



# Sample Zoning Amendments for Open Space/Clustering Amendments integrated into a zoning ordinance.

By Kurt H. Schindler, derived from Rod Cortright’s work to comply with the 2001 zoning act amendments, and to integrate into a zoning ordinance for possible applicability with more than one zoning districts without repeating the language in each affected zoning district.

The sample provided here is just one. It is written with the following assumptions:

- 1. The municipality already has site plan review in its zoning ordinance.
- 2. The section numbering system follows the standard system of codification that is the sample presented in Michigan State University Extension’s *Organization and Codification of a Zoning Ordinance* available from the Wexford County Extension office.
- 3. The municipality’s attorney will review any proposed amendments before they are adopted
- 4. The municipality already has planned unit development provisions (handled as a special use) in the zoning ordinance.

Any village, city, township, or county with zoning may consider adopting zoning amendments similar to these. A government unit shall adopt zoning amendments by December 16, 2002 similar to these if:

- A. has a population of 1,800 or more, and
- B. has an adopted zoning ordinance,
- C. has undeveloped land that is zoned “residential,” and
- D. the residential zoning has a density of 2 dwellings per acre (minimum parcel size of 21,780 square feet) or less OR if serviced by public sewer, 3 dwellings per acre (minimum parcel size of 14,520 square feet) or less.

Add to the Definitions Article of the zoning ordinance:

PARENT PARCEL means a parcel of record on the effective date of this ordinance amendment, or the “parent parcel” or “parent tract” as defined by the Michigan Land Division Act, (M.C.L. 560.101 *et. seq.*).

PLANNED UNIT DEVELOPMENT means a special use which encompasses more than one residential unit and/or more than one commercial use.

Add to the General Provisions Article of the zoning ordinance (section on parcel regulations)

### 1040. Parcel Divisions

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*) or as provided here.

- A. New parcels created shall conform with both section \_\_\_\_\_?[section/article on issuing permits] of this Ordinance and the applicable provisions of one of the following development options. In addition, the splitting and combining of one adjacent parent parcel with another is allowed, conditioned on both parent parcels have not been split previously under either development option listed below.

In these cases the resulting reconstituted parent parcels shall be the basis for further allowable land divisions.

1. **Development Option 1, Country Properties:** A maximum of \_\_\_\_\_?[the blank should be filled in with a percentage: for townships and counties this must be less than fifty (50) percent, for cities and villages this must be less than eighty (80) percent] percent of any parent parcel buildable area (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance) may be divided into new parcels averaging not less than \_\_\_\_\_?[minimum parcel size] in area. The remaining \_\_\_\_\_?[the blank should be filled in with a percentage: for townships and counties this must be fifty (50%) or greater, for cities and villages this must be eighty (80) percent or greater] of the parent parcel shall be kept as open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to the zoning administrator.
  
2. **Development Option 2, Conservation Planned Unit Development:** A maximum of \_\_\_\_\_?[the blank should be filled in with a percentage: for townships and counties this must be less than fifty (50) percent, for cities and villages this must be less than eighty (80) percent] percent of any parent parcel buildable area (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance) may be divided into new parcels averaging not less than \_\_\_\_\_?[minimum parcel size] in area. The remaining \_\_\_\_\_?[the blank should be filled in with a percentage: for townships and counties this must be fifty (50%) or greater, for cities and villages this must be eighty (80) percent or greater] of the parent parcel shall be kept as open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to the planning commission.
  - a. **Eligibility:** Parent parcels not previously split may be developed per this option.
  - b. **Minimum Conservation Land Requirement:** The development density which would normally be realized on the entire parent parcel shall be transferred to the area of the parent parcel which is not the \_\_\_\_\_?[the blank should be filled in with a percentage: for townships and counties this must be fifty (50%) or greater, for cities and villages this must be eighty (80) percent or greater] of the parent parcel shall be kept as open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means.
  - c. **Determining Maximum Allowable Parcel Divisions:** The maximum number of new parcels which may be created within the parent parcel shall be the same number calculated by dividing the total area of the parent parcel which is buildable area (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance) by the minimum parcel area required in the respective zoning district. To illustrate this density a conceptual plan of division of the parent parcel shall be submitted by the applicant to the administrator. This plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance), and other pertinent features. This plan must be drawn to scale, but does not need to be based on a field survey.
  - d. **Endowment Parcel Density Bonus:** In addition to the maximum number of new parcels as determined in section 1040.A.2.c of this Ordinance, when the required easement covering Conservation Lands shall be held in part by a recognized non-profit land conservancy two (2) additional parcels shall be allowed. The proceeds from the sale of the two (2) additional parcels shall be used to fund an endowment held by the Conservancy to cover the land conservancy's expenses for monitoring compliance with the conservation easement.
  - e. **Siting Criteria for new Parcels:** Diversity and originality in parcel layout shall be encouraged to achieve the best possible relationship between Buildable and Conservation Lands (section 1040.A.2.b of this Ordinance) areas. The Planning Commission shall valuate proposals to determine whether the proposed site plan

meet the following criteria and site plan criteria contained elsewhere in this Ordinance:

- (1) Protects and preserves all beach contiguous to a lake or stream, wetland, area which is not accepted by the \_\_\_\_\_[name of your county] office of Community Health Department of jurisdiction for on-site sewage disposal unless an alternate system of sewage disposal is approved by \_\_\_\_\_[name of your county] office of Community Health Department of jurisdiction, flood plain, existing public utility easements, existing public rights-of-way, waterfront setback areas, and slopes over 25 percent. (including a buffer area around such areas) from clearing, grading, filling, and construction.
- (2) As practical, preserves and maintains existing fields, meadows, crop land, pastures, and orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural/forestry uses. When new development must be located in these areas due to greater constraints in all other parts of the site, buildings should be sited on the least prime and important or unique farmland or forest land soils, and in locations at the far edge of a field, as seen from existing roads.
- (3) Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters.
- (4) Minimizes impacts on large woodlands (greater than five acres), especially those located on upland soils considered prime for timber production.
- (5) Leaves scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads and surface water.
- (6) Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features or by siting in forested areas.
- (7) Protects wildlife habitat areas of species listed as endangered, threatened or of special local concern.
- (8) Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.
- (9) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stone walls, hedgerows, and so on.
- (10) Provides that Conservation Lands (section 1040.A.2.b of this Ordinance) shall be reasonable and contiguous. While Conservation Lands are exempt from the 4 to 1 maximum parcel depth to width ratio, fragmentation of these lands shall as much as practical be minimized so that (except for common greens and playground areas) these areas are not divided into numerous small parcels located in various parts of the development.
- (11) When Conservation Lands (section 1040.A.2.b of this Ordinance) are held in common by surrounding parcel owners the proposed site plan shall:
  - (a) Provide for active recreational areas in suitable locations that offer convenient access by residents and adequate screening

from near by parcels in the buildable area(s) (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance).

- (b) Include a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between parcels, activity areas, special features, and contiguous developments.
- (c) Ownership of Conservation Lands (section 1040.A.2.b of this Ordinance) may remain with the owner of the parent parcel, a homeowners association made up of parcel owners in the development, the township, or a recognized non-profit land conservancy.
- (d) Conservation Lands (section 1040.A.2.b of this Ordinance) created pursuant to option 2, section 1040.A.2 of this Ordinance, may be used for any permitted use allowed in this zoning district pursuant to section ? of this Ordinance if the parcel contains a large enough buildable area (section \_\_\_\_\_?[section in "definitions" or in the "PUD" article on buildable area] of this Ordinance). Such parcels shall be covered by a conservation easement prohibiting the further splitting or development of these lands in the future. Such conservation easement shall be held jointly by both the township and one of the following: a homeowners association made up of parcel owners in the development, or a recognized non-profit land conservancy.

**B. Application and Site Plan Review Process:**

1. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance is encouraged for all parcels to be split under provisions of Option 1, section 1040.A.1 of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.
2. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance shall be mandatory for all parcels to be split under provisions of Option 2, section 1040.A.2 of this Ordinance. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.
3. The application shall then be processed under the Special Use Permit, section \_\_\_\_\_8601[article on special use permits] *et. seq.* of this ordinance, and Planned Unit Development Districts section \_\_\_\_\_?[article on planned unit developments] *et. seq.* of this ordinance. The municipality shall simultaneously approve the land division splits as part of the review.

Add to the regulations of the zoning districts where only, the "cluster" system of land division is desired.

**1041. Land Division Options.**

New parcels shall only be created pursuant to section 1040.A of this Ordinance.

Add to the regulations of the zoning districts where both the traditional land divisions and the “cluster” system of land division is desired. A government unit shall include at least both options in “residential” zones (by December 16, 2002) if:

- A. the government unit has a population of 1,800 or more, and
- B. has undeveloped land that is zoned “residential,” and
- C. the residential zoning has a density of 2 dwellings per acre (minimum parcel size of 21,780 square feet) or less OR if serviced by public sewer, 3 dwellings per acre (minimum parcel size of 14,520 square feet) or less.

**1042. Land Division Options.**

New parcels may be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*) or as provided in section 1040.A of this Ordinance.

Add to the regulations of the zoning districts where only, the traditional system of land division is desired. This option can not be used in a government’s “residential” zoning districts (after December 16, 2002) if:

- A. the government unit has a population of 1,800 or more, and
- C. has undeveloped land that is zoned “residential,” and
- D. the residential zoning has a density of 2 dwellings per acre (minimum parcel size of 21,780 square feet) or less OR if serviced by public sewer, 3 dwellings per acre (minimum parcel size of 14,520 square feet) or less.

**1043. Land Division Options.**

New parcels shall only be created pursuant to P.A. 288 of 1967, as amended, (being the Land Division Act; M.C.L. 560.101 *et. seq.*).