

PITTSFIELD CHARTER TOWNSHIP WASHTENAW COUNTY, MICHIGAN

ZONING ORDINANCE AMENDMENT ZOA #21-212

SECOND READING

AMENDING ARTICLE 7.02

AN ORDINANCE TO AMEND ARTICLE 7, SECTION 7.02 OF THE TOWNSHIP ZONING ORDINANCE.

THE CHARTER TOWNSHIP OF PITTSFIELD, WASHTENAW COUNTY, HEREBY ORDAINS:

That section 7.02 is amended to read as follows:

SEC 7.02 OPEN SPACE PRESERVATION DEVELOPMENT OPTION (OSPDO)

- A. **Purpose.** This section is intended to carry out the provisions of Act 177, PA 2001, as amended (now MCL 125.286h) to include an open space preservation development option in the Pittsfield Township Zoning Ordinance. This Section proposes to accomplish this purpose by allowing the owner of certain parcels of land the option to develop that land in a manner that groups dwelling units on portions of the land that are most suitable for residential development while requiring the remaining portions of land most suitable for open space use to be perpetually preserved as undeveloped open space. The regulations in this Section are also intended to accomplish the following non-exclusive list of purposes.
1. Preserve natural drainage systems, open space, farmlands, rural character, woodlands and wetlands, natural topography, and environmentally sensitive areas.
 2. Achieve a higher quality of residential development than could otherwise be achieved under conventional zoning.
 3. Permit development that is consistent with the Township's adopted Master Plan and any other applicable adopted plans.
 4. Preserve natural vegetation to the extent feasible.
 5. Preserve open space.

6. Facilitate the construction and maintenance of streets, utilities, and public services in a more economical, efficient, and environmentally-friendly manner to reduce capital costs of development.
7. Limit soil erosion potential by reducing the amount of clearing and grading needed for development.
8. Encourage a less sprawling form of development, thus preserving open space as undeveloped land.
9. Allow for design innovation to provide flexibility for land development where the normal development approach would otherwise be unnecessarily restrictive or contrary to other Township goals.

B. **Review Authority.** The Pittsfield Township Planning Commission shall have authority to approve or deny applications for an OSPDO that is to be developed as a site condominium or a metes and bounds land division. The Township Board shall have authority to approve or deny an application for an OSPDO that is to be developed as a subdivision, after recommendation by the Planning Commission. The Township Board shall have final authority to approve or reject the conservation easement and master deed or restrictive covenants for a development under this Section.

C. **Eligible Property.**

1. A parcel of land, which parcel shall be the parent lot for the purposes of this Section, is eligible for an OSPDO if all the following requirements are met.
 - a. The parent lot is zoned AG, R-1A, R-1B, R-2, or R-3
 - b. The parent lot has an area of at least three (3) acres of contiguous land, not divided by a road.
 - c. The parent lot is under single ownership control such that a single person or entity has proprietary responsibility for completing and maintaining the development. An applicant applying for an OSPDO under this Section shall provide documentation of such ownership or control in the form of agreements, contracts, deeds, or other such evidence as is acceptable by the approving authority to assure that the applicant has sufficient ownership interest in the parcel to bind the land and assure that the development will be completed in its entirety as approved and that the land will continue to be in compliance and maintained in accordance with the final site plan, preliminary plat as finally approved, and the approved maintenance plan under this Section.

2. A OSPDO development shall maintain a minimum of thirty percent (30%) of the gross area of the site as dedicated open space held in common ownership.
3. Open space preservation developments achieving at least fifty percent (50%) dedicated open space and meeting the provisions of Section 7.02. I shall be treated as a permitted land use. Open space preservation developments with between thirty percent (30%) and less than fifty percent (50%) dedicated open space but otherwise meeting the provisions of Section 7.02. I shall be treated as a conditional land use.

D. *Permitted Uses.* The following uses are permitted within an OSPDO:

1. ***AG District.*** In an AG Zoning District, the land may be used for single family detached dwelling units and accessory buildings or structures on an approved lot or condominium unit. All other uses listed in Section 4.20 shall be permitted in the dedicated open space, except that intensive livestock or poultry raising operations, such as poultry houses, hog hotels, etc., shall not be permitted.
2. ***R-1A, R-1B, R-2, or R-3 District.*** All residential uses and types permitted in Section 4.20 in a R-1A, R-1B, R-2, and R-3 Zoning Districts, are permitted in an OSPDO under this Section.

