

## ARTICLE 7 - CLUSTER SUBDIVISION OVERLAY DISTRICT

### 7.00 Intent

In permitting the Cluster Subdivision Overlay District (hereinafter CSOD), it is the intention of Eaton Township to make reasonable provisions through which, during the subdivision of land, and where water service and a waste water system connected to a sanitary sewer or to an Ohio Environmental Protection Agency (EPA) approved septic system are available, natural elements of the landscape and population density within districts may be maintained, development costs may be lessened, and physical living conditions within Eaton Township improved. The provisions of this Article are set forth to provide extra amenities for Eaton Township and not as an automatic reduction of lot size requirements or as an alternative form of multiple family zoning. To further this intention, Eaton Township establishes this CSOD. The CSOD permits residential subdivisions that include a range of dwelling types. These regulations are intended to achieve these goals:

- (A) To permit the retention of natural features and open spaces without requiring the sacrifice of development opportunities,
- (B) To control infrastructure costs by concentrating improvements, and
- (C) To permit the flexible distribution and design of lots and to permit land to be set aside for common use.

### 7.01 General Procedures

All plans, correspondence, applications and fees should be submitted to the Eaton Township Zoning Office. The following is an outline of procedures which are set forth in further detail in this Article.

- (A) Obtain Developer's Agreement (when EPA sewer system is not available)
- (B) Have proper zoning or obtain zoning change
- (C) CSOD Eligibility
- (D) CSOD Application
- (E) Set Public Hearing with Zoning Commission
- (F) Public Hearing by Trustees
- (G) After Trustee's approval, submit final plans
- (H) Negotiate Cluster Overlay Agreement (COA)
- (I) Trustee's approval of COA
- (J) Apply for Zoning Permit(s)

### 7.02 Application of the District

A CSOD may be approved within the R-1, R-2, and R-3 Residential Districts if the requirements of this Article are met. The CSOD shall be overlaid upon the existing R-1, R-2, and/or R-3 residential districts as they are indicated on the Zoning Map. The CSOD shall be approved as a zoning amendment in accordance with Article 18. Site-specific development plans and a cluster overlay agreement (COA) shall be approved by the Zoning Commission and Board of Trustees, not as a zoning amendment, but as an administrative matter.

- (A) Upon approval by the Trustees, the zoning use permitted within the District shall be cluster development. No other uses shall be permitted.
- (B) In a Cluster Subdivision Overlay District, the dimensional specifications that would be required within the underlying zoning District are superseded by the dimensional specifications as indicated in the approved plan.
- (C) Upon its approval, the land area included within the Cluster Subdivision Overlay District shall be indicated on the Zoning Map.

7.03 **Minimum Dwelling Units and Project Area.**

The proposed cluster development shall contain a minimum of thirty-five (35) dwelling units. At the time of approval, the proposed cluster development shall contain a minimum of thirty-five (35) acres under common ownership.

7.04 **Requirement Reductions.**

The requirement reductions in this Article may be granted in order to produce an environment of stable and desirable character and shall be approved by the Zoning Commission and the Eaton Township Trustees.

7.05 **Eligibility.**

To be eligible for consideration for CSOD approval, the applicant must demonstrate that the following criteria will be met:

- (A) **Concept.** The applicant must prepare, submit, and present a concept plan showing the general characteristics of the proposed CSOD, including overall size, layout, number of lots and/or units, vehicular and pedestrian circulation system, amount of open space, types of amenities, and any other unique attributes.
- (B) **Benefit.** A CSOD shall result in a recognizable and substantial benefit to ultimate users of the CSOD, and the community, and shall result in a higher quality of development than could be achieved under conventional zoning.
- (C) **Public Services.** A CSOD shall not exceed the capacity of existing available public services, including, but not limited to, utilities, roads, police and fire protection services, unless the CSOD contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the CSOD is completed.
- (D) **Comprehensive Plan.** A CSOD shall not conflict with the Comprehensive Plan. Any modification to this requirement shall consider whether inclusion of uses which are not called for in the Comprehensive Plan and/or deviation from the Future Land Use Map are justified in light of the current planning and development objectives of the Township.

