

ARTICLE 7 CLUSTER DEVELOPMENT COMMUNITY OVERLAY DISTRICT

700. PURPOSE; OBJECTIVES.

- A. It is the purpose of this article to encourage greater flexibility in the design and development of residential housing, while also encouraging the preservation of open space and creation of passive and active recreational amenities, by permitting the cluster development of residential housing as an alternative to conventional, single-family lot development or other residential lot requirements. In addition to the zoning objectives set forth in **Sections 100 and 101**, the specific objectives of this article are the following:
1. To encourage innovations in residential development so that the demand for housing may be met by greater variety in type, design and layout of dwellings;
 2. To encourage the conservation and preservation of open space, vistas, scenic roads, stream valleys, agricultural land, trees, natural topography and other natural resources and amenities;
 3. To provide increased flexibility in the land development regulations of the Township in order to encourage development that recognizes advances in the theory and practice of site planning, design, and green technology;
 4. To conserve land and preserve open space by allowing for reduced lot sizes;
 5. To encourage the use of ingenuity, imagination and sustainable design to produce residential developments which are in keeping with the objectives of the Township's Comprehensive Plan;
 6. To provide for cluster development communities in areas that are consistent with the goals of the Township's Comprehensive Plan, in particular Chapter Three, Land Use Plan, the Natural Resources Protection Plan and the Community Facilities Plan, and compatible with and protective of the existing character of the community, especially its natural features;
 7. To decrease or minimize the amount of impervious surfaces in site development;
 8. To implement stormwater infiltration measures integrated into the site design that will return water to the soil in excess of NPDES requirements for volume of infiltrated water where site and soil conditions allow, based upon soils testing and where suitable infiltration rates exist;
 9. To provide for on-site facilities and services which allow the residents of a cluster development community to minimize the necessity for automobile trips in their daily lives by encouraging on- site movement by foot or bicycle;
 10. To provide facilities, residential design and site layouts that encourage cohesiveness and interaction among residents of a cluster development

community;

11. To provide for private and public recreation, both active and passive, within the development tract; and
 12. To contribute to the establishment of a community-wide trail and greenway system.
- B. This article is also intended to implement 604, Zoning Purposes, of the Pennsylvania Municipalities Planning Code (MPC) insofar as this article is designed to promote, protect and facilitate coordinated and practical community development and proper density of population; the preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains; and to provide for the use of land within the municipality for residential housing of various dwelling types. This article is further intended to implement 605, Classifications, of the MPC insofar as this article is designed to encourage innovation and the promotion of flexibility, economy and ingenuity in development and for the purpose of authorizing increases in the permissible density of population or intensity of a particular use based upon expressed standards and criteria as set forth in this article.

701. DEFINITIONS

In addition to the definitions set forth in Article I, other definitions in Chapter 172 and common definitions, the following terms shall have the meanings specified below when used in this article:

CLUSTER DEVELOPMENT COMMUNITY or CLUSTER DEVELOPMENT

A form of residential development that concentrates buildings or lots on a portion or portions of a tract of land to allow the remaining land to be used for open space, recreation, and preservation of environmentally sensitive land. The concentration of lots is facilitated by a reduction in lot size, the permissible use of single-family detached, attached and semi-attached residential dwelling units and the reduction of lot yard setbacks.

COMMUNITY BUILDINGS

Structures accessory to cluster development communities designed and used for the sole purpose of supporting the cluster development community, solely for use by the residents and their guests, or supporting services, such as management offices, recreational halls, club facilities, exercise facilities, post offices, dining facilities or pool houses.

CONSTRAINED LAND

Areas of land found in the Floodplain Conservation District, defined wetlands, areas of very steep slopes or associated with a stormwater management system.

GROSS CLUSTER TRACT AREA

The area of land contained within the legally described property lines of the tract upon which an application for a cluster development community development is submitted.

NET CLUSTER TRACT AREA

The gross cluster tract area, excluding:

Seventy-five percent of any land lying within the Floodplain Management District or

located in wetlands;

One hundred percent of areas of existing rights-of-way for streets, public or private utilities and areas of existing easements, including but not limited to storm drainage easements, sewage easements, easements of access, conservation easements and agricultural easements;

Fifty percent of the land containing very steep slopes and 25% of the land containing steep slopes; and;

One hundred percent of surface water areas.

OPEN SPACE

A parcel, parcels or designated area of land or an area of water, or a combination of land and water, excluding stormwater basins, within a cluster development community site that has been or will be set aside and restricted from further development in perpetuity, whether dedicated to the Township or not, except as permitted under this article, and intended for the exclusive or nonexclusive use or enjoyment by residents of the development subject to the regulations of this section. The term "open space" means both private open space and public open space and shall include the buffer area. Open space shall not include any private yards, parking lots or street right-of-way. Access drives and parking may be provided only in association with an approved recreational use.

