides for flexibility in designing residential subdivisions by allowing two cluster development options and one conventional lot design option allowed by conditional use. The applicant is encouraged to select either **Option 1** or **Option 2** because these options allow for the greatest opportunity for innovative site design and open space retention. **Option 3** provides the opportunity to develop conventionally designed lots at densities of generally one lot per acre, allowed by conditional use. These design options are described below:

- A. **Option 1: Cluster development**, providing for residential uses and open space areas. The flexibly designed lots may utilize either individual or centralized wells and septic treatment systems. This option requires the provision of open space that can be used for various purposes.
- B. **Option 2: Cluster development with conservation of valuable natural resources**, providing for higher-density residential uses that require the preservation of prime agricultural soils and other environmental features, typically utilizing central wells and sewage treatment facilities. This option

requires the provision of open space that can be used for agriculture, recreation or other similar purposes.

- C. **Option 3: Conventional lot designs**, providing for suburban-density residential uses at lower densities and in conventional designs, allowed through the conditional use process.

**Section 602 - Permitted Uses**

**A. The Following Uses are Permitted By-Right:**

1. **Single-Family detached or semi-attached dwellings** in **Option 1** or **Option 2** subdivision designs as described in Sections 603 through 609 below.
2. **Agricultural operations, forestry, timber harvesting**, and associated activities.
3. **Open space land** uses on a portion of residential development, as specified above and according to requirements of Sections 606 H of this Article.
4. **Option 3** subdivisions under the exemption provisions of Section 603 B of this Article (i.e., when tracts are in single and separate ownership and are less than ten acres in size as of the effective date of this Ordinance).
5. **Township uses**.
6. **Day care facilities for fewer than six children**, in single-family detached dwellings.
7. **Limited non-Option 1, 2 or 3** development. Notwithstanding other Sections of this Ordinance to the contrary, not more than one non-farm residential lot may be subdivided from any parent tract within any consecutive 12-month period, provided that the lot shall not be more than two acres in size. Lots may be created for agricultural purposes at any time, provided that such lots shall not be less than 25 acres.
8. **Wildlife observation blinds, blinds for hunting**, and similar facilities.

**B. The Following Uses are Allowed as Special Exceptions:** The following uses are permitted when special exceptions are granted by written approval of the Zoning Hearing Board. In granting any special exceptions, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

1. **Accessory apartments**, subject to the provisions of Section 1106.
2. **Adaptive re-use of existing structures, residential conversion units**, subject to the provisions of Section 1201.
3. **Animal hospitals** (for small animals), **veterinary facilities, kennels**, subject to the provisions of Section 1203.
4. **Barns or stables for horses**, (on lots less than five acres) subject to the provisions of Section 1204.
5. **Bed and Breakfast establishments**, subject to the provisions of Section 1205.
6. **Cellular communication facilities** exceeding the limits in Section 1104, subject to the provisions of Section 1206.
7. **Day care facilities for more than six children**, subject to the provisions of Section 1207.
8. **Delivery-based retail facility**, subject to the provisions of Section 1208.

9. **Farm machinery service and repair**, subject to the provisions of Section 1210.
10. **Farm-related businesses**, subject to the provisions of Section 1211.
11. **Firing range**, subject to the provisions of Section 1212.
12. **General non-professional home occupation**, subject to the provisions of Section 1218.
13. **Manure processing, hauling, soils and sludge composting, and similar activities**, subject to the provisions of Section 1220.
14. **Mass outdoor gathering**, subject to the provisions of Section 1221.
15. **Places of worship, cemetery**, subject to the provisions of Section 1225.
16. **Recreational facility**, subject to the provisions of Section 1226.
17. **Retirement, nursing home, lifecare facility**, subject to the provisions of Section 1227.
18. **Riding school, horse boarding facility**, subject to the provisions of Section 1228.
19. **River-related recreational facility**, subject to the provisions of Section 1229.
20. **School**, subject to the provisions of Section 1230.
21. **Timber harvesting (only when clear-cutting)**, subject to the provisions of Section 1215.
22. **Uses substantially similar to permitted or special exception uses within this District**, subject to the provisions of Section 1234.

H. **The Following Uses are Permitted as Conditional Uses:** The following uses are permitted when conditional uses are granted by written approval of the Board of Supervisors. In granting any special exceptions, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of this Ordinance.