7.06 **Application Information, Initial Rezoning Request and COA Agreement.**

The owner/s of record or a purchaser, with a valid letter of intent to purchase the property or a purchase agreement, signed by the property owner desiring to create a cluster subdivision, shall initiate a rezoning process in accordance with the procedures established in Article 18. Along with application

common application materials, the application shall be accompanied by a drawing of the proposed cluster subdivision showing how the proposed development meets the eligibility requirements set forth in Article 7. After the property is rezoned to include the Cluster Subdivision Overlay District, the applicant may proceed toward providing detailed plans, drawings and illustrations to demonstrate compliance with the requirements of this Article and the development of a Cluster Overlay Agreement (COA). The Zoning Inspector shall convey such plans and reports presented by the applicant to the Zoning Commission, which shall make a study thereof and present its findings thereon to the Eaton Township Trustees within sixty (60) days, in the form of a recommended Cluster Overlay Agreement (COA). Upon the receipt of the findings of the Zoning Commission, the Trustees shall study the same and, if concurring therewith, shall, within sixty (60) days, sign a COA and direct the Zoning Inspector to issue zoning permits which represent faithful execution of the contract and associated approved plans. Such zoning permits shall be revoked if such conditions are not met.

#### 7.07 **Permitted and Conditionally Permitted Uses**

All permitted and conditional uses in the underlying Zoning District.

#### 7.08 **Development Standards**

The applicant shall demonstrate that the proposed development meets the following requirements.

- (A) **Gross Residential Density:** The gross residential density (dwelling units per acre), shall be no greater than if the tract were developed with minimum lot sizes and required roadways as specified in this Zoning Resolution for the underlying use District (R-1, R-2 or R-3). Where two-family residences are permitted in a residential district, they shall also be permitted within cluster subdivisions. To compute the gross residential density of a given subdivision, the total number of acres suitable for building is divided into the total number of dwelling units proposed, the resulting ratio being measured in dwelling units per acre. Areas not suitable for building, such as lakes, ponds, streams, swamps, 100-year flood plains as designated by the Federal Emergency Management Agency, hazardous topography or soils and lands which are not available to the owner for development because of easements shall not be considered as part of the gross acreage in computing the maximum number of dwelling units that may be created under this procedure, unless otherwise determined by the Zoning Commission and the Trustees.
- (B) **Common Land.** The location, shape, size, intended use and legal responsibility for the tenure and maintenance of common land must be approved by the Zoning Commission and the Trustees and must be common land which shall be held by a condominium association or homeowner association, or if not held in either a homeowners or condominium association, each property owner shall receive an undivided proportionate share in such common land.

#### 7.09 **Dimensional Standards.**

- (A) **Minimum Setback from Project Boundary.** All structures, parking areas, ponds, retention ponds and/or detention basins, and shared recreational facilities shall be located a minimum of fifty (50) feet from a lot line that represents the project boundary.
- (B) **Minimum Front Yard Depth.** The minimum front yard depth shall be twenty (20) feet.
- (C) **Minimum Side Yards.** The minimum side yard width shall be five (5) feet, except where the lot line coincides with the line separating attached dwellings.
- (D) **Minimum Rear Yard.** The minimum rear yard shall be thirty (30) feet.
- (E) **Other Yards.** All structures shall be located no closer than twenty (20) feet to sidewalk of a

street or common interior walkway.

- (F) **Requirements for Fee-Simple Subdivided Lots.** Subdivided lots, including common facilities, need not comply with the lot area, lot width, setback, or yard requirements of the underlying district.

**7.10 Common Open Space Requirements**

Required open space in shall meet the minimum open space requirements shown below:

	ZONE R-1	ZONE R-2	ZONE R-3
Required Minimum Common open space as a percentage of the total project area	Forty percent (40%)	Thirty percent (30%)	Twenty percent (20%)

**7.11 Concentration and Connectivity**

To the satisfaction of the Eaton Township Zoning Commission and Eaton Township Trustees, the required common open space shall:

- (A) Be concentrated into large areas,
- (B) Conserve significant natural features to the extent practicable, and
- (C) Be connected directly and without intervening barriers with planned or otherwise protected open spaces in adjoining areas.

