



**Delaware Township**  
*Delaware County, Ohio*

# Zoning Resolution

Effective April 17, 2023



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**ARTICLE 1 – TITLE**

Section 1.01 - This Resolution shall be known and may be cited and referred to as Delaware Township Zoning Resolution, Delaware County, Ohio.

**ARTICLE 2 – PURPOSE**

Section 2.01 - This Resolution is enacted in the interest of the public health and safety, all in accordance with existing county or township plans or plans which may be later adopted and as permitted by the provisions of Chapter 519, Ohio Revised Code.

**ARTICLE 3 – INTERPRETATIONS AND STANDARDS**

Section 3.01 - In the interpretation and application, the provision of this Resolution shall be held to be minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, resolutions or restrictions, the provisions of this Resolution shall control, and be enforced. However, where the provisions of this Resolution are less restrictive, the more restrictive provisions of other laws, rules, regulations, restrictions or resolutions shall control. The Zoning Commission, Board of Zoning Appeals, and the Board of Township Trustees will, when appropriate, refer to all plans, master plans, studies and treatises affecting the township area and may require inclusion of recommendations in plans or proposals as submitted for approval.

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## **ARTICLE 4 – DEFINITIONS**

All words used in this zoning resolution shall, unless otherwise defined herein, be given the precise meaning or significance as that which is normally attributed to such word or as the same is defined in the Ohio Revised Code or if not defined in this zoning resolution or the Ohio Revised Code, the current Webster's Dictionary. The words shall be liberally construed to achieve the salutary effect or objectives of this resolution.

**Accessory Use or Structure:** Any purpose for which a building, structure, or a tract of land may be designed, arranged, intended, maintained, or occupied which:

- 1) Is customarily incidental and subordinate in area, extent or purpose to the principal building, structure or use which it serves; and
- 2) Is located on the same zoning lot as the principal building, structure or use, such as fences, walls, sheds, garages, parking places, decks, poles and poster panels.

**Adult Entertainment:** Any material or performance where any of the following apply:

- 1) Its dominant appeal is to prurient interest;
- 2) Its dominant tendency is to arouse lust by displaying or depicting "Specified Sexual Activities", "Specified Anatomical Areas", sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;
- 3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;
- 4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;
- 5) It contains a series of displays or descriptions of "Specified Sexual Activities", "Specified Anatomical Areas", sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, brutality, or human bodily functions or elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

**Adult Entertainment Facility:** A facility having a significant portion of its function as adult entertainment. Such facilities include but are not limited to:

- 1) **Adult Bookstore and/or Adult Video Store.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, other periodicals and/or video rentals or sales which are distinguished or characterized by their emphasis on matter depicting or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" as herein defined or an establishment with a segment or section devoted to the sale, display, or rental of such material.
- 2) **Adult Mini Motion Picture Theater.** A facility with a capacity for less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.
- 3) **Adult Motion Picture Theater.** A facility with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or

relating to “Specified Sexual Activities” or “Specified Anatomical Areas,” for observation by patrons therein.

- 4) **Adult Entertainment Business.** Any establishment involved in the sale of services or products characterized by the exposure or presentation of “Specified Anatomical Areas” or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, escort/dating services and similar functions, which utilize activities as specified above.
- 5) **Massage Establishments.** Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, licensed massage therapist or physical therapist duly licensed by the State of Ohio, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

**Agriculture:** The use of a tract of land for farming, dairying, pasturage, apiculture, ranching; aquaculture; horticulture, floriculture, viticulture, animal and poultry husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production and the necessary accessory uses for packing, treating, or storing the produce, provided however, that:

- 1) The operation of any such accessory use shall be secondary to that of normal agricultural activities;
- 2) The above uses shall not include the feeding of garbage or offal to swine or other animals;
- 3) The above uses shall not include the operation or maintenance of a feedlot or a commercial stockyard.

**Alteration:** Any change in the supporting members (such as bearing walls, beams, columns, roof structure, or girders) of a building or structure or any addition to the exterior of a structure or any movement of a building or structure from one location to another.

**Antenna, Aerial:** An arrangement of wires or metal rods used in sending or receiving electromagnetic waves. Antennas may be freestanding or affixed to buildings. They are supported in the air by a telecommunications tower or structure used primarily for the purpose of supporting one or more antennas, including foundation, guys, and other components thereof. For the purpose of this resolution, telecommunication towers shall be considered part of the antenna.

**Apartment:** A rental portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one family.

**Apartment house:** See dwellings, multi-family.

**Area of shallow flooding:** A designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard:** The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

**Attached:** Any structure or part of a structure immediately adjacent to another structure or part of a structure, and fastened securely to same.

**Automotive Repair:** The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

**Barn:** An accessory structure upon a lot customarily used for the housing of livestock and/or for the storage of crops and/or machinery used in bona-fide agricultural activities as previously defined in this Article.

**Basement:** A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

**Bedroom:** A dwelling room used or intended to be used by human beings for sleeping purposes.

**Billboard:** A billboard shall be defined as an outdoor display intended to advertise products or services at locations where activities related to their sale, distribution, production, repair and associated administrative functions are not maintained. Billboards also include outdoor displays intended to convey information, ideas, or opinions to the public at locations not used by their sponsors for other professional administrative activities. Billboards are subject to local zoning and the building permit requirements of Delaware County and the State of Ohio.

**Board of Zoning Appeals:** The Board of Zoning Appeals of Delaware Township, Delaware County, Ohio.

**Boarding Kennel:** The use of any lot or premise where four (4) or more domesticated animals over four months of age are housed, boarded, bred, groomed or trained and which may offer medical treatment.

**Borrow Pit:** A pit adjacent to a fill or embankment from which material is taken for the purpose of making the fill or constructing and maintaining that embankment.

**Building:** Any structure having a roof supported by poles, columns, or which do walls design for the shelter, support, or enclosure for persons, animals, chattels, crops, materials or property of any kind.

**Building, Accessory:** A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the main building or use.

**Building Height:** The vertical distance from the average elevation of the finished grade at the front of the building to (a) the highest point of a flat roof; (b) the deck line of a mansard roof; and the average height between the eaves and ridge for gable, hip, and gambrel roofs; or (d) the average height between high and low points for a shed roof.

**Building Line:** The building line shall be considered to be the front wall of the structure or dwelling located on a parcel or lot, even if said dwelling or structure is located behind the minimum setback line

established by either this resolution or the plat restrictions. The building line for all new structures shall meet the minimum front setback line, but if it exceeds it, all inter-related standards, such as lot width at the building line, shall be computed at the actual building line, not the minimum setback line.

**Building, Principal:** The actual location of structures on the ground in which is conducted the main or principal use of the lot.

**Bulletin Board:** A structure containing a surface upon which is displayed the name of a religious institution, school or library, auditorium, stadium, athletic field or area of use for the announcement of services or activities to be held therein.

**Camping and Recreational Equipment:** For the purpose of this Resolution, camping and recreational equipment shall include the following:

- 1) **Boat and Boat Trailer.** Boat and boat trailer shall include boats, floats and rafts plus the normal equipment to transport the same on the highway.
- 2) **Folding Tent Trailer.** A folding structure mounted on wheels and designed for travel and vacation uses.
- 3) **Motorized Home.** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- 4) **Pickup Camper.** A structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use also as a temporary dwelling for travel, recreational, or vacation uses. e) **Travel Trailer.** A vehicular, portable structure built on a chassis that is designed to be used as a temporary dwelling for travel, recreational and vacation uses.

**Cellular Tower:** (see Telecommunications Tower)

**Cemetery:** Land used or intended to be used for the burial of human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

**Centralized sanitary sewer service:** Any sanitary sewer system, other than an individual septic tank tile field, that is operated by a municipality, governmental agency, or a public or private utility for the collection, treatment and disposal of wastes. An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

**Centralized water:** Any potable water system, other than an individual well, that is operated by a municipality, governmental agency, or a public or private utility for the treatment and furnishing of potable water.

**Certificate of zoning compliance:** A document issued by the zoning administrator that stipulates whether a planned use meets the requirements of this zoning resolution.

**Changeable copy sign (manual):** A sign, or portion thereof, on which characters, letters or illustrations are changed manually in the field without altering the face or surface of the sign, including without limitation, a reader board with changeable letters.

