

**SECTION 23 – Bethany Open Space Housing District (OSHD) [The Commission may renumber as desired and make other changes to the Zoning Regulations as needed in the insertion of this section into the Regulations.]**

23.1 Purpose:

The purposes of the Open Space Housing District (OSHD) are: (1) to provide flexibility in development of residential property in order to preserve and protect open space and other valuable natural, scenic, historical and man-made resources; (2) to reduce infrastructure costs and impervious surfaces; and (3) to promote development that is environmentally responsible, energy efficient, compatible with surrounding areas and in harmony with natural site features.

23.2 Permitted Uses:

23.2.1 Residential dwelling units.

23.2.2 Accessory structures and uses that are determined by the Commission to be secondary to the above permitted primary residential uses, such as common building(s) for use by all residents, and facilities for farming and farm related uses, maintenance, utilities, administration, off-street parking, storage and indoor or outdoor recreation, such as swimming pools and tennis courts.

23.2.3 Housing may be in the form of detached and/or attached dwelling units up to a maximum of ~~6~~three (3) units per building.

23.2.4 A home occupation use may be permitted as a Special Exception use, but non-resident employees are not permitted to work on site, except for care-givers, farm workers or other employees directly associated with the operation and maintenance of the development.

23.3 Definitions:

23.3.1 Buildable Area. For purposes of these OSHD regulations, buildable area shall consist of the sum of all portions of a development parcel not comprised of wetlands, watercourses or land with a slope greater than twenty-five (25) percent, which portions are contiguous, but may be separated by a roadway, and not less than one acre in area.

23.3.2 Dwelling Unit. A group of connected rooms designed and constructed to provide kitchen, sleeping, bathroom and living areas.

23.3.3 Open Space and Recreation area. Land, including trails, which are specifically set aside for passive recreation or other open areas such as common lawn areas used for shared activities, fields, ~~and~~ forests, ponds, agricultural planting areas, grazing areas, orchards, meadows, vegetable, fruit and animal farming, and any associated buildings, all of which are specifically designated on a site plan. Driveways, roads, parking areas, detention basins and septic areas will not be considered open space unless such improvements are directly related to the use of that open space.

23.3.4 Project Size. The maximum number of units that may be developed as part of any single OSHD shall be thirty five (35) units.

## 23.4 Procedure for establishing an OSHD:

- 23.4.1 An Open Space Housing District (OSHD) is hereby established as an floating OVERLAY zone that may be applied in the Housing Opportunity Development (HOD) zone. An application for an OSHD development shall be submitted to the Commission for a contiguous parcel or parcels of land, located in any zone that meets all the required standards and requirements set forth and referenced in this section. Such application can only be submitted by the property owner or their designated agent.
- 23.4.2 All development within the approved OSHD shall be constructed strictly in accordance with the maps, plans, drawings and documents approved by the Commission after the required public hearing. Any additions or modifications to the approved maps, plans, drawings and documents shall be made only after approval by the Commission. However, the Commission may approve minor additions or modifications without holding another public hearing. Only the Commission may make the determination as to whether an addition or modification will be considered minor.
- 23.4.3 No application for an OSHD shall be approved by the Commission unless it finds that:
- 23.4.3.1 The application provides for the continued protection of safe drinking water supplies from the public drinking water supply watersheds located in the Town; and
  - 23.4.3.2 The topography, soils and other natural features of the property are proven capable of accommodating the proposed development without detrimental impact to the site or area giving specific consideration to the physical configuration and the density of the proposed development;
  - 23.4.3.3 The application and plans conform to the standards and requirements contained herein and/or referenced in Section 23 of these regulations. The Commission may attach conditions or modifications to any OSHD approval in order to assure compliance with the above-referenced standards so as to adequately protect the health, safety and welfare of the residents of the development and of the Town of Bethany.

## 23.5 Application and Decision Process:

- 23.5.1 No application for an OSHD may be found complete and approved unless the applicant has paid the application fee and technical consultant fees, which are described in Section 23.10, prior to the public hearing on the application.
- 23.5.2 Application for an OSHD shall be made to the Commission in the form of a Zoning Map amendment, Site Plan in accordance with Section 23.8, and Special Exception application, all of which shall all be heard at the same time. The Zoning Map amendment application shall not be approved unless the accompanying Site Plan and Special Exception are also ready to be approved by the Commission as well.