PRIVATE OPEN SPACE

Open space that is held in private ownership for public or private use of the residents of the cluster development.

PUBLIC OPEN SPACE

Open space that is dedicated to the Township for use by the public subject to the regulations of this section.

SEMIDETACHED BUILDING

A residential structure supporting two single-family dwelling units with one family living on each side of a vertical common wall.

702. DISTRICT ESTABLISHED; ELIGIBILITY AND DESIGN CRITERIA

- A. The Cluster Development Community Overlay District is a zoning overlay district on those parcels in the R-1, R-1A, R-2, R-3, R-4 and R-5 zoning districts that have a gross cluster tract area of at least 5 acres, which permits, upon conditional use approval, the tract of land to be developed and used as a cluster development community in accordance with the regulations of this article.
- B. The regulations set forth in this article for an approved cluster development community shall supersede the regulations set forth in Article 4, sections 401-406 related to Residential Zoning Districts R-1, R-1A, R-2, R-3, R-4 and R-5.

703. PERMITTED USES; SITE AND LOT STANDARDS.

- A. Subject to conditional use approval by the Board of Supervisors, cluster development communities may include the following uses or any combination of such uses:
1. Single-family detached dwellings;
 2. Single-family semidetached dwellings;
 3. Townhouses, provided that no more than five such units shall be attached;
 4. The following structures accessory to dwelling units:
 - a. Attached or detached residential garages;
 - b. Attached decks and patios;
 - c. Shed structures for single-family detached and single-family semidetached dwellings, which shall be subject to the limitations and requirements of **Section 1203**;
 - d. Fences as permitted by, and subject to the conditions and requirements of, **Section 1204**, except to the extent special exception approval is granted for a front yard fence, such fence shall not be a stockade type fence that blocks the view of the house from the street by police or emergency services; and
 - e. Any accessory structure not expressly set forth herein is prohibited.
 5. The following uses and structures accessory to a cluster development community:
 - a. Community parking areas including parking lots and deck parking garages;
 - b. Community buildings;
 - c. Community swimming pools, playing fields, ball fields, tennis courts, putting greens and other similar active recreation use;
 - d. Community walking, biking and horse riding trails and picnic areas for use of the residents of the community and their guests;
 - e. Community greenhouses, gardens, patios and terraces, nature preserves, arboretums, and other similar passive recreational areas for use of the residents of the community and their guests;
 - f. Maintenance and storage facilities for the cluster development community;
 - g. Gatehouses, guard houses, card entry gates and other similar security-related structures and mechanical devices;

- h. Any other uses that are similar to those set forth in this subsection and that are customarily incidental to and related to a cluster development community, provided they are recognized on an approved land development plan;
 - i. Fences as permitted by, and subject to the conditions and requirements of, **Section 1204**, except that fences may be constructed and maintained along the entire perimeter of the community provided that the fence is not a stockade type fence and does not completely obstruct the viewshed from or into the community; and
 - j. Any accessory use or structure not set forth herein is prohibited.
- 6 Open space subject to **Sections 704 and 705**.
- B. Regulations.
- 1. Lot area and setback requirements.
 - a. To allow maximum creativity and flexibility in the layout and design of residential units in development, there shall be no minimum lot area requirements applicable to individual dwelling units, provided all structures are constructed to meet all Township-adopted Fire Protection Codes, including Return Time Code, Chapter 88 and Building Codes, Chapter 69. However, each dwelling shall have the following setback requirements, whether or not the area of land in the setback is owned by the dwelling unit owner or the homeowners' association:
 - (1) A front yard setback which shall not be less than 20 feet from the front of the dwelling to the sidewalk, and if no sidewalk, the right-of-way line;
 - (2) A side yard setback(s) which shall not be less than 10 feet from the side of the dwelling to the lot line;
 - (3) A rear yard setback which shall not be less than 20 feet from the property line or 30 feet between primary dwelling structures;
 - (4) Accessory structures shall be set back a minimum of five feet from any property line.
 - b. In addition to the above setback requirements, a dwelling or other building shall not be within 10 feet of an easement.
 - 2. Height regulations.
 - a. The height of primary dwelling units, community buildings and deck parking shall be limited to the building heights set forth in the underlying zoning district.