1. **Agritainment**, subject to the provisions of Section 1308.
2. **Amusement park**, subject to the provisions of Section 1303.
3. **Campground**, subject to the provisions of Section 1305.
4. **Correctional facility**, subject to the provisions of Section 1307.
5. **Golf course**, subject to the provisions of Section 1309.
6. **Greenhouse, nursery and garden materials sales**, subject to the provisions of Section 1316.
7. **Heavy equipment sales, service, repair**, subject to the provisions of Section 1310.
8. **Helipport/helistop**, subject to the provisions of Section 1311.
9. **Raw material extraction and/or processing**, including commercial water extraction, subject to the provisions of Section 1318.

10. **Single-family detached dwellings in Option 3 subdivisions** as described in Section 605 below.
  11. **Retail or industrial activities, (Commercial)**, not associated with an agricultural use, subject to the provisions of Section 1306.
  12. **Intensive agriculture, Stockyard**, subject to the provisions of Section 1314.
  13. **Non-Farm Entertainment-Related Activity and Agritainment**, subject to the provisions of Section 1308.
  14. **Outdoor recreation areas and facilities:** parks, (except amusement parks), playgrounds, picnic grounds, campgrounds, golf courses and country clubs (except miniature golf courses). Lodges for climbing, fishing, nature observation or other similar recreation purposes, subject to the provisions of Section 1305.
  15. **Supplemental Commercial Activities**, subject to the provisions of Section 1320.
- I. **The Following Uses Are Allowed As Accessory Uses:** The following are permitted as accessory uses located on the same lot with a permitted principal use:
1. **Animal Shelters**, subject to the provisions of Section 1102.
  2. **Display and Sale of Farm Products**, subject to the provisions of Section 1107.
  3. **Farm Ponds**, subject to the provisions of Section 1003 E.
  4. **Fish Hatchery**, subject to the provisions of Section 1003 E.
  5. **Flea Market**, subject to the provisions of Section 1110.
  6. **Home occupations (no-impact)** subject to the provisions of Section 1112.
  7. **Private garage or parking areas serving permitted uses**, subject to the provisions of Article 15.
  8. **Signs** subject to the provisions of Article 14.
  9. **Roadside sales of farm products** grown on the premises, provided off-road parking spaces are provided for the customers, subject to the provisions of Section 1107.
  10. **Other customary accessory uses and buildings**, provided that they are incidental to the principal use.

**Section 603 - Option 1 Subdivision Bulk and Lot Requirements**

**A. Option 1 Bulk and Lot Requirements.** The design of all **Option 1** subdivisions shall comply with the following minimum standards in Table 2 below:

<b>Table 2 - Bulk and Lot Requirements: Rural Conservation District - Option 1</b>			
Regulation	Lots Served by Individual Water and Sewer Disposal Systems	Lots Served by Centralized Sanitary Sewer and Individual Water Service	Lots Served by Centralized Sanitary Sewer and Centralized Water Service
Minimum Total Tract Size	Ten acres. Tracts may be owned by one or more persons and may be combined.		
Maximum Tract Density	One dwelling per 87,120 net square feet (two acres) of gross tract area, provided, that for each 5000 square feet (or portion thereof) of prime agricultural soils that are removed from potential agricultural use, maximum density shall be reduced by one dwelling unit. This provision shall not apply when roadways are extended to property lines at the direction of the Township.		
Minimum Tract Open Space (also see Table 5 for perimeter setback regulations)	40%	50%	60%
	The open space areas may be privately owned (part of individual lots) but must be permanently preserved through the use of restrictive covenants or as approved by the Township.		
Maximum Building Height	35 feet		
Minimum Individual Lot Area	87,120 square feet (two acres) <sup>2</sup>	40,000 square feet	20,000 square feet
Minimum Front Yard Setback <sup>1</sup>	50 feet	25 feet	
Minimum Lot Depth	200 feet	150 feet	100 feet
Minimum Lot Width	150 feet at the front setback line <sup>3</sup>	75 feet at the front setback line <sup>3</sup>	
Minimum Rear Yard	45 feet	30 feet	25 feet
Minimum Side Yard	25 feet	20 feet	15 feet
Maximum Lot Coverage	25%	35%	
<p><sup>1</sup> In developed areas, the minimum building setback line requirements may be reduced in order that the building may be placed in proper relation to adjacent buildings, subject to the provisions of Section 1103 B.</p> <p><sup>2</sup> This minimum lot size may be reduced to not less than 30,000 square feet through the use of sewage effluent easements on adjoining areas. Such adjoining areas shall remain undeveloped.</p> <p><sup>3</sup> Corner lots shall increase the minimum lot width by 10%.</p>			

- B. Exemptions from the Use of Option 1 and 2 Designs for Lots Less Than Ten Acres:**  
On tracts of less than ten acres, existing in single and separate ownership on the effective date of this ordinance, single-family detached dwellings shall be permitted under the standards for **Option 3** found in Section 605, provided that the requirement for obtaining a conditional use shall not be required.

