

ARTICLE X. OPEN SPACE DEVELOPMENT ORDINANCE

I. PURPOSE

This Open Space Development ordinance is intended to encourage environmentally sound planning to conserve open space, to retain and protect important natural and cultural features, and to provide for efficient use of land and community services so as to advance the goals stated in the master plan.

II. OBJECTIVES

- To preserve the natural beauty of existing areas within the Town of Pembroke, preserving farmland, forests and maintaining rural views.
- To preserve those areas of a site that have high ecological value (including, for example, wildlife habitats, especially large unfragmented blocks of undeveloped land, and areas of highest habitat condition (as identified in the NH Fish and Game's Wildlife Action Plan) and important water resources (for example drinking water supply areas and watersheds, wetlands, streams, and rivers)).
- To locate buildings and structures on those portions of a site that are the most appropriate for development and to avoid developing in areas that are ill-suited for development (including, for example, areas with poor soil conditions, with a high water table, with frequent flooding, or with excessively steep slopes).
- To preserve historic, archeological, and cultural features located on a site.
- To create a contiguous network of open spaces or "greenways" by linking the common open spaces within a subdivision to open space on adjoining lands wherever possible.
- To reduce the impacts on water resources by minimizing land disturbance and the creation of impervious surfaces and stormwater runoff.
- To reduce the amount of roads, sidewalks, and stormwater management structures that must be built and maintained.
- To minimize the impact of residential development on the municipality, on neighboring properties, and on the natural environment.

III. AUTHORITY AND APPLICABILITY

Open space development may be allowed in the Limited Office (LO), Medium Density Residential (R1), and the Rural/Agricultural Residential (R3) Districts.

IV. MAXIMUM DEVELOPMENT DENSITY

Calculation of Buildable (useable) Land: The density requirement (number of dwelling units per unit of buildable land) for any open space development shall generally be the same as the underlying zoning district permits. The calculation of total buildable land shall only include the portions of the parcel that meet the minimum contiguous buildable area for that district.

A. **Base Number of Development Units:** The applicant shall choose one of the following methods for calculating the base number of dwelling units that may be constructed on the property:

1. **Baseline Density Formula:** Under this approach, the applicant and the Planning Board use the formula below to determine the number of allowable dwelling units permitted within the Open Space Development.

| Formula: | |
|-------------------|--|
| | Total Parcel Area |
| Minus | Calculated Non-Buildable Area(see def'n) |
| equals | Area Remaining |
| x 0.9 | <i>(subtracts 10% for roadways)</i> |
| equals | Net Area |
| divided by | lot size for zoning district |
| equals | Baseline Density |

| Example: | |
|-----------------|---|
| | 100 acres total Tract size |
| - | 26 Calculated Non-Buildable Area |
| = | 74 acres (buildable) |
| X | 0.9 (roadway factor) |
| = | 66.6 acres net |
| ÷ | 2 acres (lot size in sample district) |
| = | 33.3 Units – rounded to 33 Units |

2. **Yield Plan Approach:** Under this approach, the applicant presents a yield plan to the Planning Board to determine the number of allowable buildings and dwelling units permitted within the open space development. The yield plan is a sketch plan for a conventional subdivision development that fully complies with the requirements for a conventional subdivision.

V. DIMENSIONAL REQUIREMENTS

A. **Lot Size Requirements**

1. Buildings in an open space development may be located on individual residential lots, on common lots, 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 included in the subdivision application. The arrangements shall be subject to approval by the Planning Board in accordance with the subdivision regulations.

2. **Minimum Lot Size**

The average minimum lot size for any proposed open space development shall be as follows:

- A. Average Minimum Lot Size in R1 and LO Districts with Town water and sewer = 25,000 sq. ft.
- B. Average Minimum Lot Size in R1 and LO Districts with Town water or sewer only = 30,000 sq. ft.

- C. Average Minimum Lot Size in R1 and LO Districts without Town sewer and water, and the R3 District = 40,000

3. **Alternative Lot Sizing:** The Planning Board may authorize variations from the minimum lot sizes specified above as part of a special use permit, provided the Planning Board determines that the following conditions are met:

- a. All lots comply with the New Hampshire Department of Environmental Services requirements for subsurface wastewater management (developments may utilize individual or community wells and/or septic systems);
- b. The development is well balanced with the topography and other natural features of the lot; and
- c. The goals and design specifications of this section are otherwise achieved.

