

**Article 900
Conservation Development Regulations**

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901 PURPOSE.

It shall be the policy of Amherst Township, Lorain County, Ohio, to simultaneously promote the progressive development of land and construction thereon, as well as the preservation of open space through Conservation Development Regulations.

Conservation Development is a permitted development option in Agricultural Residential (R-AG) and Low-Density Single-Family Residential (R-1) Districts in accordance with the standards and regulations set forth in this Resolution. These regulations are intended to encourage the use of Conservation Development techniques in order to accomplish the general purpose of this Zoning Resolution as stated in Article 100, and to achieve the following objectives:

- a. To allow creativity, variety, and flexibility in design as necessary to implement the goals and objectives set forth in this Article.
- b. To promote economical and efficient use of land and public services through unified development, especially in areas with limited road access or irregular shape or which are traversed by significant easements or rights-of-way.
- c. To preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion.
- d. To permit the flexible spacing of lots and buildings in order to encourage the preservation of the natural features of the site and the provision of readily accessible recreation areas and green spaces.
- e. To ensure that the proposed Conservation Development occurs in a unified manner in accordance with a development plan prepared by the property owner.
- f. To ensure the development will not degrade or endanger the quality of life presently enjoyed by the existing residents.

It is not the intention of this Article to permit the application of these regulations to merely create a development that only appears to be a small lot subdivision and does not otherwise achieve the objectives of this Article. If the above objectives are not achieved, the Zoning Commission will not approve the Conservation Development proposal, in which case the standard zoning and subdivision regulations prevail.

902 CONFORMITY TO STANDARDS.

Because of the special characteristics related to Conservation Development, specific provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of this Article and those of other Articles of this Resolution, the provisions set forth in the Article shall prevail. Any existing provisions that are not covered by this Article shall be governed by the respective provisions found elsewhere in this Resolution.

903 MINIMUM PROJECT AREA.

The gross area of a tract of land proposed for development under Conservation Development regulations shall be a minimum of fifteen (15) acres. The area proposed shall be in one ownership; if in several ownerships, all owners of the properties included in the Conservation Development shall file the application jointly.

904 DWELLING TYPES AND PERMITTED LAND USES.

The dwelling types that are permitted as of right within a Conservation Development are listed in Schedule 904.

Schedule 904

Dwelling Type	R-AG	R-1
1. Standard Single-Family Detached	X	X
2. Cluster Single-Family Detached	X	X
3. Single-Family Attached with a maximum of two (2) units in any one building	X	
4. Single-Family Attached with a maximum of four (4) units in any one building		X
5. Accessory Uses; such as community buildings and recreational facilities	X	X

Accessory buildings and uses associated with individual dwelling units are subject to rules and procedures set forth by related Home Owners Associations.

905 DENSITY.

A Conservation Development shall not exceed the densities as set forth in Schedule 905.

Density is calculated based on the gross area of the parcel rounded up to the next highest dwelling unit. No minimum lot size is required for each dwelling, however the project must satisfy the density and setback/spacing requirements listed in Section 907 of the Amherst Township Zoning Resolution.

If the proposed Conservation Development is located in more than one residential district, the total number of units shall equal the sum of the dwelling units permitted in each district. The total number of dwelling units permitted may be distributed throughout the project site, regardless of district boundary lines, to ensure a more cohesive development is achieved.

Schedule 905

	R-AG	R-1
Maximum dwelling units per acre	1	2
Maximum net density on any one acre	4	6
Minimum common open space	40 %	25 %

For the purposes of determining the maximum number of dwelling units that are permitted in a Conservation Development, the unbuildable portion of the gross site area (i.e. steep slopes, ponds, wetlands that can not be mitigated, as determined by the Zoning Commission and/or Township Trustees) that exceeds the area of the minimum common open space required pursuant to Schedule 905, shall be deducted from the gross land area. (*Example: If the minimum common open space required is 40 acres and the unbuildable portion of the project area is 60 acres, then 20 acres would be deducted from the "gross area of the parcel" to determine the maximum number of units permitted.*)

906 COMMON OPEN SPACE REQUIREMENTS.

A portion of the area in a Conservation Development shall be devoted to common open space.