- 23.5.3 In order for the application to be deemed complete, if any affordable housing is contemplated, the applicant shall submit an “Affordability Plan” in accordance with CGS 8-30 (g), which shall:
- 23.5.3.1 Describe how the regulation regarding affordability will be administered. The plan shall include provisions for administration of and compliance with the provisions of this Section, Section 23.9, notice procedures to the general public of the availability of the affordable units, identification of those units, specific procedures for verification and yearly confirmation of occupant’s income and compliance with the affordability requirements. Include documents, such as draft deeds of conveyance, which will be used in the administration of the affordability restrictions, and any explanations that are to be provided to the unit occupants concerning such restrictions.
- 23.5.4 Site Plan preparation shall conform to all requirements of Section 10, Site Development Plans, of the Zoning Regulations unless a requirement is specifically exempted by the Commission, as provided for in these regulations. Applications shall also comply with any other applicable and relevant sections of the Bethany Zoning Regulations.
- 23.5.5 All OSHD applications shall conform to all requirements for a Special Exception found in Section 4.4 and 4.5, including all public hearing and abutting property owner notification requirements to all property owners within 500 feet of any portion of the property.
- 23.5.6 Decision: After the conclusion of the public hearing, the Commission shall decide, within the time limits set forth in the CGS, whether the application, including the site plan, meets the requirements of these regulations. Upon such a finding it shall approve or deny the request for establishment of the OSHD zoning map amendment on the subject property. If the OSHD request is approved, the Commission may then approve or modify and approve the site plan as presented.
- 23.5.7 The Commission may require financial security in a form acceptable to the Town Attorney and Commission and in an amount acceptable to the Commission as specified in these regulations, for work to be performed as shown on the approved site plan, or for any other proposed public improvements.
- 23.6 General Requirements:
- 23.6.1 All OSHD applications shall be for contiguous parcels of land, which may be separated by a roadway, not larger than thirty-five (35) acres in size. The minimum parcel size shall be twenty (20) acres, which may contain smaller property lots to accommodate project sections or phases.
- 23.6.2 The Commission may retain outside professional consultant(s) to review and comment on any technical data presented to it in an application. The Commission may require additional specific testing of soils as it deems necessary to make a final decision regarding density of dwelling units for the subject application. The applicant shall pay the costs for this soil testing and

analysis, as described in Section 23.6.4.3.

- 23.6.3 The number of bedrooms per buildable acre shall be determined by detailed soil testing and certification by the design engineer that the soils will support the proposed development for the foreseeable future. In no case shall the number of bedrooms per buildable acre exceed four (4) or the number of housing units per buildable acre exceed one and one half (1.5). ~~The maximum density of bedrooms proposed within any Drinking Water Supply Watershed Overlay Zone shall be two bedrooms per buildable acre.~~ The development shall have a range of home sizes and number of bedrooms, with the average number of bedrooms no greater than 2.5 bedrooms per home. The development shall also have at least 15% of the homes designed for the elderly with full living requirements on the first floor.

- 23.6.4 Water, Sanitary, Stormwater Management, Utility Services and Other Construction Improvements:

23.6.4.1 Applicants are advised that no development shall be designed so as to require the creation or use of a Water Pollution Control Authority as defined by the CGS, at the time of application or at any time in the future.

23.6.4.2 An OSHD shall be entirely capable of satisfying all stormwater, wastewater and drinking water requirements on-site, based on the site's verifiable soil and water conditions. Documents required as part of the OSHD application shall clearly name the owner as the responsible party for any failure of the wastewater or drinking water systems. Said owner shall be identified as the party solely responsible for the maintenance, repair or replacement of these systems should any such failure occur. If the owner of the property should ever wish to transfer this responsibility, it must request and receive approval by the Commission prior to any change in responsibility. The Commission may approve of such a transfer upon its receipt of information sufficient to insure these ongoing responsibilities will not fall to the Town.

23.6.4.3 The applicant shall be required to reimburse the Town of Bethany for the cost of a peer review of the site testing and design of the subsurface sewage disposal system by an independent consulting engineer reporting to the Commission. The applicant shall pay the Town of Bethany for the full cost of such peer review prior to the Commission's acting on the application. The proposed design for the treatment of on-site wastewater must be determined by the peer review engineer to satisfy all the technical requirements and current standards of the Connecticut Department of Energy and Environmental Protection, Water Compliance Division, that apply to the following aspects of community subsurface sewage disposal systems: construction, installation, maintenance, hydraulic capacity and wastewater renovation.

