

Section XXX – Clustering Development Ordinance
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I. Purpose

A. The purpose of this article is to require the clustered development of single-family residential patterns known as cluster subdivisions, which through design innovation will provide an alternate means of residential development in the forest and rural development zoning districts. Use of this Article shall result in no more units permitted on the site than would be permitted under conventional zoning. The objectives for clustering are to:

1. Encourage the permanent preservation of open space, agricultural lands, forest lands, and other natural resources, historic and environmental features, and encourage a less sprawling form of development that consumes less open land;
2. Facilitate the construction of streets, utilities and public services in a more economical and efficient manner;
3. Ensure that residential developments respect the natural features of the land, including wetlands, watercourses, forests, agricultural land, steep slopes, plants, wildlife, historic sites, scenic areas and rural character; and
4. Provide wildlife corridors and open space areas connecting to adjacent open space areas.

II. Definitions

COMMON OPEN SPACE: Undeveloped land within a conservation subdivision that has been dedicated, reserved or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the subdivision or, if dedicated to a public agency, for public use as specified by that agency. Uses shall be limited to low intensity recreation as defined in NJAC 7:50-2.11. Common open space shall not be part of individual residential lots and shall be substantially free of structures.

COMMON FACILITIES: Includes recreational facilities, stormwater management facilities, common parking areas and driveways, private streets and other common or community facilities within a conservation subdivision.

CONSERVATION EASEMENT: The grant of a property or the interest from a property owner to another agency, unit of government or organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, and precluding any future or additional development, in perpetuity.

CLUSTERED SUBDIVISION: A development that concentrates residential lots and uses on specific portions of a development site by permitting lots smaller than the otherwise required minimum lot size for the zoning district in order to reserve the remaining land as common open space where use of such open space is restricted by easement or some other legal mechanism.

PRIMARY CONSERVATION AREA: Consists of unbuildable acres such as wetlands, water bodies, flood plains and steep slopes.

SECONDARY CONSERVATION AREA: Consists of lands whose features make them desirable for preservation, including but not limited to mature woodlands, upland buffers around wetlands and water bodies, prime farmland, natural meadows, critical wildlife habitat and sites of historic, cultural or archeological significance.

III. Requirements for Clustered Subdivision Housing Plans

- A. The Planning Board will require the clustering of residential development on parcels located within the Forest Areas and Rural Development Areas whenever two or more units are proposed as part of a residential development, except in cases where such clustered development:
1. Conflicts with the provisions of a development transfer program established pursuant to N.J.A.C. 7:50 – 5.30;
 2. Is inconsistent with the standards of Subchapter 6 of the Pinelands Comprehensive Management Plan; or
 3. Disrupts the contiguity of the forest ecosystem to a greater degree than non-clustered development.
- B. As part of the development plan for such a clustered subdivision, individual lot sizes are reduced in return for the preservation of open space. The developer shall submit a written application to the Planning Board for a clustered subdivision. The Application shall include the following:
1. A plan showing the layout as a standard subdivision that conforms to all of the bulk and area requirements of the underlying Forest or Rural Development zone.
 2. A Clustered Subdivision Plan, utilizing the number of units and indicating open space and significant natural features.
 3. All other information required to be shown on maps as specified in the appropriate sections of the Land Use Ordinance of the [municipality], including the following:
 - i. The name(s) of the Owner and the Applicant;
 - ii. The number of lots in the proposed subdivision;
 - iii. The bulk and area requirements of the zoning district;
 - iv. All existing structures within the boundary of the proposed subdivision, as well as within 200 feet of the boundary of the subdivision;
 - v. Existing wooded area within the boundary of the development;
 - vi. The names and addresses of all adjoining land owners;
 - vii. All wetlands, wetlands buffer and transition areas, water bodies and stream corridors within 200 feet of the boundary of the development;
 - viii. Existing utility easements, floodplain easements, conservation easements and public and private rights-of-way;
 - ix. Existing and proposed streets and other improvements;
 - x. Soil types and classifications;
 - xi. Topography with existing and proposed drainage patterns;
 - xii. Area(s) to be set aside for stormwater management;
 - xiii. All other items as required by the Pinelands Commission in accordance with NJAC 7:50-4.1 et seq.

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4. A statement as to the provisions for responsibility of the open space.

IV. The following standards shall apply to the clustering of residential development within the Forest Areas and Rural Development Areas:

- A. The number of residential lots permitted within the cluster shall be calculated on the basis of the size of the parcel of land and the permitted density of the zoning district(s) in which the parcel is located, with a bonus applied in accordance with the following chart if the applicant has aggregated contiguous multiple lots, which were previously not in common ownership, after or within one year prior to [date] (adoption of CMP amendment) of this ordinance.
- B. If the parcel is located in more than one municipal zoning district, separate residential lot calculations for each zoning district shall be summed to determine the total number of residential lots to be clustered.