**Changeable copy sign (mechanical or electronic):** A sign, or portion thereof, on which characters, letters or illustrations are changed mechanically or electronically in the field without altering the face or surface of the sign, including without limitation, an electronic or mechanical message center.

**Channel:** A natural or artificial depression of perceptible extent with definite bed and banks to confine and conduct flowing water either continuously or periodically.

**Club:** A premises owned or operated by a person or persons for a civic, social, cultural, religious, literary, scientific, artistic, political, recreational or like activity, but not for profit or to render a service which is customarily carried on as a business.

**Changeable copy sign (mechanical or electronic):** A sign, or portion thereof, on which characters, letters or illustrations are changed mechanically or electronically in the field without altering the face or surface of the sign, including without limitation, an electronic or mechanical message center.

**Child Day-Care:** Any place, home or institution which cares for young children apart from their parents when received for regular periods of time for compensation such as kindergarten, nursery school or class for young children that develops basic skills and social behavior by games, exercises, toys and simple handicraft. Day care is included in the definition of childcare; the care of more than 12 children is a business.

**Cluster Housing:** Grouping single family detached dwelling units at higher densities in order to conserve open space and allow better utilization of developed land. The overall permitted density in areas devoted to cluster housing including open space shall be determined by the permitted residential density within the district.

**Commission:** The Zoning Commission of Delaware Township, Delaware County.

**Common Access Drive (CAD):** (See Thoroughfare)

**Common Access Driveway Subdivision:** A subdivision in which two or more lots share a common easement or driveway. Said subdivision and driveway easement shall meet the Delaware County Subdivision requirements.

**Common Wall Single Family Attached Dwelling Unit:** Common Wall Single Family Attached Dwelling Unit constructed within a planned district. The permitted restricted density within the district shall determine the overall permitted density in areas devoted to common wall housing including open space.

**Common Open Space:** As used herein, parcels of land together with the improvements thereon, the use and enjoyment of which shall be shared by the owners and occupants of the individual building sites of the particular development and is accessible to all tenants or residents within the zoning property.

**Comprehensive Plan:** A plan, or any portion thereof, adopted by the township showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community.

**Conditional Use:** A use permitted within a district other than a Permitted Principal Use, requiring a Conditional Use Permit and approved by the Board of Zoning Appeals.

**Conditional Use Permit:** A permit issued by the Zoning Inspector after authorization by the Board of Zoning Appeals to allow certain uses specified in this code when approved by the Board of Zoning Appeals. These permits are issued only after the applicant has followed the procedures as stated in Article 28 of this Resolution. Development under a Conditional Use Permit differs from a zoning change in that it is much more specific. The applicant submits plans and follows conditions exactly and must reapply for a permit before deviating from that plan. If, for any reason, the Conditional Use shall not start within six (6) months or cease for more than six (6) months, the Permit shall expire in accordance with Article 28.

**Condominium:** A building or group of buildings in which units are individually owned but the structure and facilities are owned on a proportional undivided basis by all of the owners.

**Conforming Use:** Any lawful use of a building, structure, lot, sign or fence, which complies, with the provisions of this resolution.

**Corner Lot:** (See lot Types)

**Critical Resource Area:** The area that lies within the natural watershed of the Olentangy River, a state designated Scenic River that flows through the township, providing water to parts of Delaware Township and the City of Delaware. This is an area that is sensitive to a development density equal to or less than one unit per acre.

**Cul-de-sac:** (See Thoroughfare)

**Dead-end Street:** (See Thoroughfare)

**Density:** A unit of measurement designating the number of dwelling units per acre of land.

**Development Standards:** Standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage, minimum size of yards and setbacks, maximum lot coverage and maximum floor area ratio.

**District:** A portion of the unincorporated area of the Township part, zone, or geographic area within which certain regulations and requirements, or various combinations thereof, apply uniformly under the provisions of this Resolution.

**Drainage Course:** A channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels or buried tiles.

**Dwelling:** Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a mobile home, tent, cabin, trailer or trailer coach or other temporary or transient structure or facility.

**Dwelling Unit:** One or more rooms within a dwelling, comprising living, dining, sleeping areas, storage closets, as well as space and equipment for cooking, bathing, and toilet facilities, all used by only one (1) family and its household employees.



**Dwelling, detached single family:** Detached, individual dwelling units, which accommodate one family related by blood, adoption, or marriage, or up to five unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform either to the OBOA, or CABO One and Two family dwelling code, or other applicable building code, or be classified as an Industrialized Unit under the Ohio Basic Building Code, or conform to the Ohio Revised Code 3781.06 definition of permanently-sited manufactured home as provided for in ORC 519.212.

**Dwelling, Multi-Family:** A dwelling consisting of two (2) or more dwelling units including condominiums with varying arrangements of entrances and party walls.

**Easements:** Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

**Erection:** The acts of building, constructing, altering, reconstructing, moving a structure upon, or performing any physical operations on the premises, which are required for construction. Excavation, fill, drainage, material storage, hauling, and the like shall be considered a part of erection.

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or other governmental agencies of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public or private utility or government agency or for the public health, safety and morals, but not including buildings. The term essential services shall not include cellular towers.

**Establishment:** The opening of a new business, the relocation of an existing business, or the conversion of an existing business.

**Excavation:** The act of digging, hollowing out, or any other breaking of ground resulting in a total quantity of more than one hundred (100) cubic yards of material or a vertical depth of more than four (4) feet. Common household gardening and ground care shall be excluded.

**Family:** One or more persons living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a rooming house, motel or hotel, dormitory, fraternity or sorority house, provided that unless all members are related by blood, adoption or marriage, no such family shall contain over five (5) persons. Licensed Residential Care Facilities shall be excluded from this definition.

**Farm:** A tract of land five (5) acres or larger on which bona-fide agricultural activities are conducted as the primary use, operated as a single unit by the owner, farm manager, tenant or renter.

**Farm Buildings:** Any building or structure, other than a dwelling unit, built, or placed upon land within a bona-fide farm and considered essential and standard to the carrying on of farm operations.

**Feed Lot:** Land used for confining and commercial feeding of livestock for mass production and marketing, not necessarily connected with any general farming upon the same lot.

**FEMA:** Federal Emergency Management Agency. This agency has overall responsibility for administering the National Flood Insurance Program.

**Fence:** Any free-standing structure, other than part of a building, which encloses or partially encloses any premises and is of sufficient strength and dimensions to prevent straying from within or intrusion from without. Live vegetation shall not be included in this definition.

**Fill:** Soil, clay, sand, gravel and other such materials (excluding sludge), which may be deposited onto or placed into the ground.

**FIRM:** Flood Insurance Rate Map, which is an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

**Flag Lot:** An interior lot containing the minimum required acreage for construction, which has less than the minimum lot frontage required and widens to a buildable width at a defined point behind the front lot line.

**Flood, 100-Year:** The temporary inundation of normally dry land areas by a flood that is likely to occur once every one hundred (100) years (i.e. that has a one percent (1%) chance of occurring each year, although the flood may occur in any year).

**Flood Plain, Regulatory:** The land area of Delaware Township which is subject to inundation by the one hundred (100) year flood as identified by the Federal Emergency Management Agency Flood Boundary and Floodway Maps subject to inundation by the regional flood.

**Floodway:** That portion of the flood plain, including the channel, which is reasonably required to convey the regional floodwaters. Floods of less frequent recurrence are usually contained completely within the floodway.

**Floodway Fringe:** That portion of the flood plain, excluding the floodway.

**Floor Area:** The sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. In calculating floor area, the following shall not be included:

- 1) Attic space providing structural headroom of less than seven (7) feet, six (6) inches.
- 2) Uncovered steps.
- 3) Terraces, breezeways and porches.
- 4) Automobile parking space in a basement or garage.
- 5) Basements.

**Frontage:** The distance between the side lot lines measured along the street.

**Full cut-off fixture:** Light fixture where all light is directed down and to the sides as needed, and is shielded to prevent shining up into the night sky or directly onto adjacent parcels.

**Garage, Private:** A detached accessory building or a portion of a main building, intended for the parking or storage of automobiles, motorized recreational vehicles or boats owned by the occupants of the premises.

