



**Sec. 406 Clustered, Dispersed, and Traditional Residential Development** [Amended, effective 4/12/99]

**406.1 GENERAL:** In reviewing applications for major subdivision approval involving a residential development consisting of four five or more single family residences and/or duplex dwellings in the Rural Residential 1, Rural Residential 2, Rural Industrial, Medium Density Residential, Low Density Residential, Island Residential and Island Business zoning districts, the Planning Board shall be authorized to require that the residential development be designed and constructed as a clustered residential development, a traditional residential development, or a dispersed residential development based on the standards and criteria set forth in this Section., except that developments with four or fewer lots may be designed as a clustered or dispersed development upon a positive finding by the Planning Board that the intent of the Ordinance listed below can be met. Such developments are subject to Section 4.4 or the Subdivision Ordinance. All such residential developments shall conform to the requirements of this Ordinance as well as the Subdivision Ordinance of the Town of Cumberland and all other applicable Ordinances of the Town of Cumberland and the Town of Cumberland Comprehensive Plan. The intention of this section of the Ordinance is to assure that residential developments are designed in such a way as to assure protection of wells and groundwater from contamination; prevent adverse impacts on existing wells on adjoining properties and on wells to be created within the new residential development; avoid septic contamination or interference within the new residential development and with respect to surrounding properties; minimize the cost of constructing and maintaining public utilities and improvements including streets, water lines, sewer lines, electric lines, gas lines, telephone lines, and other utilities; protect and preserve existing farms and farmland; protect areas in resource protection districts; protect, preserve and improve existing recreational areas and trails; protect and preserve sensitive wildlife habitats and other natural areas; and protect and preserve public access to water bodies.

**406.2 CLUSTERED RESIDENTIAL DEVELOPMENT:** Clustered residential developments are residential developments in which groups or clusters of dwelling units may be located on adjoining individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which land is set aside as open space so long as the following requirements are satisfied: Zoning Ordinance 100 Town of Cumberland

**.1 Minimum lot size:** If the lots are connected to the public water and sewer systems, the minimum lot size for each single family dwelling shall be 30,000 square feet and for each duplex dwelling shall be 40,000 square feet. If the lots are connected to the public water system but not the public sewer system, the minimum lot size for each single family dwelling shall be 45,000 sq. ft. and 60,000 sq. ft. for each duplex. If the lots are not connected to the public water and sewer system, the minimum lot size for each single family dwelling shall be 60,000 square feet and for each duplex dwelling shall be 80,000 square feet.

**.2 Setback:** Setback requirements for a clustered residential development shall be the same as those required in the zoning district in which the residential development is located.

**.3 Frontage:** In the Rural Residential 1 and 2 districts, each lot shall have no less than 100 feet of lot frontage on a street. In all other districts each lot shall have no less than 75 feet of lot frontage on a street.

**.4 Buffering:** A buffer area at least 75 feet in depth shall be established between the clustered residential development and abutting tracts or parcels of land and between the clustered residential development and existing streets and roads adjoining or abutting the clustered residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.

**.5 Open space:** At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:

- a. Active farmland or land adjoining active farmland.
  - b. An active trail system or which provides a link to an existing trail system.
  - c. Land which provides a buffer around a sensitive wildlife habitat or other natural area.
- Zoning Ordinance 101  
Town of Cumberland

- d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream, or brook.
  - e. Land which is in Resource Protection.
  - f. Land which is suitable for active recreation.
  - g. Land which abuts or adjoins and existing public open space.
- .6 Land set aside as open space may, be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:
- a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
  - b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  - c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
  - d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.
- .7 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such Zoning Ordinance 102 Town of Cumberland

dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

.8 Some or all of the open space may be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

**406.3 TRADITIONAL RESIDENTIAL DEVELOPMENT:** Traditional residential developments are residential developments in which the dwelling units are located on individual building lots which conform with the minimum lot size for the zoning district in which they are located. A traditional residential development may but is not required to include land set aside as open space, as provided in Section 7.5 of the Subdivision Ordinance.

**406.4 DISPERSED RESIDENTIAL DEVELOPMENT:** Dispersed residential developments are residential developments in which the dwelling units may be located on individual building lots which may be smaller than the required minimum lot size for the zoning district in which they are located but within which land is set aside as open space so long as the following requirements are satisfied:

**.1 Minimum lot size:** The minimum lot size for each single family dwelling shall be 60,000 square feet and for each duplex dwelling shall be 80,000 square feet.

**.2 Setback:** Setback requirements for a dispersed residential development shall be the same as those required in the zoning district in which the residential development is located.

**.3 Frontage:** In the Rural Residential 1 and 2 districts, each lot shall have no less than 100 feet of lot frontage on a street. In all other districts each lot shall have no less than 75 feet of lot frontage on a street.

**.4 Buffering:** A buffer area shall be established between the residential development and abutting tracts or parcels of land and between the residential development and existing streets and roads adjoining or abutting the residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas. Zoning Ordinance 103 Town of Cumberland

**.5 Open space:** At least 25% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:

- a. Active farmland or land adjoining active farmland.
- b. An active trail system or which provides a link to an existing trail system.
- c. Land which preserves and provides a buffer around a sensitive wildlife habitat or other natural area.
- d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream, or brook.
- e. Land which is in Resource Protection.
- f. Land which is suitable for active recreation.
- g. Land which abuts or adjoins an existing public open space.

.6 Land set aside as open space may, be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:

- a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
- b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.

