

CHAPTER 107
CLUSTER CONSERVATION SUBDIVISION DISTRICT
(CCSD)

Section 107-010 Purpose

The purpose of this Chapter is to provide for the establishment of Cluster Conservation Subdivision Districts (CCSD). This Chapter is intended to provide an opportunity for greater flexibility in the design of subdivisions to allow greater tracts of undeveloped, dedicated conservation open space and to achieve the following objectives:

- a. The preservation of areas with unique or environmentally sensitive features,
- b. The protection of the quality and quantity of underground and surface water,
- c. To preserve land for passive recreation purposes,
- d. To conserve and preserve land to assure that its development will best maintain or enhance the appearance, character, and natural beauty of an area,
- e. To create an interconnected network of conservation open space.

Section 107-020 Definitions

Cluster Conservation Subdivision: means the division of a parcel of land consisting of 30 or more acres located in an R-80, R-60 or R-40 zone (or any combination thereof) into three (3) or more lots for the purpose of building development and sale of single-family detached residential dwellings and structures on a particular portion or portions of said parcel so that at least 50% of the total gross area of the parcel(s) remains as conservation open space to be used exclusively for passive recreational and/or conservation purposes.

Conservation Open Space: means land set aside solely for the conservation purposes outlined in Sections 107-010 and 107-050 of this regulation.

Subdivision Open Space: means land set aside for use by the subdivision residents on which structures associated with the uses outlined in Section 107-050(5) may be erected.

Section 107-030 Establishment

1. Any application seeking to change the zoning classification of a parcel or parcels of land to a Cluster Conservation Subdivision District shall be submitted in writing to the Zoning Commission and will be processed in the same manner as any other application for a change of zone, in accordance with Chapter 200.
2. Prior to the submission of a formal application, a pre-application review through staff meetings with land use officers and land use agencies is encouraged.
3. Any application seeking to establish a Cluster Conservation Subdivision District (CCSD) shall be accompanied by:

- a. An area map drawn to scale of at least 200 feet to the inch, covering the area of the proposed change and all areas within 500 feet of the proposed change, and showing for such area the existing and proposed district boundary lines, the existing property lines, and the names of the current property owners of all properties as indicated in Town of New Milford Assessor's Records.
- b. A site plan prepared by an engineer licensed to practice in the State of Connecticut, containing the following information:

1. Existing contours drawn at intervals not fewer than ten (10) feet.
2. Identification of all slopes in excess of 25%.
3. Significant topographic features, such as all wetlands and watercourses, rock outcroppings, wooded and other vegetation areas by type and other natural features.
4. General soil types by Soil Conservation Service classifications.
5. Indicate on-site sub watershed areas and indicate flow directions.
6. Delineation of any known easements.
7. The location of any existing structures, railways, fences and walls.
8. The location of proposed vehicular access into the tract and the principal system of circulation, driveways or streets within the tract. Access to all building lots and the dwellings shall be exclusively from subdivision roads.
9. Areas or sites proposed for recreational facilities
10. Areas, with boundaries delineated, for reservation as open space. The open space land shall be labeled to specify the open space purpose. The plan will specify that the open space land shall not be further subdivided and is permanently reserved for open space purposes.
11. Any areas of the tract which have been identified and declared by the Connecticut Historical Commission, pursuant to the provisions of Chapter 184A (as amended) of the General Statutes, to be of state or national archeological or historic importance.
12. The proposed layout of lots, streets and improvements for the proposed Cluster Conservation Subdivision.
13. The required site plan information may be submitted on a series of maps or overlay maps to facilitate presentation of the information.

- c. A site assessment analysis to include:

1. Use/history of the site.
2. Historic or archeological features.
3. Topography with a slope analysis, mapping and description of soil types and their suitability for development.
4. Endangered, threatened or species of special concern located on

the site.

5. Map and describe site vegetation.

- d. A site context map to include all parcels within a one (1) mile radius of the proposed CCSD that includes road names, the subject CCSD, streams and water bodies, parks, open space, greenways, trails, historical/archeological and cultural features, the presence of any natural resource features that could affect the design of the site, and any other significant features.
- e. A site context report demonstrating how the proposed CCSD will benefit the community, how this proposal will conform with the character and harmony of the community, and how the proposed CCSD achieves the objectives listed in Section 107-010 of this regulation.
- f. A comparison plan of a conventional subdivision layout applied to the site to determine the maximum number of house lots that could be developed on the subject property. The comparison plan must comply with the conventional subdivision regulations as outlined in the Subdivision Regulations of the Planning Commission of the Town of New Milford, dated June 2, 2001, and as amended, and must comply with all other Town and State regulations. To ensure the site would support the number of lots identified on the comparison plan, the Commission may require the applicant to conduct standard septic system perk tests for up to 10% of the proposed lots. The lots chosen would be at the discretion of the Commission to determine the feasibility of development.
- g. Regulations to be applicable within the proposed district, in form suitable for adoption as an amendment to these regulations, containing standards for no less than the following:
 - 1. Location and size of the proposed detached single-family dwellings and other accessory structures.
 - 2. The area, shape and frontage of lots.
 - 3. Proposed buffer areas.
 - 4. Front yard, rear and side yard requirements.
 - 5. Maximum building height.
 - 6. Maximum site coverage.
 - 7. Proposed utilities.