**Garage, Public:** A principal or accessory building, other than private garage, used for parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

**Garage Sale:** A sale of personal property to the general public conducted in or on any property within any zoning district, to include, without limitation, garage sales, patio sales, yard sales, porch sales, driveway sales, attic and basement sales and the like.

**Granny flat:** A granny flat is an over-age-55 dwelling unit located in a separate structure that is accessory to a single-family dwelling. As long as members of the resident owner's family use the granny flat, the principal use of the property retains its single-family status. Conversion of a granny flat to a rental unit for the general public requires zoning approval for a two-family dwelling.

**Grade, Average:** The average elevation of the finished surface of the ground at the exterior walls of a building or structure.

**Greenhouse - Hothouse – Nursery:** A sun or artificially heated structure in which to grow out of season plants, flowers or vegetables or a form of agriculture whose chief function is the field growing of plants, shrubs, and trees.

**Historic:** Sites or structures that reflect the heritage of the area and/or its architectural past.

**Home Occupation:** Home occupation: an activity, profession, occupation, service craft, or revenue enhancing hobby for gain by a resident which is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit, or elsewhere on the premises, within accessory buildings, without any significant adverse effect upon the surrounding neighborhood.

**Hotel or Motel and Apartment Hotel:** A building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such it is open to the public as opposed to a boarding house, rooming house, lodging house, or dormitory which is herein separately defined.

**Identification Sign:** A sign which displays only the same address and/or use of the premises upon which the sign is located or to which it is affixed or the product or service offered therein.

**Improvement:** Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

**Improvements:** Street grading and surfacing with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and trees.

**Industrialized unit(s):** A factory built structure certified as meeting the Ohio Building Code as applicable to industrialized units. Manufactured homes and mobile homes are not considered industrialized units.

**Junk:** For the purposes of this resolution, junk refers to any machinery, appliances, products or merchandise with parts missing, materials that are damaged, or deteriorated or scrap including copper, brass, rope, rags, batteries, paper, rubber, iron, steel and other old or scrap ferrous or nonferrous materials which are not held for sale or re-melting purposes by an establishment having facilities for processing such materials.

**Junk Vehicle or Inoperable Vehicle:** A vehicle shall be deemed junk or an inoperable vehicle whenever any two or more of the following occur for a period of two weeks prior to the filing of a cease and desist order:

- 1) The vehicle is without a valid, current registration and/or license plate.
- 2) The vehicle is apparently inoperable.
- 3) The vehicle is without fully inflated tires and/or has any type of support under it.
- 4) The vehicle has a missing or shattered window or windshield.
- 5) The vehicle has an extensively damaged or missing door, motor, transmission or other similar major mechanical or body part (such as a fender).

**Kennel:** A lot or premises on which four (4) or more domesticated animals (pets) more than four (4) months of age are housed, groomed, bred, boarded, trained or sold for commercial purposes.

**Landscaping:** The improvement of open areas by the planting and maintenance of trees, bushes, flower gardens, grass, and other vegetation.

**Life Care Retirement Center:** Nursing homes, rest homes, and convalescent houses which include individual dwelling units for the elderly as an integral part of the facility where the total floor area devoted to individual dwelling units does not exceed seventy (70) percent of the total floor area of the entire facility.

**Loading Space:** Off-Street: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

**Lot:** A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory building and uses, including such open spaces as are required under the provision of this Resolution. Every lot shall have the minimum required frontage upon a public or an approved private street or Common Access Drive (CAD).

- 1) **Corner Lot:** A lot abutting two (2) or more streets at their intersection, or two (2) parts of the same street, and in either case forming an interior angle of one hundred thirty-five (135) degrees or less as measured at the center line of the road or the interior right of way line as applicable.
- 2) **Interior Lot:** A lot, other than a corner lot, with only one frontage on a public street.
- 3) **Double Frontage Lot:** A lot having frontage on two (2) non-intersecting streets or two approximately perpendicular portions of the same street.

**Lot Coverage:** That percentage of the lot area which, when viewed directly from above, would be covered by the principal and accessory structure or structures or any part thereof, excluding projecting roof eaves of less than twenty-four (24) inches.

**Lot Depth:** The average horizontal distance between front and rear lot lines.

**Lot Lines:** Lines bounding the lot as shown in the accepted plat or survey record.

- 1) **Front Lot Line:** A lot line which either falls along a street right of way line or falls approximately along the centerline of the right of way. On a corner, lot lines along both streets shall be considered front lot lines.
- 2) **Side Lot Line:** A lot line which is neither a front lot line nor a rear lot line.
- 3) **Rear Lot Line:** The lot line that is most distant from and most nearly parallel to the front lot line. If a rear lot line is less than fifteen (15) feet long, or if the lot comes to a point, the rear lot line shall be a line at least fifteen (15) feet long, lying wholly within the lot, parallel to, and a maximum distance from the front lot line. In the case of a corner lot, the rear lot line shall be the lot line opposite the shortest front lot line.

**Lot Minimum size:** A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with such yards, open spaces, lot width and lot area as are required by this Zoning Resolution, and having not less than the minimum required frontage upon a street, either shown and identified by lot number on a plat of record, or considered as a unit of property and described by metes and bounds.

**Lot Width:** The average horizontal distance between side lot lines.

**Lot Minimum Area of:** The area of a lot is computed exclusive of any easements.

**Lot Measurements:** A lot shall be measured as follows:

- 1) **Depth:** The distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.
- 2) **Width:** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

**Lot of Record:** A lot which is part of a subdivision recorded in the office of the County Recorder, or a lot of parcel described by metes and bounds, the description of which has been so recorded.

**Lowest floor:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements.

**Manufactured home** (also see Permanently-sited Manufactured Home): Any non self-propelled building unit or assembly of closed construction fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban development (HUD) pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, 88 Stat. 700, 42 U.S.C.A 5401, 5403 and that has a permanent label or tag permanently affixed to it as specified in 42 U.S.C.A 5415, certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width, or (40) body feet or more in length or, when erected on site, is three-hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Calculations used to determine the number of square feet in a structure's exterior dimensions is measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets and other projections containing interior space, but do not include bay windows (ORC 4501.01). For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks or other foundation, connection to utilities and the like.

**Manufacturing, Extractive:** Any mining, quarrying, excavating, processing, storing, separating, cleaning, or marketing of any mineral natural resource.

**Massage:** A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

**Material:** Means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonograph record or tape, or other tangible thing capable of arousing interest through sight, sound or touch.

**Minerals:** Sand, gravel, clay, shale, gypsum, halite, limestone, dolomite, sandstone, other stone, metalliferous or nonmetalliferous ore, or other material or substance of commercial value excavated in a solid state from natural deposits on or in the earth, but not including coal, peat or top soil.

**Mobile home:** A non self-propelled building unit or assembly of closed construction that is fabricated in an off-site facility, built on a permanent movable chassis which is 8 feet or more in width and more than 35 feet in length, which when erected on site is 320 or more square feet, that is transportable in one or more sections and which does not qualify as a manufactured home or industrialized unit. A mobile home does not qualify as a manufactured home, or as permanently sited manufactured housing.

**Mobile Home Park:** Any site, or tract of land under single ownership, upon which three or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

**NAICS:** North American Industrial Classification System, 1997 edition, for the United States, by the Executive Office of the President, Office of Management and Budget

**Net developable area:** The net area left after deducting from a planned unit development tract's gross acreage:

- 1.) Right of way for streets and utilities (15% of gross acreage when estimating density);
- 2.) Jurisdictional wetlands, as defined US Army Corps of Engineers' Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss. Jurisdictional wetlands as regulated by Section 404 of the Clean Water Act consist of a.) hydric soils, b.) hydrophytic vegetation and c.) wetland hydrology (this generally means they support more than 50% wetland vegetation, and are poorly drained soils which are periodically inundated or saturated );
- 3.) Floodplains within a FEMA 100-year floodplain;

- 4.) Slopes greater than 20%, including ravines shown to be critical resource areas on the County's GIS data;
- 5.) Utility rights-of-way and easements for above-ground and currently existing utility structures such as above ground pipelines and existing overhead electric transmission (not local service) wires;
- 6.) Existing bodies of water.

