Highlights of Cluster Housing regulations from various Cities

(Staff highlights are in yellow)

*(from the **City of West Linn Comprehensive Plan**):*

Definitions:

"Cluster Development. A development design technique that concentrates buildings on part of the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive features."

Goal 2:

"Policies: 2. Allow clustering of residential development on land with significant environmental constraints only if:

a. Such clustering can be demonstrated to protect environmental resources, not only on the affected parcel, but on surrounding parcels; and,

b. Such clustering is found to be compatible with and complementary to existing neighborhoods in the vicinity of the parcel to be developed."

City of Sherwood

16.40.050 Residential PUD

A. Permitted Uses

The following uses are permitted outright in Residential PUD when approved as part of a Final Development Plan:

1. Varied housing types, including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.
2. Related NC uses which are designed and located so as to serve the PUD district and neighborhood.
3. All other uses permitted within the underlying zoning district in which the PUD is located.

B. Conditional Uses

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Chapter 16.82. (Ord. 86-851, § 3)

C. Development Standards

1. Density

The number of dwelling units permitted in a Residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in Subsection (C)(2), below or 16.40.040.C above.

2. Density Transfer

Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed adding a maximum of 20% to the overall density of the land to be developed.

3. Minimum Lot Size

The minimum lot size required for single-family, detached dwellings is 5,000 square feet, unless the subject property qualifies as infill, defined as: parent parcel of 1.5 acres or less proposed for land division, where a maximum 15% reduction in lot size may be allowed from the minimum lot size. (Ord. 2001-1119 § 3; Ord. 86-851)

Vancouver, WA

Section 20.940.010 Purpose.

The purpose of on-site density transfer regulations is to provide an incentive to property owners for encouraging the protection, preservation and enhancement of significant sensitive lands and cultural resources, while maintaining the overall density of an underlying zoning district. The provisions of this Chapter provide that sensitive resource areas may be set aside from development, while allowing a portion of the density, otherwise allowed upon the sensitive or cultural area, to be transferred to the developable (non-sensitive) portion of the site. Parcels where sensitive resources consist of more than 50% of the gross parcel area may have such areas deducted from the minimum required density calculations.

Section 20.940.020 Applicability.

A. Applicability of provisions. The provisions of this Chapter are discretionary, and may be applied where the Planning Official determines that such application to a particular land division will provide protection, preservation or enhancement of significant sensitive or cultural resources. The provisions of this Chapter will not be applied where such application is inconsistent with these purposes, or presents a threat to health or safety. The provisions of this Chapter shall not be construed to create a vested right or interest.

A. For sensitive resources. On-Site Density Transfer may be applied to land divisions pursuant to Chapters 20.320 VMC, Subdivisions, upon properties within the Low-Density Residential Zoning Districts, as governed by Chapter 20.410 VMC, where the presence of sensitive resources, as defined in Chapter 20.150 VMC, Definitions, limit the area available for development. For purposes of the density transfer, the sensitive resource area(s) set aside pursuant to this Chapter must be equal to or greater than the minimum lot size for the underlying zone, and the non-sensitive portion of the property must be able to accommodate more dense development.

For example, if the subject property is zoned R-6, then the amount of sensitive resource area must be 7,500 square feet or more.

A. Provisions and land divisions. When the provisions of this Chapter are applied concurrently with land division pursuant to Chapter 20.320 VMC, Subdivisions, the minimum lot size provisions of Section 20.410.050(B) VMC are not applicable, and are replaced by the provisions of this Chapter. The maximum density of the development, as applied to the entire subject property, shall not be increased beyond that of the underlying zone.

Section 20.940.040 Requirements.

A. For sensitive or cultural resources. Where the provisions of this Chapter apply, the boundaries of the sensitive or cultural resource(s) area must be delineated, calculated in square feet, and shown on the plat map submitted with the application for land division. The delineation must be adequately marked in the field, so that it may be verified by Planning Official

A. For density adjustments. The extent of any density adjustment requested under the provisions of this Chapter, including minimum lot size, dimensional standards, minimum number of lots, and modification to the street standards, shall be accurately described in the preliminary plat application.

A. Guarantees. When the provisions of this Chapter are applied concurrent with land division pursuant to Chapters 20.320 VMC, Subdivisions, the property owner will be required to grant to the City adequate guarantees to assure the protection, preservation or enhancement of the identified sensitive or cultural resource areas. Such guarantees may include, but are not limited to: conservation covenants or easements; mitigation plans; designation of open space areas to be held in common ownership; public dedications or easements; and, special setbacks from protected resources. Any protection measures proposed or required as conditions of the preliminary plat shall be recorded with the final plat.

