

TOWNSHIP OF NORTH HANOVER
COUNTY OF BURLINGTON
ORDINANCE 2017-13

AN ORDINANCE AMENDING CHAPTER 16 OF THE TOWNSHIP OF NORTH HANOVER CODE,
COUNTY OF BURLINGTON, STATE OF NEW JERSEY FOR CLUSTERING
WITHOUT A PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD) IN R-A ZONING DISTRICT

NOW THEREFORE BE IT ORDAINED by the Township Committee of the Township of North Hanover, County of Burlington, State of New Jersey that Chapter 16 of the Revised General Ordinances of the Township of North Hanover is hereby amended and supplemented by amending Sections 16-080 and adding a new section 16-082, entitled "Cluster Development" to read as follows [added portions are bolded and underlined; deleted portions have strikethrough]:

Section 1. §16-080 R-A Residential-Agricultural

A. §16-080.1 Principal Permitted Uses

F. Cluster development in accordance with §16-082.

B. §16-080.3 Area and Yard Requirements

A. Requirements for detached single-family dwellings which are part of a conventional subdivision and not part of a planned unit residential development **or cluster development:**

D. Requirements for farm with single-family residence which is not part of a planned unit residential development **or cluster development:**

Section 2. §16-082 Cluster Development (New Section)

§16-082 Cluster Development

§16-082.1 Definitions

For purposes of this section:

"Agricultural structures" include, but are not limited to, barns, silos, tool and equipment sheds, farm markets, packing houses and agricultural labor housing.

"Agricultural infrastructure" includes, but is not limited to, irrigation wells and systems, irrigation ponds, fences, drainage ditches and swales, field tile drains, farm roads, and established access to adjoining roads.

"Agricultural restriction" means an "agricultural deed restriction for farmland preservation purposes," as defined in section 3 of P.L.1983, c.32 (C.4:1C-13).

"Cluster development" means a development with a specified minimum contiguous or noncontiguous acreage of 25 acres or more to be developed, as a single entity, according to a subdivision plan, containing one or more contiguous clusters or noncontiguous clusters and one or more residential uses, as shall be specified in the zoning ordinance. A cluster development is composed of clustered parcels and preserved parcels, but not exempted parcels.

"Clustered parcel" means a parcel of land that is the subject of contiguous or non-contiguous parcel clustering, where the owner of the parcel is receiving the development potential of the preservation parcel, and on which increased density is allowed.

"Conservation restriction" means a "conservation restriction," as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

"Contiguous cluster" means contiguous parcels of land developed, as a single entity, according to a subdivision plan, containing a section or sections of those parcels to be developed for residential purposes at a greater concentration of development than authorized within the section or sections under conventional development, in exchange for the permanent preservation of another section or other sections of the parcels as common or public open space or for historic preservation or

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agricultural purposes, or a combination thereof, while maintaining the same development potential for the parcels combined.

"Density" means the permitted number of dwelling units per gross area of land that is the subject of an application for development, including noncontiguous land.

"Development potential" means the maximum number of dwelling units that may be constructed, without bulk variances or design exceptions, on a specific parcel of land in accordance with the master plan and land use regulations in effect on the date of the adoption of the ordinance authorizing cluster development, as provided in §16-082.4.

"Development restriction" means an agricultural restriction or a conservation restriction.

"Exempted parcel" means a parcel or a portion of a parcel of vacant or developed land, which shall be exempted or excluded from a cluster development so that the owner may develop, expand or change a future or existing conditional, non-agricultural use or structure, that does not meet the applicable qualifications, standards, conditions, and restrictions for a rural microenterprise, as set forth in N.J.S.A. 4:1C-32.1 and as provided in an approved agricultural restriction. Exempted parcels shall be indicated on a cluster development's lot yield plan and conform to the minimum bulk and area requirements in §16-250.7. An exempted parcel's lot area shall not be used to determine a cluster development's development potential. Applications for cluster development approval shall also include the subdivision of exempted parcels. Exempted parcels shall not be covered by an agricultural or conservation restriction, such as those required for preserved parcels.