**NFIP:** National Flood Insurance Program.

**No Build Zone:** That portion of a development where because of the need to preserve an area's natural features, slope, soils, native vegetation and watercourses, no structure shall be erected or permitted to extend.

**No Disturb Zone:** That portion of a development where because of the need to preserve an area's natural features, slope, soils, native vegetation and water courses, no structure shall be erected or permitted to extend into any zone nor shall any of the existing natural features be disturbed, removed or physically altered.

**Nonconforming Building or Structure:** A building or structure lawfully existing at the time of enactment of this Resolution or subsequent amendments, which does not conform to the regulations of the district in which it is situated or does not conform to other applicable provisions of this Resolution.

**Nonconforming Lot:** A lot existing at the time of enactment of this Resolution or any subsequent amendments, which does not conform to the lot area and frontage requirements of the district, in which it is located.

**Nonconforming Use:** A use of land lawfully existing at the time of enactment of this Resolution or subsequent amendments, which does not conform to the regulations of the district in which it is situated or other applicable provisions of this Resolution.

**Nursery, Day Care, or Child Care Center:** A building used for the care of three (3) or more children, not members or wards of the family.

**Nudity:** The showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

**Nuisance:** An offensive, annoying, unpleasant, or obnoxious thing, act or practice; a cause or source of annoyance, especially a continual or repeated invasion of a use or activity which invades the property line of another so as to cause harm or discomfort to the owner or resident of that property. Excessive or noisy vehicular traffic, dust, glare, and smokes are examples of nuisances.

**Off-Road Motorized Vehicles:** All-terrain vehicles, snowmobiles, motorbikes or what is commonly referred to as dirt bikes or any un-licensable vehicle.

**Off-Street Parking Lot:** A facility providing means of temporarily storing a motor vehicle in a defined space, and including adequate aisles and drives for maneuvering such motor vehicle, including access for entrance and exit so as to accommodate two (2) or more vehicles.

**Open Space:** An area open and unobstructed to the sky; such area may be on the same lot with a building. The area may include natural environmental features ponds or retention / detention areas (not including water area), swimming pools, tennis courts, and other recreational facilities that the Zoning Commission, Board of Zoning Appeals, or Township Trustees, whichever is applicable, deems permissible. Streets, parking areas, structures for habitation, and the like shall not be included.

**Open Space Easement:** A recorded legal instrument which permanently and irrevocably transfers all development rights other than for approved open space uses, from open space to a homeowners' association or trustees. The easement shall be tied to the title of the land regardless of subsequent ownership of the land.

**Outdoor Storage:** The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four consecutive hours.

**Parking Space, Off-Street:** A space located totally outside of any street or alley right of way for the parking of an automobile or other vehicle either in a parking structure or on a lot and where each parking space conforms to the standards specified in Article 21.

**Performance:** Any motion picture, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

**Performance Bond or Surety Bond:** An agreement by a sub divider or developer with the County or Township for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the sub divider's agreement.

**Permanently sited Manufactured home(s):** A factory-built structure meeting the following criteria:

- 1) The structure is constructed pursuant to the HUD code (Manufactured Home Construction and Safety Standards Act, 42 U.S.C. 5401) manufactured after January 1, 1995;
- 2) The structure is attached to a permanent foundation in accordance to the Building Code of Delaware County;
- 3) The structure is connected to the appropriate utilities;
- 4) The structure has a minimum width of 22', minimum length of 22' as manufactured;
- 5) The structure has a minimum 1,200 square feet of living space, or the minimum required by this Zoning Resolution;
- 6) The structure has conventional residential siding;
- 7) The structure is designed with a minimum 6" eave overhang;
- 8) The structure meets all applicable zoning requirements that are uniformly imposed on all single-family dwellings in the district except requirements that specify a minimum roof pitch and requirements that do not comply with standards established pursuant to the "Manufactured Housing Construction and Safety Standards Act."

**Permitted Use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.



**Planned Unit Development:** A development that meets the following criteria:

- 1) land under unified control, planned and developed as a whole;
- 2) a single development or a definitely programmed series of development operations including all lands and buildings;
- 3) accomplished according to comprehensive and detailed plans which include not only streets, utilities, lots, or building sites and the like, but also site plans and design principles for all buildings as intended to be located, constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings; and
- 4) a program for the provision, operation, and maintenance of a land area including improvements and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense.

**Pole sign:** A sign whose advertising area is mounted on one or more poles (metal, wood, concrete etc.) embedded in, and extending upward from the ground, and the bottom of the advertising area is more than 3 feet above grade.

**Porch or Deck:** A covered space located on any side of a building with a roof supported by columns and attached to the main structure but not considered an integral part of the main structure.

**Portable sign:** Any sign that is not permanently attached to the ground or whose support structure is not permanently embedded in the ground, or any sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

**Presents:** Shall be defined as creates, produces, directs, publishes, advertises, sells, rents, disseminates, distributes or displays.

**Principal Use:** The land use designation given to a legally defined parcel of land and based upon the primary activity occurring on such parcel.

**Public sanitary sewer:** A sewer that connects into a treatment system that is owned and operated by a government agency; a system where waste is treated at a government owned facility.

**Public Service Facility:** The erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a public or other governmental agency, including the furnishing of electricity, gas, rail transport, communication, public water and sewage services. Cellular towers shall not be deemed to be a public service facility.

**Public Use Facility:** Government owned facilities to which the public has access such as public parks, schools, school administrative buildings, recreational, cultural and service buildings, but not including public land or buildings devoted solely to the storage and maintenance of equipment and material or the disposal of refuse.

**Public Uses:** Public parks, schools, administrative and cultural buildings and structures, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and public service facilities.

**Public water:** The City of Delaware Water, Del-Co Water Company or any other municipal, township or county owned and operated water system.

**Recreational Facilities, Governmental:** Facilities operated by Delaware Township or other governmental entities that are open to the public with or without charge.

**Recreational Facilities, Private:** Facilities, which are not operated by Delaware Township or any other governmental entity and include both indoor and outdoor recreation uses, but exclude swimming pools as regulated by Section 525 and golf courses as regulated by Section 531.

**Recreational vehicle:** A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory floodplain:** A watercourse and the areas adjoining a watercourse, which have been, or hereafter may be covered by the Base Flood.

**Residential Facility:** Are defined in the Ohio Revised Code (ORC) and repeated here:

ORC 5123.19(A)(5)(a) (“...a home or facility, including an ICF/IID, in which an individual with mental retardation or a developmental disability resides”);

ORC 5119.34(A)(9)(a) (“[A] publicly or privately operated home or facility that provides...accommodations, supervision, personal care services, and community mental health services for one or more unrelated adults with mental illness or severe mental disabilities or to one or more unrelated children and adolescents with a serious emotional disturbance or who are in need of mental health services...”);

ORC 5119.34(B)(1)(b) (“Accommodations, supervision, and personal care services to any of the following

- (i) One or two unrelated persons with mental illness or persons with severe mental disabilities...;
- (ii) One or two unrelated adults who are receiving residential state supplement payments...;
- (iii) Three to sixteen unrelated adults”);

ORC 5123.19(M) (“room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight individuals with developmental disabilities.”).

ORC 5123.19(N) (“room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen individuals with developmental disabilities”).

**Right of Way:** A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features required by the topography or treatment such as grade separation, landscaped areas, viaducts and bridges.

**Roadside Stand:** A temporary structure designed or used for the display or sale of agricultural products produced on the premises upon which such a stand is located.

**Satellite Dish Antenna:** Satellite dishes shall mean one or more of the following:

- 1) A signal-receiving device (antenna, dish antenna, or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extra-terrestrial sources.
- 2) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.

**Screening:** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Septic System:** An underground system with a septic tank and leech bed or aerator used for the decomposition of domestic waters.

**Setback:** A specified distance to a lot line extending the full dimension of the lot, representing the distance which all or any part of any structure or building is to be set back from the lot line.

