

30-28-401. Legislative declaration.(1) The general assembly hereby finds and declares that:

(a) It is in the public interest to encourage clustering of residential dwellings on tracts of land that are exempt from subdivision regulation by county government pursuant to section [30-28-101](#) (10) (c) (X), thereby providing a means of preserving common open space, of reducing the extension of roads and utilities to serve the residential development, and of allowing landowners to implement smart growth on land that is exempt from subdivision regulations.

(b) Landowners should have the option to consider cluster development when subdividing land into parcels in a manner that constitutes an alternative to the traditional thirty-five acre interests described in section [30-28-101](#) (10) (c) (I).

(c) A process should be available for the development of parcels of land for residential purposes that will authorize the use of clustering, water augmentation, density bonuses, not to exceed two units for each thirty-five acre increment, or other incentives, and the transfer of development rights and fulfill the goals of the county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to agricultural lands suitable for long-range farming and ranching operations.**Source: L. 96:** Entire part added, p. 1880, § 2, effective June 6.

30-28-402. Definitions.

As used in this part 4, unless the context otherwise requires:

(1) "Rural land use process" means a planning process duly enacted and adopted by a county which is designed to offer a land use option for single family residential purposes that differs from traditional thirty-five acre divisions of land, as described in section [30-28-101](#) (10) (c) (I).

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6.

30-28-403. Cluster development.

(1) A cluster development is any division of land that creates parcels containing less than thirty-five acres each, for single-family residential purposes only, where one or more tracts are being divided pursuant to a rural land use process and where at least two-thirds of the total area of the tract or tracts is reserved for the preservation of open space. No rural land use process as authorized by this section shall approve a cluster development that would exceed one residential unit for each seventeen and one-half acre increment.

(2) As a condition of approving a cluster development, a rural land use process shall require that the cluster development plan to set aside land to preserve open space or to protect wildlife habitat or critical areas not permit development of such land for at least forty years from the date the plan is approved.

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6. **L. 2001:** (1) amended, p. 157, § 1, effective August 8.

30-28-404. Water - sewage - roadways - notification to state engineer.

(1) In an effort to preserve open space and water resources, a cluster development may obtain only one well permit for each single-family residential lot pursuant to sections [37-90-105](#) and 37-92-602, C.R.S., subject to the provisions of subsection (2) of this section.

(2) Except in areas of the state where unappropriated water is available for withdrawal and the vested water rights of others will not be materially injured and except inside designated ground water basins, a water court-approved plan for augmentation shall be required and shall accompany any county-approved rural land use plan when the water usage in the cluster development would exceed an annual withdrawal rate of one acre-foot for each thirty-five acres within the cluster development. Nothing in this section shall be construed to preclude the use of treated domestic water provided by any public or private entity.

(3) No later than ten days after approval of a cluster development pursuant to a county's rural land use process, the board of county commissioners shall notify the state engineer of such approval and shall provide the state engineer a copy of the approved rural land use plan that includes the cluster development.

Source: L. 96: Entire part added, p. 1881, § 2, effective June 6.