

**For Public Review, Comment, Hearing and Commission Action  
on September 28, 2004**

**An Amendment to the Regional Master Plan Land Use Policies and Implementation Strategies (Section 2.600.04) by adding Open Space Conservation/Cluster Development Subdivision Model Land Use/Zoning Ordinance and Subdivision Regulation Standards.**

## **2.600 Land Use Policies and Implementation Strategies**

### **2.600.04 Policy Standards**

#### **Open Space Conservation / Cluster Development Subdivisions**

##### **Introduction**

New Hampshire Planning and Land Use law authorizes communities to regulate the location, use, density, lot sizes and building sizes of development to promote the health, safety, or general welfare of the community by adopting zoning ordinances. (RSA 674:16) In part the purpose is to encourage the preservation of agricultural lands, facilitate the adequate provision of parks, and assure the proper use of natural resources. (RSA 674:17) This may include adopting innovative land use controls including: environmental characteristics zoning, cluster development, planned unit development, phased development, or a village plan alternative subdivision. (RSA674:21).

In addition New Hampshire law authorizes communities to adopt subdivision regulations in part to “provide for open spaces of adequate proportions.” (RSA 674:36) Another purpose is to: “Provide for efficient and compact subdivision development which promotes retention and public usage of open space and wildlife habitat, by allowing for village plan alternative subdivision as defined in RSA 674:21, VI. (RSA 674:36, II (I))

To meet implement these purposes, the following are Strafford Regional Planning Commission Policy Standards for an Open Space Conservation / Cluster

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Land Use Policies and Implementation Strategies

Development Subdivision: Land Use/Zoning Ordinance and Subdivision Regulations:

**1. Land Use / Zoning Ordinance Standards**

- a. Open Space Conservation / Cluster Development Subdivision development should be mandatory for any subdivision greater than one lot or dwelling unit unless the applicant demonstrates to the Planning Board that it is not feasible.

Note: Conventional subdivision design is wasteful, more expensive for the developer, homebuyer, and taxpayer, and more damaging to the environment. Even subdivisions of family owned properties intended for family relatives can be accomplished via an Open Space Conservation / Cluster Development Subdivision design with added benefits to all parties.

- b. Development density (i.e., number of dwelling units per acre) as adopted in a municipality's Master Plan land use policies and in the Land Use / Zoning Ordinance should determine the maximum number of dwelling units permitted in an Open Space / Cluster Development Subdivision.

Note: The density should not be based on a minimum lot size or the maximum number of dwelling units permitted based on the State's soil carrying capacity to accommodate a septic system.

- c. There should be no minimum overall lot size for the subdivision other than that consistent with the Master Plan or required to accommodate the dwelling units based on the State soil carrying capacity standards.
- d. There should be no minimum or maximum individual dwelling unit lot size (buildable area) other than that required to accommodate a septic system for a single dwelling unit based on the State soil carrying capacity standards, unless the subdivision is served by a public water and sewer system.
- e. Fifty percent (50%) of the subdivision's buildable area shall remain in Open Space and be protected in perpetuity.
- f. i. Open Space areas should be held by the developer or in common ownership by a homeowner's association and be taxed as part of the individual homeowner's property tax assessment that includes their proportional share of the common Open Space.

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Strafford Regional Planning Area, New Hampshire  
Regional Master Plan: Toward the Year 2015  
Land Use Policies and Implementation Strategies

- ii. Open Space should be protected by a conservation deed covenants or restrictions managed by the homeowner's association or easement held by the municipality's Conservation Commission or a land trust.
- iii. Homeowner property assessments will continue to reflect the market rate value for the home and the related protected conservation lands.

Note: There should be no reduction in property value, and indeed there should be added value due to the land conservation protections. There is no reason, at this time, to remove the open space/conservation areas from the tax rolls unless the land is dedicated to the municipality to meet a public purpose e.g., active park space accessible to the public. The land need not be kept in current use, but considered as part of the overall subdivision land.

- g. Open Space conservation deed covenants, restrictions and/or easements shall be monitored and enforced, as a minimum, by the municipality's Code Enforcement Officer per RSA 674:21-a.

Note: Another option is to require the fee simple property owner (e.g., developer or Homeowner's Association) to annually submit a "Certification of Compliance with Conservation Easement Restrictions" stamped by a certified soil scientist. Any costs related thereto may be funded via the municipality's general fund, a special operating account / fund with revenues from annual inspection fees, proceeds from a change of current use penalty fee, a Homeowner's Association Certification Fee, developer contribution to offset costs or by some other administrative process.

## **2. Subdivision Regulations – Review Process Standard**

- a. The Subdivision Review Process for an Open Space Conservation / Cluster Development subdivision should be the same as for a conventional subdivision review process. (The submission and approval procedure for a village plan alternative subdivision shall be the same as that for a conventional subdivision, RSA 674: 21, VIc).

Note: There is no need to complicate or increase the review process. The current process provides for public notice, consultation, design review, development plan review and approval with or without conditions or denial.

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Regional Master Plan: Toward the Year 2015  
Land Use Policies and Implementation Strategies

**3. Land Use/Zoning Ordinance and Subdivision Regulations –  
Development Standards**

- a. The Land Use/Zoning and Subdivision Development Standards may vary for an Open Space Conservation / Cluster Development subdivision versus a conventional subdivision.

Note: This is due to the additional design flexibility given to the land planner, landscape architect, or site designer to arrange the housing units to preserve the land, maximize views, and protect natural features.