- b. The maximum height of structures accessory to dwelling units and cluster development communities, other than community buildings, deck parking, and fences shall be the heights set forth in **Section 1203**.
 - c. Fences shall not exceed six feet, except that to the extent special exception approval is granted for front yard fences **Section 1204**, said fences shall not exceed four feet.
 3. Perimeter buffer areas. The cluster development community tract shall contain a perimeter buffer of 100 feet from all tract boundaries ("buffer areas"). Buffer areas shall be landscaped by, as determined by the Board of Supervisors, either retaining existing vegetative cover or by planting a combination of trees, shrubbery and ground cover, in consideration of the impact on scenic views and the impacts of the development on adjacent residences. Perimeter areas not adjacent to residential lots are allowed to include internal access roads, sidewalks, pathways, gates, security devices, guard houses, gatehouses, fences, lighting, utility equipment and their facilities (excluding surface stormwater management facilities), and gateway signs that serve the cluster development community. Any gatehouses or guardhouses in the buffer shall be set back a minimum of 50 feet from any right-of-way line or tract boundary line.
 4. Open space. A minimum of 50% of the gross cluster tract area, which shall not include more than 50% of constrained lands, shall be preserved as open space, subject to the requirements of **Sections 704 and 705**.
 5. Dwelling density. The number of permitted dwelling units in a cluster development community shall be the equivalent of the base number of units rounded up to the nearest whole unit. The base number of units shall be calculated by dividing the net cluster tract area by the minimum lot area permitted per dwelling unit in the underlying zoning district. In lieu of this calculation, the developer may submit a conventional land development plan based on the lot area requirements of the underlying zoning district, and complying with all other zoning and SALDO requirements of the Township, and the base number shall equal the number of residential units that would have been permitted pursuant to that plan. An additional 10% of the base number of units, rounded up to the nearest unit, are permitted for each of the following; however, the total additional units above base number shall not exceed 20%:
 - a. If dedication of open space for public use is accepted by the Township, solely in its discretion, as set forth in **Section 704D(2)**;
 - b. Dedication of trails or trail easements for public use is accepted by the Township solely in its discretion;
 - c. If the amount of open space provided in the gross tract area exceeds 55% of the gross tract area; and
 - d. If the cluster development community is greater than 150 feet from a public sanitary sewer system, provision of public sewer services to the cluster

development community.

6. Impervious coverage shall be limited to 40% of the net cluster tract area. Stormwater management facilities shall be designed in accordance with the proposed impervious coverage as set forth on the land development plan, plus an additional 20% to accommodate in-fill, in accordance with the limitations of the underlying zoning districts.
 7. Minimum separation distance between structures shall be consistent with the Township's Building Code and Fire Prevention Code, or as set forth in this article, whichever is greater.
 8. The site plan shall establish, where applicable, an upland buffer of vegetation of at least 50 feet in depth adjacent to wetlands and surface water, including creeks, streams, springs, lakes and ponds.
 9. The site plan shall accommodate and preserve features of historic, cultural or archaeological value and any features identified on the Township Historic Resources Map as may be adopted. Preserved historical dwellings shall not count toward the maximum number of dwelling units permitted.
 10. Sidewalks shall be included to promote a walkable neighborhood environment. Sidewalks shall be installed along the perimeter roadway(s) of the cluster development community and along roadways that are adjacent to any residence, structures accessory to residences and structures accessory to cluster development communities and open space within the community. Sidewalks along open space shall be on the open space side of the roadway.
 11. All cluster development communities shall be serviced by public water. All cluster development communities shall be serviced by public sewer unless waived by the Township Board of Supervisors, subject to all DEP and Act 537 requirements. If public sewer becomes available within 150 feet of the cluster development community as measured from the tract boundary at any time after development commences, the cluster development community, or the individual dwelling units therein, shall be required to connect to the public sewer system in accordance with all Township Code provisions regarding sewer connections and related expenses and fees.
- C. Design Standards Manual. All subdivision and land development applications for a cluster development community shall include a Design Standards Manual containing a conceptual plan for the cluster development community; architectural guidelines governing issues of building massing, building type adjacencies, architectural character or theme and building placements within the cluster development community; and design standards for the improvements (as defined in Chapter 148, Subdivision and Land Development, 148-9, of the Code of the Township of Newtown), including but not limited to design standards for street and roadway improvements, sidewalks and lighting. The Design Standards Manual shall be subject to the recommendation of the Planning Commission and approval of the Board of Supervisors. In the case of a conflict between

the provisions of the Design Standards Manual and other provisions of the Code of the Township of Newtown, the provisions of the Design Standards Manual, as approved by the Board of Supervisors, shall govern. Provisions of the Design Standards Manual shall include the following design and architectural requirements:

1. Stormwater management should be integrated to complement the natural character of the site such that the visual distinction between stormwater areas and adjacent natural land forms be limited. Where natural features exist, such as sloughs, drainages or hills, open spaces should be preserved and used to frame and define residential areas.
2. A landscaping plan, including street trees, consistent with Township Code Chapter 104 which shall consist of landscaping that will not destroy or deteriorate the integrity of the street or sidewalk structure.
3. A variety of home models and/or elevations will be required.
4. All units shall front on a public or private street to assure emergency access and be identified with a street address approved by the Police Chief and the Township Fire Marshal.
5. The primary front entrance of a residence shall be oriented towards the public street or private street if the lot does not abut a public street. The street-facing facade should incorporate elements such as a front porch, primary living space windows, building articulation elements such as cornices, brackets, overhangs, shutters and window boxes, and front yard landscaping to create an attractive street appearance and enhance the surrounding neighborhood.
6. Entrances and windows, not garages, shall be the dominant element of front facades facing streets. Garage facades shall be set back at least 10 feet from the facade of the principal dwelling. Alternatively, side-loading garages or detached garages or garages accessed by back alleys may be utilized.
7. Residential projects shall avoid large box-like forms with continuous unrelieved surfaces. Buildings should include design variety and articulation. Design doorways, columns, overhangs, and other architectural elements to be substantial in depth in order to create shadow and architectural relief. Examples of these elements include: decorative trim, pitched/variegated roof forms, roof overhangs at least 18 inches deep, variety of materials, railings, building base, bay windows, chimneys, front porches and balconies. The entire home should have a coherent architectural composition with transitions from front, sides and rear elevations being graceful, not abrupt.
8. The choice of colors and materials should convey an image of quality, permanence and durability and enhance the architectural concepts within each residential development.
9. Green space shall be positioned in visually prominent locations through the integration of terminal vistas, community green areas or garden courtyards,

greenlets and greens (alleviate monotony). Additionally, buildings and structures shall be adequately grouped such that existing scenic views or vistas are preserved as an unobstructed, single block of common open space, especially from public streets.

704. CLUSTER DEVELOPMENT OPEN SPACE STANDARDS AND CRITERIA.

- A. Open space shall be preserved and designed to preserve and enhance existing natural physical characteristics of the site and to place common open space within convenient access and view of dwelling units, while preserving and enhancing natural features.
- B. Open space shall not include any area of a proposed dwelling lot.
- C. Lakes, ponds, streams, floodplains, wetlands, steep slopes, very steep slopes, woodlands, other related natural features and subsurface stormwater facilities (e.g., no stormwater basins) may be incorporated into the required minimum open space. Notwithstanding the foregoing, of the total proposed open space, at least 50% shall not be constrained lands.
- D. Areas set aside for open space shall contain no structure other than structures directly related to outdoor recreational use. However, in no case shall the impervious coverage of such structures in the open space areas exceed 5% of the minimum required open space area.
 - 1. Areas set aside for private open space may contain buildings and structures related to the recreational uses of the private open space, access roads, sidewalks, pathways, parking areas, including access improvements from interior and adjacent streets to accommodate pedestrian, bicycle, maintenance and vehicle traffic, and utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) serving the cluster development community and/or adjacent properties. A note shall be placed on the recorded plan stating the restrictions contained in this section, and easements and/or deed restrictions memorializing such restrictions shall be recorded simultaneously with or as a part of the deed of dedication for the public open space.
 - 2. The Township acceptance of dedication of open space for public open space shall be in the sole discretion of the Township Board of Supervisors. The Township Board of Supervisors may consider any factors it deems appropriate in exercising this discretion, but may consider among other things, the size, shape, location, accessibility and physical characteristics of the open space and the amount of use and enjoyment said open space may provide to Township residents. Public open space shall be used for recreation only. Access roads, sidewalks, pathways, parking areas, including access improvements from adjacent streets to accommodate pedestrian, bicycle, maintenance and vehicle traffic, utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) and open-air pavilions shall be permitted, provided that utility easements and related structures and facilities (including but not limited to sanitary sewage facilities) and stormwater management facilities serving the cluster

development community shall not be located within the public open space. The Township shall not dispose of public open space by sale or otherwise. A note shall be placed on the recorded plan stating the restrictions contained in this section, and easements and/or deed restrictions memorializing such restrictions shall be recorded simultaneously with or as a part of the deed of dedication for the public open space.