**Section 604 - Option 2 Subdivision Bulk and Lot Requirements**

- A. Bulk and Lot Requirements.** The design of all new Option 2 subdivisions shall comply with the following minimum standards in Table 3:

**Table 3 - Bulk and Lot Requirements: Rural Conservation District - Option 2**

Regulation	Lots Served by Individual Water and Sewer Disposal Systems	Lots Served by Centralized Sanitary Sewer and Individual Water Service	Lots Served by Centralized Sanitary Sewer and Centralized Water Service
Minimum Total Tract Size	Ten acres. Tracts may be owned by one or more persons and may be combined.		
Maximum Tract Density	One dwelling per 43,560 net square feet (one acre) of adjusted tract area as defined in Table 4, provided, that for each 5000 square feet (or portion thereof) of prime agricultural soils that are removed from potential agricultural use, maximum density shall be reduced by one dwelling unit. This provision shall not apply when roadways are extended to property lines at the direction of the Township.		
Minimum Tract Open Space (also see Table 5 for perimeter setback regulations)	50%	60%	75%
Maximum Building Height	35 feet		
Minimum Individual Lot Area	40,000 square feet <sup>2</sup>	20,000 square feet	10,000 square feet
Minimum Front Yard Setback <sup>1</sup>	50 feet	25 feet	20 feet
Minimum Lot Depth	200 feet	100 feet	75 feet
Minimum Lot Width	150 feet at the front setback line <sup>3</sup>	50 feet at the front setback line <sup>3</sup>	40 feet at the front setback line <sup>3</sup>
Minimum Rear Yard	40 feet	20 feet	15 feet
Minimum Side Yard	25 feet	15 feet	10 feet
Maximum Lot Coverage	30%	50%	60%
<p><sup>1</sup> In developed areas, the minimum building setback line requirements may be reduced in order that the building may be in proper relation to adjacent buildings, subject to the provisions of Section 1103 B.</p> <p><sup>2</sup> This minimum lot size may be reduced to not less than 20,000 square feet through the use of sewage effluent easements on adjoining areas. Such areas shall remain undeveloped.</p> <p><sup>3</sup> Corner lots shall increase the minimum lot width by 10%.</p>			

**B. Exemptions from the Use of Option 1 and 2 Designs for Lots Less Than Ten Acres:**  
On tracts of less than ten acres, existing in single and separate ownership on the effective date of this ordinance, single-family detached dwellings shall be permitted under the standards for **Option 3** found in Section 605, provided that the requirement for obtaining a conditional use shall not be required.

**C. Density Determination For Option 2 Subdivisions.** The maximum permitted residential building density for Option 2 subdivisions shall be determined by calculating the **Adjusted Tract Acreage**, as follows:

The **Adjusted Tract Acreage** shall be determined by multiplying the acreage within the Land Feature categories listed below by the "deduction factor" for that land feature as shown on Table 4. The resulting areas shall then be deducted from the total (gross) tract area. The identification of the land features may be performed in any manner acceptable to the Township Zoning Officer, when conducted in accordance with commonly-accepted practices. The applicant shall submit to the Township a map showing the Land Feature areas listed in Table 4, including shaded areas corresponding to the areas that exceed the maximum density factors in Table 4:



<b>Table 4 - Adjusted Tract Acreage Density Determination                      For Rural Conservation District - Option 2 Subdivisions</b> (See formula below <sup>1</sup> )	
Land Feature Acreages <sup>2</sup>	Deduction Factor
All areas within the rights-of-way of existing public streets or highways, or within access easements	100%
Existing private streets	100%
Floodways, floodplains, flood fringes (but shall not include conservation terraces and drainage ways)	100%
Recreation areas and historic sites as identified in the Township Comprehensive Plan	100%
Steep slopes over 25% (defined as change in elevation divided by horizontal distance, measured prior to site disturbance)	100%
Existing stormwater management facilities	100%
Existing wetlands, ponds and streams	100%
Contiguous areas of rock outcrop and boulder fields over 1000 sf	90%
Moderately steep slopes between 15% - 25% (measured prior to site disturbance)	40%
Prime Agricultural Soil (USDS Class I, II, III)	90%
Woodlands	20%
<sup>1</sup> Calculating the Adjusted Tract Acreage: (Acreage of each Land Feature above) X (Deduction Factor) = Acreage to be deducted from gross tract area This calculation shall be performed for each of the individual land features, then added to result in the total amount of land area that shall be deducted from the gross tract acreage.	
<sup>2</sup> If a portion of the tract is underlain by more than one natural feature subject to a deduction from the total tract acreage that acreage shall be subject to the most restrictive deduction only. The identification of the land features may be performed in any manner acceptable to the Township Zoning Officer, when conducted in accordance with commonly-accepted practices.	

**Section 605 - Option 3 Subdivision Bulk and Lot Requirements.**

The design of all Option 3 subdivisions in the Rural Conservation District shall comply with the following minimum standards in Table 5. This design option is permitted as a conditional use:

<b>Table 5 - Bulk and Lot Requirements: Rural Conservation District - Option 3</b>	
<b>Regulation</b>	<b>Minimum Requirement</b>
Minimum lot size <sup>1</sup>	One dwelling per 87,120 (two acres) gross sf <sup>1</sup> . No prime agricultural soils shall be removed from potential agricultural use, unless in residentially developed areas as approved by the Board of Supervisors where the infill of development at similar densities is appropriate. No residential lot may be located within 100 feet of any area of prime agricultural soils.
Maximum Building Height	35 feet
Minimum Front Yard Setback	50 feet <sup>2</sup>
Minimum Lot Width	150 feet
Minimum Rear Yard	60 feet (25 feet for accessory buildings)
Minimum Side Yard	25 feet
Maximum Lot Coverage	10%
<p><sup>1</sup> The Board may allow a reduction of the minimum lot size to not less than one acre, provided that the gross density of the parent tract does not exceed one lot per 87,120 square feet.</p> <p><sup>2</sup> In developed areas, the minimum building setback line requirements may be reduced in order that the building may be in proper relation to adjacent buildings, subject to Section 1103 B.</p>	

**Section 606 - General Design Standards for Option 1 and 2 Subdivisions**

The following standards shall apply to all Option 1 and 2 subdivisions. All plans shall be submitted to the Township Planning Commission for its review.

- A. **Ownership.** The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be developed as a single entity with common undivided authority with a single applicant.
- B. **Limitations on Site Disturbance.** The natural features listed in Table 4 shall not be disturbed by an amount exceeding the area that results from subtracting the deduction factor from 100. (For example, not more than 40% of moderately steep areas may be disturbed: 100 - 40% deduction factor for moderately steep slopes = 60% maximum site disturbance of moderately steep slopes.)
- C. **Combining Design Options.** The various layout and density options described in this Article may be combined, based upon demonstration by the applicant that such a combination would better meet the intent of this Ordinance and the stated purposes of this Article, as compared with applying a single development option to the parcel.

- D. **Intersections and Access.** Subdivisions containing fewer than 15 dwellings shall not include more than one roadway entrance onto public roads unless required by the Township Supervisors.
- E. **Access From Interior Streets.** All houselots shall gain access from interior streets unless permitted by the Township due to unusual physical circumstances.
- F. **Tract Setback Requirements:** Minimum tract perimeter setbacks (i.e., from outer tract boundary to individual dwellings) for **Options 1 and 2** subdivisions shall be as required in Table 6:

<b>Table 6 – Tract Perimeter Setback Requirements for Rural Conservation District - Options 1 and 2</b>	
<b>Land Feature</b>	<b>Setback</b>
All external road ultimate rights-of-way	100 ft
All other tract boundaries	50 ft
Cropland or pasture land on the site or on adjacent areas	100 ft
Buildings or barnyards housing livestock on the site or on adjacent areas	300 ft
Active recreation areas such as courts or playing fields but not including tot lots	150 ft

