

**ARTICLE XXIV. COMMON OPEN SPACE AND COMMON IMPROVEMENT REGULATIONS**

**Section 1. General Provisions**

- A. The regulations set forth in this Section shall apply in all developments where the following features are held in common ownership by persons owning property within a development.
  - 1. All lands in common open space, not a part of individual lots, designed for the mutual benefit of a group of persons owning property within a development, where such lands are not dedicated to or conveyed for public use, whether or not such lands are required by the provisions of this Article, and
  - 2. All private streets, driveways, parking facilities, and buildings or portions thereof, as may be provided for the common use, benefit, and/or enjoyment of the occupants of the development; whether or not such improvements are required by the provisions of this Article.

**Section 2. Condominium Property Act**

- A. All lands and improvements as set forth in Section 1 above shall be established and maintained in accordance with the Condominium Property Act, Chapter 448 of the 1978 Missouri Revised Statutes or subsequent amendments, except where it can be demonstrated that the provisions of this Article can otherwise be satisfied.

**Section 3. Subdivision Approval Required**

- A. All subdivision of property containing common open space and common improvements shall originally be classified as a major subdivision and be subject to review in accordance with the provisions of the Subdivision Regulations. Amendments or revisions to an improved subdivision plat containing a common open space and common improvements may be classified as a minor subdivision in accordance with the County's Subdivision Regulations.

**Section 4. Property Owner's Association**

- A. If common open space and common improvements are not dedicated to and accepted for public use, they shall be protected by legal arrangements, satisfactory to the Planning Board and County Commission sufficient to assure their maintenance and preservation for whatever purpose they are intended.
  - 1. Covenants or other legal arrangements shall specify:
    - a. Ownership of the common open space and common improvements;
    - b. Method of maintenance;
    - c. Responsibility for maintenance, maintenance taxes, and insurance;
    - d. Compulsory membership and compulsory assessment provisions;
    - e. Guarantees that any association formed to own and maintain common open space and common improvements will not be dissolved without the consent of the County; and
    - f. Any other specifications deemed necessary by the Planning Board and County Commission.

**Section 5. Covenants, Rules, and Bylaws**

- A. The Director of Planning and the County Counselor shall review and approve the restrictive covenants, rules, and bylaws of the unit ownership, as prepared in accordance with this Article and Chapter 448 of the 1978 Missouri Revised Statutes. This approval shall be obtained before any final plat is recorded or final site plan approved. Such documents, once approved, shall become part of the recorded subdivision plat or approved site plan. No final plat shall be recorded prior to the formation of a Property Owner's Association and transfer of common open space ownership and maintenance responsibilities to said Association.

**Section 6. Maintenance of Common Open Space and Common Improvements**

- A. If the Planning Board and County Commission determines that the public interest requires assurance concerning adequate maintenance of common open space areas and improvements, the Planning Board and County Commission may require that the restrictive covenants, rules, and by-laws creating the unit ownership shall provide that if the unit owners establish and maintain such common open space, improvements, or any successor unit owners, shall at any time after establishment of the development fail to maintain the common open space/improvements in reasonable order and condition in accordance with the approved plans:
1. The County may serve notice in writing upon such unit owners.
  2. Said notice shall describe how the unit ownership has failed to maintain the common open space/improvements in reasonable condition;
  3. Shall require that such deficiencies of maintenance be remedied within thirty (30) days thereof; and
  4. Hearing shall be held within twenty (20) days of notice.
- B. At such hearing, the County Commission may modify the terms of the original notice concerning the deficiencies and may grant an extension of time to remedy these deficiencies.
- C. If said deficiencies are not corrected, the County may enter upon said common open space and maintain the same for one (1) year in order to preserve the taxable values of the properties within the development and to prevent the common open space/improvement from becoming a public nuisance.
- D. Said entry and maintenance shall not grant the public any rights to use the common open space/improvements unless the owners voluntarily dedicate the same to the public and such dedication is accepted by the County.
- E. Before the expiration of said one (1) year period and upon its initiative or upon the request of the unit owners theretofore responsible for the maintenance of the common open space/improvements, the County Commission shall call a public hearing upon notice in writing to such organization or to owners of the unit ownership. At said hearing, the unit owners shall show cause why such maintenance by the County shall not, at the election of the County Commission, continue for a succeeding one (1) year period.
- F. If the County Commission determines that said unit ownership is ready and able to maintain the common open space/improvements in reasonable condition, the County shall cease to maintain the common open space/improvements at the end of said one (1) year period or at any earlier date prescribed by the County Commission.
- G. If the County Commission determines that such organization is not ready and able to maintain the common open space/improvements in a reasonable condition, the County Commission may, at its discretion, continue to maintain the common open space/improvements during the next succeeding year, subject to a similar hearing and determination in each year thereafter.
- H. The rules and bylaws creating the unit ownership shall further provide that the cost of maintenance by the County shall be assessed ratably against the individual properties within the development that have a right of enjoyment of the common open space/improvements. This assessment:
1. Shall become a charge on said properties.
  2. Such charge shall be paid by the owners of said properties within thirty (30) days after the receipt of same.
  3. Such assessments shall constitute a lien against all properties within the unit ownership.

**Section 7. Maintenance Responsibility**

- A. Except as provided in Section 6 of this Article, the County shall not be responsible for the maintenance of any common open space/improvements required by this Article.
- B. Initial maintenance of the common open space/improvements within a development shall be the responsibility of the developer.
  - 1. The restrictive covenants, rules, and bylaws of the unit ownership may prescribe a method for transfer of maintenance responsibility to a duly constituted property owner's association.
  - 2. In the event no method for transfer or maintenance responsibility is prescribed, the developer shall retain this responsibility until fifty (50) percent of the development has been sold to the unit owners or other clients.
  - 3. When at least fifty (50) percent of the development has been sold, the established unit ownership, comprised of the development's unit owners, shall be deemed the common open space/improvements and such owners shall become fully responsible for its maintenance and upkeep.
- C. The maintenance responsibilities of the developer listed in Section 4 of this Article shall be specifically indicated in a letter of agreement between the developer and the County.
  - 1. The developer shall submit said letter to the Planning Board at the time of final plat review.