E. *Density Regulations.* The number of lots or site condominium units permitted on a parcel of land under an OSPDO shall be calculated as follows:

1. For sites not served by public utilities, the number of units shall not exceed the area of the parent lot, in acres, multiplied by:
 - a. Thirty-five one-hundredths (0.35) for land zoned AG.
 - b. Eighty one-hundredths (0.80) for land zoned AG that is designated for rural residential, low density use in the Township's adopted Comprehensive Plan.
 - c. One (1.0) for land zoned R-1A
 - d. One point two-five (1.25) for land zoned R-1B.
 - e. The minimum area of each lot or site condominium unit in an OSPDO shall not be less than the minimum area required by Washtenaw County for well and septic tank/drainfield permits
2. For lots served by public utilities, the number of dwelling units permitted shall not exceed the number of dwelling units customarily developable in the zoning district in which the proposed development is located, developed with a conventional layout and all applicable ordinances and laws observed. In order to calculate density with a conventional subdivision or site condominium layout, the applicant shall submit a concept site plan of the property with a conventional layout. The plan shall indicate the topography of the site at two (2) foot contour intervals and the limits of all floodplains, water bodies, wetlands, easements, and other

areas which would be set aside and preserved due to impracticality, economic unfeasibility, contractual prohibition, or based upon applicable law or ordinance. In addition, the concept plan with the conventional layout shall include the general street pattern and lot configurations. In general, the plan shall be drawn with sufficient detail to permit the Planning Commission to determine the density that would be achieved by conventional development.

3. The area of the parent lot shall be as defined in the definition of lot area in Article 2, herein.
4. To encourage the use of the OSPDO, if all standards set forth in Section 7.02.I are met, the underlying density established by 7.04.E.1 and 2 may be increased by up to twenty percent (20%) at the discretion of the Planning Commission. Density bonuses shall be based upon a demonstration by the applicant of at least two of the following:
 - a. Preservation of Significant Natural Features. Preservation of significant natural features contained on the site, as long as it is in the best interest of the Township to preserve the natural features that might be negatively impacted by conventional residential development. The determination of whether the site has significant natural features shall be made by the Planning Commission, after review of a Natural Features Analysis, prepared by the applicant, that inventories these features; or
 - b. Provision of Recreation Facilities. If the site lacks significant natural features, it can qualify with the provision of usable recreation facilities to which residents and non-residents of the development shall have reasonable access. Such recreation facilities include areas such as a non-motorized mobility improvements, neighborhood park, passive recreational facilities, soccer fields, ball fields, bike paths, or similar facilities that provide a feature of community-wide significance and enhance residential development; or
 - c. Preservation of Agricultural Land. Preservation of existing agricultural land. The determination of whether the site has significant agricultural features shall be made by the Planning Commission after review of a Site Plan, prepared by the applicant, which inventories these features.
 - d. Provision of Affordable Housing. To provide affordable housing opportunities in situations where such opportunities might not otherwise be provided. Designated units shall remain affordable for the life of the development. Provisions to implement the affordable housing premium option shall meet requirements for Affordable Housing as determined by the Township.

- e. Inclusion of Environmental Features. To advance the goals of the Township regarding environmental sustainability and stewardship. Environmental features may include:
1. Sustainable building construction including but not limited to LEED certification or practices, "solar ready" construction standards, "EV Ready" parking locations (this could be for each unit or at the community level); or
 2. Development level or "Community" green features including but not limited to community compost facilities, community solar and/or geothermal energy harvesting capabilities (there may be some opportunity for this in the open greenspace), green infrastructure, parking lot green infrastructure, rainwater management for irrigation of greenspaces, and "smart lighting" of sidewalks/community spaces.

F. Minimum Required Yards.

1. Each lot or site condominium unit in an OSPDO shall provide the following minimum required yards. If property lines do not exist between houses, the setbacks shall be measured to an imaginary line of equal distance between the houses. A duplex shall be treated as a single-detached residence for the purpose of determining required setbacks.