**7.12 Access to Common Open Space**

A minimum of sixty (60) percent of the total number of dwelling units in the subdivision shall have access to a common open area via a common interior walkway or sidewalk that is continuous such that it does not cross any public or private streets. The opposite sides of a cul-de-sac shall be considered to be separate sidewalks and shall be considered to be broken at the terminus of the cul-de-sac. The balance of the total number of dwelling units must have access to a common open space via a route with a maximum of one (1) crossing of a public or private street.

**7.13 Uses Not Included Within Common Open Space.**

The following shall not be included within the area of the required common open space:

- (A) Parking areas, loading areas, access drives, roadways or common walkways (excluding trailways),
- (B) Required setbacks between buildings, or between buildings and parking areas, service areas, or either public or private streets,
- (C) Required buffer areas at the boundaries of the project, or any buffer zone less than twenty (20) feet in width at its narrowest point, except where a common walkway follows its length,
- (D) Public road right-of-way including unpaved road right-of-way,

- (E) Private streets, or
- (F) Utility easements, unless all utilities are underground, such that the land surface is useable for recreation and open space.
- (G) Commercial golf courses or other commercially operated leisure activities.

**7.14 Uses Included Within Common Open Space.**

Required common open space shall meet the requirements of Section 7.10, and may include:

- (A) Land containing existing natural and historical features preserved as ponds, water courses, wetlands, open fields, woodlands, environmentally sensitive lands, sites of historic significance, or other similar conserved land,
- (B) Land used for passive leisure activities, and
- (C) Land used for active leisure activities, provided that playfields, playgrounds, or other areas designed for and provided with permanent equipment for active recreational use be located a minimum of one hundred (100) feet from any dwelling units.

**7.15 Fitness for Intended Use.**

Any common open space intended to be devoted to recreational activities shall be of a usable size and shape for the intended purposes as determined by the Zoning Commission and the Trustees. Where deemed appropriate by the Zoning Commission and the Trustees, recreation areas shall be provided with sufficient parking and appropriate access.

**7.16 Legal Instruments.**

Legal instruments setting forth the ownership of the required common open space and providing for the perpetual maintenance of the common open space by a homeowners' association, or the developer shall be submitted to the Eaton Township legal advisor for review and approval.

**7.17 Indication of Common Open Space.**

Such common open space, including any recreational facilities proposed to be constructed in such space, shall be clearly indicated on the development plan.

**7.18 Frontage and Access.**

A CSOD shall provide for frontage and access in accordance with the following requirements:

- (A) **Paved Access.** A CSOD shall front onto a paved road, and all means of access to the CSOD shall be via roads which provide continuous paved connections between the CSOD and all nearest major thoroughfares. If such roads are not paved, the CSOD shall provide for such roads to be paved and improved as otherwise required in conjunction with the CSOD.
- (B) **Drive Separation.** No entrance or exit drive to a CSOD shall be closer than four hundred (400) feet to any road intersection, as measured between the center line of the entrance or exit drive to the CSOD and the center line of the road intersection.
- (C) **Lot Access.** Each residential lot in a CSOD shall have frontage on, and each residential dwelling unit shall have direct access to, an approved public road, or an approved private road that has been designed to the same standards as would be required for an approved public road,

or an approved private road that has been constructed to some other standard as deemed appropriate by the Township. In determining the appropriateness of a standard, the Township may seek a recommendation from the Lorain County Engineer or a consulting engineer. Any cost of seeking such recommendation shall be borne by the applicant. This Section shall not be interpreted as a means to circumvent road or other requirements enumerated in the Lorain County Subdivision Regulations. Appropriate coordination by the applicant with applicable County officials relative to applicable County standards and requirements shall be expected as part of the CSOD review and approval process.

