

§ 315-4 Word usage and definitions.

**CLUSTERED ~~RESIDENTIAL DEVELOPMENT SUBDIVISION~~**

A type of development where building lots are smaller, with lot frontages that are shorter than those in a traditional subdivision, and are grouped on certain portions of the site that are best suited for development and other areas remain open and free from development. The homes may or may not be connected to the public sewer system.

**CONSERVATION SUBDIVISION**

A subdivision designed to preserve sensitive and/or valuable natural areas including, but not limited to, farmland, wetlands, steep slopes, and significant views.

**DISPERSED RESIDENTIAL DEVELOPMENT OR SUBDIVISION**

~~A type of development where building lots are smaller, with lot frontages that are shorter than those in a traditional subdivision, and are grouped on certain portions of the site that are best suited for development and other areas remain open and free from development.~~

**TRADITIONAL ~~RESIDENTIAL DEVELOPMENT OR SUBDIVISION~~**

A type of development where building lots are at least the minimum lot size for the district in which they are located. A small portion of the lot may remain open and free from development.

§ 315-18 Village Mixed-Use Zone (V-MUZ).

A. Purpose.

- (1) The purpose of the Village Mixed-Use Zone is to provide an area that allows for a dense, village-like development that promotes a neighborhood feel by allowing for a mix of residential types as well as for small-scale office, commercial, retail and restaurant uses with interconnected streets, sidewalks and trails.
- (2) All development in this district shall be connected to public water and sewer. All nonresidential uses shall be subject to Chapter 229, Site Plan Review.

B. The following uses are permitted in the V-MUZ District:

- (1) Dwelling, detached.
- (2) Dwellings, duplex and multiplex, to include condominiums, apartments and senior housing.
- (3) An accessory dwelling unit as permitted in § 315-45A.
- (4) Personal services.

- (5) Business and professional offices.
- (6) Markets, maximum 5,000 square feet, with no drive-through.
- (7) Restaurants, maximum footprint of 3,000 square feet, with no drive-through and in accordance with Subsection F(3) of this section.
- (8) Retail stores, maximum footprint of 2,000 square feet per business unit.
- (9) Private schools.
- (10) Research facilities.
- (11) Municipal uses and buildings.
- (12) Sewer pumping stations, subject to the provisions of § **315-59D**.
- (13) Residential care facilities, subject to § **315-71**.
- (14) Commercial health and recreation facility.
- (15) Day-care centers and nursery schools for no more than 20 children, subject to the provisions of § **315-47** and site plan review.
- (16) Day-care center, adult, for no more than 20 persons, subject to site plan review or special exception as required.
- (17) Religious institutions.
- (18) Accessory structures of public utilities.
- (19) Uses and buildings accessory to those above.

C. The following uses are allowed as special exceptions in the V-MUZ District, requiring the approval of the Board of Adjustment and Appeals:

- (1) Home occupations.
- (2) Home-based occupations.
- (3) Home-based retail.
- (4) Bed-and-breakfasts.
- (5) Uses and buildings accessory to those above.

- D.** The following lot standards shall apply within the V-MUZ District:
- (1) Minimum lot size of 5,000 square feet, provided the minimum lot size of a lot with frontage on Tuttle Road shall be 20,000 square feet.
  - (2) In the case of duplex or multiplex developments, the minimum lot area per dwelling unit shall be no less than 2,500 square feet.
  - (3) There shall be no less than 50 feet of lot frontage.
- E.** The following minimum setbacks are required for all structures in the V-MUZ District, except that sheds and driveways are permitted to a minimum setback of eight feet from the side and rear lot lines:
- (1) Front: 15 feet.
  - (2) Rear: 15 feet.
  - (3) Side: 10 feet.
- F.** The following performance standards shall apply within the V-MUZ District; provided, however, that the Planning Board may determine, based on the specific elements of a proposed development, that the standards be modified:
- (1) Building design. New structures within the district shall be of a New England architectural style and materials. This includes clapboard, shingle, or brick siding (composed of natural or composite materials), pitched rooflines, and neutral colors.
  - (2) Lighting. The use of exterior lighting shall be only as required for safety and to identify, during business hours only, businesses, parking areas and sidewalks. Fixtures shall be fully shielded, giving off no light above the horizontal plane. There shall be no internally illuminated signs.
  - (3) Restaurant standards. Outdoor seating is permitted but must be buffered from adjacent uses by fencing and plantings unless located between the front of the structure and the public right-of-way. Kitchen ventilation hoods will not be mounted on the front or street side of the building and will be located to minimize impact on neighboring properties.
  - (4) Road and drainage design standards. Road design as follows:
    - (a) Right-of-way width: 60 feet.
    - (b) Paved travel way width: 22 feet.
    - (c) Grass esplanade: four feet each side.

