

21	Cluster Residential Developments. ¹	CU	CU	CU
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Article III, H. Cluster Residential Developments.

1. Purpose and Intent.

The purpose of a Cluster Residential Development is to encourage the preservation of open space for agricultural, recreational, and scenic use; to encourage flexibility in design for residential development by permitting single-family residences to be grouped on lots of reduced dimensions to allow for a more economic provision of street and utility systems, and to establish living areas within the Town that provide for a balance of community needs. A Cluster Residential Development shall be subject to the granting of a Conditional Use Permit by the Planning Board in accordance with RSA 674:21.

2. Location.

Cluster Residential Developments may be allowed in the R/A, R/C and RLC Zones.

3. Tract and Lot Size.

The Cluster Residential Development tract to be subdivided shall be at least ten (10) acres. Individual lots within the tract may be reduced by as much as one-half (1/2) of the lot size required by the conventional zoning.

4. Frontage.

The Cluster Residential Development tract to be subdivided shall have enough frontage on a Class V Road or better to allow for a dedicated right-of-way of sufficient width to construct an access road adequate to carry the expected traffic load as outlined in the Town of Epsom Subdivision Regulations. Frontage on the lots within the tract may be reduced by as much as one-half (1/2) of the frontage required by conventional zoning.

5. Access to Residential Lots

Access to residential lots shall be provided by private roads or driveways that are designed and engineered to carry the anticipated traffic load.

6. Overall Density and Common Land.

The number of residential lots permitted in a Cluster Residential Development shall be determined by permitting that same number of lots as for a conventional subdivision. The amount of common land in the cluster residential development shall be the amount saved by the reduction in sizes of the residential lots; except that at least thirty percent (30%) of the development shall be common land, exclusive of land set aside for road rights-of-way, parking areas or utilities. At least thirty percent (30%) of the common land shall be areas of buildable upland.

7. Common Land Management.

There shall be a minimum of 30% of the total land area of the parcel dedicated as common open space, which shall be restricted as follows:

- a. There shall be no further subdivision of or development of the common open space areas, which shall be preserved in perpetuity as open spaces used only for any approved uses. Legal instruments which preserve the common open space in perpetuity, including the language of deed restrictions if applicable, shall be submitted

to the Planning Board for approval. The Planning Board may refer these instruments or restrictions to Town Counsel for review.

- b. The common open space shall be deeded either to the homeowners' association, or a conservation organization, or if applicable, private arrangements may be made to continue the agricultural use of appropriate portions of the open space. In such cases where agricultural pursuits will take place on the open space, a maximum of 75% of the total open space in the development may be used for agricultural pursuits, and the remainder shall be reserved for the use and enjoyment of the residents.
- c. The open space may be useable for recreational or other outdoor living purposes and may include recreational facilities that are consistent with the size and type of the development. This can include but is not limited to sidewalks, paths, benches, and all areas designated for active or passive recreation.
- d. Open space may include wells, septic systems, and subsurface drainage infrastructure, but shall not include any structure or impervious surface other than the recreational amenities listed in Section C above. Access drives and parking areas shall not be counted as open space, regardless of surface.

8. Sewage Disposal.

Individual lots within the Cluster Residential Subdivision that are proposed to be smaller than allowed by conventional zoning shall provide plans approved for subdivision by the New Hampshire Department of Environmental Services. Shared or common septic systems are allowed.

9. Conditional Use Permit.

Application for a Conditional Use Permit for a Cluster Residential Development shall be made as follows. The Planning Board shall consider all relevant aspects of the Town of Epsom Subdivision and Site Plan Review Regulations in granting such a Conditional Use Permit.

a. Authority.

If a Conditional Use Permit is authorized by this Ordinance, the authority to administer or grant Conditional Use Permits shall be vested in the Planning Board and authorized pursuant to RSA 674:21, Innovative Land Use Controls. Unless described elsewhere in this ordinance for specific Conditional Use Permits, the process and review procedure for a Conditional Use Permit shall follow the requirements of this Article.

b. Procedure.

An application for a Conditional Use Permit shall be filed with the Planning Board and may run concurrently with any proposed site or subdivision plan application and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development. If Subdivision or Site Plan approval is not required, the requirements of the Site Plan Regulations shall be applied to the application.

c. Standards of Review.

In reviewing an application for a Conditional Use Permit, the Planning Board shall consider the following information in its deliberation as applicable to the case:

- i. Authorization for the conditional use as established by this Ordinance;
- ii. Compliance with the standards for such use contained in this Ordinance;

- iii. The results of any special investigative or scientific studies prepared for the proposal;
 - iv. Special reports or analyses of the project or its impacts prepared by the Town's departments, its consultants, boards or commissions;
 - v. The findings, goals, and objectives of the Epsom Master Plan;
- d. Findings.

Following one more public hearing on the proposed conditional use, the Planning Board may issue a Conditional Use Permit if it finds, based on information and testimony submitted with the application that:

- i. This Ordinance specifically authorizes the use as a conditional use;
 - ii. If completed as proposed, the development in its proposed location will comply with all requirements of this Ordinance;
 - iii. The use will not materially endanger the public health or safety;
 - iv. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area where it is to be located;
 - v. The use will not have an adverse impact on highway or pedestrian safety; and
 - vi. The use will not have an adverse impact on town resources.
- e. Conditions of Approval

The Planning Board may attach reasonable conditions to its approval, including, but not limited to, performance guarantees and the phasing of a development, where such conditions are shown to be necessary to further the objectives of this Article. All conditions of approval shall be stated in writing and included with the permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plan or otherwise recorded at the Merrimack County Registry of Deeds.

f. Appeals

Any persons aggrieved by a Planning Board decision on a Conditional Use Permit may appeal that decision to the Superior Court as provided in the manner prescribed in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (see RSA 676:5, III).