- (D) **Limitation.** Individual residential dwelling units in a CSOD shall not have direct access onto a major thoroughfare, collector road, or any other road maintained by the County or the State.
- (E) **Through Traffic.** A CSOD should be designed so that through traffic is discouraged from traveling on residential streets.

#### 7.19 **Public Streets.**

A street shall be required to be a public street where it:

- (A) Provides direct access to public facilities within the cluster subdivision,
- (B) Connects two existing public streets, or
- (C) Is a paved or unpaved road right-of-way designed to connect the proposed subdivision to adjacent areas.

#### 7.20 **Private Streets.**

A street not required by Section 7.19 to be a public street may be approved as a private street. The Zoning Commission and the Trustees may approve a street as a private street when:

- (A) The street is not designed or intended to extend beyond or terminate at a boundary of the cluster subdivision
- (B) The street provides safe and adequate access to the structures and lands it serves, as determined by the Eaton Township Fire and Rescue and the Lorain County Sheriff's Departments.

#### 7.21 **Design of private streets.**

Private streets shall conform to the materials, construction, geometric and dimensional standards of the Lorain County Subdivision Regulations. All requirement reductions for private streets must be approved by the Lorain County Engineer.

#### 7.22 **Common drives.**

Common drives shall meet the following requirements:

- (A) Common drives shall serve no more than four (4) units, and shall not serve common open spaces directly.
- (B) No common drive shall be constructed less than five (5) feet from the project boundary in all districts.

- (C) A common drive shall be a minimum of eighteen (18) feet in width for its entire length from the roadway to each dwelling unit or to each garage, whichever is furthest from the road. Under the driveway, at its entry, there shall be a culvert of design, specifications and materials acceptable to the Lorain County Engineer.
- (D) Adequate space shall be maintained for the turning around of emergency vehicles if the common drive has curves or extends more than one hundred fifty (150) feet from the edge of the road.
- (E) In addition, the common drive shall provide safe and adequate access to the structures it serves, as determined by the Eaton Township Fire and Rescue and the Lorain County Sheriff's Departments.
- (F) The drive shall be constructed to a minimum depth of six (6) inches and shall be constructed of a two (2) inch base of compacted limestone screening or other non-settling material as a leveling course, and either an asphalt surface measuring 6" in depth after compaction or a concrete surface. The concrete surface must be six (6) inches thick and eight (8) inches thick at the driveway apron, which shall be installed on private property, and sidewalk.
- (G) Fences, walls, gates and other improvements shall be placed no closer to either outer edge of the common drive than three (3) feet horizontally.
- (H) Plantings and/or natural vegetative growth shall be maintained by occupants or owners so as to be no closer to either outer edge of the common drive than three (3) feet horizontally.
- (I) No privacy fencing, natural or man made, (fencing that cannot be seen through) higher than three (3) feet shall be erected within twenty-five (25) feet of the common drive or the road right-of-way.
- (J) Whenever a private street and/or common drive is included in a cluster subdivision, deed restrictions shall be required and shall specifically include the following language: "The undersigned grantee(s) hereby acknowledge(s) that (he, she, they) understand that the premises described herein is located upon a non-dedicated, private street or common drive. And further, the grantee(s) understands that no government body is responsible for care and maintenance of said private street or common drive."

### 7.23 **Pedestrian Access.**

Pedestrian access shall be provided in compliance with the following:

- (A) Concrete sidewalks shall be provided on both sides of public and private streets. Such sidewalks shall have a minimum width of five (5) feet and be located no closer than seven (7) feet from the street pavement.
- (B) Common walkways shall be provided to connect residential areas to common open space areas and to provide convenient pedestrian access throughout the cluster subdivision and from the cluster subdivision to other areas of the community. Common walkways shall be constructed of concrete or asphalt, unless otherwise permitted by the Zoning Commission and the Board of Trustees.

