



**Governor Christie Enacts Cluster Development Legislation**  
*Law amends MLUL to clarify authorization for cluster developments*

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Governor Christie yesterday signed into law legislation that amends the Municipal Land Use Law (MLUL) to expand authorization for the use of cluster developments. The legislation, S2608 (Senators Van Drew and Oroho)/A3761 (Assemblymen Green and Clifton), provides municipalities and landowners additional options for subdividing and developing land through clustering and authorizes municipalities to use lot-size averaging.

Clustering allows municipalities to concentrate development of one or more areas while restricting development in the remaining areas. Existing law authorized the use of both contiguous and non-contiguous clustering. In both types of clustering, the overall development potential from the parcel or parcels is concentrated on a portion of the property, and the remaining land is permanently protected.

The legislation makes several important changes to expand the authorized use of clustering:

- Existing law authorized clustering of residential development to preserve open space. The new law allows municipalities to cluster residential, nonresidential, and mixed-use development to preserve farmland, historic sites, open space, or a combination thereof.
- Existing law authorized cluster development solely for planned developments, which are larger developments. The newly enacted law authorizes municipalities to use clustering for developments which are not planned developments, which will allow its use for smaller-scale projects.
- The new law authorizes municipalities to increase development potential in areas targeted for cluster development by assigning density or intensity-of-use bonuses. This will create an incentive for landowners to use cluster development.
- The legislation clarifies when noncontiguous clustering may be used rather than a full transfer of development rights (TDR) program. Under noncontiguous clustering, municipalities would be authorized to indicate “areas to be developed” and “areas to be preserved,” or establish criteria for the selection of such areas. However, a municipality may not use noncontiguous clustering to utilize the formal TDR provisions currently authorized by the MLUL.



- The legislation amends the MLUL to clarify that “lot-size averaging” is authorized. The use of lot size averaging will provide planning boards greater discretion to approve subdivisions with varying lot areas, provided that the authorized density is not exceeded.
- The legislation authorizes municipal zoning ordinances to provide ranges of permissible lot sizes, dimensions, and floor areas for development within a zone, rather than specific lot sizes, dimensions, and floor area ratios. This provides parameters for boards and applicants when considering applications involving clustering and lot-size averaging.

For the full text of the legislation, [click here](#).

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