23.6.4.4 At the time of application, the applicant shall submit a comprehensive report by a Licensed Professional Engineer on the availability of water and sanitary services in accordance with the

standards and requirements set forth in the Bethany Zoning Regulations or the State Health Code or other applicable regulations.

- 23.6.4.5 All dwelling units shall be served by a subsurface sewage disposal system and water system approved by the Town Health Officer and, where required, by the State Department of Health or the State Department of Energy and Environmental Protection.
- 23.6.4.6 No building permit for the construction of housing units shall be issued until the Town Sanitarian and/or the State Department of Health has approved the quantity and quality of the water supply for the housing units; and it must be shown that said water usage shall not adversely affect the existing water supply of adjoining properties.
- 23.6.4.7 Water supply for the purpose of fire suppression shall be provided subject to the approval of the Fire Marshal with advisory referral to the Volunteer Fire Department of the Town of Bethany. Said supply shall also include all necessary easements and shall meet all requirements for access, supply quantity and use.
- 23.6.4.8 The applicant's engineer shall submit a comprehensive stormwater drainage analysis and improvement plan showing no increase in the peak rate of off-site runoff, as well as an erosion and sedimentation control plan in accordance with all applicable sections of the Bethany Zoning Regulations.
- 23.6.4.9 All electric, telephone, cable television and other utility wires, cables and conduits shall be installed underground unless waived by the Commission because of impracticality based on test hole information.

### 23.7 Development Standards:

When acting to approve an application for an Open Space Housing District development, the Commission must find that the proposed Open Space Housing District development, if approved, will not significantly detract from the predominantly rural character of the Town of Bethany.

An Open Space Housing District development shall be laid out to permanently protect and preserve the open space and achieve a reasonable combination of the following criteria:

1. Efficient and economical construction and maintenance of streets, utilities, and public services;
2. Preservation of agricultural parcels of significant size;
3. Preservation of all or part of an existing forest, field, pasture and/or other land to maintain distances between residential and active agricultural uses;
4. Provide for pedestrian access between properties and open spaces intended to facilitate networking of trails for pedestrians, bicycles and horseback riding;
5. Location of open space areas primarily in areas that are contiguous with existing open space areas and in areas with the highest probability of connecting with future open spaces or where existing agricultural production land exists;
6. Preservation of scenic views and vistas as seen from public roads;

7. Lay out of streets in a curvilinear fashion and design of streets and homes to maximize passive solar energy techniques; and
8. Preservation of historic properties and sites and their environs.

An Open Space Housing District development shall be in conformance with the Bethany Town Plan of Conservation and Development. In particular, the development shall:

1. Maintain the unique rural character of Bethany;
2. Be in harmony with the natural environment;
3. Utilize green building principles;
4. Promote high quality rural life;
5. Be in conformance with the core principles of sustainable and responsible development;
6. Utilize Low Impact Development storm-water management practices;
7. Provide housing alternatives that allow for economic diversity among Bethany residents.

**Density of Bedrooms:** The maximum number of bedrooms per buildable acre shall be determined by detailed soil testing and certification by the design engineer that the soils will support the proposed development for the foreseeable future.

**Frontage:** The subject parcel shall contain a minimum of least 100 feet of property with frontage on a Town road.

**Width:** The minimum width of the property at any point shall be 100 feet.

**Coverage:** The total maximum building coverage allowed for an OSHD is eight percent (8.15%) of the parcel.

**Stormwater:** The applicant must show, by engineering certification at the time of application and prior to the issuance of any certificate of occupancy, that there will be no increase in the rate of stormwater runoff from the subject property to any abutting property and that any runoff to any abutting property will have no increased adverse impact to the abutting property for any storm event.

**Setbacks:** All structures shall be set back a minimum of 50 feet from any public road or property line that abuts a different owner, and a minimum of 10 feet from interior road or interior project lot boundaries. Parking lots may, if adequately screened, be set back a minimum of 25 feet from a property line.

**Perimeter Buffer:** Not less than 50 feet around the entire project site that is either densely planted or naturally vegetated, except for: entrance ways built to Interior Road standards; interior project lot boundaries; trails for pedestrians, bicycles and horseback riding; areas adjacent to industrial, commercial or other non-residential uses; and areas where similar open space or use is immediately adjacent and an intermediate buffer would not be appropriate for property separation.

