

## Exhibit B – Lilburn Development Regulations Text Amendments

### Article 5

#### Sec. 5.9. - ~~Recreation Areas~~Open Space.

##### 5.9.1 ~~Recreation Areas~~Open Space

Land for use as ~~parks, public~~ open space ~~or recreation~~ shall be provided in single-family detached subdivisions having a gross area of ~~50-25~~ acres or more and a minimum lot size less than ~~one~~ 1 acre; in duplex subdivisions having a gross area of ~~50-25~~ 10 acres or more; ~~and in MU developments with a residential component;~~ or single-family attached, townhouse, and apartment developments having a gross area of ~~ten~~ 5 acres or more. ~~Provided, however, that payment of any mandatory impact fee as may be established by the Board of Commissioners for parks or recreational use shall entirely relieve the developer of providing the land area required hereunder.~~ “Open space” includes pocket parks, commons, plazas, community green or lawn, greenways, and recreation areas (including, but not limited to, pools, playgrounds, and parks with active recreation facilities).

- a. For each development, ~~six percent~~ 5% of the gross land area shall be ~~provided for the recreational use, but in no case shall the area required exceed six acres~~ maintained as open space. Not over 60 percent of the area may be within the 100-year floodplain, undisturbed.
  - ~~(1) If recreation facilities are not proposed to be constructed, the land so provided shall be contiguous or separated only by parking areas and private drives, and of suitable shape and condition for construction of at least one swimming pool and one regulation-size tennis court.~~
  - ~~(2) If the developer constructs at least a swimming pool and tennis court, or other acceptable active recreation facilities, as part of the project, then the land so provided need not be a single contiguous parcel and the total set-aside area required by this paragraph can be reduced to the amount actually required for the construction and maintenance of the facilities, but not less than 50 percent of the gross recreational set-aside requirements outlined herein.~~
- b. Prohibited use of open space. The following shall not be considered when calculating required open space:
  - 1) Required setback areas.
  - 2) Required zoning buffers
  - 3) Environmental buffers defined in Chapter 109.
  - 4) Required landscape strips.
  - 5) Drainage easements and facilities, with the exception that detention facilities designed as an amenity may be included.
  - 6) Private yards.
  - ~~4)7) Public street rights-of-way or private street easements, including streetscapes located within those rights-of-way or easements.~~
  - 8) In addition, structures not intended for landscape or recreational purposes are prohibited to be located in open space areas.

~~In subdivisions, land provided for recreational use in accordance with a (1), above, and not proposed for improvement by the developer shall be deeded to Gwinnett County or to a qualified Property Owners Association upon the approval of the final plat containing said land and shall be used exclusively for recreational purposes. The qualified Property Owners Association shall provide for the voluntary mandatory membership of all the owners of property within the subdivision, and shall be established under the laws of Georgia; it shall be~~

~~responsible for the perpetuation, maintenance and function of the recreation areas and all uses or facilities therein. The association shall have the authority and duty to assess its members for such maintenance and improvements as set forth in the instrument creating the association. All covenants shall be recorded simultaneously with the final subdivision plat.~~

- c. ~~If the developer constructs recreational facilities as approved under a(2), above, on the recreational land in a~~ n ~~subdivisions or, the land open space shall be deeded to a qualified Property Owner's Association, Homeowner's Association or other legal entity incorporated under the laws of Georgia. The open space~~ land shall be deeded to said organization-entity with a restriction that the land shall be used exclusively for recreational purposes and shall be made available to all residents of the subdivision project on an equal basis. The qualified entity shall provide for the mandatory membership of all the owners of property within the subdivision, and shall be established under the laws of Georgia; it shall be responsible for the perpetuation, maintenance and function of the open space and all uses or facilities therein. The deed shall be filed with the Department simultaneously with the final plat, and shall be held by the Department until a Certificate of Occupancy is issued for the recreational improvements, whereupon the deed shall be recorded. Failure to construct or complete the approved facilities shall cause the land to be dedicated to Gwinnett County the City of Lilburn. All covenants shall be recorded simultaneously with the final subdivision plat.
- d. In multi-family rental or condominium projects, land provided for recreational- open space use in accordance with these requirements shall be held in the ownership of the owner of the project.
- e. ~~Gwinnett County~~ The City of Lilburn ~~may lease or sell land reserved for public parks to a qualified Property Owners Association with a deed restriction that the land be used exclusively for open space or public recreational purposes in perpetuity. The organization of a qualified Property Owners Association and its adequate financing for the discharge of its responsibilities shall be assured through acceptable private deed covenants running with the land or other such documents as approved by the Board of Commissioners of Gwinnett County~~ Lilburn City Council.