A. Minimum lot size and dimensions. The application of this Chapter shall not result in the creation of any single lot with a gross area that is less than 80% of the minimum lot size of the underlying zoning designation, nor shall any lot dimension (width, depth) be created that is less than 80% of the minimum required dimension.

A. For road modifications. Road standard modifications and reductions to setbacks or dimensional standards may be applied concurrent with application of this Chapter, and do not require a separate development application. Provided that, such adjustment to development standards will be limited to the extent that such adjustments are available pursuant to street standard modifications, as governed by Section 20.950.180(K) VMC and Minor A Variances, as regulated by Chapter 20.270 VMC, Variances. Further provided that reductions to setback or dimensional standards resulting from the application of the provisions of this Chapter shall not be used in conjunction with other provisions of this Code for the purposes of cumulative reduction in setback or dimensional standards that exceeds the reduction limitation set forth in Section (D) above.

A. Exception to Density Transfer Requirement. Where parcels contain sensitive resource areas equal to or greater than 50% of the gross parcel area, the minimum required density may, at the applicant's option, be based on the net buildable area instead of the gross parcel area.

Section 20.940.050 Density Calculation.

A. Required calculations for transfer. In applying On-Site Density Transfer, the gross density of the site's sensitive resource area may be transferred to the developable portion of the property, or, for parcels with over 50% in sensitive resource area, deducted from the minimum required density, as allowed in Section 20.940.040(F) above. The minimum area for those lots proposed on the developable portion may be reduced to no less than 80% of the minimum lot size for the underlying zone. For example, proposed lots in the R-6 Zoning District, where the minimum lot size is 7,500 square feet minimum area, could be reduced to 6,000 square feet.

1. The total acreage of the subject property shall be divided by the minimum lot size of the underlying zoning district, and the result shall be the gross density. The gross density figure shall then be rounded down to the nearest whole number. The rounded gross density calculation shall be the maximum number of lots that may be located on the Total Developable Land (TDL), except as limited by the reduction in lot area as described above.

1. The applicant may use lot size reduction, adjustment to lot size dimensions or other development standards, within the limits described in Section 20.940.040(D) and (E) VMC above to develop the number of lots allowed under the provisions of this Chapter. The number of lots allowed on the TDL as a result of On-Site Density Transfer may not be increased above gross density.

City of Olympia

F. Clustered Housing.

1. Mandatory Clustering. The Director or Hearing Examiner may require that the housing units allowed for a site be clustered on a portion of the site in order to protect ground water used as a public water source (e.g., wellhead protection areas), to enable retention of windfirm trees (which are appropriate to the site and designated for retention, consistent with Chapter 16.60, Tree Protection and Replacement, OMC), to accommodate urban trails identified on Map 7-1 of the Comprehensive Plan, to preserve scenic vistas pursuant to Sections 18.20.070, View Preservation and 18.50.100, Scenic Vistas, or to enable creation of buffers between incompatible uses (also see Chapter 18.36, Landscaping and Screening).

The Director or Hearing Examiner may allow up to a twenty (20) percent reduction in lot dimensions, sizes and setback requirements, consistent with the Uniform Building Code, to facilitate the clustering of the permitted number of dwelling units on the site. The required clustering shall not result in fewer lots

than would otherwise be permitted on the site (at the minimum density specified in Table 4.04), without written authorization by the applicant.

2. Optional Clustering. Applicants for housing projects may request up to twenty (20) percent reduction in lot sizes, dimensions, and building setback requirements in order to cluster housing and retain land serving the purposes listed in a. above; or to avoid development on slopes steeper than twenty (20) percent; or to preserve natural site features such as rock outcrops; or otherwise enable land to be made available for public or private open space. The Director or Hearing Examiner, as applicable, may grant such requests if s/he determines that the development would not have a significant adverse impact on surrounding land uses.

UNSOURCED EXAMPLE OF LOT AVERAGING LANGUAGE:

3-10-6 LOT REQUIREMENTS

§ 3-10-6.1 Intent. This Code Section is intended to ensure that new lots platted in established residential areas are similar in size (lot area) as existing lots. It is also intended to provide for smaller lots (density bonuses) when open space is provided, and in cases where justified, through lot size averaging.

§ 3-10-6.2 Maximum Density (Minimum Lot Size). Residential infill development shall not exceed the density (shall not have lots smaller than the minimum) permitted for the zoning or land use intensity district in which the property to be developed is located, except as permitted in this Code Section.

