

2. Land Use Ordinance-Article 13 (Open Space Subdivisions)

- A. Article 13.A (Introduction) Add policy & purpose for road connectivity**
- B. Article 13.C (General requirements) Add Road curve considerations and safety for Future Rights of Way connectivity**

ARTICLE #: Shall Article 13 A, and 13B, of the Raymond Land Use Ordinance, (Article 13-Open Space Subdivisions) as adopted May 21, 1994, and amended through June 4, 2019, be further amended by the adding the underscored language and removing the language in ~~strikeout~~ text as shown below?

DESCRIPTION:

Three Changes:

- *Adding new policy language for road connectivity under Article 13 A 1*
- *Add new purpose under Article 13 A 2 as item k. describing road connectivity purposes*
- *Add and revise Article 13 C 4 d 2.) to include safe turning curves where connecting to adjoining lands for possible future Rights of Way, when offering for possible road acceptance*

[Note: The use of the word "Article" within the ordinance does not indicate a separate warrant article.]

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A. Introduction

1. Policy

It is the policy of the Town of Raymond to encourage the use of open space subdivisions in order to preserve a sense of space, provide for sustainable agriculture and forestry as well as recreational land, preserve other resources identified in the Town of Raymond Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural, rural and village landscapes of the Town, while promoting neighborhood connectivity through cross linkages of vehicular and pedestrian access and providing opportunities for future access connections to adjoining undeveloped parcels.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout ~~and~~ design, support roads constructed for public acceptance, and ~~revise~~ road frontage requirements ~~and~~ by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this Land Use Ordinance and the Subdivision Regulations if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas, will utilize creative road design to promote efficient lot development while supporting neighborhood connectivity for other adjoining or nearby future developable lands, and that will equally promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

2. Purposes

To qualify as an open space subdivision, that Planning Board must find that the subdivision will achieve all of the following purposes that are applicable to its specific circumstances:

- a. Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan, the Subdivision Regulations, and the Land Use Ordinance including but not limited to:
 - 1) State-defined critical areas, and unique natural features located on the parcel to be subdivided;

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- 2) Historic land use patterns and historic structures;
 - 3) Points of visual access to or from water bodies, scenic vistas, and points of access to water bodies;
 - 4) Contiguous stands of mature trees;
- b. Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as defined by the Comprehensive Plan;
 - c. Provision of adequate buffers for adjoining properties where needed;
 - d. Contribution to Town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the Town, and by encouraging linkages between open space areas;
 - e. Conservation of land suitable or actively used for agriculture and forestry uses, particularly where the open space subdivision borders active agricultural or forestry land or land suitable for the same;
 - f. Conservation of traditional land uses;
 - g. Creation of choices in the type of environment (business or residential) and type of housing available that will be a long-term asset to Raymond;
 - h. Construction of affordable housing;
 - i. Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard; and
 - j. Attainment of planned variety and coordination in the location of structures, architectural styles, and building forms and relationships.
 - j.k. Provide considerate design for public roads acceptance, and striving for connectivity to adjoining developable land parcels for the purposes of vehicular and pedestrian access loops, or interconnective road systems in efforts to improve traffic and emergency access safety, reduce environmental impacts, and promote interconnection of neighborhoods.

3. Types of Open Space Subdivisions

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There are two types of open space subdivisions, which may be used separately or in combination:

a. Cluster Subdivisions.

A cluster subdivision achieves the purposes of this performance standard by reducing the lot size and frontage and setback requirements in the Land Use Ordinance, modifying the road design standards contained in the Subdivision Regulations, and clustering housing or business structures and uses in those areas where they will have the least impact on identified environmental and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions and/or conservation easements that run with the land. The cluster principle can be applied to subdivisions of five or more lots. Subdivisions of fewer than five (5) lots shall not be developed as cluster subdivisions.

b. Conservation Density Subdivisions.

A conservation density subdivision achieves the purposes of this performance standard through the creation of significantly lower lot densities than what would be allowed in the applicable zoning district. In no event may the density of such a subdivision average less than ten (10) acres per principal structure, including the land placed in open space for the parcel or portion of the parcel to be developed. This low density is maintained in perpetuity through the use of permanent conservation easements or covenants and restrictions running with the land.

4. Grouping Contiguous Parcels

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping will benefit the Town and that it helps achieve the purposes set forth in Article 13, Section A.2.

B. Planning Board Review

1. Pre-application

An individual may apply for approval of an open-space subdivision as part of the pre-application review described in Article 9 of the Subdivision Regulations. If the subdivider applies for an open space subdivision, the subdivider shall submit a Sketch Plan for a conventional subdivision and a sketch plan of an open space subdivision designed to meet the requirements of Article 13 of the Land Use Ordinance. The submission shall include a narrative that addresses the

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applicability of each of the purposes in Section 13.A.2 of the Land Use Ordinance to the proposed subdivision.