- (d) Paved sidewalk: six feet each side.
  - (e) On-street parking when approved by Planning Board.
  - (f) All other street design standards as per Chapter 250, Subdivision of Land, § 250-326.
  - (g) Closed drainage system with curbing and catch basins.
- (5) Parking standards. Parking shall be located to the side or rear of both residential and commercial structures. There shall be no garage doors facing the street. On-street parking may be allowed upon Planning Board approval.
  - (6) Buffering and landscaping. All uses must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade and/or a combination of these or other techniques.
- G. Definition of market. "Market" means a retail store selling primarily food products that does not exceed 5,000 square feet.

§ 315-43 **Clustered, dispersed-conservation and traditional ~~residential-development~~ subdivisions.**

Clustered, conservation and traditional subdivisions shall be allowed as set forth in Chapter 250, Subdivision of Land.

~~A. — General. In reviewing applications for major subdivision approval involving a residential development consisting of 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, and Island Residential 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 this section listed below can be met. Such developments are subject to Chapter 250, Subdivision of Land, § 250-7. All such residential developments shall conform to the requirements of this chapter as well as Chapter 250, Subdivision of Land, and all other applicable ordinances of the Town of Cumberland and the Town of Cumberland Comprehensive Plan. The intention of this section 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, waterlines, 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.~~

**B.** ~~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:~~

~~(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 square feet and 60,000 square feet 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 Rural Residential Districts 1 and 2, 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.~~
- ~~(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 homeowners' 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 may be conveyed to a nonprofit, 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.~~

~~C. Traditional residential development. Traditional residential developments are residential developments in which the dwelling units are located on individual building lots which conform to 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 Chapter 250, Subdivision of Land, § 250-22.~~

~~D. 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 Rural Residential Districts 1 and 2, 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.~~

~~(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 case the developer shall be required to establish a homeowners' 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 may be conveyed to a nonprofit, 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.~~

~~E. 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.~~

~~F. 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 30-A M.R.S.A. § 4404 and Chapter 250, Subdivision of Land.~~

~~G. 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 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, groundwater 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 water bodies, 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.~~

~~**H.** 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:~~

- ~~(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 water bodies, 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.~~

~~I. 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 § 315-79 of this chapter 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.~~
  - ~~(a) Front: 25 feet.~~
  - ~~(b) Rear: 30 feet.~~
  - ~~(c) 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.~~
- ~~(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 an 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 case the developer shall be required to establish a homeowners' 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 may be conveyed to a nonprofit, 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.~~

§ 315-47 **Day-care centers and nursery schools.**

- A. Purpose. It is the intent of these provisions to allow the location of day-care centers and nursery schools in healthy and safe environments in a manner that will not be disruptive to neighborhoods. Such uses should be considered integral components of neighborhood life.
- B. Standards for day-care centers and nursery schools. In addition to state requirements and the requirements of any other ordinance, including the special exception and site plan review ordinances, the following standards shall apply to the review of day-care centers and nursery schools:
- (1) No day-care center or nursery school shall be located on a lot less than 24,000 square feet in area.
  - (2) Day-care centers and nursery schools shall have at least 1,000 square feet of lot area per child received into the home, including the operator's own children under 16 years of age.
  - (3) Day-care centers and nursery schools shall be subject to the provisions of § ~~250-29304~~, Sewage disposal, of Chapter 250, Subdivision of Land. At a minimum, the applicant must present the approval of the Town's Plumbing Inspector that the proposed day-care center's or nursery school's sewage disposal system can accommodate the proposed use.
  - (4) There shall be a fifteen-foot setback for outdoor play areas in side and rear yards, which setback shall be enforced by fencing and/or plantings. Outdoor play areas shall not be permitted in front yards or yards adjacent to a street.
  - (5) There shall be one off-street parking space for each employee and volunteer worker not living at the site, and the parking area shall be designed to provide a