§ 3-10-6.3 Density Bonus for Open Space. The maximum allowable density as reflected in the minimum lot size for the applicable zoning or land use intensity district may be increased (lot size decreased) by one square foot for every square foot of land dedicated to public park, greenway, public park or other public space approved by the Land Use Officer; provided, however, that no lot shall be reduced to less than eighty percent (80%) of the required minimum lot size for the applicable zoning or land use intensity district.

§ 3-10-6.4 Lot size averaging. Where, in the opinion of the Land Use Officer, site specific conditions exists, such as irregular shape, difficult topography or other unique conditions that warrant flexibility in lot size, up to one-half of the total residential lots in any plat of a residential infill subdivision may be reduced below the minimum lot size for the applicable zoning or land use intensity district, provided that all lots meet the following:

(a) The average lot area of all lots within the subdivision meets the minimum lot size.

(b) No lot shall be reduced to less than eighty percent (80%) of the required minimum lot size for the applicable zoning or land use intensity district.

(c) This provision shall not extend to abutting undivided and undeveloped property under the ownership of the infill subdivider at the time of infill subdivision.

WASHINGTON COUNTY

Residential Density Calculation

To determine the maximum or minimum number of units which may be constructed on a site for residential uses, the site size (in acres) shall be multiplied by the maximum or minimum number of units per acre allowed on the site, as designated on the applicable Community Plan, except as specified otherwise below or by Table C of Section 375.

300 - INTRODUCTION

300-2.2 Allowable density shall be as designated on the Community Plan Map or Rural Plan.

300-2.3 No portion of the allowable density shall be permitted to be transferred from one land use designation to another land use designation, except as permitted in accordance with the Planned Development provisions of Section 404-4.5.

300-2.4 The number of units which may be constructed on the subject site shall be subject to the limitations of the applicable provisions of this Code, including the requirements of Section 300-3 and such other things as landscaping, parking, flood plain, buffering, slopes and other site limitations.

300-2.5 When the maximum or minimum number of units allowed on a site results in a fraction of .5 or more, the number of units allowed shall be the next highest whole number, provided all minimum district requirements other than density can be met.

300-2.6 Except in the North Bethany Subarea, land that is dedicated to a park and recreation provider as public park land may be used to calculate the minimum or maximum density, provided the land is developed for recreational uses, and is not comprised of flood plain, drainage hazard, wetland, slopes over ten (10) percent, or a Significant Natural Resource area.

300-2.7 When allowed by a legislative or quasi-judicial plan amendment:

A. Assisted living units, that are part of a mixed use residential development, may be used to satisfy the minimum density requirement; and

B. Land used for a private park, that is available to the general public outside of the residential development the park is located in, may be excluded from the acreage used to calculate the minimum density provided the park is developed for recreational uses, and is not comprised of flood plain, drainage hazard, wetland, slopes over ten (10) percent, or a Significant Natural Resource area.

C. The provisions of Section 300-2.7 are not applicable in the North Bethany Subarea in the Bethany Community Plan.

300-2.8 Only categories of land listed in Section 300-3.1 may be excluded from the acreage used to calculate minimum required densities. Categories of land listed in Section 300-3.1 may be included when calculating maximum allowed densities provided the densities transferred comply with Section 300-3.3. The provisions of Section 300-2.8 and Section 300-3 are not applicable in the North Bethany Subarea in the Bethany Community Plan.

300 - INTRODUCTION

300-3 Density Transfers for Unbuildable Lands

300-3.1 Applicability:

Transfer of density from one area of land to another shall be permitted for any unbuildable portion of a lot or parcel when a portion of the subject lot or parcel is within any of the following areas. The provisions of Section 300-3 are not applicable in the North Bethany Subarea in the Bethany Community Plan.

A. Flood Plain;

B. Drainage Hazard;

C. Jurisdictional Wetland;

D. Slopes over twenty (20) percent;

E. Significant Natural Resource area;

F. Power line easement or right-of-way;

G. Future right-of-way for transitway, designated arterials and collectors;

H. Water Quality Sensitive Areas;

I. Vegetated Corridors;

J. Regionally Significant Fish & Wildlife Habitat areas as designated on the current edition of Metro's Regionally Significant Fish & Wildlife Habitat Inventory Map.

K. In transit oriented districts, land within an area identified above, or land needed for public or private streets, including sidewalks, accessways, greenways, public parks and plazas, and common open space as defined in Section 431-3.4.