- G. **Open Space Design Requirements.** Open space areas that are provided in **Options 1 and 2** subdivisions shall meet the following requirements:
  1. **Accessibility.** Not less than 50% of the minimum required open space land shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, walking trails, footpaths, community park, or any combination of the above. In addition, no more than 50% of the minimum required open space land may be comprised of active recreation facilities such as playing fields, golf courses, tennis courts, etc. Open space land shall not be used for residential lots, except as provided below.
  2. **Location.** The required open space land shall be located and designed to add to the visual amenities of villages and hamlets and to the surrounding area, by maximizing the visibility of internal open space and terminal vistas at the ends of streets (or along the outside edges of street curves), and by maximizing the visibility of external open space as perimeter greenbelt land. Greenbelt land shall be designed to provide buffers and to protect scenic views as seen from existing roadways and from public parks.
  3. **Views of Houselots.** Views of houselots from exterior roads and abutting properties should be minimized by the use of changes in topography, existing vegetation, or additional landscaping. This land shall generally remain undivided and may be owned and maintained by a homeowners association, land trust, another conservation organization recognized by the municipality, or by a private individual (typically as part of the original farmstead).
  4. **Buffers for Adjacent Public Parkland.** Where the proposed development adjoins public parkland, a natural open space buffer at least 150 feet deep shall be provided within the development along its common boundary with the parkland, 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 for the removal of noxious or invasive plants); Where this buffer is unwooded, the Township may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through "no-mow" policies and the periodic removal of invasive species.

5. **No portion of any building lot may be used for meeting the minimum required open space land**, unless permanently preserved from development. However, active agricultural land, excluding areas used for residences and farm buildings, may be used to meet the minimum open space requirement.
6. **Pedestrian and maintenance access.** Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes, shall be provided to open space land in accordance with the following requirements:
  - a. Not less than one point of access to the open space area shall be provided within each portion of road in excess of 300 feet in length. The access shall not be less than 20 feet in width.
  - b. Access to open space land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
7. **Landscaping.** All open space land areas that are not wooded or farmed shall be landscaped.
8. **Management plan.** The applicant shall prepare a long-range management plan for the open space land.
9. **Minimum Dimensions of Open Space Areas.** No open space or buffer area shall have a dimension less than 40 feet, although trails may have a dimension not less than 10 feet.

**H. Uses Permitted on Open Space Lands:**

1. **Conservation of open land** in its natural state (i.e., woodland, fallow field, or meadow);
2. **Agricultural**, forestry, silviculture and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are intensive agricultural activities.
3. **Pastureland** or areas for horses.
4. **Common neighborhood uses** such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding wheeled vehicles (except for agricultural vehicles), and rifle ranges.
5. **Active non-commercial recreation areas**, such as playing fields, playgrounds, courts, provided such areas do not consume more than half of the minimum required open space land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within 50 feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
6. **Golf courses** may comprise up to half of the minimum required open space land, but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within any minimum open space requirement; their parking and access ways may be paved and lighted.
7. **Water supply and sewage disposal systems**, and stormwater detention areas designed, landscaped, and available for use as an integral part of the open space.
8. **Easements** for drainage, access, sewer or water lines, or other public purposes;
9. **Aboveground utility rights-of-way.** Aboveground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required open space land.
10. **Township park, Township recreation** and accessory structures.

**Section 607 - Land Dedication for Public Recreational Use and the "Fee-In-Lieu" Alternative.**

- A. Minimum Dedication Requirements.** Applicants for new residential developments involving ten or more dwellings shall be required to dedicate to the Township not less than the minimum amount as required by the Conestoga Township Comprehensive Plan (as it may be amended) of the gross tract acreage of each proposed dwelling for use as public recreational facilities subject to the provisions of Section 503 (11) of the Pennsylvania Municipalities Planning Code. Such land shall be suitable for active and/or passive recreation, with at least 50% of the land suitable for active recreation, where such facilities are required by the Conestoga Township Comprehensive Plan.
- B. Alternatives to Dedication.** In lieu of dedication of land, the applicant may choose among the following alternatives:
1. The applicant may offer a dedication accessible to recreational usage by the residents of the proposed subdivision. If land is set aside in this manner for private recreational use, it shall also be permanently protected through a conservation easement enforceable by the municipality and/or a land trust, prohibiting future non-recreational (or commercial recreational) uses.
  2. The applicant may offer to pay a fee to the Township in lieu of any recreational land dedication. The Board of Supervisors may accept this fee upon determination that the provision of land would not result in a public benefit.
  3. The decision whether to accept a fee-in-lieu offer by the applicant shall lie with the Board of Supervisors. The amount of the fee shall be based upon the fair market value of land that is similar in area, location and in other attributes to land which would otherwise have been dedicated by the developer to satisfy this Section. The determination of fair market value shall be made by a person familiar with land values in the Township, and who is mutually acceptable to the Board of Supervisors and to the applicant. Such fees shall be based on land values at the time of development of the applicant's parcel. All such fees collected shall be deposited in an interest-bearing account identifying the specific recreation facilities for which the fee was received. Upon request of any person who paid any fee under this Section, the Board of Supervisors shall refund such fee, plus interest accumulated thereon from the date of payment, if the Board of Supervisors had failed to utilize the fee paid for the purposes set forth in this Section within three years from the date such fee was paid.
  4. In **Option 1** and **2** subdivisions involving fewer than ten dwelling units where, in the judgment of the Township, there would be no specific public benefit accruing from a public dedication (as described above), or from a set-aside for shared private recreational usage among the subdivision lot owners, the applicant may offer to place a conservation easement on certain areas of land within individual lots where certain environmentally-sensitive features are present, without conferring common access rights or privileges for the subdivision's residents or the public. The percentage of land that is thus protected shall generally be not less than 20% of the gross land area of the subdivision. This land may be access-restricted not only from the public but also from other residents in the subdivision.