safe location for vehicular ingress and egress and for the loading and unloading of children.

- (6) The Planning Board and/or the Board of Adjustment and Appeals may attach additional conditions directly related to screening and buffering, hours of operation, vehicular access restrictions, off-street parking, traffic volume, wastewater disposal, and barriers and other safety devices.

§ 315-56 **Mobile home parks.**

**G. Roads.**

- (1) Streets within a mobile home park that are to be dedicated to the Town for acceptance as Town ways shall be designed and constructed in accordance with the standards contained in Article ~~VI-X~~ of Chapter 250, Subdivision of Land.
- (2) Streets within a mobile home park that are to be privately owned roads shall be built according to acceptable engineering standards, shall be designed by a professional engineer registered in the State of Maine, and shall meet the following design standards:
  - (a) Right-of-way width: 23 feet.
  - (b) Width of paved traveled way: 20 feet.
- (3) Privately owned roads within a mobile home park that intersect with public ways adjacent to the mobile home park shall meet the following standards:
  - (a) The desired angle of intersection shall be 90° and the minimum angle of intersection shall be 75°.
  - (b) The maximum permissible grade within 75 feet of the intersection shall be 2%.
  - (c) The minimum sight distance shall be 10 feet for every mile per hour of posted speed limit on the existing public way. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of 3 1/2 feet above the pavement and the height of object 4 1/4

feet. Where the Planning Board finds it necessary, the mobile home park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.

- (d) The center line of any privately owned road within a park intersecting an existing public way shall be at least 125 feet from the center line of any other street intersecting that public street.
- (4) On-street parking shall be prohibited on privately owned roads in a mobile home park.
- (5) No mobile home park lot shall have direct vehicular access onto an existing public way.
- (6) Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public ways.
- (7) The Planning Board shall require a traffic impact analysis if the mobile home park will generate more than 500 trips per day.

#### § 315-71 **Residential care facilities.**

Residential care facilities as defined herein shall be allowed where permitted under this chapter, subject to the following conditions:

##### **A. Review procedures.**

- (1) All residential care facilities shall be subject to approval by the Planning Board under Chapter 229, Site Plan Review. In addition, all residential care facilities, except for community living arrangements and for boarding care facilities with eight or fewer residents, must meet the submission requirements and review standards contained in Chapter 250, Subdivision of Land, under §§ ~~250-1, 250-315 or 250-16~~ and ~~250-445~~ and Articles ~~IIIVII, IVVIII, VIX~~ (except for §§ ~~250-257 and 250-268~~), and ~~VIX~~ and ~~VII~~ and Appendix D; provided, however, that such subdivision submissions and review standards may be waived by the Planning Board if otherwise addressed under Chapter 229, Site Plan Review. For the purposes of this chapter, the words "residential care facility" should be substituted for "subdivision" when referring to the provisions of Chapter 250, Subdivision of Land, listed above.