- 1) **Front Setback Line:** An imaginary line, parallel to the front lot line, extending the full width of the lot, representing the distance which all or any part of any structure or building is to be set from the front lot line.
- 2) **Side Setback Line:** An imaginary line parallel to any side lot line representing the distance which all or any part of any principal building is to be set back from the side lot line.
- 3) **Rear Setback Line:** An imaginary line parallel to any rear lot line representing the distance which all or any part of any principal building is to be set back from the rear lot line.

**Sewage Disposal System, Central:** A wastewater treatment system, approved by the appropriate county, state, city and/or federal agencies, which provides a collection network and a central wastewater treatment facility for a single development, a community, or a region.

**Sewage Disposal System, On-site:** A septic tank or similar installation on an individual lot which utilizes an aerobic or anaerobic bacteriological process or equally satisfactory process approved by the Delaware Public Health District or the Ohio Environmental Protection Agency, for the treatment of sewage, and provides for the proper and safe disposal of the effluent.

**Sexual activity:** Sexual conduct or sexual contact, or both.

**Sexual conduct:** Vaginal intercourse between a male and female, anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

**Sexual contact:** Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

**Sexual excitement:** The condition of human male or female genitals when in a state of sexual stimulation or arousal.

**Sign:** A name, identification, description, display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land, or affixed to the glass on the outside or inside of a window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization, or business.

- 1) **Advertising sign.** One, which directs attention to a use, commodity or service.
- 2) **Freestanding sign.** One, which is supported or suspended by one (1) or more uprights or braces in or upon the ground surface.
- 3) **Identification sign.** One, which displays only the same address and/or use of the premises upon which the sign is located or to which it is affixed or the product or service, offered therein.
- 4) **Projecting sign.** One, which is, attached perpendicular to any building or structure.
- 5) **Wall sign.** One that is affixed to, painted on, or attached to a building wall or extension of a building, which faces a street, parking lot or service drive. Such signs may not extend beyond any building set back lines. Wall signs shall be attached parallel to the building face and shall not extend outward more than ten (10) inches except that such signs may be painted on an awning area or attached canopy or marquee which projects beyond the building provided that no part of such sign may extend above the roof line, canopy or marquee.
- 6) **Window sign.** One which is physically affixed or attached to the glass or other structural component of the ground or first floor window of the building.

**Sign Area (Sign Face):** The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem, or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed, excluding the necessary supports or uprights on which such sign is placed.

The area of a sign having more than one display surface shall be computed as the total of the exposed exterior display surface area.

**Sign Height:** The vertical distance from the uppermost point used in measuring the area of the sign to the crown of the road on which property fronts.

**Sign Structure:** The supports, uprights, bracing or framework for signs.

**Single-family dwelling:** Detached, individual dwelling units, which accommodate one family related by blood or marriage or up to five (5) unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform to the Building Code of Delaware County, be classified as an Industrialized Unit under the Ohio Basic Building Code, or conform to the Ohio 122nd Legislative Assembly S.B. 142 as codified in Ohio Revised Code 3781.06 definition of permanently sited manufactured housing as repeated herein.

**Specified Anatomical Areas:**

- 1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breasts below a point immediately above the top of the areola;

- 2) Human male genitals in a discernible turgid state even if completely and opaquely covered.

**Specified Sexual Activities:**

- 1) Human genitals in a state of sexual stimulation or arousal;
- 2) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio;
- 3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

**Story:** The part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor above, or if there is no floor above, then the ceiling next above. The floor of a story may have split-levels provided that there not be more than four feet difference in elevation between the different levels of the floor. A basement (as defined above) shall not be counted as a story.

**Stream Bank Buffer:** The strip of land in its natural state extending along both sides of the Olentangy River and its adjacent wetlands, flood plains, and slopes. The stream bank buffer is one-hundred twenty (120) feet in a horizontal plane outward from the ordinary high water mark of the floodway of the Olentangy River and within forty (40) feet of the ordinary high water mark of its tributaries and adjacent wetlands. The stream bank buffer shall be adjusted outwards to include sensitive areas such as steep slopes and wetlands.

**Structure:** An existing building or anything constructed or erected, the use of which requires permanent location on the ground or attachment to the ground or a building. Among other things structure includes buildings, walls, fences, porches, swimming pools, tennis courts, decks, above ground heating fuel containers, antennas and signs--not, however, including wheels; an edifice or building of any kind; any production or piece of work, artificially built up or composed of parts and joined together in some definite manner (this includes but is not limited to portable above ground swimming pools of a temporary nature, children's play sets).

**Subdivision:** Any division of land as defined by Ohio Revised Code §711.001.

**Substantial improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Swimming Pool:** Any artificially constructed receptacle or natural body of water which contains a depth of water of at least 1 to 2 feet at any point used or intended to be used for swimming or bathing and maintained by an owner or manager, including any accessory recreational structure.

**Telecommunications tower:** Any freestanding structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:

- 1.) The freestanding or attached structure is proposed to be constructed on or after the effective date of the Ohio Revised Code amendment to Section 519.211 (i.e. 10/31/96).

- 2.) The freestanding or attached structure is proposed to be owned or principally used by a public utility (or a functionally equivalent provider) engaged in the provision of telecommunications services.
- 3.) The freestanding or attached structure is proposed to be located in an unincorporated area of the Township, in an area zoned for residential use. Areas zoned for residential use shall include all land located within the following Zoning Districts: Farm Residential District (FR-1); Planned Residential District (PRD), or Planned Elderly Retirement Residential Community District (PERRC).
- 4.) The freestanding structure is proposed to top at a height that is greater than 48 feet. In the case of an attached structure, such structure is proposed to top at a height that is eight (8) feet greater than the height of the building or other structure to which it is to be attached.
- 5.) The freestanding or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

**Temporary Use or Structure:** A transient, non-permanent use or structure permitted to exist for a designated period of time during periods of construction of the principal use or structure, or for special events. A temporary structure shall not be intended to be permanently affixed to the ground.

**Thoroughfare Plan:** The Official Thoroughfare Plan of, and as adopted by the Planning Commission of Delaware County, establishing the location and official right of way widths of principal highways, streets and roads in Delaware County, together with all amendments thereto subsequently adopted.

**Thoroughfare, Road, Street:** The principal public means of access to abutting property, including the following types:

- 1) **Arterial Street:** A general term denoting a highway primarily for through traffic, carrying heavy loads and large volumes of traffic, usually on a continuous route.
- 2) **Collector Street:** A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
- 3) **Cul-de-Sac:** A local street of relatively short length with one end open to traffic and the other end permanently terminating in a vehicular turn around.
- 4) **Dead-End-Street:** A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
- 5) **Local Street:** A street primarily for providing access to residential, commercial, or other abutting property.
- 6) **Loop Street:** A type of local street, each end of which terminates at an intersection with the same arterial or collector street and whose principal radius points of the one hundred and eighty (180) degree system of turns are not more than one thousand (1,000) feet from said arterial or collector street and are not normally more than six hundred (600) feet from each other.
- 7) **Marginal Access Street:** A local or collector street, parallel to and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets.
- 8) **Common Access Driveway:** A private narrow common drive that is approved by subdivision regulations of Delaware County to reduce curb cuts to major streets or to provide access to backland that cannot feasibly be developed with a full public street.

**Township Trustees:** The Board of Trustees of Delaware Township, Delaware County, Ohio.

**Ultra light Vehicles:** For the purposes of this Resolution an un-powered or powered ultra light vehicle is one that is used or intended to be used for manned operation in the air by occupant(s) for sport or recreation. Ultralight aircraft do not have any United States or foreign airworthiness certificate. They weigh less than two hundred fifty four (254) pounds empty weight and have a fuel capacity not exceeding five (5) U.S. gallons. If powered such vehicles are capable of not more than fifty-five (55) Knots calibrated airspeed at full power in level flight.

**Use:** The specific purpose for which land, a structure, or a building is designed, arranged, intended, occupied, or maintained.

**Variance:** A variance is a modification of the strict terms of this Resolution where such modifications will not be contrary to the public interest and, where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this Resolution would result in unnecessary hardship. Variances are granted only after the applicant has followed the procedures stated in Article 28 of this Resolution.

**Vicinity Map:** A drawing which sets forth by dimensions or other means the relationship of a property or use to other nearby developments of landmarks and community facilities and services within Delaware Township in order to better locate and orient the area in question.

