

ORDINANCE NO. 2025-\_\_\_\_\_

ORDINANCE AMENDMENTS

Amendments to Appendix A – Zoning Ordinance

PURSUANT TO Section 1-8 of the Tiverton Code of Ordinances, the amendments below are adopted and effective on the date of passage. These are amendments to Appendix A – Zoning Ordinance, Conservation Development Projects, is amended as follows:

**Appendix A – Zoning Ordinance**

**Article XXVI – Conservation Development Projects**

...

**IX. Open space.**

1. Land permanently protected from development as part of the conservation development subdivision shall be designated as open space. Protected open space, within an approved conservation development, may have zero-frontage on a street, as long as the Planning Board approves access to the open space by easement or other means, which access shall remain in perpetuity.
2. The minimum requirement for the open space set aside in a Conservation Development shall be fifty (50) percent of the total developable land area as identified through the development and approval of a yield plan as required in Appendix B – Land Development and Subdivision Regulation. The fifty (50) percent open space required may not be varied by either dimensional or use variance.
3. For multi-family conservation development projects and conservation development projects with a combination of dwelling types, the 75 foot no-cut buffer, and up to 25% of any pervious area set aside for recreation, community garden or park, may count towards the required open space. Yard areas, setbacks, drainage areas and/or any other buffer areas shall not be included in any calculation for open space regardless of public access.
4. Ownership of the open space within a Conservation Development shall be vested in one or more legally constituted organizations that shall be responsible for the use and maintenance of the open space. Ownership is to be determined by the applicant, with written approval of the receiving entity presented prior to Final Plan approval, and conveyed as follows with no preference given as to order presented:

a. ~~For a single family Conservation Development subdivision or land development project:~~

~~1. To the Town of Tiverton, if accepted by majority vote of the Town Council, for open space, uses;~~

- 1                   2. ~~To a nonprofit organization, as approved by the Tiverton Planning Board, the~~  
2                   ~~principal purpose of which is the conservation of open space or resource~~  
3                   ~~protection.~~  
4
- 5           b. ~~For a multi-family (greater than 4 lots or units) Conservation Development~~  
6           ~~subdivision or land development project:~~  
7
- 8                   1. ~~To a homeowner's association created and registered with the Rhode Island~~  
9                   ~~Secretary of State's Office.~~  
10
- 11                   2. ~~To the property owner as recorded in the Tiverton Land Evidence Records.~~  
12
- 13           a.    Be conveyed to the Town of Tiverton, if accepted by a majority vote of the Town  
14           Council, for use as a park, open space, agricultural, or other similar use; or  
15
- 16           b.    Be conveyed to a nonprofit organization, the principal purpose of which is the  
17           conservation of open space or resource protection; or  
18
- 19           c.    Be conveyed to a corporation or trust owned, or to be owned, by the owners of  
20           lots or units within the development, or owners of shares within a cooperative  
21           development. If such a corporation or trust is used, ownership shall pass with  
22           conveyances of the lots or units.  
23
- 24   5. Documents specifying ownership shall be submitted to the Planning Board along with the  
25   application for Final Plan approval.  
26
- 27           a.    If conveyed to a corporation or trust owned by the owners of the lots or units  
28           within the development, or owners of shares within a cooperative development,  
29           that entity shall register with, and remain active with, the Rhode Island Secretary  
30           of State. Membership in this organization shall be mandatory for all lot and unit  
31           owners, and owners of shares. A declaration and creation of the entity shall  
32           include a copy of this ordinance, shall be recorded in the Land Evidence Records  
33           prior to the sale of any units, lots, or shares and shall be referenced in the deed  
34           conveying every lot, unit or share. In the event the entity becomes, or is declared,  
35           inactive or defunct, the lot, unit or share owners shall automatically become  
36           individually and severally liable for the open space.  
37
- 38   6. The Planning Board may request, but not require, that specific areas of open space  
39   contribute to a connecting greenway system or provide public access to open space, as  
40   provided in the Tiverton Comprehensive Community Plan.  
41
- 42   7. A conservation easement or restriction enforceable by the town, or by any owner of  
43   property in the land development in which the open space is located, shall be recorded by  
44   the applicant providing that the land shall be kept in open space and not built upon or  
45   developed for accessory uses such as parking or roadway. A copy of the proposed  
46   conservation easement or restriction shall be submitted with the Final Plan application.

1 Any portion of the open space not designated as a recreation field, garden or park at the  
2 time of Planning Board approval shall not **be** altered, cleared or built upon. The Rhode  
3 Island Conservation Easement Guidance Manual (RIDEM 2009 ed.) shall be used to  
4 meet the requirements for preparing a conservation easement for the protected open  
5 space. No building permit(s) shall be issued until the conservation easement has been  
6 recorded in the Town of Tiverton Land Evidence Records.  
7

8 **Effective Date:** This Ordinance shall take effect upon passage in accordance with the provisions  
9 of the Tiverton Home Rule Charter.

10  
11 Amended by the Tiverton Town Council on \_\_\_\_\_.