**Section 608 - Transportation Impact Analysis**

Applicants for developments that result in more than 75 new peak hour trips shall prepare a Transportation Impact Analysis according to the provisions in the Appendix of this Ordinance.

**Section 609 - Environmental Impact Analysis**

- A. Environmental Impact Analysis.** Applicants for developments that result in the disturbance of an aggregate of five acres or more shall prepare an Environmental Impact Analysis according to the provisions in the Appendix of this Ordinance.
- B. Conservation Plan Required.** A Conservation Plan shall be required for any agricultural, horticultural, animal husbandry or forest uses that require substantial earthmoving activities of

more than one acre of disturbed area in total. The commercial harvesting of trees shall receive an approved conservation plan by the Lancaster County Conservation District pursuant to Chapter 102 Erosion Control of Title 25 Rules and Regulations, Department of Environmental Protection, or any prevailing regulations.

#### **Section 610 - Discretionary Density Bonuses**

Additional density may be authorized by the Township upon its determination that one of the following public benefits will occur (this determination shall be at the Township's sole discretion):

- A. Public Usage of Open Space Land.** The Board of Supervisors may allow a density bonus up to a maximum of one dwelling unit per five acres of open space land that becomes publicly accessible and available (including active and passive recreation areas, spray or drip irrigation areas (i.e., disposal of sewage), municipal buildings, etc.) The decision to accept an applicant's offer to dedicate open space land to public usage within a proposed subdivision shall be at the discretion of the Board of Supervisors, when it determines that a public benefit will occur.
- B. Endowment For Open Space Maintenance:**
1. The Board of Supervisors may allow a density bonus up to 10% in exchange for the creation of a permanent fund to offset continuing costs of maintaining open space land (involving activities such as mowing, removing exotic species, meeting insurance premiums and local taxes, etc.), and costs associated with active or passive recreation facilities. Expenditures from this fund should be restricted to disbursements of interest so that the principal may be preserved. The minimum amount of the fund shall be adequate to ensure continued maintenance of the open space and the amount shall be determined by an agency, firm, or organization with experience in managing conservation land and recreational facilities and which is acceptable to the Township, and the fund shall be in an amount acceptable to the Township.
  2. Open space land that is not accessible by the subdivision's residents is not required to be included when estimating ongoing maintenance costs. (Such lands would typically include areas designated on the Final Plan for future agricultural, horticultural, silvicultural, or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement.)
- C. Implementation.** These density bonuses may be implemented by reducing the amount of required open space land by up to 10%, reducing the minimum lot area requirements by up to 10%, or by a combination of these approaches, at the discretion of the Board of Supervisors.

#### **Section 611 - Ownership And Maintenance Of Open Space Land And Common Facilities**

- A. Restrictions on Open Space Land.** No development shall be permitted in open space areas at any time, except for those uses listed in Section 606 H above.
- B. Ownership Options.** Ownership of common facilities may be in the forms below as approved by the Township (however, open space land may be initially offered for dedication to the Township. Common facilities shall not be transferred to another entity except for transfer to another form of ownership permitted under this Section, provided that there is no change in the common facilities or in the open space ratio of the overall development):
1. **Fee Simple Dedication to the Township:** The Conestoga Township Board of Supervisors may, but shall not be required to, accept any portion of the common facilities, provided that:
    - a. There is no cost of acquisition to the Township; and,
    - b. The Board of Supervisors agrees to and has access to maintain such facilities.
  2. **Condominium Association:** Common facilities may be controlled through the use of condominium agreements. Such agreements shall be in accordance with the

Pennsylvania Uniform Condominium Act of 1980, as amended. All open land and common facilities shall be held as a "common element."

