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3 § 140-47 **Planned residential development, cluster development (including modular and industrial**  
4 **housing), 2-4 residential units on a single parcel, multifamily development and mobile home parks.**

5 A. Purpose and applicability. The purpose and applicability of this section is as follows:

6 (1) To allow for concepts of housing development where variations of design may be allowed, provided that  
7 the net residential density shall be no greater than is permitted in the district in which the development is  
8 proposed. Notwithstanding other provisions of this chapter relating to dimensional requirements, the  
9 Planning Board, in reviewing and approving proposed residential developments located in the Town,  
10 may modify said provisions related to dimensional requirements to permit approaches to housing and  
11 environmental design in accordance with the requirements below and which further the goals of the  
12 South Berwick Comprehensive Plan. This shall not be construed as granting variances to relieve  
13 hardship.

14 (2) To allow owners a reasonable return on their holdings, in such a way that the majority of existing open  
15 field, pasture, wetlands, waterways, wildlife habitat, scenic vistas, historic and archaeological assets,  
16 rare flora and fauna, and notable stands of forest may remain unbuilt for future generations, all  
17 residential subdivision and planned unit development (PUD) proposals, regardless of size, may be laid  
18 out according to the cluster development standards below. The design shall result in the permanent  
19 retention of all natural, historical and cultural assets which have been identified by the Planning Board  
20 and which are consistent with the goals and policies of the South Berwick Comprehensive Plan.

21 (3) Toward this end the Board may require that residential subdivision and planned unit development  
22 proposals be laid out according to the standards below and in a manner consistent with the South  
23 Berwick Subdivision Ordinance.

24 (4) The Planning Board in making its determination whether or not clustering will be required shall  
25 consider the impacts that a nonclustered approach would have on the noted natural, historical and  
26 cultural resources. The Board and applicant shall refer to the Comprehensive Plan, the Town Open  
27 Space and Recreational Planning Map, the Salmon Falls River Greenbelt Plan, the South Berwick  
28 Conservation/Open Space Plan, and any other relevant documents, including the applicant's own  
29 environmental analysis of the site. The Board and applicant shall also examine the existing built  
30 environment of the area proposed for development, analyzing historical structures, working landscapes,  
31 architectural design and land use. Particular emphasis should be given to the placement and setbacks of  
32 all buildings in the area. **[Amended 1-12-2016]**

33 B. Application procedure.

34 (1) Submissions.

35 (a) All applicants proposing a subdivision, PUD, or mobile home park shall submit two plans for  
36 conceptual (sketch plan) review. One plan shall present the subdivision based on a conventional layout.  
37 The other plan shall be presented as a cluster development employing the standards as described in this  
38 section. The standards are not intended to discourage innovation, invention or creativity.

39 (b) The number of units/lots in the cluster subdivision, whether proposed as a single-family or multifamily  
40 development, shall in no case exceed the number of units/lots that could realistically be created in the  
41 standard subdivision.

42 (c) The applicant shall also submit a brief narrative (two pages) describing the opportunities and constraints  
43 of the site, the surrounding land uses, areas of abutting interest, and how the proposal fits into the  
44 Town's Comprehensive Plan and Open Space/Recreational Plans.

45 (2) The Planning Board and applicant may seek comments from the Conservation Commission, Historic  
46 Commission, Recreation Commission, any other Town boards and departments, and if appropriate, state  
47 agencies, at this time.

48 (3) Before proceeding to the preliminary plan stage of subdivision review as detailed in the South Berwick  
49 Subdivision Ordinance, the Board shall make a determination as to whether the preliminary plan is to be  
50 submitted for review as a cluster development or conventional subdivision. The Board shall require that  
51 the plan be clustered if the benefits of the cluster approach as outlined in the purpose section above, and  
52 taking into account comments from various boards and the applicant's own site analysis, will prevent the  
53 loss of natural and historical features without increasing the net residential density of the subdivision.

54 C. Basic requirements for cluster developments and PUDs.

55 (1) Cluster development and PUDs shall meet all requirements for a subdivision, the Street Acceptance  
56 Ordinance, the Post-Construction Stormwater Management Ordinance, and all other applicable Town  
57 ordinances, including the performance standards of this chapter. [Amended 6-15-2009]

58 (2) Each building shall be an element of an overall plan for site development. Only developments having a  
59 total site plan for structures will be considered. The developer shall illustrate the placement of buildings  
60 and the treatment of spaces, paths, roads, service and parking and in so doing shall take into  
61 consideration all requirements of this section and of other relevant sections of this chapter.

