

Article 6
Clustered Residential Development
(Amended 6/19/89; 1/4/99; 6/6/02)

Section 601. Purpose

601-1. Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions may modify provisions relating to space and bulk to permit innovative approaches to housing and environmental design in accordance with the standards of this Article. Such modifications of space and bulk provisions shall not be construed as granting variances to relieve hardship. The purpose of this Article shall be to encourage housing development that will result in:

- A. Preservation of open space to serve recreational and scenic purposes and to provide adequate recreation opportunities to residents.
- B. Improved living environments which offer variety and choice in housing and permit more economical housing to be constructed.
- C. A pattern of development in harmony with the natural features of land.
- D. Economical subdivision layout, efficient use of the land, with smaller networks of utilities and streets.

Section 602. Performance Standards

602-1. The provisions of this article apply to subdivisions for single family and two-family dwellings in the C-1, R-1a and R-1d zoning districts. The minimum area of land in a cluster residential development shall be 15 acres in the R-1a and R-1d districts, and 30 acres in the C-1 zoning district. Cluster residential development is not permitted in other districts. The minimum acreage limitation shall not be applicable to developments on land contiguous with an existing or approved cluster development provided that the Planning Board finds that the proposed cluster development is designed as an extension of the existing or previously approved cluster development. The Planning Board shall base the determination on the compatibility of the lot layouts, the compatibility of the housing types and densities, and the degree to which the road network is integrated. In the case of a previously approved contiguous cluster development which is not built, evidence that it will be built shall be submitted.

602-2. Applicants for developments of 10 or more dwelling units shall present a plan of development assuring that buyers at each phase are offered adequate levels of service, sufficient open space, and adequate levels of amenities.

All dwelling units in a cluster development shall be connected to the Biddeford Saco Water Company supply.

Article 6 - Clustered Residential Development

602-4. All dwelling units in a cluster development shall be connected to the municipal sanitary sewer system.

602-5. The approximate location of each building shall be indicated on the plan.

602-6. Overall net residential density of the development shall not exceed the density allowed under the net residential acreage definition of this ordinance, nor exceed that which would be obtained under normal subdivision provisions. A drawing and calculations clearly showing the net residential acreage and density, and a drawing showing the maximum number of lots feasible under regular subdivision provisions shall be submitted.

602-7. Lots, Frontage, Buffers, Setbacks: If the development includes individual lots for single family detached or two family dwellings:

- A. Lot size shall not be reduced to less than:
 - 20,000 square feet in the C-1 district
 - 10,000 square feet in the R-1a district
 - 7,500 square feet in the R-1d district
- B. Each lot shall have frontage on a public way or on a street proposed by the applicant, as follows:
 - C-1 district – 100 feet
 - R-1a district – 75 feet
 - R-1d district – 75 feet

Up to 10 percent of lots in a cluster subdivision may have frontages reduced below the frontage requirements stated in this paragraph, but not below 25 feet. Lots with frontage reduced under this provision shall not be adjacent to more than one other such reduced frontage lot, as determined at the front lot line.

- C. Front yard setbacks shall not be reduced by more than 50% of those specified in the district requirements.
- D. The Planning Board may reduce side and rear yards at its discretion, using the provision of adequate light, ventilation, fire safety, emergency access, and privacy as review criteria.
- E. Perimeter setbacks and adequate screening shall insure the protection of existing and proposed development adjacent to the cluster where adjacent developments are not fully compatible.

602-8. (Reserved)

602-9. Cluster developments shall have no more than one driveway per 500 feet of road frontage on arterial streets. The Planning Board may require a second access for public safety purposes.

602-10. The use of land shall not differ from the uses permitted and conditional in the zoning district in

which the development is located.

Section 603. (Reserved)

Section 604. Common Open Space

604-1. The total area of reserved common land within the development shall not be less than 35% of the entire parcel. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.

604-2. Common open space shall not include areas devoted to public or private vehicular streets, driveways or parking spaces.

604-3. The common open space shall be usable for low-intensity recreation, such as hiking, skiing and picnicking, agriculture or other outdoor living purposes, including structures accessory thereto, and for preserving the natural features of the site, and for active recreation use. The use of any open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties.

604-4. Where a cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common open space.

604-5. The common open space shall be accessible to the residents of the development.