"Noncontiguous cluster" means noncontiguous parcels of land developed, as a single entity, according to a subdivision plan, containing a section or sections of those parcels to be developed for residential purposes at a greater density than authorized within the section or sections under conventional development, in exchange for the permanent preservation of another section or sections of the parcels as common or public open space, or for historic preservation or agricultural purposes, or a combination thereof, while maintaining the same development potential for the parcels combined.

"Preserved farmland parcel" means a preserved parcel subject to an agricultural restriction.

"Preserved parcel" means a parcel of land that is or has been the subject of contiguous or non-contiguous parcel clustering, whose development potential has been calculated and utilized with an associated clustered parcel in a clustered development and preserved through a development restriction.

"Rural microenterprise" means a small-scale business or activity that is fully compatible with agricultural use and production on the premises, does not, at any time, detract from, diminish, or interfere with the agricultural use of the premises, and is incidental to the agricultural use of the premises. These non-agricultural uses include: customary rural activities, which rely on the equipment and aptitude historically possessed by the agricultural community, such as snow plowing, bed and breakfast inns, bakeries, woodworking, and craft-based businesses; and agriculture support services, which have a direct and positive impact on agriculture by supplying needed equipment, supplies, and services to the surrounding agricultural community, such as veterinary practices, seed suppliers, and tractor or equipment repair shops. Unless otherwise specified by section 6 of the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-9), a rural microenterprise is not eligible for protection under that act.

§16.082.2 Permitted Principal Uses

A. Clustered parcel:

- 1. Detached single-family dwellings.**

B. Preserved parcel:

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1. Agricultural uses and farms with no associated residential uses, as provided in an approved agricultural restriction.
2. Agricultural uses and farms with associated residential uses, as provided in an approved agricultural restriction.
3. Open space and passive recreational uses, as provided in an approved conservation restriction.

§16.082.3. Permitted Accessory Uses

A. Clustered parcel:

1. Off-street parking. (See §16-230.)
2. Home occupations, as defined in § 16-060.
3. Other customary accessory buildings and structures, such as pools, sheds, garages, etc.
4. Fences and walls.
5. Signs.

B. Preserved parcel:

1. Accessory uses, including agricultural employee housing, as provided in an approved conservation restriction or agricultural restriction.

§16.082.4. Conditional Uses (underlined added)

A. Clustered parcel:

1. None

B. Preserved parcel:

1. Rural microenterprises meeting the applicable qualifications, standards, conditions, and restrictions set forth in N.J.S.A. 4:1C-32.1, as provided in an approved agricultural restriction. The Joint Land Use Board may approve applications to renew and to continue expiring rural microenterprises for a maximum total duration of 20 years, in accordance with that section. (See §16-250.6, where applicable, for specific standards.)

§16-082.5 Determining Development Potential

- A. To determine the development potential of the clustered parcel or parcels within a cluster development, the applicant must submit a lot yield plan to the Joint Land Use Board indicating the number of lots that could be developed on the application's proposed combined clustered and preserved parcels, in accordance with the bulk standards described below, without bulk variances or design exceptions.
- B. The lot yield plan shall include the information required in §15-061.3 using the bulk standards in §16-082.4.C. The lot yield plan shall be reviewed and approved in accordance with §15-061.4.
- C. Minimum bulk standards for determining residential lot yields. Each individual lot in the lot yield plan must be at least two (2) acres in area, with a maximum of one (1) acre of each lot exhibiting environmentally sensitive lands, as defined in §16.060. It must also meet the following bulk standards:
 1. Lot area: two (2) to five (5) acres, in accordance with 16-082.4.D.
 2. Lot frontage along lot line: 200 feet.
 3. Lot width along front yard setback line: 200 feet.
 4. Lot depth: 200 feet.
- D. Minimum septic system requirements:
 1. Lot requirement for single family dwelling and/or any such other uses shall satisfy the following percolation or permeability tests:

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PERMEABILITY

MINIMUM LOT AREA (ACRES) - Depth to Seasonal High Groundwater						
Seasonal High Groundwater Depth	6.0' and Over	5.0' - 5.9'	4.0' - 4.9'	3.0' - 3.9'	2.0' - 2.9'	Less than 2.0'
Permeability Rate (inches per hour)	Minimum Lot Size					
20.000 to 3.01	2.00 acres	2.23 acres	2.53 acres	2.90 acres	3.35 acres	N/A
3.0 to 2.41	2.05 acres	2.28 acres	2.58 acres	2.95 acres	3.40 acres	N/A
2.400 to 2.007	2.14 acres	2.37 acres	2.67 acres	3.04 acres	3.49 acres	N/A
2.000 to 1.1719	2.28 acres	2.51 acres	2.81 acres	3.18 acres	3.63 acres	N/A
1.714 to 1.504	2.46 acres	2.69 acres	2.99 acres	3.36 acres	3.81 acres	N/A
1.500 to 1.336	2.69 acres	2.92 acres	3.22 acres	3.59 acres	4.04 acres	N/A
1.333 to 1.202	2.96 acres	3.19 acres	3.49 acres	3.86 acres	4.31 acres	N/A
1.200 to 1.093	3.28 acres	3.51 acres	3.81 acres	4.18 acres	4.63 acres	N/A
1.090 to 1.001	3.65 acres	3.88 acres	4.18 acres	4.55 acres	5.00 acres	N/A
1 or less	*****NOT ACCEPTABLE*****					
The minimum lot area is determined by the permeability rate and depth to seasonal high groundwater.						

PERCOLATION

MINIMUM LOT AREA (ACRES) - Depth to Seasonal High Groundwater						
Seasonal High Groundwater Depth	6.0' and Over	5.0' - 5.9'	4.0' - 4.9'	3.0' - 3.9'	2.0' - 2.9'	Less than 2.0'
Percolation Rate (minutes per inch)	Minimum Lot Size					
0 to 19.9	2.00 acres	2.23 acres	2.53 acres	2.90 acres	3.35 acres	N/A
20.0 to 24.9	2.05 acres	2.28 acres	2.58 acres	2.95 acres	3.40 acres	N/A
25.0 to 29.9	2.14 acres	2.37 acres	2.67 acres	3.04 acres	3.49 acres	N/A
30.0 to 34.9	2.28 acres	2.51 acres	2.81 acres	3.18 acres	3.63 acres	N/A
35.0 to 39.9	2.46 acres	2.69 acres	2.99 acres	3.36 acres	3.81 acres	N/A
40.0 to 44.9	2.69 acres	2.92 acres	3.22 acres	3.59 acres	4.04 acres	N/A
45.0 to 49.9	2.96 acres	3.19 acres	3.49 acres	3.86 acres	4.31 acres	N/A
50.0 to 54.9	3.28 acres	3.51 acres	3.81 acres	4.18 acres	4.63 acres	N/A
55.0 to 59.9	3.65 acres	3.88 acres	4.18 acres	4.55 acres	5.00 acres	N/A
60.0 or greater	*****NOT ACCEPTABLE*****					
The minimum lot area is determined by the percolation rate and depth to seasonal high groundwater.						

2. Any individual subsurface sewage disposal systems that are designed on lots having a percolation rate greater than or equal to forty (40) minutes per inch or a permeability rate less than 1.0 inches per hour, shall utilize an alternative pressure-dosed sewage disposal system for the disposal and treatment of wastewater.
3. A percolation rate of sixty (60) minutes per inch and greater or a permeability rate less than 1 inch per hour is not acceptable and a depth to seasonal high groundwater of less than two (2) feet is not acceptable.
4. All State standards, specifically New Jersey Department of Environmental Protection standards for the construction of Individual Subsurface Sewage Disposal Systems, shall apply. Any provisions herein that are more stringent than any provisions in the State standards, shall supersede and be applicable.

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- E. Existing residences, homesteads, and non-migrant agricultural employee housing, as well as one acre for any rural microenterprise, shall be subtracted from the lot yield of the preserved parcel or parcels. Existing dwelling units that will be razed on contiguous or non-contiguous parcels shall be added to the overall residential lot yield.

