

**New Ipswich Zoning Regs – Proposed Cluster Subdivision Updates (approved to move to warrant)**

Motion to Amend the Zoning Regulations, by amending Article XIII General Provisions, Section E Cluster Development and Article XVIII Definitions by deleting text in strikethrough (~~strikethrough~~) and **adding the text underlined in bold.**

**ARTICLE XIII: GENERAL PROVISIONS**

**E. CLUSTER DEVELOPMENT:**

1. PURPOSE: Cluster development is a type of subdivision designed to enable a developer of land for residential purposes to make such use pursuant to a plan which is in keeping with the overall density and open space objectives of these ordinances, but which depart from the strict application of certain of the required characteristics applicable in the district(s) in which cluster development is permitted in order to:

- a. Promote the conservation of the natural environment and the development of community uses in harmony with the natural features of the land. Preserve the natural beauty of existing rural roads, topography, and wooded areas and to provide usable open space and recreation facilities in close proximity to dwelling units;
- b. Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilizes and fosters less consumption of rural and/or agricultural land;
- c. Provide an efficient procedure which can insure appropriate, high quality design and site planning and a high level of environmental amenities;
- d. Avoid development of portions of sites which have poor soil conditions, high water tables, are subject to flooding, or have excessively steep slopes; and
- e. Establish living areas within the town that provide for a balance of community needs, such as a diversity of housing opportunities, adequate recreation and **conserved** open space areas, easy accessibility to those and other community facilities, and pedestrian and vehicular safety.

2. Cluster residential developments for single-family dwellings may be permitted in all districts provided that the following conditions are met:

- a. The minimum lot area (tract of single or consolidated ownership at the time of submission) on which a cluster development may be considered shall be at least ten (10) contiguous acres.
- b. For the purpose of land preservation a minimum of 55% of the total land tract shall be set aside as **conserved** open space.
  - i. The **proposal should demonstrate how key natural resources were a prioritized for conserved open space preservation, including those noted in the Conservation Overlay District** ~~open space may not consist principally of land difficult to utilize. Such land may be included in the open space area, but shall not consist of more than 50% of any combination of wetlands and/or steep slopes as defined in Article X, Section C.~~
  - ii. The **conserved** open space shall be designated and reserved for ~~the purposes defined in the conservation easement/deed documents (such as farming, public use/recreation or the~~ benefit and enjoyment of the residents of the cluster development).

iii. Conserved space shall be accessible to all residents of the subdivision

iv. The boundaries of all conserved open space areas shall be delineated with physical markers.

c. A maximum of 15% of the total land area may be used for common area. ~~The common area may include roads, rights of way, common or individual utilities, common buildings and recreational facilities.~~ The common area shall not include any land designated as wetlands, steep slopes as defined by Article X, Section C or floodplain areas.

d. ~~To determine the maximum number of buildable lots that can be created in a cluster subdivision, the applicant shall prepare a Yield Calculation Plan showing a feasible conventional subdivision plan of one family dwellings, consisting of conventional lot and street layouts, and which may be conceptual in nature and is not intended to involve significant engineering costs, but which would be reasonably capable of receiving subdivision approval in the opinion of the Planning Board. A conventional subdivision is a subdivision, other than a cluster subdivision, which could be created according to the provisions of the New Ipswich Zoning Ordinance. The number of lots shown on the Yield Plan is the maximum number of lots that can be allowed in the Cluster Subdivision.~~

e. The cluster development of lots shall be continuous in an arrangement with the 15% common area to promote a "village" concept with the surrounding open space. In order to accommodate the unique characteristics of a tract of land, more than one cluster arrangement may be permitted if, in the discretion of the Planning Board, this would lead to a site layout of the total development which would improve and enhance the appearance and preservation of natural topographic features and open space

**f. Only one wetland or stream crossing is allowed. The crossing must be less than 35 ft.**

g. No land within the buildable ~~lots portion~~ shall be wetlands, **or part of the minimum natural woodland buffer from wetlands and surface water, as defined in Article X Section D Wetlands and Surface Water Conservation Overlay District** ~~or land of steep slopes.~~

h. House lots will conform to regulations for single family dwellings with the following exceptions:

i. The minimum size of a house lot shall be 1/3 acre.