B. Specifications for Individual Lots

1. A building envelope shall be identified for each new lot in compliance with the standards in **Table 1** to ensure an adequate separation between new primary structures on the subdivided parcel and between new primary structures and existing structures on adjacent lots. For new lots, the standard is applied to the distance between building envelopes on adjacent new lots, i.e., the actual distance of separation may vary and be less than the minimum specified for some lots, provided that, on average, the minimum distance of separation is achieved across all new lots created, and the underlying setbacks for that Zoning District are met. Variations from this standard may be granted by the Planning Board under the special use permit provided:

- a. That the intent of this section is met; and
- b. An adequate vegetated buffer is maintained or provided between new structures.

Table 1 Specifications of Minimum Separation Distances Between Building Envelopes

| District | Minimum Separation Distance of Building Envelopes for New Lots From Existing Structures on Adjacent Parcels | Minimum Separation Distance Between Building Envelopes for New Lots |
|-------------------------------------|--|--|
| R3 – Rural/Agricultural Residential | 100 feet | 50 feet |
| R1 – Medium Density Residential | 75 feet | 30 feet |
| LO – Limited Office | *40 feet | *30 feet |

* The minimum separation distance may be reduced to the average separation between structures on neighboring properties.

2. Principal structures located on a common lot (and within a common building envelope) shall be no less than 30 feet apart and shall conform to the requirements of the Town's building code and the NFPA fire protection codes based upon the type of construction and proposed use.
 3. Height limits for structures shall be determined by the underlying zoning for the parcel, unless variations are granted by special use permit.
 4. Building envelopes for structures shall be determined by the setbacks required in the underlying zoning district for the parcel, unless variations are granted by special use permit.
 5. Building envelopes shall be setback a minimum of 50 feet from wetlands and shorelines, and no structures or supporting utilities may be constructed on wetlands. Under this provision wetlands are identified as:
 - Wetlands of any size adjacent to surface water.
 - Vernal pools over 500 square feet.
 - Other wetlands over 1,000 square feet.
 6. Lots may be irregular in size and shape provided they conform to the natural topography and features of the parcel (e.g., the lot lines follow an existing stone wall, stream, or other natural dividing feature).
 7. A 150' scenic buffer will be maintained between existing roads and the proposed building envelopes.
 8. The Planning Board may authorize reductions from the above standards, except for any requirement covered by state regulation, by up to 50 percent by special use permit, for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section or to support the creation or continuation of a traditional village-style development pattern.
- C. **Design Standards for Developed Areas:** Subdivisions and Site Plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this ordinance and as set forth in the Subdivision and Site Plan Review Regulations
- A. Roadways:
1. The design of the road network shall provide for access to adjacent developed areas, or shall reserve right-of-ways for future connection to adjacent properties which, in the judgment of the Planning Board, are likely to be developed. This objective of access, however, shall be secondary to the goal of protecting open space.
 2. Roadways within Open Space Developments, whether intended to be public or private, shall be constructed in accordance with the roadway standards set forth in the Pembroke Site Plan and Subdivision Regulations.
 3. As noted below reductions to the above roadway requirements may be granted by the Planning Board as part of a special use permit if it is determined that the goals and design specifications of this section are otherwise achieved.

- a. For public roads the possible reductions are restricted to sidewalk requirements, curbing requirements, and landscaping requirements.
- b. For private roads the possible reductions are restricted to sidewalk requirements, curbing requirements, landscaping requirements, and road width.

VI. OPEN SPACE REQUIREMENTS

- A. As an absolute minimum at least 50 percent of the **buildable area** of the parcel shall be permanently protected as designated open space. Furthermore the designated open space shall represent no less than 50 percent of the **total area** of the parcel subject to the additional conditions below. The Planning Board may authorize up to a maximum 5 percent reduction in the open space area or the buildable area set aside as open space (but not both) by special use permit, when it finds that (1) the reduction is necessary to enable the use of the open space development approach based on the characteristics of the parcel, and (2) the proposed subdivision adequately meets all other requirements of this ordinance.

Example:

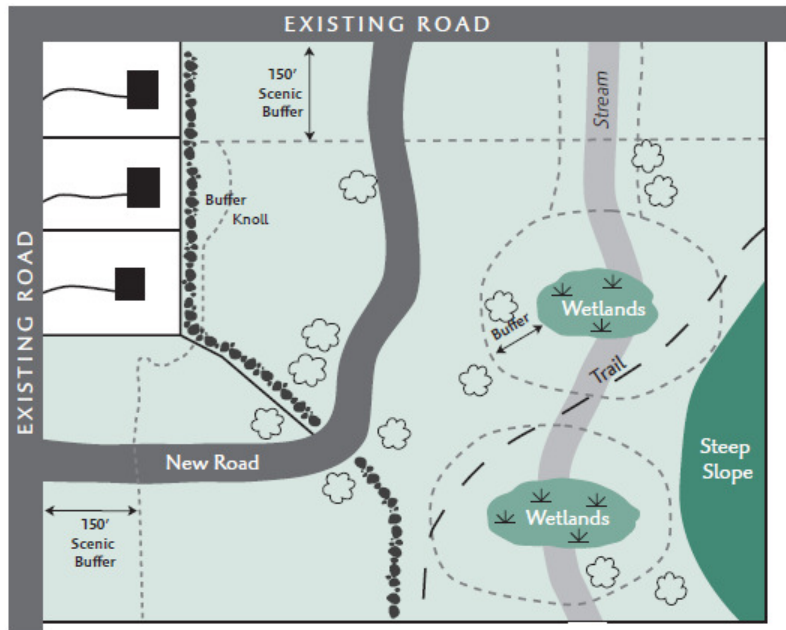
- Total parcel size = 100 acres.
 - Buildable area = 70 acres.
 - Mandatory amount of designated open space that is made up of buildable area = 35 acres.
 - Normal total minimum size of the parcel that is designated open space = 50 acres.
 - If for example the access road must occupy 3 acres of the 50 that would otherwise be set aside as designated open space in order to avoid a wetlands crossing, the Planning Board may authorize the 3 acre reduction.
- B. Portions of the parcel that comprise part of an individual house lot, roadway, driveway, access road, roadway right-of-way, other new or existing right-of-way, utility easement, private or community leachfields or other components of a wastewater management system, stormwater management structures, or are part of a required buffer between any new structure and an existing right-of-way, or any area that is less than 100 feet wide shall not count toward the calculation of the designated open space.
- C. The location, layout, and management of the designated open space shall conform to the standards and process set forth in the Subdivision and Site Plan Regulations. Private ownership, maintenance and monitoring of the open space land is encouraged.
- D. Any use of the designated open space is subject to approval of the Planning Board, with advice from the Conservation Commission, and shall demonstrate that such uses shall not negatively impact the natural and/or cultural amenities preserved through the open space development design.
- E. Community wells are required in the designated open space, provided that this use was approved as part of the subdivision plan and that appropriate legal arrangements are established and approved by the Planning Board for the maintenance and operation of

these facilities.

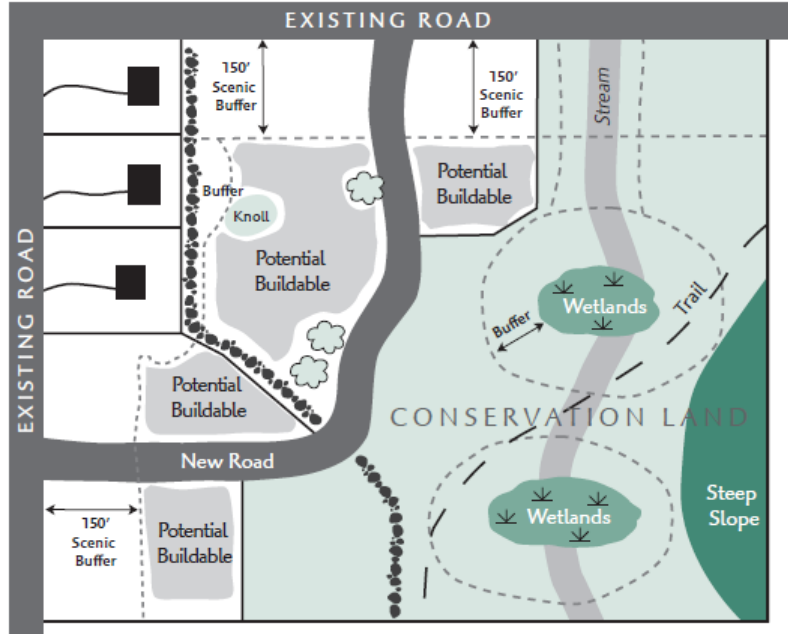
- F. A note shall be affixed to the approved site plan stating that any proposed change of use or change of character of the designated open space shall be proposed in advance of any changes to the Town Planner by the entity assuming responsibility for the designated open space. Furthermore any changes of use or character of designated open space shall be prohibited unless approved in writing by the Town Planner.
- G. The removal of soil, trees and other natural features from the designated open space is prohibited, except as consistent with conservation objectives or permitted uses as provided above.
- H. The designated open space shall be retained in a natural, undisturbed state, except for those activities permitted and approved as provided above, or as required for active management according to a conservation agreement and management plan written by a qualified natural resource professional.

Open Space Development Example

Step 1:
Identify natural and cultural features and required setbacks



Step 3:
Delineate building envelope and lot lines.



Step 2:
Delineate conservation areas and potential area for building.

