

**PROPSOED ARTICLE X
OPEN SPACE SUBDIVISIONS**

143-73. Purpose.

The purposes of these provisions are to assure that open space subdivisions developed in the Town of Pembroke:

- A. Preserve those areas of the site that have the highest value for conservation purposes;
- B. Preserve identified historic, known archeological and identified cultural features located on the site
- C. Locate the buildings and structures on those portions of the site that are most appropriate for development considering both the development suitability of the site and its conservation value;
- D. Create continuous open spaces or “greenways” by linking the common open spaces in adjoining subdivisions and other existing conservation land wherever possible; and
- E. Minimize the impact of residential development on the Town, neighboring properties, and the natural environment.

143-74. Applicability

All residential subdivisions that abut existing protected conservation land, which is either fee ownership or an easement by the Town, a private homeowners association, or a non-profit, shall be developed as an Open Space Subdivisions in accordance with the provisions of this section and the Town’s Subdivision Regulations unless the subdivision is exempt from this requirement based upon subsection 143-75 below.

143-75. Exempt Subdivisions.

A subdivision shall be exempt from the Open Space Subdivision requirement if the following criteria are met.

- A. The application is for the conversion of an existing dwelling unit(s) to a condominium.
- B. The application is for a residential subdivision where each lot is at least 5 times the size required under the Zoning District and where the subdivision plans and there is a restriction prohibiting the further subdivision of the lot(s)
- C. The subdivision will create not more than one additional lot accommodating one (1) dwelling unit and no other lots have been created from the parcel within the preceding 3 year period.

143-76. Maximum Development Density.

- A. The maximum number of dwelling units that may be developed in an Open Space Subdivision shall be determined by dividing the calculated Usable Area of the parcel by the required Minimum Usable Area per Dwelling Unit for the district in which the subdivision is located and rounding down to the maximum allowed whole number of units.
- B. If the parcel is located in more than one district, the maximum number of units

allowed on the portion of the parcel in each district shall be calculated separately and the allowed maximum number of units (including fractional units) in each district shall be added together and then rounded down to the allowed number of whole units.

- C. The Planning Board shall not approve a plan for an Open Space Subdivision that provides for the development of more dwelling units than the maximum number determined by this section.

143-77. Lots in an Open Space Subdivision.

Residences in an Open Space Subdivision may be located on individual residential lots, or on common lots with more than one dwelling unit on a lot, or a combination thereof. If more than one dwelling unit will be located on a lot, the ownership and management arrangements for that lot, and the units thereon, shall be detailed as part of the subdivision application and those arrangements shall be subject to approval by the Planning Board in accordance with the Subdivision Regulations.

143-78. Individual Lot Sizes.

If individual lots are created as part of an Open Space Subdivision, the lots shall conform to the following minimum lot size requirements:

- A. Any lot that has its required lot frontage on an existing Class V or better shall conform to the minimum lot size requirement for the district in which it is located.
- B. Any lot that has its required lot frontage on a public street to be developed as part of the subdivision, may be smaller than the required minimum lot size for the district in which it is located. The size of the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot sizes will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate sewage disposal, but in no case shall any lot served by a private wastewater disposal system be less than ten thousand (10,000) square feet in area.

143-79. Individual Lot Frontages.

If individual lots are created as part of an Open Space Subdivision, the lots shall conform to the following minimum lot frontage requirements:

- A. Any lot that has its required lot frontage on an existing Class V or better street shall conform to the minimum lot frontage requirement for the district in which it is located.
- B. Any lot that has its required lot frontage on a public street to be developed as part of the subdivision, may have less frontage than the required minimum lot frontage for the district in which it is located. The amount of frontage for the individual lots shall be shown on the subdivision plan and shall be subject to Planning Board approval based upon its finding that the lot frontages will allow for the creation of a high quality living environment for the residents of the subdivision and provide adequate access to the residences and other facilities, but in no case shall any lot have less than fifty (50) feet of lot frontage.

143-80 Front Yard Setbacks.

- A. The minimum front yard setback for any lot with its required lot frontage on an existing Class V or better street shall be the required minimum setback for the district in which the subdivision is located.
- B. The minimum front yard setback for any lot with its required lot frontage on a street to be developed as part of the subdivision may be less than that required by the district regulations. The size of the minimum setback shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.