**Building Height:** All building heights, as measured according to Section 1.2 of these regulations shall not exceed 2½ stories or 35 feet, whichever is less.

**Parking and Access:** The amount of required on-site parking shall be 1.50 spaces for a one-bedroom or smaller unit and 2.00 spaces for a two-bedroom or larger unit. Handicapped parking shall be provided, in size number and location, in accordance with the Connecticut Basic Building Code. Driveways shall be arranged in a safe manner and shall provide for adequate access for all emergency type vehicles. Parking areas shall, at a minimum, be suitably landscaped in accordance with the illustration contained in Section 10-1.

**Roads and Parking standards:** Interior roads shall be owned and maintained by the development through a common association. Interior roads shall be approved by the Town of Bethany

Engineer and Fire Marshall for adequacy and safety in relation to normal and emergency vehicle access, as applicable for the development plan details and private ownership and maintenance responsibilities. Interior roads shall remain private roads that are maintained by the development. The project may not request that the Town of Bethany consider receiving these interior roads as town roads at any time in the future unless these roads have been constructed in full compliance with town road requirements.

Open Space and Recreation Areas: Open space and outdoor recreation areas shall be shown on the site plan and identified as to use and location and shall comprise not less than fifty percent (50%) of the total site area. These areas shall be permanently restricted open space, farmland, conservation area or other area restricted from future development.

### 23.8 Site Plan Requirements:

- 23.8.1 Site plans submitted as part of an OSHD application shall be in compliance with Section 10 of these regulations unless stated otherwise in this section.
- 23.8.2 The site plans submitted as part of an OSHD application must contain an overall development plan at a scale not less than 40 feet equals one inch.
- 23.8.3 The site plans must show accurate field measurements of existing and proposed topography and all soils on the site by type. These plans must be signed and sealed by properly authorized professionals.
- 23.8.4 The plans for the structures for an OSHD must contain accurate general architectural plans with enough specific detail to show the design, general construction and specific finish materials to be used on all structures in the development.
- 23.8.5 If the applicant has already received approval from the Inland Wetlands Commission, then those approved set of plans must be submitted to the Planning & Zoning Commission as part of their application. If the Inland Wetlands Commission has not acted on an application, then the same set of plans that were submitted to the Inland Wetlands Commission must be submitted to the Planning & Zoning Commission as part of their application.
- 23.8.6 Building and Building Spacing: The minimum construction standards and spacing between buildings shall be in compliance with any applicable local, state or federal building and fire codes.
- 23.8.7 Signs: The number and size of signs allowed shall be in accordance with Section 7 of these regulations.
- 23.8.8 Exterior lighting shall be provided and maintained by the property owner in all areas of the site where needed for safety of the vehicular and pedestrian traffic. All exterior lighting shall be properly installed full cutoff lighting and shall be low level unless a need for other intensity is demonstrated and approved by the Commission. All exterior lighting glare shall be shielded from roads and abutting properties.
- 23.8.9 Refuse collection areas shall be screened and supplied with covered receptacles.
- 23.8.10 Mail boxes shall be covered from the elements.
- 23.8.11 Sidewalks must be constructed so as to address pedestrian safety issues and must be a minimum of 4 feet wide.

~~23.8.12 — All utilities shall be installed underground.~~

23.9 Fees:

23.9.1 Fees are as described in this section and elsewhere (9.6.4.3, 9.10.2, 9.5.1) in these regulations.

23.9.2 The minimum application fee shall be \$750. The Commission may charge additional fees at any time during the application process to retain outside consultants to review any critical aspects of projects and their components. The additional fees may be required for projects whose size, complexity and/or potential impact require specialized assistance and expertise. Said fees shall be determined by the Commission. The Commission may require the applicant to deposit an amount equal to 150% of the estimated Commission's consultant fees. The applicant shall be reimbursed any unused funds.

23.10 Summary of items required by the Commission

23.10.1 Documents to be submitted at time of application, (12 sets):

23.10.1.1 Complete application package including fee.

23.10.1.2 Complete site plan.

23.10.1.3 Complete narrative explaining the application.

23.10.1.4 Complete technical information on soils testing with narrative explanation.

23.10.1.5 All required draft deeds, easements and restrictions.

23.10.1.6 All required proof of notification to neighbors.

23.10.1.7 Bond estimate documents, with backup.