- E. The open space shall be contiguous and not be separated by existing roads. Open space shall:
1. Be designed as a continuous system of open space and be interconnected with existing or proposed open space areas on abutting parcels, provided that the physical characteristics of the site enable such incorporation without sacrificing innovative design.
 2. Be comprised of areas not less than 75 feet in width and not less than one acre of contiguous area, except when the open space is part of a trail system or pathway network or plan for such network, in which case the areas may be reduced in size, subject to the approval of the Township.
 3. Be provided with sufficient permanent parking when necessary and with safe and convenient access by adjoining street frontage and be capable of accommodating pedestrian, bicycle and maintenance and vehicle traffic, and containing appropriate access improvements.
 4. Be suitably landscaped either by retaining existing natural cover and wooded areas and/or by adding enhancement plantings in accordance with an approved landscaping plan for enhancing open space areas through plantings which are consistent with the purposes of this section and which minimize maintenance costs.
 5. Be subject to such agreement with the Township and such deed restrictions duly recorded in the office of the Recorder of Deeds in Delaware County as may be required by the Township for the purpose of preserving the open space for such use.
 6. Include a transition area surrounding the perimeter of the entire tract. This transition area shall be at least equal to the area required for front yards in the underlying zoning district and shall not contain any structures or parking areas. Only necessary ingress and egress and perimeter fencing and/or berms shall be allowed in the transition area. The transition area shall not be included in any of the minimum lot area(s).
- F. The open space required by this section is a separate and distinct requirement from the recreational land requirements set forth in 148-41 to allow the exercise of the cluster development option. Public open space and/or trails accepted by the Board of Supervisors or private open space may be considered recreational lands only to the extent that the open space, or portions of the open space, comply with the requirements of Chapter 148.

705. OWNERSHIP AND MAINTENANCE OF OPEN SPACE.

- A. All applications for the cluster development community option shall describe the plan for ownership and maintenance of open space.
- B. The Board of Supervisors shall require the applicant to provide for and establish a homeowners' association, or other similar organization or group of dwelling unit or lot owners holding undivided interest in private open space, for the maintenance of the private open space, organized under or similar to that required by the Uniform Planned Community Act, and such homeowners' association or other similar organization shall be prohibited from disposing of the private open space by sale or otherwise (except to a similar homeowners' association or organization conceived and established to own and maintain the open space, such as a private conservation organization). The governing documents of such homeowners' association or similar organization shall be submitted to the Township for review and approval from the standpoint of its capacity to raise revenue, meet obligations and properly maintain facilities prior to the receipt of final land development approval for a cluster development community. The organization shall also be required to enter into an open space maintenance agreement, substantially in the form provided at Chapter AA176 Appendix 2, with the Township which may be recorded in the Recorder of Deeds.
- C. In the event that the private open space is, in the reasonable judgment of the Township, permitted to deteriorate or not be maintained in reasonable condition in accordance with the approved plan, the Township may take whatever actions are available by law to require compliance with the approved plan. A note shall be placed on the recorded plan stating this right held by the Township.
- D. In addition to any other remedies afforded by law, the Township shall have the right, which shall be made part of the land development agreement with the applicant, upon reasonable notice to interested parties, to enter upon the private open space and maintain the same for a period not to exceed one year. The purpose of such action by the Township shall be to preserve the value of the private open space within the development and to prevent the private open space from becoming a public nuisance. The cost of such maintenance by the Township shall be assessed against the dwelling units and/or lots within the development which have a right of enjoyment of the private open space and shall become a lien upon said units and/or lots upon filing thereof as required by law.

706. APPLICATION REVIEW; EFFECT OF OTHER PROVISIONS; MODIFICATIONS.

All applications for the proposed cluster development community development shall be subject to review and conditional use approval by the Board of Supervisors of Newtown Township through the subdivision and land development procedures set forth in Chapter 148, Subdivision and Land Development. Compliance with all other provisions of this Chapter 172, Zoning, Chapter 148, Subdivision and Land Development, and all other land use regulations adopted by the Township, including Chapter 91, Flood Damage Prevention, ~~Chapter 104, Natural Features and Landscaping, Chapter 134, Slope Conservation,~~ and Chapter 138, Soil Erosion and Sediment shall be required, except where such provisions are modified by this article. In the case of a conflict between the provisions of this article and other provisions of the Code of the Township of

Newtown, the provisions of this article shall govern. Where literal compliance with the criteria and standards specified in those land use regulations adopted by the Township over which the Board of Supervisors is vested with jurisdiction is clearly impractical, the Board may modify or adjust the standards and criteria to permit reasonable utilization of the tract on which the cluster development community is proposed in the interest of securing substantial compliance with the objectives of this article. Any exclusions for single-family residential developments in **Article 5** shall not be applicable when applied to this article.