62 (3) The maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be  
63 included in net density calculations (according to § 140-20), less the land needed for roads (including  
64 shoulders and drainage ditches), shall be divided by the minimum lot size required in the district. The  
65 extent of soil types in the six categories listed in § 140-20 shall be certified by a registered soil scientist  
66 licensed in the State of Maine, on a high-intensity soil survey map. No building shall be constructed on  
67 soil classified as being "very poorly" or "poorly" drained.

68 (4) Common land within the proposed development shall be sufficient to conserve those resources which  
69 have been identified as being ecologically, historically or culturally important. Every building or lot  
70 within the cluster or PUD shall be within 1,000 feet of the common area unless the Planning Board  
71 determines that, in the particular circumstances of the proposed development, the purposes of § 140-  
72 47A can be achieved with a different configuration. Where the development abuts a body of water, a  
73 usable portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

74 (5) The use of common driveways may be encouraged to prevent numerous entrances onto existing or  
75 proposed roads.

76 (6) Shore frontage shall not be reduced below the minimum normally required in the zone.

77 (7) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, solar  
78 energy, natural drainage areas, and the existing built environment of the area, in accordance with an  
79 overall plan for site development.

80 D. Cluster development standards for single-family house lots.

81 (1) When required to cluster, developers shall reduce lot dimensional requirements to no less than outlined  
82 in the chart below:

**Minimal Dimensional Requirements for  
Clustering**

**Setbacks**

<b>District Lot Size</b>	<b>Lot Size</b>	<b>Frontage</b>	<b>Front</b>	<b>Side</b>	<b>Rear</b>
3.0	30,000	150	30	25	25
2.0	20,000	125	30	25	25
1.0	15,000	125	25	20	20
0.75	12,500	125	20	20	20
0.5	10,000	100	20	20	20
0.25	7,500	75	20	10	10

83 (2) At a minimum, the total area of common land within the development shall equal or exceed the sum of  
84 the areas by which the building lots are reduced below the minimum lot area normally required in the  
85 district.

86 (3) The location of subsurface wastewater disposal systems and equivalent reserve systems shall be shown  
87 on the plan. The reserve areas shall be restricted so as not to be built upon. Systems serving more than  
88 two units or exceeding 540 gallons per day are not permitted.

89 E. Requirements for planned unit developments and multifamily developments. In addition to requirements  
90 of § 140-47C, the following requirements apply to all proposals reviewed as a planned unit (PUD) or  
91 multifamily development:

92 (1) Any application to construct three or more units may be submitted as a PUD or multifamily  
93 development provided that the number of units proposed equals the number of units that could  
94 reasonably be built under a standard subdivision plan. No building shall contain more than six dwelling  
95 units. The limitations of this Subsection E(1) shall not apply to the conversion of a building existing on  
96 February 25, 1999, to multifamily use in the B1 District.

97 (2) The distance between all multifamily buildings shall be no less than 50 feet. If a mixture of single-  
98 family and multifamily units is proposed, the setbacks for the single-family structures shall conform to  
99 the table above.

100 (3) All units shall have reasonable access to the common lands.

101 (4) All dwelling units in a planned unit development shall be connected to a public sanitary sewer system at  
102 no expense to the Town.

103 (5) All dwelling units in a planned unit development shall be connected to a common water supply and

- 104 distribution system either public or private at no expense to the Town.
- 105 F. Dedication and maintenance of common open space and facilities for cluster and planned unit  
106 developments.
- 107 (1) Common open space shall be dedicated, in accordance with the following procedure, upon approval of  
108 the project. There shall be no further subdivision of this land, which shall only be used for  
109 noncommercial recreation, agriculture or conservation. However, easements for public utilities,  
110 stormwater management, or accessory structures for noncommercial recreation or conservation, may be  
111 permitted. **[Amended 6-15-2009]**
- 112 (2) All land for conservation and recreational purposes shall be:
- 113 (a) Owned jointly or in common by a condominium or homeowners' association;
- 114 (b) Owned by a trust (such as the Great Works Regional Land Trust) or association which has as its  
115 principal purpose the conservation or preservation of land in essentially its natural condition; or
- 116 (c) Deeded to the Town of South Berwick, subject to Town acceptance.
- 117 (3) The common open space shall be shown on the development plan and with appropriate notation on the  
118 face thereof to indicate:
- 119 (a) Common open space shall not be used for future building lots;
- 120 (b) The boundaries of the common open space; and
- 121 (c) The planned owner of the common land.
- 122 (4) An applicant for subdivision review under this section shall provide the Planning Board with copies of  
123 deed covenants for prospective purchasers, or conservation easements with the Town or land trust,  
124 describing land management practices to be followed by the party responsible for the common land.
- 125 G. General requirements for homeowners' associations.
- 126 (1) If any or all of the common open space is to be reserved for use by the residents, the declaration and  
127 bylaws of the proposed homeowners' association shall specify maintenance responsibilities and shall be  
128 submitted to the Planning Board for a determination of the adequacy of these maintenance  
129 responsibilities.
- 130 (2) Covenants for mandatory membership in the association, setting forth the owner's rights and interest and  
131 privileges in the association and the common land, shall be reviewed by the Planning Board and  
132 included in the deed for each lot.
- 133 (3) This homeowners' association shall have the responsibility of maintaining the common open space(s)  
134 and other common facilities until, and if, accepted by the Town.
- 135 (4) The association shall levy annual charges against all property owners to defray the expenses connected  
136 with the maintenance of open space, other common recreational facilities, common utilities, and Town  
137 assessments.
- 138 (5) The declaration and bylaws of the proposed homeowners' association shall specify the circumstances  
139 under which the association will become responsible for the maintenance of the common open space.
- 140 (6) The provisions of the Town of South Berwick's Chapter **108**, Post-Construction Stormwater

