

PROPOSED LOCAL LAW NO. 4-2022
A LOCAL LAW AMENDING TOWN OF EDEN CODE CHAPTER 184 (SUBDIVISION OF LAND)
TO IMPLEMENT PROVISIONS OF THE NEW TOWN OF EDEN COMPREHENSIVE PLAN

Be it enacted by the Town Board of the Town of Eden as follows:

Section 1. Section 184-22 (Clustered Open Space) is hereby repealed and replaced with the following:

§ 184-22 Clustered Development.

- A. **Purpose.** A cluster (or conservation) development is a subdivision development approach in which building lots may be reduced in size and building units sited closer together, usually grouped into various cluster areas, provided that the total development density does not exceed that which could be constructed on the site if the land were subdivided into lots conforming to the minimum lot size and density requirements of Chapter 225 (Zoning). This type of development is intended to several one or more of the following:
- (1) Better protection of natural and scenic resources identified in the Master Plan and/or Chapter 225 (Zoning), than would be provided by a conventional subdivision plan;
 - (2) Compatibility with surrounding land uses and the Town's traditional land use pattern of open space and farmlands with development encouraged in the hamlets;
 - (3) Provision of adequate buffers for adjoining properties;
 - (4) Contribution to Town-wide open space planning by creating a system of permanently preserved open spaces, both within large parcels of land and among such parcels throughout the Town, providing linkages between existing open space areas and, where appropriate, linkages to hamlet areas;
 - (5) Provision of a broader range of housing types and potentially lowering housing prices by reducing the length of roadways and other critical infrastructure costs;
 - (6) Preservation of land suitable for agriculture, particularly where development involves or borders active agricultural land or land with prime or important agricultural soils;
 - (7) Greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of development is no greater than what is normally allowed in the district.
- B. **Authority.** Authorization for such type of development is granted to the Town of Eden Planning Board in accordance with §278 of New York State Town Law to vary the zoning requirements as to lot use, lot width, yard and other bulk requirements as requested by an applicant in connection with a proposed subdivision plat. Such variations shall result in a cluster subdivision and may be applied in any zoning district. The Planning Board is further authorized under §278 of the New York State

Town Law to require the use of the cluster concept when it finds that the intention of this chapter and Chapter 225 (Zoning), to preserve significant open space resources and protect important natural resources, will be accomplished. The Planning Board may require the use of the cluster concept when one or more of the following conditions exist:

- (1) Important ground or surface waters, wetlands, floodplains, steep slopes, unique or locally important natural or historical areas exist on the parcel.
- (2) The number or length of new roads or driveways obtaining access from existing roads will be reduced.
- (3) Agricultural soils of state or local importance exist on the parcel.
- (4) An active agricultural operation or cropland exists on the parcel.
- (5) Preservation of important views or community open space will be ensured.
- (6) The land to be developed is contiguous to a recreational area(s), parkland or permanently protected open space or has the potential to be converted to such uses.
- (7) The specific goals and policy recommendations of the Master Plan will be accomplished.
- (8) Significant environmental impacts identified through the State Environmental Quality Review Act (SEQR) may be mitigated.

C. **Number of dwelling units permitted.** The maximum permitted number of dwelling units and/or building lots shall be determined by dividing the land area of the subject property by the normal minimum required lot area for dwellings for said district. In circumstances where the building plan falls within two or more zoning districts with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts. However, prior to determining the number of dwelling units and/or building lots, the parcel to be developed shall be adjusted as follows:

- (1) Lands utilized by public utilities or structures or recorded easements or rights-of-way shall be subtracted from the total gross area.
- (2) Water bodies, marsh areas, designated wetlands, alluvial, poorly drained, very poorly drained, unstable soils and floodplains shall be subtracted from the total gross area in accordance with the definition of "lot area" in Chapter **225**, Zoning, § **225-4**.
- (3) Any other areas deemed unfavorable (unusable/unbuildable) by the Planning Board because of topographic, geologic or hydrological characteristics and slopes in excess of 15% shall be subtracted from the total gross area.

- (4) For the purpose of providing land for public streets, after deductions have been made in accordance with Subsection C(1), (2) and (3) above, 10% of the remaining area shall be subtracted from the total gross area.
- (5) The adjusted total gross area of the parcel, as determined in Subsection C(1), (2), (3) and (4) above, shall then be used to compute the maximum number of dwelling units and/or building lots permitted.
- (6) In the Agricultural Priority (AG), Parkland (PK), and Creekside Open Space Overlay Districts, the Planning Board shall require that 75% of the land area obtained after the deductions in accordance with Subsection C(1), (2), (3) and (4) of this section shall be maintained as open space. In all other districts in which residential subdivisions are permitted, the relevant percentage shall be 50%. The developer will propose the area to be maintained as open space, subject to the approval of the Planning Board.

D. **Types of dwelling units permitted.** The type of dwelling unit permitted within a cluster development shall be that which is permitted according to zoning regulations. The Planning Board may require perspective drawings of all proposed structures to ensure innovation and variety in the design and layout of dwellings.