**Walkway:** A public way for pedestrian use, whether along the side of a road or not.

**Water System, Central:** A water supply system approved by the appropriate county, state, and/or federal agencies which provides a water supply to a single development, a community, or a region.

**Water System, On-Site:** A well or other similar installation on an individual lot which provides a water supply to any structures or uses upon the lot, subject to the approval of health and sanitation officials having jurisdiction.

**Yard:** An open or unoccupied space other than a court on the same lot with a principal building and unobstructed by buildings or structures from ground to sky except by trees or shrubbery or as otherwise provided herein. The setback lines as defined in this Resolution shall determine the minimum depth of a yard. No part of a yard provided for any building or structure shall be included as a part of any yard required for any other building or structure unless specifically permitted herein.

- 1) **Front Yard:** An open space extending the full width of the lot between a building or structure and the front lot line of a street unoccupied and unobstructed from the ground upward except as hereinafter specified. Minimum depth shall be measured from the front lot line, existing right of way line, or proposed right of way line established on the Official Thoroughfare Plan or by any other method specified elsewhere in this Resolution, as appropriate.
- 2) **Side Yard:** An open space extending from the front yard to the rear yard between a building or structure and the nearest side lot line unoccupied and unobstructed from the ground upward except as herein specified.
- 3) **Rear Yard:** An open space extending the full width of the lot between a building or structure and the rear lot line, unoccupied and unobstructed from the ground upward except as herein specified.

**Zero discharge, land application sewage system:** A sewage system that distributes treated wastewater evenly over a field and/or open space for the purpose of irrigation.

**Zoning Commission:** The Zoning Commission of Delaware Township, Delaware County, Ohio.

**Zoning Inspector:** The Zoning Inspector or his authorized representative appointed by the Delaware Township Trustees to administer and enforce zoning regulations.

**Zoning Map:** The zoning map of Delaware Township or portion thereof with all amendments thereto subsequently adopted.

**Zoning Permit:** A zoning certificate issued by the zoning inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.



**ARTICLE 5 – DISTRICTS AND BOUNDARIES**

**Section 5.01 ZONING DISTRICTS**

For the purpose of this Resolution, the following districts are hereby created in order that the unincorporated area of Delaware Township, Delaware County, Ohio, may be divided into one or more such districts:

FR-1	Farm Residential District
R-2	Low Density Residential District
PRD	Planned Residential District
C-1	Neighborhood Commercial and Office District
PCD	Planned Commercial and Office District
I	Industrial District
PID	Planned Industrial District
FPRD	Floodplain Regulatory District
HRD	Historic Residence District

**Section 5.02 DISTRICT BOUNDARIES**

The zoning districts and their boundaries are shown on the Official Zoning District Map of Delaware Township. The Official Zoning District Map, as legally amended from time to time by Resolution of the Delaware Township Trustees, shall be identified by the signature of the Chairperson of the Board of Trustees, as attested by the Township Fiscal Officer. The map, together with all explanatory data and changes is hereby incorporated into and made part of this Resolution. After any district change becomes effective, the Zoning Inspector shall cause the Official Zoning District Map to be updated to reflect the change. Prior to the change, a copy of the Official Zoning District Map shall be made and shall be dated and permanently filed and remain in custody of the Zoning Inspector. The updated Official Zoning District Map shall note the effective date of its revision and shall be signed by the Chairperson of the Board of Township Trustees and attested by the Township Fiscal Officer. The Official Zoning District Map shall be maintained by the Zoning Inspector at the Township Hall.

**Section 5.03 NEW TERRITORY**

All territory which may hereafter become a part of Delaware Township, Delaware County, Ohio, by any method and all territory in a Farm Residential District (FR-1) on the effective date of this amendment (current date) shall automatically be classified as lying in and being in a Farm Residential District (FR-1) until such classification shall have been changed to this Zoning Resolution and map as provided by law.

**Section 5.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts shown on the zoning map, the following rules shall apply:

- A.) Where district boundaries are indicated approximately following the centerlines of street, or highways, street lines or highway right-of-way lines, such as centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B.) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

- C.) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance thereof as indicated on the zoning map. If no such distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- D.) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main rails of said railroad line.
- E.) Where the boundary of a district follows a stream or other body of water, the center line of the body of water shall be deemed to be the boundary of the zoning district unless otherwise indicated.
- F.) Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning or annexation of any territory, said metes and bounds description shall control over all of the foregoing.
- G.) Questions concerning the exact location of district boundary lines shall be determined by the Zoning Inspector, subject to the owners' right of appeal to the Board of Zoning Appeals as provided herein.

#### **Section 5.05 ZONING MAP**

The Township Zoning Inspector shall maintain the official zoning map at the Township Hall. The same shall be accessible to the public at all reasonable times.

#### **Section 5.06 THE NATURE OF THE ZONING DISTRICTS:**

The general nature and intent of application for each of the Zoning Districts is set forth in the following statements.

#### **Section 5.061 FARM RESIDENTIAL DISTRICT – FR-1 (Article 8)**

The Farm Residence District is a low-density rural residential zoning district primarily intended for areas of the township without sanitary sewer service where land is to be subdivided into large residential lots. The minimum lot size is 1.5 acres when land is not served by centralized sewer and on-site sewage disposal systems are to be utilized. In those cases where centralized sewer service is available, minimum lot size is one acre.

#### **Section 5.062 LOW DENSITY RESIDENTIAL – R-2 (Article 9)**

The Low Density Residential District is intended to provide areas for new residential development of a suburban character on lands that are served with central sewer and water. The lot size is intended to be less than 1 acre, but no smaller than 20,000 square feet.

#### **Section 5.063 NEIGHBORHOOD COMMERCIAL AND OFFICE – C-1 (Article 12)**

The Neighborhood Commercial and Office District, with the regulation of future areas and rehabilitation of existing facilities will provide the atmosphere and opportunity to develop small neighborhood shopping areas which are pleasant, safe, and convenient to the neighborhood but not designed to serve the public at large.

**Section 5.064 INDUSTRIAL – I (Article 17)**

The Township recognizes that a well-planned and balanced community must have jobs for its residents and a tax base to support the best possible educational opportunities for the young. It is the intention of the Zoning Commission to provide those reasonable conditions under which desirable industry may operate so that the health, safety and general welfare of the residents of the township may be preserved.

**THE PLANNED DISTRICTS**

The Planned Districts are established under Ohio Revised Code 519.021 (A) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting greater efficiency in providing public and utility services and encouraging innovation in the planning building of all types of development. Land to be included in Planned Districts is intended to preserve unique natural features of the landscape or man-made structures using cluster or free form designs which would better achieve this goal than would standard zoning. Such designs should be developed in recognition of the existing and potential development character of the vicinity to assure provision of adequate public utilities, streets, community facilities, and compatible land uses. Useable public open space and use of effective landscape buffers are the centerpiece of the plan, yielded in return for the exemption from conventional zoning.

**Section 5.065 PLANNED RESIDENTIAL DISTRICT – PRD (Article 11)**

The Planned Residential District is a Planned Unit Development district adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide flexibility in the arrangement, design, lot size and setbacks of residential dwellings (primarily single-family) in designated suburban areas based on a unified development plan. PRDs are intended for those areas of the township with centralized water and sewer. Natural features such as topography, woodlands, wetlands, bodies of water, floodplains and drainage ways should be maintained in a natural state as much as possible to maintain a rural character. Open space is a major component of such a unified development plan.

The objectives of the Planned Residential Development District include:

- a.) To encourage creativity in residential neighborhood design through a controlled process of review and approval of particular site development plans that preserve open space, protect ravines, woodlands, wetlands and floodplains;
- b.) To encourage development that makes more efficient use of land, and requires shorter networks of streets and utilities;
- c.) To integrate and provide useable and accessible open space and recreation in close proximity to residential dwelling units;
- d.) To use permanent open space as the centerpiece of residential developments.
- e.) To permit suburban densities in areas that have access to centralized water and sanitary sewer, while protecting natural resources via clustering of houses;
- f.) To provide a variety of housing options.