Section 107-040 Standards

- 1. All Cluster Conservation Subdivisions shall be considered as subdivisions and subject to all other applicable land-use regulations of the Town of New Milford in addition to the requirements of these regulations.
- 2. Number of lots: The maximum number of building lots that may be approved in a Cluster Conservation Subdivision shall not be greater than would be allowed under the conventional subdivision regulations as outlined in the Subdivision Regulations of the Planning Commission of the Town of New Milford, dated June

- 2, 2001, and as amended. A preliminary conventional subdivision plan must be submitted for comparison purposes.
3. If at least 70% of the land is maintained as contiguous, undivided conservation open space, the Commission may allow a building density bonus of 10% of total dwellings.
 4. Each dwelling shall be served by an individual septic system located on the lot.

Section 107-050 Open Space Ownership and Preservation

1. The open space preserved as Conservation Open Space under a Cluster Conservation Subdivision shall be maintained in a natural state and used for the following purposes only:
 - a. Protection of areas with unique or environmentally sensitive features.
 - b. Protection of the quality and quantity of underground and surface waters.
 - c. Conservation of soils, wetlands or marshes.
 - d. Protection of natural drainage systems for assurance of safety from flooding.
 - e. Preservation of sites or areas of scenic beauty or historic interest.
 - f. Conservation of forest, wildlife, agricultural and other natural resources.
 - g. Pedestrian pathways.
2. Small areas of conservation open space scattered throughout the development shall be avoided. To the extent possible, a contiguous system of open space areas shall be achieved by linking open space areas with pedestrian pathways. Where there exists a contiguous development with an area of open space and when possible, the area of conservation open space for the proposed Cluster Conservation Subdivision shall be designed to abut the open space of an adjoining development.
3. Open Space Provisions. The land not allocated to building lots and streets shall be permanently reserved as open space and shall be transferred to a common interest association of the homeowners. Membership in said association shall be mandatory. The owner of each lot in the subdivision shall own an undivided interest in the open space proportionate to the total number of lots in the subdivision. Each homeowner and/or the association so formed shall be liable for all necessary maintenance costs of the open space. Maintenance costs incurred by the Town because of default on the part of the homeowner and/or the association shall be liened on the property of the homeowner and/or the association and said lien may be foreclosed by the Town in exactly the same manner in which unpaid real estate taxes due the Town are liened and foreclosed. Open space transferred to an association of homeowners shall be transferred in accordance with the standards established by the Commission to include, but not be limited to the following:

- a. Creation of the homeowners association before any lots are sold.
 - b. Mandatory membership by the original homeowner and any subsequent buyer.
 - c. Powers to assess and collect from each homeowner a fair share of the associated costs.
 - d. Permanent Restrictions of the use and development of such open space ensuring that the open space will not be subdivided further in the future and the use of open space shall continue in perpetuity for the specified purpose.
 - e. Responsibility for liability insurance, local taxes, and the adequate maintenance of recreational and other facilities.
 - f. Approval of Articles of Incorporation and deed restrictions by the Commission attorney.
4. Deed Restrictions: Any land dedicated for open space purposes shall contain appropriate covenants and deed restrictions (approved by the Town Attorney for Town dedicated property) ensuring that:
- a. The open space area will not be further subdivided in the future.
 - b. The use of open space will continue in perpetuity for the purpose specified.
 - c. Appropriate provisions will be made for the maintenance of the open space.
 - d. Rights of public access to the open space are provided when appropriate.
5. Subdivision Open Space: In addition to the Conservation open space, additional open space may be designated for use by the residents of the subdivision for recreation buildings, pools, tennis courts, school bus shelters, parks, playgrounds or other outdoor recreation facilities, stormwater management systems and other such common use structures as may be approved by the Planning and Zoning Commissions. All deed restrictions and open space provisions found in this section shall also apply to Subdivision Open Space.

Section 107-060 Modifications

The Cluster Conservation Subdivision District may be adopted by the Zoning Commission with modifications deemed necessary by the Commission to maintain the purposes of these regulations. Notice of adoption shall be given in the same manner as required for amendment of these regulations. Any adopted CCSD shall be shown on the Zoning Map with its CCSD number and with a reference to the Town Records where the District provisions may be seen.

Section 107-070 Final Subdivision Approval

The Zoning Commission, in connection with the establishment of a Cluster Conservation Subdivision District, may specify a time period within which an application seeking final subdivision approval must be submitted to the Planning Commission; if not so specified such application to the Planning Commission shall be made within five (5) years from the effective date of the establishment of the District. The Zoning Commission may extend such time period after a public hearing for good cause shown. In the event of failure to meet such time period, as may be extended, the Zoning Commission is deemed authorized by the owner of the land in the District to amend these regulations and the Zoning Map, deleting the Cluster Conservation Subdivision District and establishing in its place the previous or another zoning district.

The approved Cluster Conservation Subdivision Districts and the approved regulations for same can be found in Appendix E.