3. **Homeowners' Association:** Common facilities may be held in common ownership by a homeowners' association, subject to all of the provisions for homeowners' associations set forth in applicable Pennsylvania regulations. In addition, the following standards shall be met:
    - a. The applicant shall provide the Board of Supervisors with a description of the organization of the proposed association, including its by-laws, and all documents governing ownership, maintenance, and use restrictions for common facilities.
    - b. The proposed association shall be established by the owner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before the sale of any dwelling units in the development.
    - c. Membership in the association shall be automatic and mandatory for all purchasers of dwelling units therein and their successors in title, who shall have joint and undivided interests in any common areas.
    - d. The association shall be responsible for maintenance and insurance of common facilities.
    - e. The by-laws shall confer legal authority on the association to place a lien on the real property of any member who falls delinquent in his dues. Such dues shall be paid with all accrued interest before the lien may be lifted.
    - f. Written notice of any proposed transfer of common facilities by the association or the assumption of maintenance of common facilities must be given to all members of the association and to the Board of Supervisors not less than 30 days prior to such event.
    - g. The association shall have adequate staff to administer, maintain, and operate such common facilities.
  
  4. **Dedication to Private Conservation Organization or to the County:** With the permission of the Board of Supervisors, an owner may transfer either fee simple title of the open space or easements on the open space to a private non-profit conservation organization or to the County provided that:
    - a. The conservation organization is acceptable to the municipality and is a bona fide conservation organization intended to exist indefinitely.
    - b. The conveyance contains appropriate provisions for proper reverter or re-transfers in the event that the organization becomes unwilling or unable to continue carrying out its functions.
    - c. The open space land is permanently restricted from future development through a conservation easement and the Board of Supervisors are given the ability to enforce these restrictions; and,
    - d. A maintenance agreement acceptable to the Board of Supervisors is established between the owner and the organization.
    - e. A satisfactory maintenance agreement shall be reached between the owner and the Board of Supervisors.
  
  5. **Dedication of Easements to the Township:** The Board of Supervisors may, but shall not be required to, accept easements for public use of any portion of the common land or facilities. In such cases, the facility remains in the ownership of the condominium association, homeowners' association, or private conservation organization while the Board of Supervisors holds the easements. In addition, the following regulations shall apply:
    - a. There shall be no cost of acquisition to the Board of Supervisors.
    - b. Any such easements for public use shall be accessible to the residents of the Township.
- C. **Maintenance.** Unless otherwise agreed to by the Board of Supervisors, the cost and responsibility of maintaining common facilities and open space land shall be borne by the property owner, condominium association, homeowners' association, or conservation organization.

1. The applicant shall, at the time of preliminary plan submission, provide a plan for maintenance of open space lands and operation of common facilities in accordance with the requirements of Article V of the Pennsylvania Municipalities Planning Code and with the following:
  - a. The Plan shall establish necessary regular and periodic operation and maintenance responsibilities for the various kinds of open space (i.e. lawns, playing fields, meadow, pasture, cropland, woodlands, etc.);
  - b. The Plan shall estimate staffing needs, insurance requirements, and associated costs, and define the means for funding the maintenance of the open space 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;
  - c. At the Board of Supervisors' discretion, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common public facilities for up to 18 months; and,
  - d. The Board of Supervisors shall approve any changes to the maintenance plan.
2. In the event that the organization established to maintain the open space lands and the common facilities, or any successor organization thereto, fails to maintain all or any portion thereof in reasonable order and condition, the Board of Supervisors may assume responsibility for maintenance, in which case any escrow funds may be forfeited and any permits may be revoked or suspended.
3. In the event of a violation of the terms of this Section, the Board of Supervisors or its authorized representative may enter the premises and take corrective action, including maintenance. The costs of such corrective action may be charged to the property owner, condominium association, homeowners association, conservation organization, or individual property owners who make up a condominium or homeowners' association and may include administrative costs and penalties. Such costs shall become a lien on said properties. The Township shall file notice of such lien in the office of the Prothonotary of Lancaster County.