- (2) Review fees. Residential care facilities subject to review under the provisions of Chapter 250, Subdivision of Land, above shall be assessed review fees as specified by order of the Town Council.
- B. Density and living area. The minimum lot size of the zoning district in which the residential care facility is proposed shall apply to the facility as a whole and not to dwelling units, beds, or residents. The maximum size of a facility for a given site shall instead be limited by the requirements contained in Subsection C below and by applicable special exception, subdivision and/or site plan review standards. Residential care facilities shall in all events provide at least sufficient living area per resident to comply with applicable state licensing or certification requirements.
- C. Site and building requirements.
- (1) Minimum lot size. The minimum lot size shall be that required for the zoning district in which the facility is proposed.
- (2) Site coverage. The facility, as measured by the area of the building footprint of all structures, shall not cover more than 10% of any site's gross acreage. This limitation on site coverage applies only to structures and does not apply to drives, parking areas, walkways, and gardens.
- (3) Open space. At least 50% of the gross site acreage shall be devoted to vegetated open space. The open space may include lawn areas, forest areas, areas with a vegetative cover, and gardens. Open space shall not include areas covered by structures, parking areas, drives, walkways, swimming pools, tennis courts, or similar improvements.
- (4) Setbacks.
- (a) The setbacks below shall apply to new structures upon which construction commences after the effective date of this amendment,<sup>21</sup> additions thereto, additions to structures upon which construction commenced prior to the effective date of this amendment, parking areas, swimming pools, tennis courts and similar improvements.

#### **Setback Schedule**

##### **Total Square Footage of all Structures, Existing and Proposed New Structures and any Additions, Added Together**

	<b>Greater than 10,000</b>	<b>5,000 to 10,000</b>	<b>Less than 5,000</b>
<b>Setback</b>			
Front (feet)	100	75	Same as otherwise required under Article <u>II</u> of this chapter
Rear (feet)	75	75	
Each side (feet)	100	75	



- (b) In cases involving expansions of or additions to existing structures which result in an increase in the square footage of a residential care facility sufficient to cause the facility as a whole to become subject to an increased setback requirement pursuant to the foregoing schedule, the existing structure, if in compliance with the applicable setback requirement at the time of its construction, shall be deemed to conform to the setback schedule. The addition or expansion shall be subject to the increased setback requirement, except that the Planning Board in a site plan review may grant approval to permit the setback requirement applicable to the original structure to apply to the addition on finding that compliance with the increased setback requirement would cause undue hardship and that the proposed addition or expansion will not result in any noise, glare, dust, fumes, stormwater runoff, air or water pollution or similar condition having a detrimental effect on adjoining properties. The Board may, as a condition of such approval, require buffering or screening sufficient to protect the privacy of residents of the facility and adjoining properties.
  - (5) Height. The maximum building height shall not exceed that which is permitted for residential construction in accordance with the provisions of this chapter.
  - (6) Parking. Off-street parking spaces shall be provided in the amount of a minimum of one parking space for each residential unit, except that for nursing homes one parking space for every four beds and for hospitals one for every three beds shall be provided. In addition, employee parking spaces that equal the highest number of employees on duty during any one shift shall be provided.
  - (7) Buffering. Adequate landscaping and screening shall be provided in accordance with the standards for landscaping and buffering contained in Chapter 229, Site Plan Review, and, if required under Subsection A above, in the applicable sections of Chapter 250, Subdivision of Land.
- D. Wastewater disposal. All proposed residential care facilities shall be subject to the submission requirements and standards contained in § ~~250-2934~~, Sewage disposal, of Chapter 250, Subdivision of Land.
  - E. Occupancy guarantee and conversions. All residential care facilities shall be licensed or certified by the State of Maine and shall be restricted to occupancy by elderly, handicapped, or ill persons as specified by the license or certification. The conversion of a residential care facility to another use shall require site plan review and approval in addition to any other applicable provisions of this chapter.
  - F. Reserved units. A proposed residential care facility with 25 or more dwelling units or independent rooms shall be required to reserve at least 10% of its units for lower-income people. “Lower income” is defined as the full range of incomes at or below 80% of the

median household income as determined by the Department of Economic and Community Development. Any applicant seeking a variance from the requirement of this subsection must, in addition to the other variance standards under this chapter, demonstrate that the Town has achieved a level of 10% or more of new residential development, including units in residential care facilities, based on the most recent five-year historical average of residential development in the Town, which meets the definition of housing for lower-income persons as defined herein.