300-3.2 Density may be transferred only as follows:

A. Within a single lot or parcel within the same land use designation; or

B. To an adjoining lot or parcel that is a subject of the development application provided it is also within the same land use designation as the other lot or parcel.

300-3.3 Density Transfer Calculations:

The number of units which may be transferred shall be calculated as follows:

A. Determine the total density for the subject lot(s) or parcel(s).

B. Determine the total number of units in the buildable portion and the unbuildable portion of the total site.

C. Transfer the density of the unbuildable portion of the site to the buildable portion of the site, provided that the transferred density does not more than double the density allowed on the buildable portion of the site.

State of Oregon Model Code

Residential Density Standards – Sample Code Provisions

Density Bonus. A density bonus may be granted up to a total of [10-20] percent of the base density for the provision of the following public benefits:

a. Dedication of public park, greenway, supplemental wetlands and/or riparian buffers

b. [other, such as dedication of upland forest areas, reducing development in steep slope areas]

Density Transfer. A density transfer is an equal transfer of allowable dwelling units from one portion of the site to another. Density transfers are allowed by right for the following areas (i.e., transfer density 'from'):

a. Area within the floodway and the floodway fringe;

b. Area over [X] percent slope;

c. Known landslide areas or areas shown to have potential for severe or moderate landslide hazard (e.g., on Department of Geology and Mineral Industries maps);

d. Streams, wetlands and natural areas and their associated buffers in excess of that required to satisfy Goal 5.

e. Areas constrained by monitoring wells and similar areas dedicated to associated buffers; remediation of contaminated soils or ground water; and

f. Areas similar to those in a-e above, as approved by the Planning Director, and subject to public notice for Type II Administrative Decisions.

American Planning Association: MODEL RESIDENTIAL CLUSTER DEVELOPMENT ORDINANCE

101. Purpose

(1) It is the purpose of this ordinance to permit residential cluster development in order to:

(a) encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography;

(b) protect environmentally sensitive areas of a development site and preserve on a permanent basis open space, natural features, and prime agricultural lands;

(c) decrease or minimize nonpoint source pollution impacts by reducing the amount of impervious surfaces in site development;

(d) promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets; and

(e) provide opportunities for social interaction and walking and hiking in open space areas.

102. Definitions

As used in this ordinance, the following words and terms shall have the meanings specified herein:

"Cluster" or **"Clustering"** means a site-planning technique that concentrates buildings and structures in specific areas on a lot, site, or parcel to allow the remaining land to be used for recreation, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings may include, but shall not be limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open space being devoted by deed restrictions for one or more uses.

"Cluster development, residential" means a land development project in which the site planning technique of clustering dwelling units is employed.

103. Applicability; General Provisions

(1) A residential cluster development shall be permitted [as of right in any residential zoning district pursuant to this ordinance *or* as of right in the following zoning districts: *list district names*]:

(a) All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in the cluster development. In addition, multifamily dwellings, duplexes, and townhouses may be permitted for a cluster development located in a residential zoning district that does not otherwise allow attached dwelling units.

(b) Maximum lot coverage, floor area ratios, building height, and parking requirements for the applicable zoning district shall apply to the cluster development. Maximum lot coverage, floor area ratios, and parking requirements, however, shall be applied to the entire site rather than to any individual lot.

(2) The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:

(a) The minimum area of the cluster development shall be [two *to* five] acres.

(b) No minimum width or depth of a lot shall apply.

(c) A minimum separation of [10] feet shall be provided between all principal buildings and structures.

(d) A minimum yard or common open space of a least [25] feet in depth shall be provided, as measured from all public streets and from the side and rear lot lines of the entire cluster development.

(e) Each lot shall have a minimum access of [12] feet to a public or private street. Such access may be shared with other lots.

(f) More than one principal building or structure may be placed on a lot.

(g) Not less than [25] percent of the site shall be conveyed as common open space in the manner provided for in Section [110] below. [Where the site contains floodplains and/or coastal or freshwater wetlands, not less than [50] percent of such floodplains and/or wetlands shall be included in calculating the common open space.]

104. Contents of Site Plan

(1) The preliminary and final site plan for a residential cluster development shall include, but shall not be limited to, the following information:

(a) The maximum number and type of dwelling units proposed

(b) The areas of the site on which the dwelling units are to be constructed or are currently located and their size (this may take the form of the footprint of the dwelling unit or a building envelope showing the general area in which the dwelling unit is to be located)

(c) The calculations for the permitted number of dwelling units, derived pursuant to Section [105] below

(d) The areas of the site on which other proposed principal and accessory uses may be located and their size

(e) The areas of the site designated for common open space and their size

(f) The areas of the site designated for parking and loading and the size of individual spaces

(g) The number and percentage of dwelling units, if any, that are proposed to be affordable

(h) The location of sidewalks, trails, and bike paths.