After review of the pre-application, if the Planning Board determines that an open space subdivision will achieve the purposes set forth in Section A.2. that are applicable to the proposed subdivision, the Board may advise the applicant to proceed with an application for an open space subdivision.

2. Application Procedure

a. Required Plans

The submissions for an open space subdivision shall include, as appropriate unless any of the same is waived, all plans and materials required for a conventional subdivision under the Subdivision Regulations and for Site Plan Review.

b. Waiver of Submission and Review Requirements

The Planning Board may grant appropriate waivers of submission requirements for an open space subdivision in order to expedite and make the review process more efficient where the number of lots proposed for development in a parcel, is five or fewer within any five-year period, or the proposed open space subdivision is a conservation density subdivision.

C. General Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of the Land Use Ordinance or the Subdivision Regulations:

1. Use and District Requirements

All open space subdivisions shall meet the use standards of the Districts in which they are located.

2. Allowable Density

a. The allowable density for a proposed development of five or fewer lots within any five-year period of a parcel of land under one ownership or a grouping of contiguous parcels as described in Article 13, Section A.4 shall be determined by the gross lot area of the portion of each parcel proposed for development without reference to net residential acreage, divided by the minimum lot size of the applicable district without reference to net residential acreage.

b. Reserved. *[Repealed 6/7/11]*.

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- c. The allowable density for all other developments shall be based on net residential density, and shall be calculated in the following manner:
 - 1) Determine the developable area of the parcel according to the Net Residential Area Calculation contained in Article 8, section A and increase it by 20%; then *[Amended 5/21/05]*
 - 2) Divide the increased net residential area by the minimum lot size required in the District to obtain the net residential density allowable. *[Amended 5/21/05]*
- d. A lot for a dwelling unit created as part of an open space subdivision shall not be further subdivided.
- e. A lot for a principal structure created as part of an open space subdivision where such lot shall have within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.
- f. Any affordable housing density bonus provision provided for in the Land Use Ordinance or the Subdivision Regulations shall also apply within clustered residential projects.
- g. In a conservation density subdivision, where all other requirements of this performance standard are met, the Planning Board may include up to 50% of land in Resource Protection zones and wetland areas for purposes of calculating density.

3. Layout and Siting Standards

In planning the location and siting of residential or business structures in an open space subdivision, lot dimension and frontage should not be the primary considerations. Priority should be given to the preservation of the open space for its natural resource value, with human habitation and business activity located and sited on the lower valued natural resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residences and business structures shall be sited so as to maximize the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site. In order to maximize the following principles the Board may request additional information from applicants as it deems relevant and may require a third party review of the proposed layout, siting and design of the

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subdivision, by a professional qualified in landscape design, landscape architecture or other relevant disciplines.

- a. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved.
- b. In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways and great ponds.
- c. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;
- d. In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
- e. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development;
- f. In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the zoning district;
- g. In locations such that diversity and originality in lot layout and individual building, street, parking layout is encouraged.
- h. In locations least likely to block or interrupt existing trails, trail systems or other traditional recreational travel corridors such as snowmobile routes.
- i. So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, to improve the view from and of buildings.

4. Space Standards

- a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the zoning district.

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- b. Distances between residential structures in multi-family open space subdivisions shall be a minimum of the height of the tallest structure.
- c. In areas outside of the LRR1 and LRRII Districts, the required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in open space subdivisions to no less than one-half acre. The required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in open space subdivisions within the LRR1 and LRRII Districts to one acre and one and one-half acres, respectively. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the zoning district notwithstanding the net residential density allowed by subparagraph C.2, above, of this performance standard.
- d. Minimum road frontage requirements of the Land Use Ordinance and Subdivision Regulations may be waived or modified by the Planning Board provided that:
 - 1) Any applicable provisions regarding Roads in the Street Ordinance are satisfied.
 - 2) Adequate road curvature design access and turnaround termini, to and from all parcels ~~for~~ fire trucks, ambulances, police cars and other emergency vehicles meets minimal safe turning radii requirements over all - can be ensured by private roads and /or common driveways; internal access streets, ways, or driveways. Roads shall consider extension of Right of Ways to adjoining lands where development is possible in the future, and the Planning Board will promote the offering of such open space subdivision streets and rights of way for public acceptance.
 - 3) No common driveway shall provide access to more than three (3) lots, except as provided in Article 13, Section C.6.
- e. A reduction of required setback distances may be allowed at the discretion of the Board, provided that the front, side and rear setbacks shall be no less than twenty-five feet or that required for the applicable zoning district, whichever shall be less. For the perimeter of a multi-family cluster development, site setback shall not be reduced below the minimum front, side and rear setbacks required in the zoning district unless the Planning Board determines a more effective design of the project can better accomplish the purposes of this performance standard.

5. Utilities

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At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located on designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for open space subdivision.