**Section 5.066 PLANNED COMMERCIAL AND OFFICE DISTRICT – PCD (Article 14)**

The Planned Commercial and Office District is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for unified commercial areas usually under single ownership and control, or clustered together in planned outlots, where the use and layout are known and approved with flexibility per an approved development plan. These centers have all necessary utility services, and roads comprehensively provided. Buildings within this District are to be architecturally attractive and compatible. The tract is to be well landscaped. Parking and loading areas are to be screened and pedestrian-vehicular separation achieved. The relationship among individual establishments is to be harmonious, and inasmuch as the principal tenant and the size of the center have much to do with its physical character, relationship to the community, and economic success, these factors should be of concern in considering a Planned Commercial and Office District application. It is intended that the Planned Commercial and Office and the area surrounding it be protected from the intrusion of dissimilar land uses, except those clearly complimentary, supplementary, and physically compatible with the development of the center and the vicinity.

**Section 5.067 PLANNED INDUSTRIAL DISTRICT – PID (Article 18)**

The Planned Industrial District is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for industrial establishments which seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. Because these industrial areas are generally stable and offer unified internal arrangement and development, potentially detrimental effects can be better controlled. For this reason, the Planned Industrial District is allowed greater development flexibility in return for the predetermined knowledge of the use and layout of future development. Buildings within this district are to be architecturally attractive and well landscaped. Plant parking, storage, loading and processing operations are to be screened. Those uses that may pose a threat to the health safety and morals of the township are regulated or prohibited.

**THE SPECIAL DISTRICTS**

The Special Zoning Districts are intended to provide for land of unique character or developmental requirements not adequately provided in the Standard Districts.

**Section 5.068 FLOODPLAIN REGULATORY DISTRICT – FPRD (Article 19)**

The Floodplain Regulatory District is provided to regulate flood-prone land along certain rivers, creeks, streams and other natural water courses as identified by the Federal Emergency Management Agency (FEMA) so as to make Delaware Township landowners eligible for flood insurance under the National Flood Insurance Program. To avoid personal loss and expenditure of public funds for the control of such flooding, it is the purpose of these regulations to prevent obstruction of the water channel and to protect structures and property from flood damage.

## **ARTICLE 6 – APPLICATION OF RESOLUTION**

### **Section 6.01 – CONFORMANCE REQUIRED**

Except as otherwise provided herein, no building (temporary or permanent) or part thereof shall be moved on the site, erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used or occupied, other than in strict conformance with all the use and development regulations established by this Resolution for the district in which the structure or land is located; all buildings shall conform to state and local building codes in effect on the date that construction of the structure or any alteration thereto is commenced.

### **Section 6.02 – AGRICULTURE**

- A.) Subject to the provisions of Paragraph B below, nothing contained in this Resolution shall prohibit the use of any such land for agricultural purposes, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no Zoning Certificate shall be required for any such use, building or structure.
- B.) Agriculture shall be regulated as follows in any platted subdivision approved under Ohio Revised Code sections 711.05, 711.09, or 711.10, or in any area consisting of fifteen or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road:
- 1.) Agriculture is prohibited on lots of one acre or less.
  - 2.) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres must conform to the setbacks, size and height requirements for the underlying zoning district. Subject to Subparagraph B 3) below, agriculture is permitted on lots greater than one (1) acre but not greater than five (5) acres.
  - 3.) Dairying and animal and poultry husbandry are permitted on lots greater than one (1) acre but not greater than five (5) acres until thirty-five (35%) percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under section 4503.06 of the Ohio Revised Code. After thirty-five (35%) percent of the lots are so developed, ongoing dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Ohio Revised Code and Article 24 of this Resolution. Dairying, poultry and animal husbandry shall be prohibited on all lots within the subdivision after thirty five percent of the lots are so developed.
- C.) Farm markets that derive at least fifty percent of their gross income from produce raised on farms owned or operated by the market owner in a normal crop year are permitted in any zone, subject to the following regulations.
- 1.) Buildings less than 144 square feet must be placed at least 15 feet outside the road right of way so as to safely allow for adequate customer off street parking. Seasonal farm markets

may use grassed areas for parking. Permanent farm markets must have paved or graveled parking.

- 2.) For buildings larger than 144 square feet, off street parking must be provided at the ratio of one space for each 400 square feet of farm market. Seasonal parking may be grassed areas, but permanent parking must be graveled or paved and provide ingress and egress in accordance with the recommendation of the Delaware County Engineer. Setbacks are the same as for any structure in the underlying zone.
- D.) Agritourism: for the purposes of this section “Agritourism” means an agriculturally-related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity within a Farm composed of tracts, lots, or parcels totaling not less than ten acres devoted to agricultural production. In an effort to protect the public health and safety of residents and visitors to an Agritourism activity, the following must be provided:
- 1.) Safe and adequate ingress and egress must be maintained at all times.
  - 2.) Any structures used primarily for Agritourism must meet the setbacks of the applicable zoning district and shall not exceed thirty-five (35) feet in height. All structures intended for public use shall conform to all application regulations for such buildings by the Delaware County Department of Building Safety.
  - 3.) All parking demands created by the activity shall be met off the street and shall not be located any closer to the street than the required setback line.
  - 4.) Waste materials, solid or liquid, shall not be created on or imported onto the premises at a level that creates a burden on adjoining property. Permanent or temporary sanitary waste disposal shall be provided as regulated by the Delaware Public Health District or Sanitary Engineer.
- E.) In accordance with Section 519.21(D) of the Ohio Revised Code (effective 9/8/16), Delaware Township prohibits the cultivation, processing, or retail dispensing of medical marijuana within the unincorporated areas of the township.

### **Section 6.03 – TELECOMMUNICATIONS TOWERS**

The provisions of this Resolution concerning telecommunications towers are not intended to replace or modify ORC 519.211, but instead are intended only to incorporate ORC 519.211 and its terms into this Resolution.

Towers Permitted: Limitations - Public utilities or other functionally equivalent telecommunications providers may site a telecommunications tower as a permitted use in any zoning district except the following districts: Farm Residential (FR- I) and Planned Residential (PRD).

No blanket zoning authority exists over telecommunications towers in residential districts, except to enforce the Notice and Objection procedures provided below, unless and until a written notice of Objection has been timely filed.

- A.) Towers proposed within commercial, industrial or exclusively agricultural areas: Public utilities or other functionally equivalent telecommunication providers may site a telecommunication tower as a permitted use in a commercial or industrial zoning district, or in an exclusively agricultural zoned area when a written objection is not made to the Board of Trustees pursuant to O.R.C. 519.211(B).
- B.) Towers proposed within an unincorporated area zoned for residential use: For the purposes of this section the areas zoned for residential use shall be deemed to be all land located within the following districts: Farm Residential District (FR-1), Low Density Residential (R-2) and Planned Residential District (PRD).
- 1.) Notice
- a.) Any person who plans to construct a telecommunication tower (“tower”) in a residential zoning district shall provide written notice by certified mail to the Delaware Township Board of Township Trustees, to each owner of property as shown on the county auditor’s current tax map or list whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed, and to the owner and resident of each residential dwelling located within 100 feet of the proposed tower.
- b.) The notice shall state all of the following in clear and concise language:
- i.) The person’s intent to construct the tower;
- ii.) A description of the property sufficient to identify the proposed location;
- iii.) That, no later than fifteen days after the date of mailing of the notice, any such abutting property owner or Trustee may give written notice to the Board of Township Trustees requesting that sections 519.02 to 519.25 (local zoning authority) of the Ohio Revised Code apply to the proposed location of the tower as provided under division 519.211(B)(4).
- iv.) If the written notice to an abutting property owner is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice.
- 2.) Procedure if objections are filed:
- a.) If the Board of Township Trustees receives notice from a property owner under Section 6.03(B)(1)(b) within the time specified in Section 6.03(C), or if a Board member (Trustee) makes an objection to the proposed location of the tower within 15 days of the mailing date of the notice, the Board of Trustees shall request that the Fiscal Officer send written notice within 5 working days to the person proposing to construct the tower that the tower is subject to local zoning authority as provided under Section 6.03(C) of this resolution with regard to the location, erection, construction, reconstruction, alteration, removal or enlargement of a telecommunication tower pursuant to O.R.C. 519.211(B).
- b.) Local zoning authority shall not extend to the regulation of maintenance or use of such a tower or to any change or alteration that would not substantially increase the tower’s height.
- c.) The local zoning authority over proposed telecommunication towers shall apply only to a particular tower, only upon provision of a notice of objection to that particular

tower. No blanket zoning authority exists over telecommunication towers in residential districts unless and until a written notice of objection has been timely filed.