- a. General Standards. The common open space shall comply with the following regulations:

1. The minimum common open space required shall be 40% of the entire project area in R-AG Districts and 25% in R-1 Districts.
2. Open space must be aggregated areas but shall not include the following:
 - A. Public rights-of-way, and parking areas;
 - B. Land fragments between two or more buildings, and land fragments between buildings and parking areas, and any other land within fifteen (15) feet of all buildings and structures; and
 - C. Required yards or setbacks between project boundaries and buildings or parking areas, unless the required setback is contiguous to and part of a larger area of open space.
3. To the extent possible, open space areas shall be interconnected within the development and to adjacent parcels, and shall be easily accessible to residents of the Conservation Development. If the open space contains pedestrian trails that are open to the public then such trails may be deemed a substitute for the street sidewalks required pursuant to Section 908.
4. Open space shall be designed and located to preserve significant natural features and historical elements to the extent possible. The following priorities should be considered when determining the land for open space designation:
 - A. Wetlands, floodplains, lakes and ponds, and other water resources. The development plan should avoid alteration of or construction within natural drainage ways, and shall utilize low impact storm water management techniques such as grassy swales to the extent possible.
 - (1) Wetlands Protection. Wetlands that are required by the Army Corps of Engineers or the Ohio EPA to be retained shall be protected by the following:
 - i A buffer area having a width not less than twenty (20) feet measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.
 - ii A minimum building and pavement setback of thirty-five (35) feet, measured from the edge of the designated wetland.
 - (2) Conservation of Riparian Zones.
 - i A riparian buffer shall be provided along the entire length and on both sides of a river or perennial stream channel. The

buffer area on each side of the river or stream channel shall have a width not less than fifty (50) feet, measured from the river or stream bank.

- ii Walkways may be permitted to be located within riparian buffers when the Township determines that such will create minimal change to the riparian buffer.

- B. Woodlands, orchards, prime farmlands, meadows, and other vegetation. The design and layout of the development shall conserve and incorporate these areas to the extent possible, especially those containing significant wildlife habitats.
 - C. Scenic visual areas with respect to tree lines, unique vegetation, wildlife habitat, and other natural features. To the extent possible, structures shall be located to ensure that scenic views and vistas are unblocked or uninterrupted, particularly as seen from existing and proposed public thoroughfares.
 - D. Historic structures or buildings. Buildings or structures with significant historic meaning or traditional meaning that pertains to the areas history, such as barns, mills, etc. shall be preserved to the extent possible.
5. When approved by the Township, a portion of the planned open space may be used as retention basins, provided they are designed, arranged and landscaped in a manner consistent with the requirements for open space areas.
6. The common open space established as part of a Conservation Development shall be either:
- A. Retained by the owners of the Conservation Development area;
 - B. Dedicated to a homeowners association or similar legal entity that shall have title to the land to be retained as common open space; or
 - C. Transferring by deed, or granting of an easement to the Lorain County Metro Parks or any other land conservancy.
 - D. Offered to the Township for public open space. The Township shall have the right to not accept any land area offered to the Township. In the event of such refusal, the conditions of either A., B. or C. above, shall apply. Any land area that is accepted by the Township for dedication as public open space shall also continue to be counted toward the requirement for common open space.
7. The legal articles relating to the ownership, management, public easements if any, and maintenance of such common open space shall be reviewed and

approved by the Township's Legal Advisor. The Legal Advisor shall indicate such approval prior to the final development plan being approved by the Zoning Commission.

- b. Recreation Allowances. With the exception of extremely environmentally sensitive areas, passive recreation shall be permitted in common open space for the enjoyment of the residents of the proposed development and/or the public. For the purpose of these regulations, golf courses shall not be considered passive recreation and thus are not permitted as part of the required common open space in an R-AG development. Conversely, golf courses may be part of the required common open space in an R-1 development.

Active recreation shall be limited to no more than 5% of the common open space. Recreational facilities proposed to be constructed in dedicated open space shall be clearly shown on the development plans.

- c. Prohibition of Further Development of Restricted Open Space. The common open space shall be prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Township's Legal Advisor and duly recorded in the Office of the Recorder of Deeds of Lorain County.

907 DEVELOPMENT STANDARDS.

The following specific development standards shall be adhered to in the design and layout of any Conservation Development:

- a. Minimum Setbacks from Project Boundaries and Streets: All buildings, structures and parking areas shall comply with the minimum setbacks set forth in Schedule 907. Each building containing attached single-family dwelling units shall be counted as one building for the purpose of determining the minimum setback and spacing requirements.
- b. Minimum Separation Between Buildings: In order to ensure reasonable privacy and separation, walls of individual buildings located within a Conservation Development shall be separated by the minimum distances set forth in Schedule 907. The following definitions shall apply to terms used in this Section.
 - 1. Main Wall: The outside wall(s) of a building that contains the primary windows of any living, family or dining room.
 - 2. End Wall: The outside walls of a building, other than a main wall, which may be blank or contain windows not considered to be primary windows.