ii. **House lots may be combined to allow a condominium or multi-family residence. Up to 6 lots may be combined into a single parcel on the proposed plat with the maximum number of dwellings equal to the number of lots combined (if consistent with "Soil Based Lot Sizing" and State Env-Wq 1005.03)**

i. Road frontage may be reduced to 75 feet, as applicable and appropriate for the presented road layout and use of cul-de-sacs.

ii. **Back lots may be designed, if the front and the paired back lot are approximately the same size and the length of driveway to the back lots does not exceed 200 ft. (the driveway length includes the length of travel in the access area to the main rectangular portion of the building lot; where the lot is a minimum of 75 ft. wide)**

- 92                               iii. The minimum setback of structures inside a cluster development **including**  
93 **roads, parking lots, driveways, and septic** may be reduced to 20 feet for  
94 septic system structures, and 10 feet for all other structures
- 95                               iv. The minimum setback of all structures, except for roads connecting the  
96 cluster development to the external road system, shall be 75 feet from the  
97 edge of the cluster development parcel. **The planning Board may require**  
98 **a larger setback, depending on the density and location of buildings in**  
99 **relation to existing dwellings.**
- 100                            i. The **conserved** open space shall be ~~deeded~~~~deemed~~ to the town as a conservation  
101 easement, or be conveyed to **conservancy**, ~~a community association~~ or ~~deeded jointly~~  
102 ~~to the lot owners association~~ **and the town with sufficient covenants on the individual**  
103 ~~deeds~~ to assure the continuance of the land as **permanent conserved** open space. **The**  
104 **deed shall include language that the restrictions contained in the easement are**  
105 **enforceable by the municipality.**
- 106                            j. ~~Also, other common~~ **Common** facilities, private roadways and features within the  
107 cluster development shall be protected by covenants running from the land and shall be  
108 conveyed by the property owners to a homeowners association, so as to guarantee the  
109 continued use of the land for the intended purposes, continuity of proper maintenance  
110 and the availability of funding for maintenance and recovery for specific losses. In  
111 addition, the covenants, adopted by the homeowners association, shall outline the  
112 membership and obligations of the residents of the cluster development. All covenants,  
113 deeds and easements shall be subject to review ~~based on the statement of purpose~~ by  
114 town counsel and approval by the Planning Board.
- 115                            k. **The land in the conserved open space shall not be disturbed during development.**
- 116                            l. Whenever a proposed cluster subdivision would be visible from ~~at~~ **the public right of**  
117 **way** ~~any point outside~~ the development, the Planning Board may require an adequate  
118 landscape buffer to protect external property values.
- 119                            m. **If necessary to protect external property values, the planning board shall require**  
120 **additional landscape buffer/s (external property owners must present third party**  
121 **evidence showing that their property values would be reduced)**

### 122 3. **Number of Buildable Lots**

123  
124 **To determine the maximum number of buildable lots than can be created in a cluster**  
125 **subdivision, apply the following yield calculation:**

- 126  
127                            a. **Subtract the following from the total number of acres in the parcel**
- 128                                i. **the total acreage of land with slopes over 25%, defined as an area of natural**  
129 **contours that exhibit change in vertical rise (slope) in excess of 25% in any**  
130 **segment of 100 foot distance and**
- 131                                ii. **the total acreage of any flood plain, land in the Flood Plain Overlay District**  
132 **(Article X B)**
- 133                                iii. **the total acreage of any water bodies or streams Surface Water Body or**  
134 **Surface Waters at the high water Reference Line**  
135

b. Divide the resultant total acreage by 2

c. The total number of building lots allowed is the whole number generated from this calculation with no partial lots or rounding up

4. Proposals for cluster development projects shall be submitted to the Planning Board for review. The Planning Board will review the cluster development for compliance with subdivision and site plan regulations. No building permit shall be issued or construction started without approval from the Planning Board.

