

Section 719.117 – Cluster Development

- A. Cluster Development is a permitted use in the AG, R, and RM zoning districts. It shall be reviewed per the appropriate procedure for the type of development (lot split, subdivision, site condominium, etc.) and must meet the intent and requirements of this Chapter.
- B. This section intends to permit residential developments to be planned as a comprehensive unit with an allowance for residential open space. Certain modifications to standards outlined in Article 11, Schedule of Building Regulations, are therefore permitted when the following conditions are met:
 1. Lot dimensions in the AG, R, and RM Districts may be reduced per the following schedule, provided that the number of residential lots shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas conventionally required for each district.
 2. All density calculations shall be predicated upon the maximum number of dwelling units per acre (including roads), as generally shown for each district. A yield plan (a parallel plan) demonstrating the number of units feasible under conventional development must be submitted.
 3. Lot widths and overall area reductions shall not be more than twenty-five (25) percent. Approved modifications to side yard setbacks for single-family structures shall not result in side yards less than nine (9) feet. Side yards shall be oriented so that any detached singlefamily structure shall be located at least twenty (20) feet from any other detached singlefamily structure.
 4. Rear yards may be reduced to thirty (30) feet when bordering on land dedicated to the common use of the development.
 5. The total area of open space shall equal or exceed the total area by which proposed lot areas are reduced below the district minimum requirements. Open space shall be dedicated to the common use of the lot owners in the development in a manner approved by the Township, or may, if approved by the Township, be dedicated to the Township. If dedicated to the Township, no individual land areas shall be less than four (4) acres in size, except that said parcel may be divided by a road or stream.
 6. One-half (1/2) of the existing wetland, flood plain, open water bodies, and “wet” stormwater detention/retention areas on the site may be counted

toward the required open space under this Section, provided all other requirements are met. Such areas shall be adjacent to other usable open space areas, where possible, for the benefit of the community. To qualify, open-space detention areas must be well-designed and improved. Community wastewater treatment facilities may not be credited as dedicated open spaces.

7. The area to be dedicated for either a public park or private open space shall be in a location and shape approved by the Planning Commission in reviewing the proposed Cluster Development. Said land shall be so graded and developed as to have natural drainage.
8. Under this cluster approach, the developer or subdivider shall dedicate the total open space area when filing the final plat on all or any portion of the plat or final site plan unless otherwise agreed to by the Township.
9. Where the open space is dedicated to the landowners or their representatives, such land area shall be maintained by them. In the event of a default in maintenance, said open space shall either be conveyed to Lenox Township or, in lieu thereof, the lots in the development shall be assessed equally as a tax lien to provide necessary maintenance.
10. The following objectives will be observed in reviewing a proposed Cluster Development:
 - a. To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, topography, and similar natural assets.
 - b. To encourage developers to use a more creative approach to develop residential areas.
 - c. To encourage more efficient, aesthetic, and desirable use of open areas while recognizing a reduction in development costs and allowing the developer to bypass natural obstacles in the site.
 - d. To encourage the provision of open space so benefits may accrue directly to residents of the development and to further promote the establishment of recreational facilities and linkages within the Township.
11. The Cluster Development shall contain the information required by other Sections of this Chapter or the Subdivision Regulations.

- a. A complete description of the land proposed to be dedicated to the Township or to the common use of lot owners (herein called open space).
- b. The legal description of open space.
- c. Topographical survey of open space.
- d. Soil types in open space, as classified in the "Soil Survey, Macomb County, Michigan.
- e. Description of natural features of open space (stands of trees or other vegetation, streams or other bodies of water, etc.).
- f. The proposed method of maintenance and use of open space shall be submitted with the Preliminary Plat for tentative approval or Preliminary Site Plan in the form of a recordable Master Deed and shall include the following as a minimum:
 - 1) The proposed manner in which the title to land and facilities is to be held by the landowners in the development.
 - 2) The proposed manner and collection of maintenance costs, financing costs, or assessments so that nonpayment will constitute a lien on the property, thus avoiding Township responsibility in the future.
 - 3) The proposed manner of regulating the use of the common facilities and open space areas to eliminate possible nuisance to property owners.
 - 4) The proposed method of notifying the Township when any change is contemplated in plans that would affect the original specifications approved by the Township.
 - 5) The proposed method of setting up assessments to cover contingencies, insurance against casualty and liability, and paying taxes relating to these properties.
 - 6) A statement of the benefits to be realized by the residents of the proposed cluster development and the Township upon approval.

12. Before any action is taken upon any Cluster Development application, copies of the Preliminary Plat or Site Plan and supporting data shall be submitted through the Clerk to the Township Planner, the Township Engineer, and the Township Attorney for review and recommendation.

a. The Township Planner shall review and render an opinion upon the proposed Cluster Development based on the materials furnished, from visits to the site, or such other information as he may deem necessary and render his opinion concerning the following:

- 1) The suitability of the proposed open space for the purposes proposed.
- 2) The need for the proposed uses in the general area.
- 3) The location and layout of the open space with the lots within the development.
- 4) The effect upon neighboring areas, which would result from the Cluster Development, and the appropriateness of the proposed lot sizes in the development area involved.
- 5) Any other factor related to the development and proper design of the proposed development.

b. The Township Engineer shall review and render an opinion upon the proposed Cluster Development as it relates to the following details:

- 1) The development can be suitably provided with utilities as proposed.
- 2) The development would not require any undue alteration of the natural grade.
- 3) The development can be physically developed, as proposed, without injuring the abutting lands as to the capacity available in existing utility services.

c. The Township Attorney shall review the proposed Cluster Development and render his opinion concerning the following:

- 1) The proposed manner of holding title to the open space.

- 2) The proposed manner of payment of taxes.
- 3) The proposed method of regulating the use of open space.
- 4) The proposed method of maintenance of property and financing thereof.
- 5) Any other factor related to the legal or practical concerns regarding ownership and the use and maintenance of open space.

13. If the Planning Commission is satisfied that the proposed Cluster Development meets the letter and spirit of the Zoning Ordinance and should be approved, it shall recommend approval to the Township Board.

14. If the Planning Commission is not satisfied that the proposed Cluster Development meets the letter and spirit of the Zoning Ordinance or finds that the approval of said development will be detrimental to existing development in the general area and should not be approved, the basis for such disapproval shall be recorded in the decision-making motion in the Commission minutes and communicated to the Township Board.

15. Upon approval of a proposed Cluster Development, the Township Attorney shall prepare a development agreement setting forth the conditions upon which such approval is based, which shall be entered into between the Township and the Proprietor.

16. The Development Agreement shall be recorded with the development's plat, condominium, or land division deeds.