

September 2025

It's in the Code, even when it isn't: 70/30 Preservation

Dear District 3 Residents and Others,

We hear a lot of talk about “70/30 preservation,” so in this letter I would like to offer some clarity on precisely what “70/30” is and is not, by using the actual city code that governs this frequently-mentioned but often-misunderstood concept. It is not a slogan or ideal, *it is requirement of our code*. It is the *minimum* standard. Below you will find an explanation of the concept, followed by an appendix containing the relevant code.

The simplest way to understand the 70/30 concept is that developers of hamlets and villages—our two forms of development—are required by law (the code) to put 70% of their land into permanent protection. The code clearly states that the purpose of open space is to “Preserve open land in hamlets and villages in perpetuity” (Sec.5-3.A.1). The key phrase is “in perpetuity” and the code goes on to require that these “required open space areas shall be protected in perpetuity from further development or unauthorized use by one of the following means” (Sec.5.5.C.). The code then goes on to list three methods by which the land may be put in permanent trust using one of these legal instruments, never to be developed, and is then to be recorded by the City as permanently preserved before further building permits are issued. Sec. 5.5.C reads: “Required open space areas shall be protected in perpetuity from further development or unauthorized use by one or more of the following means: a conservation easement established in accordance with the Georgia Uniform Conservation Easements Act (Georgia Code §§ 44-10-1, et seq.), grant of full and irrevocable fee simple ownership of the property to a governmental body empowered to hold an interest in real property or to a qualified land trust, or grant of a covenant pursuant to Georgia Code § 44-5-60(c).”

The City of Chatt Hills is merely a bystander to these legal preservation organizations, but the code requires the developer to prove to the city what has been preserved so that, having preserved the required amount of land, they then become eligible for further building permits from the city. This is called “concurrency”—the process of preserving land in phases as they develop, to ensure compliance with our “70/30” requirement along the way. If they haven’t got the required amount of land into permanent preservation, they are not supposed to get further building and occupation permits; this is the nature of concurrency per the code (Sec.5.5.D, “require[s] open space is *preserved as buildings and/or phases within a district are completed* rather than at full build out” my emphasis).

There is a list in the code (Sec.5.3.G) of approved uses that qualify as “open space,” but if the property under those uses fails to meet the standard for eligibility of the required formal conservation easement entities, then it fails the test of “preserv[ation] in perpetuity.” Therefore, if the entire 70 percent “open space” requirement is achieved only with an assemblage of land used for purposes other than those qualifying for permanent conservation (for example, septic fields, golf courses, etc. per Sec. 5.3.G), then the entire hamlet or village may meet the letter of the code with respect to the city’s idea of “open space” but fails its zoning requirement to put the land into permanent conservation. And so failing, a developer is then forbidden by code to get more building and occupation permits until meeting the legal standard for 70% permanent preservation in *concurrency* with the pace of building.

It is important to understand that the code—the legal requirement—is merely a talking point if not implemented and enforced through policy; the “70/30” framework for land preservation therefore requires that any given developer follow the code and then submit to inspection by the city, which is required by code to withhold further permits until code compliance is achieved.

I hope this letter helps clarify our city’s framework for permanent land preservation, allows us to move beyond “70/30” as a mere slogan, and encourages all of us to examine the underlying ordinances which guide our responsibilities.



Scott Lightsey, District 3

Appendix: these are cut-and-paste citations so that you can read and evaluate the plain language of the code as it applies to land preservation.

Sec. 5-3. - Required open space.

A. It is the purpose of these open space standards to:

1. Preserve open land in hamlets and villages in perpetuity;
2. Provide residents of developments with opportunities to view and experience nature, including meadows, trees, hiking trails, streams and other wetlands, wildlife in the natural habitat, and granite outcroppings. Nature also includes outdoor places for gatherings and recreation;
3. Provide residents of developments with opportunities to view agriculture, including livestock, gardens, orchards, and produce;
4. Provide residents of developments with access to all open spaces, except farms;
5. Minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures;
6. Provide an interconnected network of permanent open space;
7. Encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features;
8. Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation;
9. Promote construction of convenient and accessible walking trails and bike paths both within a development and to nearby areas in order to reduce reliance on automobiles; and
10. .Provide civic space as an amenity that promotes physical health and social interaction within the community and that provides a variety of active gathering spaces.

B. Open space shall be required as set forth in this section and shall be calculated as a percentage of total land area within a site.

C. Open spaces intended for public access or gathering shall provide points of access for emergency vehicles.

D. Land permanently protected as regulated in [section 5-5](#) prior to being rezoned into a hamlet (HM) or village (VL) district shall not be allowed to count toward required open space, nor shall it count toward total district area for the purpose of calculating open space requirements though it shall be included for the purpose of meeting district size minimums and for calculating density controls in section 6-3C.

E. Except in a historic crossroads (HC) district, all required open space must be located on parcels used exclusively as open space.