.7 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney

.8 Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

**406.5 NET RESIDENTIAL DENSITY:** The maximum number of dwelling units permitted on the tract or parcel of land proposed for any type of residential development shall be determined by dividing the net residential acreage of the tract or parcel by the zoning district minimum lot size for the zone in which the project is located. In no event shall the number of residential units exceed the density requirement of the zoning district in which it is located.

**406.6 CRITERIA TO BE CONSIDERED:** In determining whether a proposed residential development shall be constructed as a clustered residential development, a traditional residential development, or a dispersed residential development, the Planning Board shall consider the following criteria as required by Title 30-A M.R.S.A. Section 4404 and the Cumberland Subdivision Ordinance:

**406.7 STANDARDS FOR REQUIRING CLUSTERED RESIDENTIAL**

**DEVELOPMENT:** The Planning Board shall require that a residential development be designed as a clustered residential development if the following standards are met:

.1 The tract or parcel of land to be developed has a public water system or will be connected to the public water system or the Planning Zoning Ordinance 105 Town of Cumberland

Board determines that adequate wells can be established for each residential unit without risk of contamination or interference with existing wells or groundwater on abutting properties and wells to be located within the proposed residential development.

.2 The tract or parcel of land to be developed is connected to the public sewer system or will be connected to the public sewer system or the Planning Board determines that adequate on site septic systems can be established for each residential unit without risk of contamination or interference with existing wells, ground water and septic systems on abutting properties and within the proposed residential development.

.3 The tract or parcel of land to be developed contains one or more of the following types of open space:

- a. Land which is active farmland or which adjoins or abuts active farmland.
- b. Land which contains an existing trail system used by the public or which can provide a link to existing trails.
- c. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Cumberland.
- d. Land which may provide physical or visual access to waterbodies including the ocean, lakes, ponds, rivers, streams, and brooks.
- e. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Cumberland.
- f. Land which adjoins or abuts an existing parcel of land which constitutes public open space.
- g. Land which is suitable for active recreational activities.

**406.8 STANDARDS FOR REQUIRING DISPERSED RESIDENTIAL DEVELOPMENT:** The Planning Board shall require that a residential development be designed as a dispersed residential development if the following standards are met: Zoning Ordinance 106 Town of Cumberland

- .1 The Planning Board determines that adequate wells cannot be established for each residential unit in the proposed residential development without risk of contamination or interference with existing wells or wells to be established within the proposed residential development unless the wells are widely separated.
  - .2 The Planning Board determines that due to the nature of soils and the configuration of the tract or parcel of land to be developed, on site septic systems must be widely separated in order to eliminate risk of contamination and interference with wells and septic systems on adjoining properties or within the proposed residential development.
  - .3 The tract or parcel to be developed contains one or more of the following types of open space:
    - a. Land which is active farmland or which adjoins or abuts active farmland.
    - b. Land which contains an existing trail system used by the public or which can provide a link to existing trails.
    - c. Land which contains or adjoins a significant wildlife habitat or other rare and irreplaceable natural area as determined by the Department of Inland Fisheries and Wildlife or the Town of Cumberland.
    - d. Land which may provide physical or visual access to waterbodies including the ocean, lakes, ponds, rivers, streams, and brooks.
    - e. Land which contains or adjoins a Resource Protection district as shown on the official zoning map of the Town of Cumberland.
    - f. Land which adjoins or abuts an existing parcel of land which constitutes public open space.
    - g. Land which is suitable for active recreational activities.
- Zoning Ordinance 107 Town of Cumberland



**406.9 AFFORDABLE HOUSING DEVELOPMENTS:** Notwithstanding the foregoing requirements of this section and the requirements applicable to the underlying zoning district, the Town Council may by contract zoning pursuant to Section 606 of this ordinance allow a clustered residential development of single family residential lots that is developed as an affordable housing development in any zoning district in which residential uses are permitted and which has access to public water and sewer subject to the following requirements:

.1 "Affordable housing" shall mean residential dwelling units such that the persons eligible to purchase such residential dwellings shall have annual incomes which fall within income guidelines established by the Cumberland Town Council.

.2 Minimum lot size: 10,000 square feet per single family dwelling unit.

.3 Setback: Front: 25 feet

Rear: 30 feet

Side: 10 feet

.4 Frontage: Each lot shall have no less than 100 feet of lot frontage on a street.

.5 Buffering: A buffer area at least 75 feet in depth shall be established between the affordable residential development and abutting tracts or parcels of land and between the affordable residential development and existing streets and roads adjoining or abutting the affordable residential development. Such buffer shall be designed to eliminate potential adverse impacts (including glare, noise, and unsightly views of service areas). Buffering shall consist of trees landscaping, fencing, grading, or a combination of some or all of these techniques. Where possible, existing trees and vegetation shall be preserved in buffer areas.

.6 Open space: At least 25% but no more than 50% of the total area of the tract or parcel of land being developed must be maintained as open space and not included in the individual building lots. Such open space shall consist of land which has one or more of the following characteristics:

a. Active farmland or land adjoining active farmland.

b. An active trail system or which provides a link to an existing trail system. Zoning Ordinance 108 Town of Cumberland

- c. Land which provides a buffer around a sensitive wildlife habitat or other natural area
- d. Land which provides physical or visual access to a water body including the ocean, lake, pond, river, stream, or brook.
- e. Land which is in Resource Protection.
- f. Land which is suitable for active recreation.
- g. Land which abuts or adjoins and existing public open space.

.7 Land set aside as open space may be held as common open space by the individual lot owners of the proposed residential development and in such cases the developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:

- a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein.
- b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
- c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.
- d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the planning board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.

.8 Some or all of the open space may be dedicated to the Town of Cumberland, subject to acceptance by the Town Council. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

.9 Some or all of the open space be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.