§16-082.6 Standards for Preserved Farmland Parcels

- A. Preserved farmland parcels should be assembled in the largest contiguous blocks possible.
- B. Preserved farmland parcels of a cluster development must contain at least 50% of all the prime soils and at least 50% of all the soils of statewide importance in the cluster development or, alternatively, at least 50% of all the Class I soils and at least 50% of all the Class II soils, per the land capability classification system (LCCS) of the U.S. Department of Agriculture's Natural Resources Conservation Service.
- C. Parcels selected as preserved farmland parcels should be nearest to other preserved farmlands or other lands in agricultural use and furthest away from population centers and other developed lands.
- D. It is preferable that preserved farmland parcels, and not clustered parcels, be in any Joint Base McGuire-Dix-Lakehurst flight hazard areas.
- E. All other factors being equal:
 - 1. Parcels with existing agricultural structures and/or agricultural infrastructure, which can materially contribute to agricultural viability, should be selected for preservation.
 - 2. Parcels with a water source should be selected for preservation over those without a water source.

§16-082.7 Area, Yard and Bulk Requirements for Clustered Parcels

The total area of all clustered parcels shall be no more than 50% of the total area of all proposed clustered and preserved parcels combined and meet the following requirements:

- A. Minimum lot area:
 - 1. Lot area: one (1) acre.
 - 2. Lot frontage along lot line: 100 feet.
 - 3. Lot width along front yard setback: 100 feet.
 - 4. Lot depth: 100 feet.
- B. Minimum principal building setbacks:
 - 1. Front yard setback: 35 feet and 100% of units constructed in each block must have the same build-to-line.
 - 2. Rear yard setback: 30 feet.
 - 3. Each side yard: 15 feet.
- C. Minimum accessory building setbacks:
 - 1. Front yard setback: See 16-082.6.B.1.
 - 2. Rear yard setback: 10 feet.
 - 3. Each side yard: 10 feet.
- D. Maximum building height: 35 feet.
- E. Maximum total building coverage: 10,000 square feet.
- F. Maximum total impervious coverage: 30%.

§16-082.8 Area, Yard and Bulk Requirements for Uses on Preserved Parcels

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The total area of all preserved parcels shall be no less than 50% of the total area of all proposed clustered and preserved parcels combined and meet the following requirements:

- A. Agricultural uses and farms with no associated residential uses:
1. Minimum lot area:
 - a. Lot area: five (5) acres.
 - b. Lot frontage along lot line: 200 feet.
 - c. Lot width along front yard setback: 200 feet.
 - d. Lot depth: 400 feet.
 2. Minimum setbacks for farm buildings and structures: See §16-080.3C.
- B. Agricultural uses and farms with associated residential uses:
1. Minimum lot area:
 - a. Lot area: six (6) acres.
 - b. Lot frontage along lot line: 200 feet.
 - c. Lot width along front yard setback: 200 feet.
 - d. Lot depth: 400 feet.
 2. Minimum principal building setbacks:
 - a. Front yard setback: 100 feet.
 - b. Rear yard setback: 100 feet
 - c. Each side yard: 15 feet
 3. Minimum accessory building setbacks:
 - a. Front yard setback: 100 Feet.
 - b. Rear yard setback: 75 feet
 - c. Each side yard: 50 feet
 4. Minimum setbacks for farm buildings and structures: See §16-080.3C.
 5. Maximum total building coverage: 20%.
 6. Agricultural employee housing (See §16-250.6.R.)
- C. Rural microenterprises. (See §16-250.7, where applicable, for minimum lot frontage, yard setbacks, parking setbacks, maximum building height, and minimum buffer to residential use requirements.)
- D. Open space and passive recreation uses:
1. None

§16-082.9 Development Restrictions

- A. A development restriction shall provide for the permanent protection of preserved parcels proposed to be preserved as public open space or common open space or as agricultural land, in accordance with the provisions set forth in this section.
- B. Land preserved through a development restriction may remain in private ownership, permanently preserved by means of a deed of easement dedicated to the Township. The Township Committee may convey or authorize conveyance of the development restriction by ordinance to Burlington County, the State of New Jersey or another qualified public agency or non-profit open space conservation or farmland preservation organization which has a commitment to administer and enforce the terms of the development restriction.