141 Management, shall be followed, including proper drainage easements and annual certification of  
142 maintenance of stormwater management facilities. [Added 6-15-2009]

143

144 Affordable Housing Provisions.

145 A. ~~A.~~ Density requirements. The municipality shall allow an affordable housing development where  
146 multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that  
147 is otherwise allowed in that location and may not require more than 2 off-street parking spaces for every 3  
148 units. The development must be in a designated growth area of a municipality consistent with section  
149 4349-A, subsection 1, paragraph A or B or the development must be served by a public, special district or  
150 other centrally managed water system and a public, special district or other comparable sewer system. The  
151 development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A,  
152 as applicable.

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153 B. Long-Term Affordability

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155 Prior to granting a certificate of occupancy or other final approval of an affordable  
156 housing development, a municipality must require that the owner of the affordable  
157 housing development (1) execute a restrictive covenant that is enforceable by a party  
158 acceptable to the municipality; and (2) record the restrictive covenant in the appropriate  
159 registry of deeds to ensure that for at least thirty (30) years after completion of  
160 construction:

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161 1. For rental housing, occupancy of all the units designated affordable in the development will  
162 remain limited to households at or below 80% of the local area median income at the time of  
163 initial occupancy; and

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165 2. For owned housing, occupancy of all the units designated affordable in the development will  
166 remain limited to households at or below 120% of the local area median income at the time of  
167 initial occupancy.

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169 C. ~~B.~~ Water. The owner of an affordable housing development shall provide proof in writing adequate  
170 potable water supply for each dwelling/unit.

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171 D.C. Wastewater. The owner of an affordable housing development shall provide proof in writing  
172 adequate sewer or SWWD for the site.

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174 -A. Residential areas, generally; up to 4 dwelling units allowed

175 1. Use allowed For any area in which residential uses allowed, South Berwick shall allow structures with up to 2 dwelling  
176 units per lot if that lot does not contain an existing dwelling unit, except that it shall allow up to 4 dwelling units per lot  
177 if that lot does not contain an existing dwelling unit and the lot is located in a designated growth area as noted below:

178 a. A locally designated growth area, as identified in a comprehensive plan adopted pursuant to and consistent with  
179 the procedures, goals and guidelines of this subchapter or as identified in a growth management program certified  
180 under section 4347-A;

181 b. In the absence of a consistent comprehensive plan, an area served by a public sewer system that has the capacity  
182 for the growth-related project, an area identified in the latest Federal Decennial Census as a census-designated  
183 place or a compact area of an urban compact municipality as defined by Title 23, section 754.

184  
185 The town shall allow on a lot with one existing dwelling unit the addition of up to 2 dwelling units: one additional  
186 dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each.

187  
188 B. The applicant must provide the Planning Board or Code Enforcement officer with a letter from South Ber-  
189 wick's Sewer District stating that the town can support the additional flow, if connected to public sewer.

190 C. The applicant must provide proof in writing that the Subsurface Waste Water Disposal onsite is adequate to  
191 support the additional flow, by a Licensed Plumbing Inspector. If a new system is deemed necessary, new  
192 plans must be prepared by a licensed site evaluator.

193 D. If the site is connected to public water supply, a letter from the Town of South Berwick's Water District stating  
194 that the town can support the additional flow created by each structure.

195 E. If the parcel is connected to a well, a letter of proof to access potable water is necessary.

196 F. Dimensional Requirements in Chapter 140, Attachment 2, Table B must be met.

197 G. On parcels with existing dwellings, two additional dwellings will be allowed as follows: One within the dwell-  
198 ing, one attached to an existing dwelling, or one detached.

199 H. On parcels that are vacant, four dwellings will be allowed.

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