(i) The number of acres that are proposed to be conveyed as common open space

105. Calculation of Permitted Number of Dwelling Units; Density Bonuses

(1) Except as provided in paragraph (3) below, the maximum numbers of dwelling units proposed for a residential cluster development shall not exceed the number of dwelling units otherwise permitted for the residential zoning district in which the parcel is located.

(2) Except as provided in paragraph (3) below, the number of permitted dwelling units on a site shall be calculated in the following manner.

(a) Measure the gross area of the proposed cluster development site in acres and tenths of an acre.

(b) Subtract from the gross area determined in subparagraph (a) the area of public and private streets and other publicly dedicated improvements, measured in acres and tenths of an acre, excluding common open space (whether or not it is conveyed pursuant to Section [110] below). The remainder shall be the net buildable area;

(c) Convert the net buildable area from acres to square feet (SF), using the equivalency of 43,560 SF = 1 acre; and

(d) Divide the net buildable area by the smallest minimum lot size (in square feet) per unit for a dwelling unit permitted in the zoning district. This figure shall be rounded to the nearest lower number to establish the maximum number of dwelling units to be permitted in the cluster development.

(3) The [local planning commission] may approve an increase of up to [25] percent of the maximum number of dwelling units in the cluster development, as calculated in paragraph (2) above, if:

(a) the percent of density bonus is no greater than the percent of dwelling units in the cluster development that are affordable units; and/or

(b) the percent of density bonus is no greater than the percent of the gross area of the cluster development that is both:

1. set aside as and conveyed as common open space pursuant to Section [110] below; and

2. accessible to the public.

107. Review Criteria

(1) In reviewing a residential cluster development, the [local planning commission shall determine whether:

(a) the site plan satisfies the requirements of Sections [103], [104], and [105] above;

(b) buildings and structures are adequately grouped so at least [25] percent of the total area of the site is set aside as common open space. To the greatest degree practicable, common open space shall be designated as a single block and not divided into unconnected small parcels located in various parts of the development;

(c) pedestrians can easily access common open space;

(d) the site plan establishes, where applicable, an upland buffer of vegetation of at least [50] feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds;

(e) individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography;

(f) existing scenic views or vistas are permitted to remain unobstructed, especially from public streets;

(g) the site plan accommodates and preserves any features of historic, cultural, or archaeological value;

(h) floodplains, wetlands, and areas with slopes in excess of [25] percent are protected from development;

(i) the cluster development advances the purposes of this ordinance as stated in Section [101] above; and

(j) [*other, such as contiguity requirement for common open space*].

(2) The [local planning commission] may, in its opinion, apply such special conditions or stipulations to its approval of a residential cluster development as may be required to maintain harmony with neighboring uses and to promote the objectives and purposes of the comprehensive plan and the zoning and subdivision ordinances.

(3) If the [local planning commission] finds that the requirements of paragraph (1) above are satisfied, it shall approve the residential cluster development, subject to any special conditions or stipulations pursuant to paragraph (2) above, any density bonus pursuant to Section [105] above, and any reductions [and/or waivers] pursuant to Section [108] below.

108. Reduction [and/or Waiver] of Certain Physical Design Requirements

(1) In approving a residential cluster development, the [local planning commission] may reduce the pavement width of any public or private streets that would otherwise be required by the [subdivision regulations *or other design specifications for roads*] to [22] feet.

(2) An applicant who wants the reduction of pavement width of public or private streets as provided for in paragraph (1) above, shall submit a statement of justification for the reduction [and/or waiver] along with the final site plan.

110. Conveyance of Open Space

(1) Common open space provided by a residential cluster development shall be conveyed as follows:

(a) To the [local government] and accepted by it for park, open space, agricultural, or other specified use or uses, provided that the conveyance is approved by the [local planning commission] and is in a form approved by the [local government] law director; or

(b) To a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of lots or dwelling units within the residential cluster development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be approved by the [local planning commission] and shall be in a form approved by the [local government's] law director (see Diehl et al. 1988 for model language for easements).

(2) In any case, where the common open space in a residential cluster development is conveyed pursuant to subparagraph (1)(b) above, a deed restriction enforceable by the [local government] shall be recorded that provides that the common open space shall:

(a) be kept in the authorized conditions(s); and

(b) not be developed for principal uses, accessory uses (e.g., parking), or roadways.