**Table 7.02.G-1
Open Space Required Yards**

| | | |
|-----------------------|-------|-----------------------|
| AG District | Front | Thirty-five (35) feet |
| | Side | Twenty (20) feet |
| | Rear | Thirty-five (35) feet |
| R-1A or R-1B District | Front | Thirty (30) feet |
| | Side | Ten (10) feet |
| | Rear | Thirty (30) feet |
| R-2 District | Front | Ten (10) feet |
| | Side | Ten (10) feet |
| | Rear | Fifteen (15) feet |
| R-3 District | Front | Forty (40) feet |
| | Side | Fifteen (15) feet |
| | Rear | Forty (40) feet |

2. **Perimeter Setback:** The perimeter setback for principal structures from all of the borders of the development shall be equal to the rear yard setback requirement for the underlying zoning district of the property directly adjacent to each border. The required open space areas may be located partially or completely within the perimeter setback.

G. **Minimum Lot Width.** Each lot or site condominium unit in an OSPDO shall have the following minimum widths, provided that the length to width ratio of any lot or unit shall not exceed 4:1:

1. AG and R1-A District: one hundred (100) feet.
2. R-1B District: fifty (50) feet.
3. R-2 and R-3 District: no minimum lot width.

H. **Regulatory Flexibility.** The Planning Commission, may waive the lot coverage; impervious surface percentage; floor area ratio; front, side, rear, perimeter setback; and minimum lot width requirements provided that the applicant has demonstrated innovative and creative site and building designs and solutions, and environmentally friendly practices which would otherwise be unfeasible or unlikely to be achieved absent this provision.

I. **Dedicated Open Space Requirements.**

1. An OSPDO development shall maintain a minimum of thirty percent (30%) of the gross area of the site as dedicated open space held in common ownership.
2. Open space preservation developments achieving at least fifty percent (50%) dedicated open space and meeting the provisions of Section 7.02.I shall be treated as a permitted land use. Open space preservation developments with between thirty percent (30%) and less than fifty percent (50%) dedicated open space but otherwise meeting the provisions of Section 7.02.I. shall be treated as a conditional land use. The definition of lot area shall be as defined in Article 2 herein.
3. The open space area within a proposed OSPDO shall be located so that it preserves significant natural resources and/or connects open spaces throughout the development and with adjacent open space.
4. The open space shall be connected with existing or potential open space and/or adjacent public land where feasible.
5. An accessory structure(s) for permitted uses may be erected in the open space in accordance with the approved site plan or plat.

6. Except in a case where the applicant proposes agricultural use in the open space area that is independent from the proposed residential uses in the development, all owners of lots or site condominium units in an OSPDO shall be permitted access to the dedicated open space. Use of dedicated open space may be restricted to property owners in the development.
7. The applicant shall submit an open space management plan for maintaining the dedicated open space with the application for the OSPDO.
8. An owner's association shall be created for a development under this section which shall own and be responsible for maintaining the dedicated open space. Each property owner shall be a member of the association.
9. Where a development under this Section is proposed in phases, the Township may require that all land to be dedicated as open space shall be included in the first phase of the development.

J. *Guarantee of Dedicated Open Space.*

1. The applicant for an OSPDO shall set aside the dedicated open space through an irrevocable conveyance that guarantees the dedicated open space will remain perpetually open and will be maintained in the manner approved by the Township Board. This conveyance shall be in the form of a permanent conservation easement.
2. The purpose of the conservation easement shall be to ensure that dedicated open space will be:
 - a. Protected from all forms of development and limited to the uses and structures as approved;
 - b. Shown on an approved site plan or plat; and
 - c. Never changed to another use.
3. The conservation easement shall contain, at a minimum, the following provisions that:
 - a. Describe the permitted use(s) within the dedicated open space.
 - b. Prohibit the storing and/or dumping of refuse and any hazardous materials or refuse on the dedicated open space.
 - c. Prohibit any activity that might cause risk of soil erosion on the dedicated open space except for accepted agricultural practices.