### 7.24 **Irrevocability.**

Required open space in a CSOD shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land or through a conservation easement, whereby all rights to develop the land are conveyed to a land conservation organization or other public or private body acceptable to the Township, assuring that the open space will be developed according to the plan for the CSOD. Such conveyance shall include the following:

- (A) Indication of proposed use(s) of the required open space in a CSOD.
- (B) Indication of how all leisure and recreation needs of the population residing in or using a CSOD will be accommodated.
- (C) Provision for privately-owned open space in a CSOD to be maintained by property owners with an interest in the open space.
- (D) Provision of maintenance standards and a maintenance schedule.
- (E) Provision of notice of possible Township assessment to property owners in a CSOD for the cost of maintenance of open space in the event that it is inadequately maintained and/or becomes a public nuisance, or in the event that other facilities are not maintained.
- (F) Recordation with County Auditor's Records Division, to provide notice of restrictions to all persons having interest in property contained in the CSOD.

**7.25 Required Impact Studies**

Traffic, Storm Water, School, Economic, Safety and any other impact studies deemed necessary by the Zoning Commission shall be performed with costs to be incurred by Developer.

**7.26 Screening.**

Privacy for individual principal buildings shall be maintained through the use of landscaping and screening.

**7.27 Utilities.**

All utilities in a CSOD shall be installed underground in accordance with all requirements of applicable utility service providers. Adequate facilities for public utilities including central water and sanitary sewer, gas and electric power shall be provided and installed for every cluster subdivision.

**7.28 Signage.**

The applicant shall purchase and install all roadway signage and roadway markings as specified by the Board of Trustees.

**7.29 Street lighting.**

Street lighting shall be adequate for safety and security. On dedicated streets, streetlights shall be funded pursuant to a Township lighting district.

**7.30 Additional development requirements.**

Additional development requirements formulated to achieve the objectives of this Article may be



established at the time the Cluster Subdivision Overlay District development plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the proposed Cluster Subdivision Overlay District.

### 7.31 Homeowners Associations

As part of a Cluster Subdivision Overlay District, a homeowners association, community association, condominium association or similar legal entity shall be created to establish an entity responsible for the maintenance and control of common areas, including the required open space, private streets and common drives, and street lighting on non-dedicated roads. At the time of General Development Plan approval, the applicant shall provide Eaton Township's legal advisor with copies of the Declaration, Articles of Incorporation and either Bylaws (for a Condominium Association) or Code of Regulations (for a Homeowners' Association, et al). No General Development Plan shall be approved without a written opinion by Eaton Township's legal advisor that these submitted documents demonstrate full compliance with the provisions of this Section in that these documents, read in their entirety, contain appropriate provisions implementing all of the following requirements.

#### (A) Membership.

Membership in the Association shall be mandatory for all purchasers of lots in the development or units in the condominium. The conditions and timing of transfer of control from the developer to the unit or lot owners shall be either as provided for by statute (Condominium Association) or as specified in the Association's Declaration or Code of Regulations (Homeowners Association, et al).

#### (B) Approval for the Disposition of Common Areas.

The Association shall not authorize its dissolution or the sale, transfer or other disposal of any common area, including common open space, without the approval of the Eaton Township Trustees.

#### (C) Responsibilities of the Association.

The responsibilities of the Association shall include but not be limited to the following:

- ◆ Maintenance, control and insurance of common areas, including the required common open space, and private roads and common access drives;
- ◆ The imposition of assessments on members for the maintenance, control and insurance of common open space, and private roads and common access drives, and have the power to place liens against individual properties for failure to pay assessments either as provided for by statute (Condominium Association) or in the Code or Regulations (Homeowners' Association, et al.); and
- ◆ The responsibility and authority to enforce reasonable rules and regulations governing the use of, and payment of assessments for maintenance, control and insurance of, common open space, and private roads and common access drives, by such means as reasonable monetary fines, suspension of the right to vote and the right to use any recreational facilities in the common area, the right to suspend any services provided by the Association to any owner, and the right to exercise self-help to cure violations.

#### (D) Public Services.

The Association shall convey to Eaton Township and other appropriate governmental bodies, after proper notice, the right to entrance to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety and welfare. Such governments shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, Eaton Township shall have the right to proceed against the Association for reimbursements of said costs, including the right to file liens against individual

condominium units, houses and vacant building lots.