- a. The Planning Board may waive or modify hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
 - 1) adequate groundwater is available at all locations proposed for individual water systems; and that
 - 2) there is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 10mg/l of nitrates.
- b. If a private collection septic system is proposed for a single family clustered development or a multiplex cluster development, the applicant must show that at least one (1) designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Maine Subsurface Waste Water Disposal Rules. The septic system shall meet the provisions of Article 10, section 7 of the Raymond Subdivision Ordinance.
- c. If a private central collection system is proposed, the system shall be maintained by a homeowners association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a Home Owners Association or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board.

D. Open Space Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Land Use Ordinance or the Subdivision Regulations.

Open space set aside in an open space subdivision shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same, or where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation

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easement or a declaration of covenants and restrictions is placed on such land pursuant to Article 13, Section D.3 and provided that the Planning Board approves such configuration of the open space.

1. Open Space Uses

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- a. On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as forestry, recreation (active or passive), and resource conservation.
- b. When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions shall be limited to those which are no more intensive than passive uses. For purposes of this section, passive uses shall be those uses that require little or no physical modification to the land, that do not include development of structures, that result in minimal or no soil and vegetative disturbance, and that are non-motorized recreational activities including but not limited to hunting, fishing, hiking, biking, skiing and birding, except that snowmobiling shall be allowed where an existing snowmobile route or trail exists.
- c. Open space areas, shall be contiguous, where possible, to allow linking of open space areas throughout the Town.
- d. If the open space is to be devoted, at least in part to a productive land use, such as agriculture or forestry, the developer shall submit to the Planning Board a plan of how such use is to be fostered in the future. Such plan may include, for example, a long-term timber management plan.
- e. The Planning Board may limit the use of any open space at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.
- f. Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground

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utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in Article 13, Section D.3. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval under the Site Plan Review provisions of the Land Use Ordinance and this performance standard.

2. Notations on Plan

Open space must be clearly labeled on the Final Plan as to its, use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, is subject to a reservation for future development, including those provisions allowed under Article 13, Sections D.5 and D.6, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

3. Preservation in Perpetuity

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in Article 13, Section A.2 are achieved and all other requirements of this performance standard are met subject to the following conditions:

- a. A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the open space plan.
- b. The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the Town, with the approval of the Board of Selectmen, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.
- c. Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.
- d. The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Raymond if the Town is not the holder of the conservation easement or beneficiary of the declarations.
- e. The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection

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with agriculture, forestry, and recreation), and shall not be amendable to permit such use.

- f. The conservation easement or declarations shall be recorded in the Cumberland County Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision final plan in the Cumberland County Registry of Deeds.
- g. Notwithstanding the foregoing, the conservation easement, or the declaration of covenants and restrictions, may allow dwellings to be constructed on portions of parcels that include protected open space land, provided that :
 - 1) The total number of dwellings permitted by the conservation easement, or declaration of covenants and restrictions, in the entire subdivision does not exceed the allowable density established in this performance standard above;
 - 2) The Planning Board grants approval for such lots; and,
 - 3) The applicant has reserved the right to apply for approval for such additional lots.

4. Ownership of Open Space Land

Open space land may be held in private ownership (which is to be preferred) including an appropriate third party not the applicant; or owned in common by a homeowner's association (HOA); dedicated to the Town, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in Article 13, Section A.2 and under the other requirements of this Land Use Ordinance and the Subdivision Regulations.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to subparagraph D.1. above. Unless so determined, or unless deeded to the Town of Raymond and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

5. Flexible Open Space and Substitution; Phasing

An applicant for an open space subdivision may at a future time designate other land to serve as the open space for such subdivision if the Planning Board finds

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that the purposes set forth in Article 13, Section A.2 will better be served by promoting a more innovative design and layout of lots created over time in relation to the area(s) designated as open space if all other requirements under this performance standard may be met and such substitution is specifically allowed in any documentation associated with the open space, conservation easement, or homeowners association. Development that is phased over time, including a schedule over time for either sale of lots or layout of further lots as part of the open space subdivision plan, is encouraged so that more appropriate design of land use and preservation of greater open space may be achieved.

6. Maintenance Standards

- a. The common open space shall be protected from non-conforming or incompatible use in accordance with section D.1 and shall be maintained as undeveloped open land, productive open land, and/or active or passive recreation land in accordance with an established maintenance plan. The common open space may include other ancillary structures or support uses in accordance with section D.1 and as approved by the Planning Board as part of the approval of the subdivision. Permanent conservation restrictions shall be established, subject to approval by the Planning Board, to assure that the future use and maintenance of the common open space is consistent with the subdivision approval. These provisions may include deed restrictions or covenants, conservation easements, the sale or transfer of development rights, or other legal mechanisms approved by the Planning Board. These provisions shall be reviewed by the Planning Board and the Town's attorney and approved by the Planning Board. Allowance for modification of the conservation restrictions shall require a subdivision amendment and Planning Board approval. These conservation restrictions shall become conditions of approval.
- b. A legally binding maintenance agreement shall be established in the conservation restriction tool (e.g., deed, easement) for the periodic maintenance of the common open space to ensure that the terms of the restrictions are being me