F. All open space lots must meet the minimum lot size requirements of section 6-3E.

G. Allowed open space uses:

1. Buffers required by [section 5-8](#) and any required stream buffers;
2. Sites of historic, cultural, or archeological significance, including burial grounds;
3. Utility crossings, transit rights-of-way;
4. Unpaved thoroughfares or driveways;
5. Greenhouse or nursery (see section 7-4T);
6. Farming, horse stables, keeping and raising of farm animals, livestock quarters and enclosures;
7. Solar farms (total solar panel area shall not exceed five percent of total required open space area);
8. .District geothermal or ground source loop fields, water wells;
9. .Nature preserves;
10. Parks, open fields, or wooded areas;
11. Recreation fields;
12. .Pedestrian ways, pedestrian trails, pedestrian paths, including those used by bicycles and/or horses;
13. Recreational access to the Chattahoochee River;

14. Amphitheater without significant hardscape area;
15. Floodplains, wetlands, and water bodies;
16. .Critical wildlife habitat;
17. .Botanical gardens;
18. Campsites without utility connections;
19. Occasional festivals or events;
20. Areas with steep slopes;
21. Roadside stands up to 800 square feet footprint;
22. .Temporary structure (see section 7-4RR);
23. Pervious parking areas designed as allowed open space uses 6, 8, 9, or 19;
24. Timber harvesting areas (not to exceed 30 percent of the total required open space) (also see section 7-4R);
25. Golf courses (not to exceed 30 percent of the total required open space); and
26. Stormwater management facilities, drain fields, or sewage treatment facilities (not to exceed 30 percent of the total required open space) that meet the criteria of [section 5-10](#)(B)(12).

H. Open space must incorporate the following features where they are present:

1. Habitats for endangered or threatened species as defined by DNR;
2. Wetlands identified by the National Wetlands Inventory maps prepared by the U.S. Fish and Wildlife Service, the county soil survey prepared by the USDA Natural Resources Conservation Service, or a certified wetlands delineation using data from the U.S. Army Corps of Engineers;
3. Alluvial soils identified by FEMA and 100-year floodplain;
4. Rivers, streams, lakes, existing ponds, naturalistic stormwater management ponds/facilities with pedestrian amenities, creeks, including, but not limited to, blue line tributaries and state waters;
5. Required stream buffers;
6. Existing steep slopes greater than 25 percent on average and with an area greater than 5,000 square feet identified as part of a site analysis conducted by a registered engineer, land surveyor, or landscape architect; and
7. Sites of historic, cultural, or archaeological significance.

I. *Open space demarcation.* Property lines separating open spaces from other uses shall be demarcated with permanent visible monuments or other features which achieve permanent visual differentiation. Any improvements used to meet this requirement shall be continually maintained.

(Ord. No. [21-10-228](#), § 1, 10-5-2021; Ord. No. [23-02-254](#), §§ 8, 9, 2-7-2023)

Sec. 5-5. - Open space protection and maintenance.

A. Proposed open spaces included in approved zoning plans shall also include information delineating the entity responsible for the ownership, maintenance, and for resolution of issues related to such areas.

B. The entity designated by "A" immediately above shall provide adequate maintenance of the open space improvements and shall replace dead plantings when necessary.

C. Required open space areas shall be protected in perpetuity from further development or unauthorized use by one or more of the following means: a conservation easement established in accordance with the Georgia Uniform Conservation Easements Act (Georgia Code §§ 44-10-1, et seq.), grant of full and irrevocable fee simple ownership of the property to a governmental body empowered to hold an interest in real property or to a qualified land trust, or grant of a covenant pursuant to Georgia Code § 44-5-60(c). Such legal instrument ("agreement") must be acceptable to and approved by the city, shall be recorded in the public records in every county in which any portion of the real property is located, and shall at a minimum:

1. Clearly delineate open space areas;
2. Describe the baseline conditions and features of the subject property, including those to be permanently protected from development;
3. List the parties, that is, the owners of the property, any easement holders, grantees, and the city as a third party beneficiary with rights to enforce the agreement if the city is not the holder or grantee. Holders and grantees must be independent from and unaffiliated with the property owners;
4. Specify how any agreement may be transferred in the case of the dissolution of a homeowners association or other party;
5. Clearly identify the boundaries of the property by survey and a metes and bounds legal description
6. ;Clearly list restrictions;
7. Provide for inspections of the property by the owner, any easement holders, grantees, and the city to ensure that the land is not being developed and complies with the agreement and this chapter

8. Provide for maintenance of the property; and
9. Provide for amendments only with the express written permission of all parties to the instrument that further the open space purposes of this chapter.

D. Concurrency. It is the intent of this subsection that required open space is preserved as buildings and/or phases within a district are completed rather than at full build out. The following shall apply within individual hamlet (HM), village (VL), and historic crossroads (HC) districts.

1. Residential units shall not be issued a certificate of occupancy until at least the minimum amount of required open space for those units has been permanently protected, per [section 5-3](#) and section 6-3C. However, no open space shall be required to be permanently protected until at least ten percent of the total number of proposed units in a district have received a certificate of occupancy.
2. Certificate(s) of occupancy shall not be issued for commercial floor area until at least the minimum amount of required open space for that floor area has been permanently protected, per [section 5-3](#) and the percentage of the site proposed to be devoted to commercial uses, which shall consist of uses from any use category except for residential and agricultural uses. However, no open space shall be required to be permanently protected until at least ten percent of the total commercial floor area in a district has received a certificate of occupancy.

E. Open space may be maintained and/or improved through reforestation, agriculture, sustainable forestry, pasture management, buffer replanting, stream bank protection and wetlands management or by other acceptable means as described in this UDC. The owner of the open space shall be responsible for maintenance, insurance, and taxes on the open space. The city may require a bond for maintenance.

F. An open space management plan shall be submitted with the preliminary plat application. The open space management plan shall include the anticipated ownership and use of all protected open space parcels, along with a financial plan that demonstrates that the management expenses, taxes, and insurance will be covered by income derived from the property or other source of revenue.