**7.32 Phased Development**

If development is to be implemented in phases, each phase shall have adequate provision for access, parking, storm water management, and other public improvements to serve the development in accordance with the applicable criteria set forth above. Each phase shall be provided with temporary or permanent transitional features, buffers, or protective areas in order to prevent any adverse impact on completed phases, future phases, and adjoining property.

**7.33 Existing Structures.**

A CSOD shall comply with the following standards regarding existing structures:

- (A) **Preservation.** If a CSOD contains existing structures deemed by the Zoning Commission to be of historic, cultural, or architectural significance (such as farm structures), and where those structures are deemed by the Zoning Commission to be suitable for rehabilitation, those structures shall be retained, preserved, and included in the CSOD. The developer shall make every effort to preserve such structures. If the developer declines to preserve such structures, the developer shall allow 90 days from the date developer so notifies the Zoning Inspector to allow local government, historic preservation or other entities to acquire such structures.
- (B) **Rehabilitation.** Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted in a CSOD.

**7.34 Control and Reserves.**

A CSOD shall be under single ownership or control, such that there is a single person or entity having responsibility and financial capability for completing the CSOD, or assuring completion of the project, in conformity with this Zoning Resolution. The applicant shall provide legal documentation of single ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions which indicate that the CSOD be completed as proposed and that cumulative financial reserves have been secured and designated for that purpose, and further, that all portions of the CSOD that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their successors. These legal documents shall bind all successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Township Fiscal Officer. Any COA shall be binding upon the successors and assigns of each party.

**7.35 Applicable Regulations.**

A CSOD shall comply with all applicable federal, state, and local laws and regulations, including, but not limited to, general provisions, conditional use requirements, and site plan review requirements, as well as subdivision and/or condominium requirements, where applicable.

**7.36 Additional Considerations.**

In addition to other requirements for review of a CSOD, the following considerations shall be taken

into account, which may be relevant to a particular project: perimeter setbacks and berming; thoroughfare, drainage, and utility design; underground installation of utilities; the extent to which sidewalks, trails, open space, playgrounds, and other areas used by pedestrians are insulated from roads, drives, and parking areas used by vehicles; achievement of an integrated development with respect to signage, lighting, landscaping, and building style; and noise reduction and visual screening.

### 7.37 **Approval of Cluster Overlay Districts**

The applicant for a Cluster Subdivision Overlay District shall submit development plans in accordance with this Article. In addition to the review procedures for zoning amendments, the Zoning Commission and the Trustees shall review the proposed development plan for each CSOD. They shall then negotiate with the Developer/Landowner, a contract called a Cluster Overlay Agreement (COA) which shall be signed by all parties involved. The COA shall ensure that:

- (A) Structures and uses within the proposed development shall be located so as to minimize the adverse effects of the development upon adjacent areas.
- (B) Where the proposed development is dissimilar from adjacent developments or where those adjacent developments have not been planned to connect to the proposed development via public streets, adequate buffer zones shall be provided between the proposed development and adjacent developments.
- (C) Where the proposed development is similar to adjacent developments and where those adjacent developments have been planned to connect to the proposed development via public streets, the perimeter areas of the proposed development shall be planned to harmonize with the adjacent developments.
- (D) The height, bulk, and uses of structures within the proposed development shall be compatible with existing adjacent development.
- (E) Street systems, common walkways, driveways, and other public and private ways within the development shall be designed so as to minimize traffic hazards both within the development and at the entrances to and exits from the proposed development.
- (F) Potentially adverse uses and features of the proposed development, including but not limited to lighting, parking areas, service areas, entrances and exits to the proposed development, and recreation areas shall be located to protect the character of existing adjacent development.

### 7.38 **Procedure**

Establishment of a CSOD shall conform to the following procedure:

- (A) **Compliance with Specific and General Requirements.** Approval of a CSOD application shall conform to all specific requirements for CSOD's as outlined in this Article.
- (B) **Approval Procedure Generally.** Approval of a CSOD application shall proceed in the same manner as a Zoning Amendment. Throughout the specific sequence of actions identified in this Article not less than one (1) public hearing shall be conducted by the Zoning Commission. Additional public hearings may, but need not, be conducted by the Zoning Commission, at the discretion of the Zoning Commission.