- d. Prohibit the use of motorized vehicles and or motorized watercraft on the dedicated open space.
 - e. Prohibit all cutting, filling, or removal of vegetation from wetland or wooded areas in dedicated open space, except for invasive species and as otherwise needed for acceptable resource management practices.
 - f. Prohibit the use of pesticides, herbicides, or fertilizers within or adjacent to wetlands in a dedicated open space.
 - g. Require that the owner's association maintain the dedicated open space in accordance with the approved management plan.
 - h. Provide for maintenance of the dedicated open space to be undertaken by the Township Board, and the costs thereof assessed against the person or entities responsible for maintaining the dedicated open space, if:
 - i. There is a failure to adequately maintain the open space in accordance with the approved maintenance plan; or
 - ii. The Township Board determines that the dedicated open space is a public nuisance.
 - i. Require that the conservation easement runs with and is binding upon the land and shall be recorded with the deeds to all parcels created and proposed as part of a development under this Section.
 - j. Provide that, if the owners association, or any land trust or conservancy holding the conservation easement, ceases to exist, the easement shall revert to Pittsfield Township.
4. At the option of the applicant, the conservation easement may be dedicated to and held by the Township or a recognized land trust or conservancy approved by the Township Board. The easement shall be in a form acceptable to the Township and shall be duly recorded in the Washtenaw County Register of Deeds office. This provision does not prohibit a transfer of ownership or control, provided such transfer or control has prior approval of the Township Board and the property in the OSPDO continues in compliance with the Township's original approval.

K. **Review Procedures.** An application for an OSPDO shall be reviewed as follows:

1. **Subdivisions.** If an OSPDO is for a subdivision, review of the preliminary and final plats shall proceed as provided in the Pittsfield Township Subdivision Ordinance and the Township's adopted Land Development Standards.
 2. **Site Condominiums.** If an OSPDO is for a site condominium, review shall proceed as provided in Section 7.01 and Article 9.0 of the Zoning Ordinance and the Township's adopted Land Development Standards.
- L. **Review Standards.** A proposed OSPDO shall meet all the following standards for approval. The Planning Commission shall make the necessary findings for compliance with this Section upon its review of the final site plans for site condominiums and metes and bounds land divisions under this Section. It shall be the responsibility of the Township Board to make such findings for subdivisions developed under this Section after review and recommendation by the Planning Commission. All findings shall be in writing and shall be recorded in the minutes of the meeting at which the decision is made.
1. The proposed OSPDO must be consistent with the Township's adopted Master Plan and any other applicable adopted plan.
 2. The proposed OSPDO must not adversely affect existing or future uses or the value of adjacent properties.
 3. A site plan shall meet all requirements and standards for preliminary and final site plans as provided in Article 9.0 of the Zoning Ordinance and all requirements and standards of the Township's Land Development Standards. A subdivision plat shall meet all requirements and standards for preliminary and final plats in the Township's Subdivision Control Ordinance and the Township's Land Development Standards.
 4. The proposed OSPDO must meet all requirements and standards in this Section and all other applicable provisions of the Zoning Ordinance.
 5. The proposed OSPDO must comply with all applicable Federal, State, and local rules and regulations.
- M. **Design Standards.**
1. The OSPDO shall be designed to promote preservation of natural features. Lots or site condominium units, roads, storm water management facilities, and other improvements shall be designed and situated to minimize alteration of or intrusion into the natural environment.

2. Lots or site condominium units shall be located on soils that are most suitable for drainfields.
3. Dwelling units shall be located away from environmentally sensitive areas. They shall not be located in areas most suitable for open space. Dwelling units shall be located as far as possible from agricultural areas.
4. Placement of wells, septic tanks, and drainfields shall comply with all requirements of Washtenaw County.
5. Each lot or site condominium unit shall have access to and frontage on an approved street.
6. Pedestrian access shall be provided within a development between lots or site condominium units and non-agricultural open space, between open space areas, and to appropriate on and off-site uses.
7. The Planning Commission or Township Board, whichever applies, may require that structures of historic, cultural, or architectural significance on the site of an OSPDO be retained, if suitable for rehabilitation. Adaptive reuse for a permitted use may be permitted.

N. ***Conditions of Approval.*** The Planning Commission or Township Board, whichever applies, may impose reasonable conditions for approval of an OSPDO that will assure that the development and all elements of the proposed OSPDO will be consistent with the intent and purpose of requirements in this Section, the Zoning Ordinance, Subdivision Control Ordinance and the Township's Land Development Standards.