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- C. Land identified for preservation as public open space shall be conveyed or dedicated by a conservation restriction. The conservation restriction shall be as set forth in a conservation restriction template prepared by the Department of Environmental Protection for this purpose.**
- D. Land identified for preservation as common open space shall be conveyed or dedicated by a conservation restriction and administered by an open space organization, as provided by C.40:55D-43.**
- E. Land identified for preservation as agricultural land shall be conveyed or dedicated by an agricultural restriction. The agricultural restriction shall be as set forth in a template prepared by the State Agriculture Development Committee for this purpose or obtain approval of the agricultural restriction from the State Agriculture Development Committee. In the case of future conveyance of the agricultural restriction, the Burlington County Agricultural Development Board shall determine whether the proposed future holder of the deed of easement is qualified to administer and enforce the terms of the agricultural restriction.**
 - 1. Agricultural land subject to an approved agricultural restriction shall be provided the right to farm benefits under the "Right to Farm Act," P.L.1983, c.31 (C.4:1C-1 et al.) and other benefits that may be provided pursuant to the "Agriculture Retention and Development Act," P.L.1983, c.32 (C.4:1C-11 et seq.).**
- F. Any development restriction shall be recorded in the office of the Burlington County Clerk contemporaneously with the filing of the first subdivision plan for development on a clustered parcel. Final subdivision plans will not be signed by Township officials until the developer delivers to the Township a fully executed, duly authorized deed of easement, in the applicable form described above, together with the cost of recording same. The administrative officer shall be responsible for recording.**
- G. Any development restriction shall be expressly enforceable by the development restriction deed of easement holder or holders, as set forth in the development restriction.**

Section 3. INCONSISTENT ORDINANCES

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

Section 4. PARTIAL INVALIDITY

If any section, paragraph, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder shall be deemed valid and effective.

Section 5. COPIES OF ORDINANCE

At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

Section 6. NOTICE

The Township Clerk is hereby directed to give notice at least ten days prior to the hearing on the adoption of this Ordinance to the County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S. 40:55D-15. Upon adoption of this Ordinance, after public hearing thereon, the Township Clerk is further directed to publish notice of passage thereof and file a copy of this

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Ordinance as finally adopted with the County Planning Board as required by N.J.S. 40:55D-16 and with the Township Tax Assessor.

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
Deputy Mayor DeBaecke		X	X			
Committeeman Doyle			X			
Committeeman Kocubinski	X		X			
Committeeman O'Donnell			X			
Mayor DeLorenzo			X			

NOTICE

This Ordinance published herewith was introduced and passed upon first reading at the regular meeting of the Township Committee of the Township of North Hanover held on September 21, 2017. It will be further considered for final passage after a public hearing to be held on October 19, 2017 at the Municipal Building, 41 Schoolhouse Road, Jacobstown, NJ at 7:00 p.m. or as soon thereafter as the matter may be heard, at which time and place any persons desire to be heard upon the same will be given an opportunity to be heard. Copies are available free of charge at the Municipal Clerk's Office prior to the public hearing.

Mary Picariello, RMC/CMR/CTC
Township Clerk

NOTICE

The ordinance read by title upon second reading herewith has been adopted at the meeting of the Mayor and Township Committee of North Hanover Township, held on November 2, 2017 and the 20 day period of limitation within which a suit, action or validity of such ordinance can be commenced, has begun to run from the date of the publication of this notice.

Mary Picariello, RMC/CMR/CTC
Township Clerk

Vote to Adopt Ordinance 2017-13:

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
Deputy Mayor DeBaecke			X			
Committeeman Doyle		X	X			
Committeeman Kocubinski			X			
Committeeman O'Donnell	X		X			
Mayor DeLorenzo			X			