- (C) **Specific Sequence of Actions.** The specific sequence of actions on a CSOD application shall include determination of eligibility, action on the concept plan, action on the preliminary COA plan and modifications, and action on the final CSOD plan and modifications. This may occur in one (1), two (2), or three (3) steps, and shall have the following effects and limitations:

**Determination of Eligibility:** A determination of eligibility by the Zoning Commission shall entitle the applicant to prepare and submit a preliminary CSOD plan within six (6) months of the date of such determination.

**Preliminary CSOD Plan Approval.** Approval of the preliminary CSOD plan by the Zoning Commission shall entitle the applicant to submit a final CSOD plan within one (1) year of the date of such approval. Preliminary CSOD Plan Approval shall precede Preliminary Plan Approval pursuant to the Lorain County Subdivision Regulations.

**Final CSOD Plan Approval.** Approval of the final CSOD plan and modifications by the Zoning Commission shall constitute the "final determination", as provided for in Section 519.021(C) of the Ohio Revised Code, and shall entitle the applicant to commence construction within one (1) year of the date of such approval, pending conformance to approval conditions, if any, and execution of a COA. Final CSOD Plan Approval shall precede Final Plat approval pursuant to the Lorain County Subdivision Regulations.

- (D) **COA .** The final CSOD plan approval, including all associated conditions of approval imposed by the Zoning Commission, shall be documented in a COA, in a form acceptable to the Township Attorney, between the Board of Township Trustees and the applicant. The COA shall be executed prior to commencement of construction.
- (E) **Zoning Districts Map Notation.** Following the final CSOD plan approval and execution of the COA, the Zoning Districts Map shall be modified, to note the status of the property in question as an approved CSOD. Since the underlying zoning of the property in question will not change as a result of such action, such modification of the Zoning Map shall be treated as a ministerial action, rather than as an amendment to this Zoning Resolution, as provided for in Section 519.021(C) of the Ohio Revised Code.
- (F) **Revision of Approved Plans.**

**General Revisions.** The applicant may request that the Zoning Commission revise the final CSOD plan approval for reasons resulting from conformance to applicable regulations as outlined in this Article. Such provision shall not preclude the Commission from considering, reviewing, and acting upon such request in a manner as deemed appropriate by the Commission.

**Minor Changes.** Minor changes to the final CSOD plan approval may be approved by the Zoning Commission, following review procedures outlined in this Article, and subject to finding that such changes will not adversely affect the initial basis for granting approval and that such minor changes will not adversely affect the overall CSOD in light of the intent and purpose of such development as set forth in this Article.

#### 7.39 CSOD Agreement Phasing.

Where a CSOD is to be constructed in phases, it shall be designed so that each phase, when

completed, is capable of standing on its own in terms of the presence of services, facilities, and open space, and contains the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the CSOD and the residents of the surrounding area. In addition, proposed phasing shall comply with the following requirements:

- (A) **Commencement.** Construction of a CSOD, or any improvement therein, may commence at any time following final CSOD plan approval and execution of a COA, but not prior to any related and required engineering, condominium, and/or subdivision approval, provided that construction shall be commenced for each phase of the CSOD within one (1) year of the schedule set forth in the final CSOD plan approval. Improvements to infrastructure, including, but not limited to, paving of roads and installation of lights, signs, and other traffic improvements, as well as installation of all utilities and drainage improvements, etc., shall be completed prior to commencement of building construction in a CSOD. Mitigation of other issues and impacts shall require a plan delineating funding and timing, as well as other applicable information as determined by the Zoning Commission, of installation of any required improvements.
- (B) **Revised Phasing Plan.** The applicant may at any time following the final CSOD plan approval, however, submit a revised phasing plan for review and approval by the Zoning Commission. The applicant shall also submit a statement indicating the conditions which made the previous phasing plan unachievable. Once construction of a CSOD has commenced, approval of a revised phasing plan shall not be unreasonably withheld or denied, provided that the revised phasing does not materially change the integrity of the approved CSOD, as determined by the Zoning Commission.
- (C) **Reconsideration and Revocation.** In the event that construction has not commenced within the required time period, and a revised phasing plan has not been submitted, the Zoning Commission may reconsider and revoke the final CSOD plan approval for the undeveloped portion of the CSOD. This Section shall not be interpreted as a means to circumvent platting, construction, or other requirements enumerated in the Lorain County Subdivision Regulations. Appropriate coordination by the applicant with applicable County officials relative to applicable County standards and requirements shall be expected as part of the CSOD construction process. It is further understood that reconsideration and/or revocation may result in the applicant preparing additional plans to conform to applicable County replatting requirements.
- (D) **Definition.** For the purposes of this Article, "commencement of construction" shall mean sustained progress resulting in, by way of example, construction of utilities, roads, foundations, or similar substantial improvements.
- (E) **First Phase Projects.** If proposed as a part of a CSOD, improvements to be completed in the first phase of the CSOD shall include, but not be limited to, sewer and water treatment and storm water management facilities and other infrastructure, as determined by the Zoning Commission, such as golf courses, improvements to common areas, and the community centers and facilities.

#### 7.40 Preliminary Plan Contents.

A preliminary CSOD plan shall contain, at a minimum, the following information, drawn to scale, on

one (1) or more sheets:

- (A) All written information required by this Article.
- (B) An inventory of all existing natural and physical features.
- (C) Required and additional open space.
- (D) Proposed street layout.
- (E) Proposed lot and/or unit layout.
- (F) Statement of requested modifications.
- (G) Sufficient additional information as may be required to conform to the requirements for Preliminary Plan Approval pursuant to the Lorain County Subdivision Regulations.
- (H) Sufficient additional information as determined by the Zoning Commission to determine compliance with this Article, as it relates to the preliminary CSOD plan.

**7.41 Final CSOD Plan Contents.**

A final CSOD plan shall conform to the approved preliminary CSOD plan and shall contain, at a minimum, the following information, drawn to scale on one (1) or more sheets:

- (A) All written information required by this Article.
- (B) An approved preliminary CSOD plan, as may have been revised to conform to any conditions imposed by the Zoning Commission as a part of such preliminary CSOD plan approval.
- (C) Draft COA (Cluster Overlay Agreement).
- (D) Sufficient additional information as may be required to conform to the requirements for Final Plat Approval pursuant to the Lorain County Subdivision Requirements.
- (E) Sufficient additional information as determined by the Zoning Commission to determine compliance with this Article, as it relates to the final CSOD plan.

**7.42 Modifications.**

A CSOD application shall clarify and highlight all requested modifications to any of the CSOD requirements enumerated in this Article. The Zoning Commission may permit modifications to any of the CSOD requirements enumerated in this Article, subject to a payment of a fee by the applicant in an amount sufficient to cover the Township's costs of evaluating said modification, and upon finding that the modification will result in a substantial benefit to future CSOD residents and users and the community as a whole. In making this determination, the Zoning Commission shall give due consideration to the following:

- (A) **Innovative Design.** The modification shall provide for extraordinary design excellence, including, but not limited to, energy-efficient or other innovative design, open space above and beyond the minimum and additional amounts required, additional improvements to assure vehicular and pedestrian safety, and/or additional landscaping or other site features to assure a long-term aesthetically pleasing appearance.
- (B) **Public Services.** The modification shall provide for the inclusion of certain public services, including, but not limited to, sanitary sewers and a public water supply, to enhance the long-term viability of the CSOD, and to allow for more efficient use of land.

- (C) **Community Character.** The modification shall provide for land/or facilities that contribute to and/or enhance community character, examples of which include, but are not limited to, parks, schools, community centers and civic buildings.
- (D) **Compatibility.** The modification shall provide for an arrangement of uses and densities that enhance the compatibility of the CSOD with existing or planned uses on adjacent land.