143-81 Side and Rear Yard Setbacks.

- A. When a side or rear yard of a lot containing a residence or other building abuts the external perimeter or property line of a Open Space Subdivision, the minimum side and rear yard setbacks shall be the required minimum setback for the district in which the subdivision is located.
- B. The minimum side and rear yard setbacks from internal property lines within a Open Space Subdivision may be less than the required setbacks established by the district regulations. The size of the minimum setbacks shall be shown on the subdivision plan, may vary from lot to lot or in different areas of the subdivision, and shall be subject to Planning Board approval based upon its finding that the setbacks will allow for the creation of a high quality living environment for the residents of the subdivision and provide for adequate privacy and public safety.
- C. In all cases, the separation distance between principal buildings within the subdivision, whether on the same lot or on different lots, shall conform to the requirements of the Town's building code and the NFPA fire protection codes based upon the type of construction and the use of the buildings.

143-82. Perimeter Buffer.

A vegetated buffer strip shall be maintained along the external perimeter or property line of the Open Space Subdivision to minimize the impact of the Open Space Subdivision on abutting properties.

- A. The width of the buffer strip shall be at least the minimum setback requirement for the zone in which the subdivision is located.
- B. If the subdivision abuts a water body or wetland, the width and treatment of the buffer shall be consistent with the requirements of the Wetland Conservation Overlay District and/or the Shoreland Protection Overlay District.
- C. No parking, buildings, structures, access roads or driveways, or recreational facilities shall be permitted within this buffer strip but accessory structures such as walls, underground utility structures, and drainage facilities may be located within this buffer.
- D. The buffer strip shall be naturally vegetated and shall be subject to approval by the Planning Board as part of the approval of the subdivision.

143-83 Conceptual Long Range Development Plan.

- A. When an Open Space Subdivision will not utilize the entire parcel and there is potential for future subdivision or development of the parcel or any of the lots being created, the application for subdivision approval shall include a Conceptual Long Range Development Plan showing the potential utilization of the lots and the balance of the parcel not being subdivided.
- B. The Long Range Plan is intended to be conceptual in nature, to rely on published data about natural resources relevant to the parcel and the built environment, and to demonstrate that the current subdivision proposal will not compromise important conservation values or the long term development of the parcel as a Open Space Subdivision.
- C. This plan shall show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land.
- D. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall show, in general terms, the potential street network, open space areas, and development areas in a manner that demonstrates that both the proposed development and the future development can occur so that it conforms to the requirements for Open Space Subdivisions and preserves the significant natural resource and conservation values of the entire parcel.

143-84 Common Open Space.

An Open Space Subdivision shall provide for the permanent set aside and protection of common open space meeting the following requirements.

- A. The amount of common open space provided within the subdivision shall be equal to or greater than 40% of the gross total tract area, and
 - 1) 50% of the land must be developable land
 - 2) The open space must be contiguous
- B. The location and layout of the common open space shall be located as to
 - 1) Provide interconnections with adjacent open space lands
 - 2) Protect the natural resource, scenic, and historic attributes of the site
- C. The common open space in a Open Space Subdivision shall not be used as the location for dwelling units or other nonresidential buildings or parking and shall only be used for the following purposes:
 - 1) The conservation and protection of natural resource areas, wildlife habitats, scenic features or views, identified cultural or historic features such as stone walls, graveyards or cemeteries, and similar identified features or resources
 - 2) Forest management and agricultural uses including animal husbandry that are specifically approved by the Planning Board as part of the subdivision approval
 - 3) Other appropriate uses that are compatible with the overall scale and character of the subdivision and that are specifically approved by the Planning Board
- D. All open space shall be permanently protected by a conservation easement, fee ownership, or by covenants and restrictions in perpetuity, approved by the Planning Board after review by the Conservation Commission.

- 1) Ownership of the open space easement or fee interest may be held by:
 - i. A homeowners association
 - ii. A non-profit organization, the principal purpose of which is the permanent conservation of open space
 - iii. The Town of Pembroke, through the deeding process, subject to the approval of the Conservation Commission, Planning Board, and Board of Selectmen
- E. Appropriate legal mechanisms for the on-going maintenance and stewardship of the common open space shall be established, subject to approval by the Planning Board as part of the approval of the subdivision.