FOREST AND RURAL DEVELOPMENT AREA CLUSTERING BONUS				
Parcel Size	Permitted Residential Density			
	3.2-4.99 Acres per unit	5.0 – 9.99 Acres per unit	10 - 24.99 Acres per unit	≥ 25 Acres Per unit
< 50 acres				
50 – 99.99 acres	+10%	+15%	+20%	+25%
100 – 149.99 acres	+15%	+20%	+25%	+30%
≥150 acres	+20%	+25%	+30%	+40%

- C. The residential cluster shall be located on the parcel such that the development area:
 1. Is located proximate to existing roads;
 2. Is located proximate to existing developed sites on adjacent or nearby parcels;
 3. Is or will be appropriately buffered from adjoining or nearby non-residential land uses; and
 4. Conforms with the minimum standards of Subchapter 6 of the Pinelands Comprehensive Management Plan, with the exception of N.J.A.C. 7:50-6.104.
- D. Development within the residential cluster shall be designed as follows:
 1. Residential lots should be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres;
 2. The area of the parcel slated for residential development should be as small as possible so as to maximize the open space benefits.

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3. The area selected for construction shall be that portion of the tract where development will cause the least environmental impacts, including but not limited to the following:
 - i. To the extent practical, the farthest possible distance from:
 - a. Wetlands and the wetland buffers,
 - b. Known habitat for threatened and endangered species,
 - c. Adjacent open space, and
 - d. Other environmental assets such as those categorized as Secondary Conservation Areas.
 - ii. In proximity to:
 - a. Other development,
 - b. Roads,
 - c. Infrastructure, and
 - d. Other disturbed areas.
 4. Individual on-site septic waste water treatment systems in accordance with N.J.A.C. 7:50-6.84(a)4 may serve the lots within the cluster development area. Community on-site waste water treatment systems serving two or more residential dwelling units which meet the standards of N.J.A.C. 7:50-6.84(a)5 or 10.21 through 10.23 shall also be permitted;
 5. The residential cluster development area shall include such land and facilities as are necessary to support the development, including wastewater facilities, streets, stormwater management facilities and recreation amenities; and
 6. Permitted recreation amenities may only occupy more than one-half acre of land or the equivalent of one acre of land for every 25 residential lots, whichever is greater and must be cited in the site plan.
- E. Except as otherwise provided in (d)5 below, the balance of the parcel located outside of the residential cluster development shall be owned and managed by a duly constituted homeowners' association, a non-profit conservation organization, the municipality or the county.
1. All such land shall be permanently protected through recordation of a deed of conservation restriction. Such restriction shall be in favor of the residents of the cluster development and the municipality or another public agency or non-profit conservation organization. In all cases, such restriction shall also be expressly enforceable by the Pinelands Commission; and
 2. Such deed of conservation restriction shall permit the land to be managed for:
 - a. low intensity recreation with no more than one percent of the land covered with impervious surfaces,
 - b. ecological management and forestry, provided that no more than five percent of the land may be cleared, and
 - c. any such uses or activities are approved and conducted in accordance with the requirements of the Pinelands Comprehensive Management

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Plan, N.J.A.C. 7:50, including any municipal ordinance certified pursuant thereto.

- F. Clustered developments shall meet all requirements for a subdivision and all other applicable municipal ordinances, except for lot size and frontage.

V. Design Standards for Common Open Space

Protected common open space shall meet the following design standards:

A. The location of the common open space shall be consistent with the objectives of the municipal master plan and, if one has been prepared, the municipal open space plan.

B. All open space areas shall be part of a larger contiguous and integrated open space system within the parcel being developed.

C. Where possible, all dwelling units shall have access to common open space and preservation areas without the obstruction of intervening lots, structures, fences or other impediments to pedestrians. Access to open space may be provided by pedestrian easements rather than direct access.

D. The common open space area shall maximize common boundaries with existing open space on adjacent lands. It shall also maximize common boundaries with future open space on adjacent lands as shown in the municipal master plan, county open space plan or the master plan of an adjacent municipality.

E. Common open space may be used for low intensive recreational uses as defined in NJAC 7:50-2.11, for the use of residents of the development. In cases where the preserved open space has been dedicated to the municipality or some other entity, that party may, at its discretion, permit access to other residents of the town for low intensity recreational uses.

F. Natural features shall generally be maintained in their natural condition, but may be modified to restore their overall condition and natural processes as recommended by a natural resource professional and in compliance with an approved Open Space Management Plan which should include the following and be approved by the Planning Board and Environmental Commission, if one exists, prior to preliminary plat approval:

1. Existing conditions, including all natural, cultural, historic and scenic elements in the landscape;
2. Objectives for each common open space area, including the proposed end state for the area and the measures proposed for achieving the end state;
3. Provisions for funding, if any;
4. Establish necessary regular and periodic operation and maintenance responsibilities;
5. Estimate staffing needs, insurance requirements and other associated costs and define means for funding the same on an ongoing basis.

G. At the discretion of the Planning Board, the applicant may be required to place in escrow, sufficient funds for the maintenance and operation of common facilities for one year.

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- H. In the event that the association established to own and maintain common open space and facilities, or any successor organization thereto, fails to properly maintain all or a portion of the aforesaid common open space and facilities, the municipality may serve written notice upon such association setting forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the specified time frame, the association, or any successor organization, shall be considered in violation of this ordinance, in which case the municipality shall have the right to enter the premises and take corrective action. The costs of, corrective action by the municipality shall be assessed against the properties that have the right of enjoyment of the common open space and facilities.

All ordinances and parts of ordinances inconsistent herewith are hereby replaced.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

This ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.