- c. Unbroken Wall Length: No wall or facade shall extend for more than two units without a change in the plane of the wall and roofline by at least five feet.
- d. Lot Requirements: Dwelling units are not required to be on lots. However, when lots for standard detached single-family dwellings or sublots for single-family cluster or attached dwellings are included as part of a Conservation Development, such lots or sublots shall be of sufficient size and shape to accommodate dwelling units in compliance with the spacing requirements of this section.
- e. Required Buffer: A buffer area with a minimum width of thirty (30) feet from an existing right-of-way, and twenty-five (25) feet from a perimeter side or rear property line is required in both R-AG Districts and R-1 Districts. The buffer area shall be landscaped with an acceptably designed wall, fence, planting screen, or mound, or some combination thereof, which shall comply with the regulations found in Section 1803, Parts b and c.
- f. Utilities: Underground utilities, including telephone and electrical systems, are required within the limits of a Conservation Development. Appurtenances to these systems that can be effectively screened may be exempted from this requirement if the Township finds that such exemption will not violate the intent or character of the proposed Conservation Development.
- g. Sewage Disposal: Development shall be served by individual or public sewage disposal structures consistent with the Lorain County systems. Individual sewage disposal systems shall comply with all applicable regulations of the Lorain County Health Department and may be located within common open space areas when approved by the Township and the Lorain County Health Department.
- h. Additional Standards: Additional development requirements, whether standards or criteria, formulated to achieve the objectives of the Conservation Development may be established at the time a Conservation Development plan is reviewed. Any such development requirements adopted with such plan shall become binding land use requirements for the development.
- i. Waivers: In the event the Township, determines that certain standards set forth in this section do not or should not apply specifically to the circumstances of a particular project and an alternative method of achieving the objectives of the numerical standard is equal to or better than the strict application of the specified standard, the Township may relax such standard to the extent deemed just and proper, provided that the granting of such relief shall be without detriment to the health and safety of the community and without detriment to or impairment of the intent of this Section.

Schedule 907

	R-AG Agricultural Residential	R-1 Low Density Residential
<u>Minimum Setbacks</u>		
1. Building		
◦ Existing street right-of-way	50 ft.	50 ft.
◦ Internal street – Public ¹	25 ft.	25 ft.
◦ Internal street – Private that has more than 10 units with access to the street ¹	40 ft.	40 ft.
◦ Internal street – Private that has 10 units or less with access to the street ¹	25 ft.	25 ft.
◦ Side/Rear property line	35 ft.	35 ft.
2. Parking ²		
◦ Existing street right-of-way	30 ft.	30 ft.
◦ Side/Rear property line	25 ft.	25 ft.
3. Required landscape buffer		
◦ Existing street right-of-way	30 ft.	30 ft.
◦ Side/Rear property line	25 ft.	25 ft.
<u>Minimum Spacing Between Buildings</u>		
1. Front wall to front wall	45 ft.	40 ft.
2. Front wall to end wall	30 ft.	20 ft.
3. End wall to end wall	15 ft.	10 ft.

¹ If the internal street is public, the setback is measured from the right-of-way; if it is private the setback is measured from the pavement of the street. These setback requirements may be reduced when the applicant has demonstrated and the Zoning Commission determines that the development, as proposed, is consistent with the purposes and intent of this chapter and, further, that such reduced setback results in the arrangement of units that is equal to, or better than, an arrangement which is in strict compliance with the required setbacks.

² Parking shall be provided in accordance with the requirements of Article 1700.

908 STREET REQUIREMENTS.

Each lot and building envelope within a cluster development shall have sufficient access to ensure safe and efficient traffic flow and reasonable ingress and egress for emergency vehicles. To this end, the street requirements for cluster developments are as follows:

- a. Public Streets. A street shall be required to be publicly dedicated when such street is a major street that connects two (2) existing public streets, is intended to provide a future continuing street system beyond the project boundaries, or is expected to accommodate pass-through traffic going to and from adjacent developments.
- b. Private Streets. Streets that are not otherwise required to be public streets pursuant to subsection a. above may be approved as private streets when the Township determines that:
 - 1. The private street is not planned or expected to be extended to serve property outside the Conservation Development.
 - 2. Adequate utility easements are provided to the satisfaction of the Township and the utilities.
 - 3. The design and layout of the private street provides adequate and safe access to the intended units.
 - 4. A private street with single access shall provide access to no more than twenty (20) dwelling units.
- c. Pavement Width: Private streets may be constructed with narrower pavement widths than required by the County Subdivision Regulations for public streets provided they comply with the minimum standards set forth in Schedule 908 and are approved by the County.