O. ***Recording of Action.***

1. Upon approval of a final site plan by the Planning Commission, or final approval of a preliminary plat by the Township Board, the applicant shall record an affidavit with the Washtenaw County Register of Deeds that contains the full legal description of the property in the OSPDO, specifies the date of Township approval, states the conditions the Planning Commission or Township Board imposed, and declares that all improvements will be carried out pursuant to the approved OSPDO plan or plat, unless an amendment is endorsed by the Planning Commission or Township Board, whichever applies. The deed restrictions and conservation easement shall be duly filed with the Washtenaw County Register of Deeds. The applicant shall promptly submit copies of the recorded documents to the Township Clerk.
2. Upon approval of a final site plan by the Planning Commission, or final approval of preliminary plat by the Township Board, the Township Zoning

Administrator shall promptly record the approval of the OSPDO on the Township's official zoning map, which entry shall be signed by the Township Supervisor and attested to by the Township Clerk.

P. *Time Limits.*

1. An approved OSPDO shall expire and be of no effect if construction does not commence within twelve (12) months after approval unless the Planning Commission or Township Board, whichever gave the approval, approves an extension. If the applicant does not comply with the conditions specified in the approval, the approving authority or Township Zoning Administrator shall issue a stop work order and no further work shall be done until such time as the conditions are met to the satisfaction of the approving authority.
2. Each phase of a development shall be commenced within twelve (12) months of the schedule set forth in the approval. If construction of any phase is not timely commenced as provided herein, the approval of the OSPDO shall become null and void and no further work may be conducted on the site until such time as adequate assurances to the satisfaction of the approving authority are made that the development will be completed as approved by a date certain as determined by the approving authority.
3. The applicant may apply in writing to the approving body for an extension of time in which to commence and/or complete construction. The application for extension must include an explanation of reasons justifying the requested extension. The body granting the original approval may grant a requested extension not exceeding twelve (12) months for good cause. Not more than one extension may be approved.

Q. *Continuing Compliance.*

1. An applicant who fails to comply with the approved final site plan or the preliminary plat as finally approved, whichever applies, shall be deemed in violation of the Zoning Ordinance, and subject to enforcement and penalties as provided in Section 3.07 of the Zoning Ordinance.
2. A development agreement and performance guarantee shall be required as a condition of final site plan and preliminary plat approval. The guarantee and agreement shall be in a form approved by the Township Board and shall ensure completion of a proposed OSPDO as approved.

Savings Clause.

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason

by any court, it shall not affect any other part or portion hereof other than the part declared void or inoperable.

Adoption and Effective Date.

This Ordinance shall be published in the manner as required by law. Except as otherwise provide by law, this Ordinance shall be effective on _____, 2021.

This Ordinance was duly adopted by the Charter Township of Pittsfield Board at its regular meeting held on the _____, and was ordered given publication in the manner required by law.

Michelle L. Anzaldi
Charter Township of Pittsfield Clerk
Dated: _____

Mandy Grewal
Charter Township of Pittsfield Supervisor
Dated: _____

First Reading: January 27, 2021

Adoption:

Ordinance Posted:

Ordinance Publication:

Effective Date:

CLERK'S CERTIFICATE

I, Michelle L. Anzaldi, Clerk of the Charter Township of Pittsfield, Washtenaw County, Michigan, hereby certify that the foregoing constitutes a true and complete copy of Pittsfield Charter Township Zoning Ordinance No. ZOA 21-212, which was duly adopted by the Township Board of Pittsfield Charter Township at a Regular Meeting of said Board, held on _____, and published in the form it was introduced in accordance with P.A. 359 of 1947, as amended.

I further certify that Trustee _____ moved for adoption of said Ordinance, and that Trustee _____ supported said motion.

I further certify that the following Members voted for adoption of said Ordinance: _____; and that the following Member voted against adoption of said Ordinance: _____, and that the following Members were absent or abstained from voting on the adoption of said Ordinance: _____.

I further certify that after its passage the Ordinance was published on _____, in accordance with P.A. 359 of 1947, as amended, by AnnArbor.com

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and that such recording has been authenticated by the signatures of the Supervisor and the Clerk.

Michelle L. Anzaldi
Charter Township of Pittsfield Clerk
Dated: _____, 2021