

ARTICLE LIV
Cluster Development

[Added 12-18-1973; amended 2-19-1974; 1-13-1987; 11-8-1978; 7-19-2005 by L.L. No. 39-2005; 8-16-2005 by L.L. No. 46-2005]

§ 301-293. Purpose and intent.

It is the purpose of this article to require cluster development pursuant to § 278 of the Town Law in order to allow for maximum flexibility in achieving a compatible arrangement of agricultural and residential land uses and to protect prime agricultural soils, scenic vistas, and significant natural features.

§ 301-294. Adoption of statutory provisions; grant of authority.

The Town Board of the Town of Riverhead hereby elects to adopt the provisions of § 278 and to exercise the powers granted by § 278 of the Town Law and hereby grants to the Planning Board of the Town of Riverhead appropriate authority as set forth in this article.

§ 301-295. Applicability.¹

This article shall be applicable to land zoned for residential purposes in the Town of Riverhead and which is located in either the RB80, RA80, or APZ Zoning Use District.

§ 301-296. Yield plan and cluster plat requirements.

- A. In order to accomplish the clustering of residential lots, an applicant for subdivision shall provide a standard yield plan and a cluster plat.²
- B. In its review of a cluster subdivision plat, the Planning Board shall consider the following:³
 - (1) The location and extent of prime agricultural soils;
 - (2) The location of wooded areas;
 - (3) The location and extent of natural features;
 - (4) The general topography and the location and extent of sloped areas;
 - (5) The spatial relationship of the property to contiguous or neighboring preserved agricultural land;
 - (6) The general stormwater tributary area and the extent and direction of overland drainage.
- C. The cluster subdivision plat must locate and arrange the residential lots so as to accomplish the following:
 - (1) Protect, to the maximum extent practicable, that portion of the tract preserved for

1. Editor's Note: Amended at time of adoption of Code (see Ch. 101, General Provisions, Art. I).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 101, General Provisions, Art. I).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 101, General Provisions, Art. I).

agricultural use.

- (2) Reduce, to the maximum extent practicable, any nuisance or conflict between residential and agricultural uses, both within the tract and in relation to adjoining and nearby tracts.
- (3) Demonstrate compatibility of the cluster plat with existing residential development and agricultural land uses.
- (4) Demonstrate the ways in which scenic vistas are being considered or enhanced and shall depict a lot arrangement which has considered the visual impact of residential development upon such vistas.
- (5) Remain harmonious with and protect during construction, to the maximum extent practicable, the natural environment, minimizing the clearing of treed areas, the grading of earth, removal of soils, and precluding the disturbance of surface waters and wetlands and other similar disturbances of the natural environment pursuant to Chapter 295, Wetlands, of the Riverhead Town Code.

D. The agricultural lots of a cluster subdivision plat must be so laid out as to provide for a minimum lot size of 10 acres, a minimum building area of one acre, contiguity with existing agricultural tracts, bounding of prime agricultural soils and retention of all stormwater runoff.

E. Cluster development shall require that a minimum of 70% of Class I or Class II prime agricultural soils are preserved through the creation of farm lots and the recording of agricultural easements, except that the Planning Board may approve a cluster subdivision with a lower percentage of preserved prime agricultural soils in order to ensure appropriate arrangement of lots, streets, and public facilities.

F. In the event that the Planning Board approves a cluster plat that preserves less than 70% of the prime agricultural soils, the reasons supporting such decision shall be set forth within the resolution approving the preliminary plat. The Planning Board shall not approve a cluster subdivision plat with less than 50% of the area of the tract being preserved as prime soils or open space areas.

G. The Planning Board shall not cluster lots in order to create golf courses, playgrounds, tennis courts, swimming pools or any other amenity as required open space. The purpose of the cluster plat is to preserve agricultural land for agricultural use and other natural features to the greatest extent practicable.⁴

§ 301-297. Dedication and maintenance of open space.

A. The application of the procedure prescribed by this article shall result in a plat showing lands available for park, recreation, open space or municipal purposes directly related to the plat. The Planning Board, as a condition of plat approval, may establish such conditions on the ownership, use and maintenance of such lands as it deems necessary to assure the preservation of such lands for their intended purposes. The open space created by the use of the provisions of this article must be clearly labeled on the subdivision map as to its use and

4. Editor's Note: Amended at time of adoption of Code (see Ch. 101, General Provisions, Art. I).

the rights of the owners in the subdivision, as well as whether it is to be dedicated ultimately to the Town or other governmental body or to an approved private or conservation corporation or to a property owners' association or otherwise under conditions meeting with Planning Board approval. The details as to use and ownership of such open space are further to be set out in a declaration recorded by the owner or other appropriate instrument. Such open space is to be preserved in perpetuity, and the Planning Board may require an open space easement running to the Town as a condition of approval.

- B. If said lands are to be offered for dedication to the Town, the Town Board may require that such conditions shall be approved by the Town Board before said plan shall be approved for filing. All or portions of open space may be dedicated to the Town or some other municipal corporation.
- C. If the open space is not to be dedicated to the Town or other governmental authority or to an approved private or conservation corporation, the applicant, simultaneously with the filing of the map, must either create a property owners' association or neighborhood corporation embracing all property owners within the map and providing for adequate annual contributions for maintenance of said open space or otherwise satisfy the Planning Board with regard to the maintenance of said open space.
- D. The following must be adhered to if a property owners' association is created:
 - (1) The property owners' association must be set up before the lots are sold.
 - (2) Membership must be mandatory for each lot buyer and any successive buyer.
 - (3) The open space restrictions must be in perpetuity, not just for a given period of years.
 - (4) The association must be responsible for liability insurance, local taxes and the maintenance of recreational and other facilities.
 - (5) Property owners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property.
 - (6) The association must be able to adjust the assessment to meet changed needs.

§ 301-298. Screening and landscaping.

In addition to any screening and landscaping requirements contained in existing rules and regulations of the Planning Board, the Planning Board may require additional screening and planting in order to lessen the impact of the open space zone on adjacent properties.

§ 301-299. Filing of subdivision map.

In addition to the other Planning Board requirements for final maps, upon final approval of a change of zone by the Town Board and final approval of the subdivision application by the Planning Board, the applicant shall file the subdivision map in the office of the County Clerk, which map shall contain thereon a statement that the subdivision has been approved pursuant to the provisions of this article, the number and type of units which can be erected thereon, the areas in which said units may be constructed and the areas which are to remain open space and under

what conditions.