Schedule 908

Minimum Pavement Width	Two-Way ^(a)	One-Way ^(a)
Private street with two (2) means of access serving:		
More than ten (10) units	28 feet	19 feet
Ten (10) units or less	24 feet	16 feet
Private street with a single access serving ten (10) units or less	24 feet	N/A

Notes to Schedule 908.

^(a) These pavement widths are based on off-street parking, on one side of the street. However, if the applicant commits to no parking on these streets, and the Zoning Commission concurs, the width of the street parking may be reduced by four (4) feet.

NA = Not Applicable

- d. Construction Standards. All elements of a private street that are to be provided in a Conservation Development shall be constructed in accordance with the construction standards set forth for public streets in the County Subdivision Regulations. However, when the Township, with concurrence from the County, determines that certain elements of a public street do not or should not specifically apply to a private street due to the circumstances of a particular project or portion of a project, the Township may waive or permit a modification to the installation of any such element(s) to the extent deemed just and proper provided such relief may be granted without detriment to the public good. This provision also applies to waiving the requirement for curbs and storm sewers when the applicant demonstrates to the satisfaction of the Township and the County that, based on the topography of the site, open space, density and other environmental considerations, the proposed open natural drainage system will equally satisfy the drainage requirements.

If, pursuant to this Section, the Township waives the requirement for street side sidewalks, the Township may require that, alternatively, pedestrian trails constructed as part of the approved plan be open and accessible to the public.

909 HOMEOWNERS ASSOCIATIONS.

Homeowners associations, community associations, or similar legal entities that, pursuant to Section 906(a), are responsible for the maintenance and control of common areas including recreational facilities, common open space, private streets, and buffer areas, shall be established in such a manner that:

- a. Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
- b. The association or similar legal entity has clear legal authority to maintain, exercise control over, and insure such common areas and facilities;
- c. The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities;
- d. Membership in the Association shall be mandatory for all purchasers of lots or a condominium in the development.

910 PHASED DEVELOPMENT.

If the 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. 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.

911 PROCEDURES AND APPROVAL CRITERIA.

The Township Zoning Commission and the Township Trustees shall review and approve a general development plan for a proposed Conservation Development according to the procedures set forth in this Section.

- a. Submission of General Development Plan. The applicant shall submit twelve (12) copies of a General Development Plan application to the township Zoning Inspector. The application shall include documentation illustrating compliance with the standards and criteria set forth in this Article. The application and documentation shall include, but not necessarily be limited to:
 1. Identification of existing site characteristics, including a general depiction of:
 - A. Boundaries of the area proposed for development, dimensions and total acreage;
 - B. Contour lines at vertical intervals of not more than five (5) feet, highlighting ridges, rock outcroppings and other significant topographical features;
 - C. Location of wetlands (and potential wetlands), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, rivers and streams and their related river or stream bank, ponds, and water courses;
 - D. Locations of all wooded areas, tree lines, hedgerows, and specimen trees;
 - E. Delineation of existing drainage patterns on the property, existing wells and well sites;
 - F. Description of significant existing vegetation by type of species, health, quality, etc.;

- G. Existing buildings, structures and other significant man-made features on the site and within two hundred (200) feet of the project boundary; and,
 - H. Description of all structures and areas of known or potential historical significance.
2. The general development plan shall be drawn at a scale not less than 1" = 100', and shall include:
- A. A summary of the proposed development including the total acreage, number of residential units, type of dwellings, density by type of dwelling, and acreage of the common open space to be conserved;
 - B. A preliminary layout of standard single family lots, cluster lots and attached single-family dwellings, if any;
 - C. The location of the common open space and any proposed recreational facilities;
 - D. Natural features to be conserved and any required buffer areas;
 - E. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.;
 - F. General location of public street rights-of-way; and
 - G. Preliminary landscaping and buffering.
3. An outline of the method/structure to perpetually preserve the required open space which indicates:
- A. The structure of the association;
 - B. Membership requirements;
 - C. Financial responsibilities; and
 - D. The relationship of the entity to public agencies having responsibilities related to the project.
4. A description of the project phasing including the phased construction of open space improvements.
- b. Review For Completeness. Within five business days of receiving the application, the Zoning Inspector shall review the application to determine that the application

includes all the items required in subsection a. above. If the application is deemed complete and the application fee paid, the Zoning Inspector shall officially accept the application on that date.