604-6. With the agreement of the Planning Board, the developer may dedicate the open space to the city for the use of all its citizens, or to another government agency or recognized land stewardship organization willing and able to manage the land permanently.

604-7. If common open space is not dedicated to public use, it shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements submitted with the final plan shall specify ownership of the cluster open space; method of maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Board; and any other specifications deemed necessary by the Planning Board.

604-8. The developer shall maintain control of common green spaces and facilities and be responsible for their maintenance until development sufficient to support the association has taken place. The association bylaws shall specify at what point maintenance is taken over by the association. All maintenance is the responsibility of the developer until that time.

604-9. If the common open space is in the form of farmland appropriate covenants restricting its use

Article 6 - Clustered Residential Development

shall be approved by the Planning Board as part of the final subdivision approval. The covenants shall provide for the ownership and maintenance of the open space in the event that it is no longer farmed.

604-10. Cluster open space shall include irreplaceable natural features located on the tract, such as, but not limited to stream buffers, significant stands of trees, individual trees of significant size, rock outcroppings, excessive slopes, open fields and meadows, prime agricultural soils, scenic vistas, historic and archaeological sites, wetlands and wet areas.

604-11. The suitability of cluster open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings, or length of public or private streets from which it can be seen. When a cluster development is proposed for land with frontage on an existing arterial, a portion of common open space shall include the area between the building sites and the existing road right-of-way.

604-12. Space suitable for active recreation shall be included in the cluster subdivision open space. Active recreation shall include activities which require substantial construction and maintenance for recreation use, including playgrounds, tennis courts, ball fields, basketball courts, and similar facilities. The following table provides the minimum active open space reservations required in cluster subdivisions:

Article 6 - Clustered Residential Development

Average Density per Dwelling Unit	Active Open Space Required, % of Subdivision
80,000 s.f. or more	1.5
40,000 s.f. to 79,999 s.f.	2.5
20,000 s.f. to 39,999 s.f.	4
10,000 s.f. to 19,999 s.f.	5

Land reserved for active open space shall be of a character, configuration, and location suitable for the particular use intended. A site intended to be used as a play field, should be level and dry, have a total frontage on one or more streets of at least 50 feet, and have no major dimensions of less than 200 feet. The Planning Board shall determine if other active recreation areas are suitable for the intended uses.

604-13. In determining the suitability of open space and active open space, the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the comprehensive land use plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density of the development.

604-14. Where the land in the subdivision is not suitable for active recreation, or is insufficient in amount, or where the subdivider and the Planning Board agree that residents of the subdivision would be better served by a nearby public recreation facility, a fee in lieu of dedication of the active recreation land may be deposited to a City recreation facility improvement and acquisition reserve fund. The amount of such contribution shall be \$500 per lot and it shall be made before any construction begins. Any funds deposited to such a fund shall be returned to the developer if not used for the intended purpose within five years of the date of the deposit of funds with the City.

Section 605. Landscaping and Bufferyards

605-1. Where the proximity of proposed buildings in a cluster residential development, or the arrangement of lots, or the compatibility with neighboring uses are not adequate because of the nature of the cluster design and the nature of the neighboring uses, a detailed plan and specifications for landscaping and screening which will afford adequate buffering and screening is required. Existing vegetation shall be retained and maintained to the extent possible so as to permit such vegetation to fulfill or contribute to buffer and screening requirements.

605-2, 605-3, 605-4, 605-5. (Reserved)

605-6. MAINTENANCE OF LANDSCAPING

All required landscaping and screening shall be maintained or replanted as necessary so as to continue its effectiveness. Financial security shall be provided as required by the Saco Subdivision Regulations.

Section 606. Site Considerations, Approval Criteria

606-1. A subdivision plan for a cluster development shall provide for a total environment better than that which could be achieved under standard regulations. If, in the opinion of the Planning Board, the proposed plan could be significantly improved with respect to the criteria listed below by the reasonable modification of the location of cluster open space or buildings or configurations of lots, streets, buffers and landscaping, and parking areas, the proposed plan shall be so modified or denied. In acting on the proposed plan, the Planning Board shall make specific findings of fact as to whether the proposal has addressed the following criteria:

- A. Diversity in lot and building layout achieves a superior relationship between development and the land than would be possible under regular subdivision regulations.
- B. Individual lots, buildings, streets, and parking areas are designed and situated to minimize alteration of the natural site features to be preserved, and with respect for scenic vistas, natural features, and potential solar access.
- C. Individual lots, buildings, and units are arranged and situated to relate to surrounding properties, and to lessen area devoted to motor vehicle access and to minimize the adverse effects of shadows, noise, and traffic on the residents of the site.
- D. Planting, landscaping, disposition and form of buildings, fencing and screening used to integrate the proposed development with the landscape and the character of any surrounding developments are adequate for that purpose.
- E. The cluster development conforms to the purposes and standards of the Saco Subdivision Regulations except where this article prescribes additional or different requirements.
- F. The provision for active recreation, whether on-site or off, is adequate to meet the needs of the residents.

Section 607. Submission Requirements and Additional Standards

607-1. The submission requirements for a development proposed under this Article shall be the same as those required in the Saco Subdivision Regulations except when additional information is required in this Article.

607-2. ADDITIONAL INFORMATION REQUIRED

-Applicants for developments which require construction of the whole subdivision at once shall present a plan of development assuring that buyers at each phase are offered adequate levels of service, sufficient open space, and adequate levels of amenities.

-A drawing and calculations clearly showing the net residential acreage and density, and a drawing showing the maximum number of lots feasible under regular subdivision provisions shall be submitted.

-Covenants or other legal arrangements submitted with the final plan shall specify ownership of the cluster open space; method of maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster

open space will not be dissolved without the consent of the Planning Board, and any other specifications deemed necessary by the Planning Board.

-A site plan prepared by a registered landscape architect shall be submitted for any cluster development of 10 dwelling units or more.

607-3. The Planning Board may require additional information to be submitted in order to ascertain whether the purposes and approval criteria of this Article, this ordinance, and the subdivision regulations are met.

Section 608. Procedures

Consideration and approval of cluster residential development follows a four-step procedure, including subdivision review with which it is coordinated. The first review is preliminary Clustered Residential Development Review. This is followed by preliminary subdivision review and final subdivision review. Final Clustered Residential Development Review is conducted contemporaneously with final subdivision review, with the determination for Final Clustered Residential Development Review necessary before a determination on final subdivision review. Procedures are as outlined in the Saco Subdivision Regulations, except where alternative procedures and requirements are set out in this Article.

Section 609. Preliminary Cluster Residential Development Review

609-1. This initial review is conducted in order to help the applicant and Planning Board ascertain before engineering a plan whether a cluster subdivision design appears to be in keeping with the purposes and criteria of this Article. A public hearing shall be held for this review. The Planning Board may schedule an on-site inspection, if necessary.

609-2. Submissions for a Preliminary Cluster Residential Development Review plan shall include those items listed in Sections 4.2.1 and 4.2.2 of the subdivision regulations and the following:

- Topography plan;
- Wetlands plan;
- A plan and calculations clearly showing the net residential acreage and density;
- A plan showing the maximum number of lots feasible under regular subdivision provisions;
- A plan showing the proposed cluster subdivision design;
- A written narrative explaining how the cluster subdivision design would attempt to meet the purpose and approval criteria of this article, except 606-1-E.

609-3. The Preliminary Clustered Residential Development Review plan shall not be considered the commencement of the regular subdivision review process. The submittal and Preliminary Cluster Residential Development Review shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A. § 302.

609-4. Within 45 days of the close of the public hearing on the Preliminary Clustered Residential Development, the Planning Board shall make findings on the plan, then approve the plan, approve the plan with modifications or deny the plan. The basis of this determination is the approval criteria of this Article, except 606-1-E.

Section 610. Subdivision Review and Final Clustered Residential Development Review

Only plans that have been approved may continue to be considered under this Article. Following approval of the Preliminary Clustered Residential Development the applicant shall follow the procedures for subdivision review. Where subdivision requirements are less extensive or superseded by this Article, the provisions of this Article shall apply. Final Clustered Residential Development Review is conducted contemporaneously with final subdivision review, with the determination for Final Clustered Residential Review preceding the determination on final subdivision review. The basis of the Final Clustered Residential Development determination is the approval criteria of this Article. These two final determinations may occur on the same agenda. The Public Hearing held for final subdivision review shall also include Final Clustered Residential Development Review.

Section 611. Appeals

Appeals from determinations made under Article 6 may be appealed to the York County Superior Court within 30 days.