E. **Permitted reductions.**

- (1) After deductions have been made in accordance with Subsection C(1), (2), (3) and (4) and after the deduction for open space has been made, the resulting area shall be divided by the number of permitted building lots to obtain the average building lot size. No lot in the subdivision shall be less than 80% of the average clustered building lot size. Front yard setback requirements and side and rear yard requirements may be reduced up to 50%. Lot width may be reduced up to 50%. In no case shall a lot be less than 60 feet in width.
- (2) Lots for attached dwellings, semiattached dwellings, townhouses and multiple dwellings shall not be reduced for cluster development.
- (3) Lots may be reduced to no smaller than the minimum required by Erie County Health standards for private septic systems if no public sewer is available unless alternative options are pursued, such as, but not limited to, package treatment facilities or community wastewater systems.

F. **Ownership of entire area required.** The area for cluster development shall be in a single ownership or under unified control throughout the review process, inclusive of filing the Map Cover in the Erie County Clerk's Office.

G. **Service by sewer and water systems required.** Within a cluster subdivision, water supply and sewage disposal shall be provided as follows:

- (1) All buildings with plumbing fixtures shall be serviced by a public sanitary sewer or, when approved by the authority having jurisdiction, a private sewage disposal system.
- (2) All buildings with plumbing fixtures shall be provided with potable water from a public water supply system or an approved source of private water supply.

H. Areas of open space.

- (1) All land within a cluster development which is not designed to serve as residential areas, roads or for other public/private utility needs shall be set aside and form part of the common open space, recreational land, and/or protected agricultural land. Resubdivision and/or development of such areas shall be prohibited. These areas shall be identified on the plat.
- (2) Areas deducted from total gross area pursuant to § Subsection **C(1)**, **(2)** and **(3)** shall also form part of the common open space.
- (3) Adequate active year-round recreation facilities, such as tennis courts, swimming pools, play lots and fields, or accessible trails, may be required if deemed necessary by the Planning Board during the course of site plan and/or subdivision review. The extent and type of facilities will depend upon the size and nature of the development. The applicant shall also be responsible for a recreation fee as determined by the Town's Recreation Fee Schedule.
- (4) Subject to Chapter **225**, Zoning, § **225-33**, common open space or recreation land shall be deeded to a Homes Association responsible for the continued ownership, use and maintenance of all common lands. Such deeds shall be reviewed by the Town Attorney and approved by the Planning Board. Lands set aside to be utilized for continued agricultural use shall be protected through a conservation easement and may include an option to be converted to other open space or recreational uses, subject to Town Attorney review.
- (5) The conditions to be met relative to a Homes Association to be approved by the Town Board and Town Attorney are stated in Chapter **225**, Zoning, § **225-33**, Clustered open space.

I. Road frontage clusters. Developers of road frontage lots should also strongly consider the usage of cluster-type development guidelines. This will help to preserve the rural character of the Town and important environmental and scenic features. These road frontage cluster developments can take place without the construction of roads, but can use creative lot layouts to achieve the preservation of rural character and of important town resources (see Town Master Plan and Natural Resource Inventory). This is especially important in the development of the frontage lands along the Town's highways.

- (1) Number of dwelling units permitted. This calculation is the same as in Subsection **C** above, except that Subsection **C(4)**, the ten-percent reduction for roads, is omitted.
- (2) Subsections **D**, **E**, **F** and **G** (as amended) regarding clustered open space will also apply to

road frontage clusters.

- (3) In laying out a cluster development for road frontage lots, the applicant must consider the preservation of the important open space, environmental and scenic qualities of the land.
- (4) Creativity and flexibility in site design shall be encouraged, including variation in building setbacks, the utilization of conservation easements, deed restrictions, flag lots, common driveways, open development area designation and others.
- (5) Refer to the Town's Rural Development Guidelines for additional direction on these types of cluster developments.

J. **Siting Guidelines.** Within a cluster development, lots shall be laid out so that dwelling units will be located in a manner that carries out the goals of the Town's Master Plan and consistent with the purpose of Chapter 225 (Zoning). The following siting guidelines are to be considered, when applicable, on a case-by-case basis by the Planning Board:

- (1) On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;
- (2) Within any woodland contained in the parcel, or along the far edges of the open fields (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind and to enable new construction to be visually absorbed by natural landscape features);
- (3) To provide permanent protection for significant natural, historic or cultural features identified on the site;
- (4) To minimize the number of driveways with access to existing roads;
- (5) In such a manner that the common boundary between the house lots and any active farmland is minimized in length (to reduce potential conflicts);
- (6) In locations least likely to block or interrupt scenic vistas as seen from the public roadway(s) or other public vantage points;
- (7) In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and
- (8) In cluster developments exceeding 20 dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that cluster development will be more compatible with the neighborhood in which it is located.

K. **Procedures.** In addition to the application requirements outlined in Chapter 225 (Zoning) and

Chapter 184 (Subdivisions), the applicant requesting approval for a cluster subdivision shall submit the following information to the Planning Board:

- (1) A written statement describing the open space purpose(s) to be accomplished as well as the proposed method of preservation and disposition of the open space land.
- (2) A sketch plan satisfying all of the requirements for preapplication approval of a subdivision map.
- (3) Any additional information the Planning Board deems necessary to assist in making a reasonable decision on the application.

Section 2. This local law shall be effective upon filing with the New York State Secretary of State.