- c. Review of General Development Plan by Others. The Township Zoning Inspector may refer the application to other Township officials, and/or other private consultants for their review and comment and shall refer the application to the Lorain County Planning Commission staff for their review and comment. Comments pursuant to the referrals in this section shall be returned to the Zoning Commission within thirty (30) days unless such time is extended by the Zoning Commission.
- d. Review and Approval by Township. The Township Zoning Commission shall review the general development plan and any other material related to the plan. The Township Zoning Commission shall: approve the general development plan, approve the general development plan subject to specific conditions not included in the plan as submitted, or deny the general development plan, and forward its recommendations to the Township Trustees.

The Township Trustees shall review the plan and the findings of the Zoning Commission. The general development plan shall only be deemed approved when such plan has been approved by a majority of the Trustees.

Failure of the Township to act within one hundred twenty (120) days from the date the application was determined complete, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the general development plan.

- e. Significance of Approved Plan. Approval of the general development plan shall:
 - 1. Establish the development framework for the project, including the general location of open space, development areas, densities, unit types, recreational facilities, and street alignments.
 - 2. Be the basis for the application to proceed with detailed planning and engineering in reliance on the approved general development plan.
 - 3. Provide the benchmark for the Township to consider and approve amendments to the general development plan when the Township determines that the amended plan is equal to or better than the approved general development plan.
 - 4. Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.

- f. Final Development Plan. Prior to receiving a zoning permit, the final site plan must be approved by the Zoning Commission according to the Site Plan and Design Review procedures and criteria in Article 2200. Such final plan may be approved for a phase of the project, or the final plan may include the entire project.
 1. Submission Requirements. The applicant shall submit twelve (12) copies of the final development plan which, in addition to the requirements in Article 2200, shall include:
 - A. A site plan indicating:
 - (1) Dimensions of building/unit spacing; and
 - (2) Designated common open space areas and a description of proposed open space improvements.
 - B. The Declaration, Articles of Incorporation and Code of Regulations for all Homeowners' Associations, and any other final covenants and restrictions and maintenance agreements to be imposed upon all the use of land and pertaining to the ownership, use, and maintenance of all common areas, including restricted open space.
 - C. A summary of any conditions imposed by other regulatory agencies.
 2. Review by the Township's Legal Advisor. The township's legal advisor shall review the Declaration, Articles of Incorporation and Code of Regulations for a Homeowners' Association, and any other final covenants and restrictions and maintenance agreements to be imposed upon the Conservation Development. He/she shall provide a written opinion to the Zoning Commission documenting that the above demonstrate full compliance with the requirements of this Chapter.

912 DEVELOPMENT PLAN REVIEW CRITERIA.

In addition to complying with the standards in this Article, the Zoning Commission and the Trustees shall only approve a general or final development plan when it is determined to be in compliance with the following criteria:

- a. Each part of the development can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have beneficial effect which could not be achieved under standard district regulations.

- b. The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this Resolution.
- c. The existing and proposed streets and thoroughfares are suitable and adequate to carry anticipated traffic; increased densities will not generate traffic in such amounts as to overload the street network outside the Conservation Development; and adequate traffic control measures (i.e. turning lanes and/or signals/signs are provided at the intersection of the project's entry roads with the existing public street. Traffic control measures may include the reservation of land for future road widening adjacent to existing public rights-of-way.
- d. The development will result in a harmonious grouping of buildings so that the area surrounding said development can be developed in coordination and substantial compatibility with the proposed development.
- e. The existing and proposed utility services are adequate for population densities and nonresidential uses proposed.
- f. Maximum possible privacy for adjacent residential properties shall be provided through good design and use of the proper building materials and landscaping according to the requirements set forth in this Resolution.
- g. Adequate provisions are made in the final covenants and restrictions to be imposed upon the development relating to the following:
 - 1. The use and development of accessory buildings and uses associated with individual dwelling units; and
 - 2. The maintenance of the land, including any common areas and sidewalks.
- h. On-site circulation shall be designed to provide for adequate fire and police protection, and safe and efficient pedestrian and vehicular circulation.
- i. Adequate provision is made for storm drainage and sediment control and maintenance in compliance with applicable provisions of Lorain County and as documented in the Covenants and Restrictions of the Homeowner's Association.
- j. The proposed development complies with all other applicable provisions of this Zoning Resolution.