5. **DIMENSIONAL STANDARDS. Where the requirements of this section differ from or conflict with the requirements of Article V, the requirements of this section shall prevail.**

- a. Building lot areas shall be based on the site loading for each soil type on the lot, according to NH DES Administrative Rules (Env-Wq 1005).
- b. Every lot shall include a minimum of 2500-square foot building rectangle or square where the residence will be located.
- c. Frontage providing access to a back lot parcel: minimum of 50 feet.
- d. Minimum interior separation when lots are combined with attached condos/multi-family residences shall be based on IBC standards

6. **DESIGN/LAYOUT STANDARDS**

- a. To the extent practical and feasible, the development shall be laid out so as to avoid natural resources and any special features located on the property.
- b. Conserved space/conservation land, shall be contiguous and non fragmented, excepting the 75 ft. perimeter setback and land that abuts existing conservation land or trails that will expand greenway corridors.
- c. Common land, to the extent practical and feasible, shall be contiguous.
- d. The Planning Board may require changes in lot shape and layout as it deems necessary to secure the objectives of this chapter.
- e. Streets.
- i. Streets serving the cluster development must be laid out and constructed to meet standards outlined in the Town of New Ipswich Subdivision Regulations.
- ii. A through road, loop road (with a minimum of two entrances onto the same road), or lollipop shaped road (a loop connected to a road via a stick shape connector) where the furthest property is no more than 1000 ft. from a public road or through road is required.
- iii. Where a internal road without an outlet serves more than four (4) homes, the turnaround shall generally be designed as determined by the Planning Board.

7. **HOMEOWNERS ASSOCIATION.**

- a. A Homeowner's Association shall be formed to oversee the individual and collective responsibilities for the ownership, use and ongoing maintenance of all conserved space and any roads, common land/facilities, septic systems, and water supply systems as applicable. These responsibilities shall be spelled out in legal documents, such as covenants or restrictions, as appropriate to the circumstances.

- 178           b. In the event that any units are occupied by renters and not owners, the tenants shall be  
179           made aware of any pertinent responsibilities regarding the common facilities.
- 180           c. The Association agreements must be reviewed and approved by Town Counsel prior  
181           to Planning Board approval, after which the agreements shall be filed with the  
182           approved plans in the Hillsborough County Registry of Deeds prior to the issuance of  
183           any building permits.

184  
185 ARTICLE XVIII: DEFINITIONS:

186 In addition to applicable definitions contained elsewhere in the Zoning Ordinance, as well as within  
187 the Subdivision and Site Plan Review Regulations, the following definitions apply to this Article:

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189 CLUSTER DEVELOPMENT: A residential subdivision of a tract of land where housing units are  
190 grouped on lots of reduced dimensions. The remaining land in the tract which is not built upon is  
191 reserved as permanently protected conserved open space.

192  
193 COMMON AREA: Any area, other than conserved open space, set aside for non-  
194 individual/common ownership as a result of a cluster development, including areas for common  
195 facilities. Land used for housing is not considered common area. Common area may include  
196 such as roads, sidewalks/shoulders, sign/sign posts, rights of way, guest parking, storage,  
197 school bus drop off/pick up, mail boxes, snow storage, drainage infrastructure,  
198 retention/detention pond, trash pick up, common or individual utilities including wells,  
199 common buildings/facilities, and recreational areas/facilities. In any case, the common land is  
200 not to be used for housing or any associated accessory uses.

201  
202 HOMEOWNERS ASSOCIATION: A private non-profit organization (corporation, association, or  
203 other legal entity) formed to manage, maintain, support, and finance the common area, common  
204 facilities, use of the conserved open space land of the cluster development, and enforce certain  
205 covenants and restrictions.

206  
207 CONSERVED OPEN SPACE: Undeveloped land set aside and designated for permanent  
208 protection for common or other non-individual ownership as a result of a cluster development,  
209 with conservation easements and other deeded restrictions to ensure that the land will remain  
210 permanently open and undeveloped. Conserved open space may include a modest number of  
211 parking spaces if public access is allowed  
212  
213