- 3.) Procedure if no objections are filed: Telecommunication towers shall be permitted as a use exempt from any local zoning authority if no objections are timely filed as provided in Section 6.03(B)(1)(b).

C.) Local Zoning Authority: The township’s zoning authority is invoked through either a written notice being submitted to the board of trustees within 15 days of mailing of the required notice to adjacent residents or if a member of the board of trustees makes an objection (also within 15 days). If objections are timely filed for a proposed telecommunication tower in a Residential zoning district, then the telecommunication towers may only be permitted as a conditional use by the Board of Zoning Appeals provided that the all of the following conditions of this section are met.

- 1.) Conditional Use - Application and Requirements: Consistent with the procedures set forth in Section 28.07 of this Resolution, an application for conditional uses shall be filed with the Board of Zoning Appeals. The application shall include:

- a.) A locator map which shall contain the following:
  - i.) The location of all the applicant’s existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
  - ii.) The general location of planned future facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
  - iii.) For each location of the applicant’s existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower, there shall be listed:
    - a.) the type and size of tower at each location;
    - b.) the type of equipment located or proposed on each tower;
    - c.) the space available on the tower for additional equipment; and
    - d.) a site plan depicting any parcels on which any existing or proposed tower(s), antenna(s) or equipment is currently or is proposed to be located.
- b.) A scaled and dimensioned site plan for the facility that is being proposed, containing the following:
  - i.) the location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
  - ii.) the location of existing and proposed buildings and structures, access drives, circulation and parking areas;



- iii.) detailed drawings of the landscape screening plan and related design standards;
  - iv.) on-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
  - v.) setbacks from property lines and dwellings within 600 feet of the proposed tower;
  - vi.) legal description of the lot on which the tower is to be sited; and
  - vii.) any other information necessary to assess compliance with this section.
- c.) A written certification from a Professional Engineer stipulating:
- i.) that the tower's design is structurally sound and in compliance with all applicable federal, state and local building codes;
  - ii.) that the equipment placed on the tower and at the site complies with all current FCC regulations.
  - iii.) that the tower will, to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location; and
  - iv.) height and fall zone drawing.
- 2.) Conditional Use Procedure by Board of Zoning appeals on Receipt of Application: Consistent with the procedures set forth in Sections 28.07 and 28.08 of this Resolution, the Board of Zoning Appeals shall provide notice of a public hearing, conduct a public hearing and render a decisions on the conditional use requested in the application filed pursuant to Section 6.03(C)(1) of this Resolution.
- 3.) General Requirements for all Telecommunications Towers in Residential Zones
- a.) The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is essential to service the applicant's service area and that there are no alternative sites in commercial, industrial or exclusively agricultural areas. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, electric transmission towers, existing antenna support structures or other telecommunications towers, utility buildings and structures over 48 feet in height.

- b.) Maintenance: Towers and related structures must be maintained in good working order. The owner shall, within 30 days of permanently ceasing operation of a tower, provide written notice of abandonment to the Zoning Inspector.
  - c.) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued. Removal includes removal of all apparatuses, supports, and or other hardware associated with the tower. All costs associated with the demolition of the tower and associated equipment shall be borne by the property owner.
- 4.) Development Standards for all Telecommunications Towers in Residential Districts:
- a.) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.
  - b.) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 100 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
    - 1.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 115 feet;
    - 2.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 130 feet; and
    - 3.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 145 feet.
  - c.) Clear Fall Zone: Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
    - 1.) The tower base shall not be placed closer than the sum of height of the tower plus forty feet from any existing residential dwelling unit located on a lot contiguous to or directly across the street from the lot on which the tower is proposed to be constructed.
    - 2.) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.

- 3.) The tower base shall be located no closer to a street right-of-way than permitted in Article 21 herein.
- d.) Ancillary Requirements:
- 1.) Reasonable and safe access and circulation shall be provided to the tower. The location and design of the access drive and circulation areas shall be subject to review and comment by the Fire Chief (or the Chief's designee) of the fire department providing primary fire service to the Township.
  - 2.) Security fencing shall be provided to prevent uncontrolled access to the tower site. The tower shall be screened by an eight (8) foot high fence or barrier. A continuous evergreen hedge, trees or similar landscape materials of a size, type, area and design deemed appropriate by the Board of Zoning Appeals shall be placed outside of and along the fence or barrier. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed three square feet in size. The storage of any equipment must be contained inside the screened area.
  - 3.) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower shall not contain, or be illuminated by artificial lights, beacons or strobes, unless otherwise required by the Federal Aviation Administrations (FAA) or the Federal Communications Commission (FCC). Any required illumination shall be fully disclosed on the site plan.
  - 4.) Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a monopole design.
  - 5.) No advertising is permitted anywhere on the tower.
  - 6.) Where the tower is located on a property which is not owned by the tower operator, the applicant shall present documentation that the owner of the property has approved the application.
  - 7.) The applicant shall provide a signed statement indicating that he or she agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity.
  - 8.) A telecommunications antenna may be attached to a nonresidential building or structure that is permitted in the district, provided that the tower's height does not exceed twenty (20) feet above the existing building or structure to which the tower is attached.
  - 9.) If the applicant proposes to construct a separate equipment shelter on the site, the equipment shelter shall be shown on the site plan, be designed to be aesthetically and architecturally compatible with the surrounding environment, be located completely within the fenced area of the site, and be

in compliance with the accessory building regulations of the district in which it is to be located.

- D.) **Towers On Township Property:** With the prior consent of the Delaware Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township owned property not zoned for residential use pursuant to Section 6.031 (I). Additionally, with the prior consent of the Delaware Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township owned property zoned for residential use, but only after obtaining a conditional use permit pursuant to Sections 6.03(B) and (C) and all requirements of Section 6.03(C)(3) and (4) have been fully met.
- E.) **Co-location on an Existing Tower or Concealed Inside an Existing Structure:** If a telecommunications carrier desires to co-locate a telecommunications antenna on an existing telecommunications tower or concealed inside an existing structure in an area zoned residential and such a co-location will result in a substantial change in the height of the tower, a Certificate of Zoning Compliance may be obtained provided that the requirements found in the following provisions are met: 6.03(C)(1), (3)-(4). A substantial change in height shall mean the addition of more than 40 feet to the existing tower or structure.

#### **Section 6.04 – SMALL WIND PROJECT FARMS LESS THAN 5 MEGAWATTS**

Wind Projects Farms of 5MW or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations. Small Wind Projects Farms less than 5MW and used solely for Agriculture will be exempt from these zoning regulations as an Agricultural Use. Any proposed construction, erection, or siting of a small wind project farm less than 5MW including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use in any zoning district except those expressly zoned for residential use. A conditional Use Permit shall be required in all districts zoned for residential use. The areas zoned for residential use shall be deemed to be all land located within the following districts: Farm Residential (FR-1) and Planned Residential (PRD). The following conditions shall be met for both Permitted and Conditional Use Permits:

- A.) **General Requirements**
- 1.) **Height:** The maximum height of any turbine shall be 125 ft. For purposes of this Resolution, maximum height shall be considered the total height of the turbine system including the tower, and the maximum vertical height of the turbine's blades. Maximum height therefore shall be calculated by measuring the length of a prop at maximum vertical rotation to the base of the tower.
  - 2.) **Setbacks:** Any turbine erected on a parcel of land shall be setback 1.1 times the height of the tower, or established "clear fall zone", from all road right-of-way lines and neighboring property lines, structures, as well as any inhabited structures on the parcel intended for the turbine. A turbine shall be erected and placed in such a manner that if it were to fall, whatever direction the fall occurs would be contained solely on the property where the turbine is located, and would not strike any structures including the primary dwelling, and any inhabited structures.

- 3.) Maintenance: Wind turbines must be maintained in good working order. The owner shall, within 30 days of permanently ceasing operation of a wind turbine tower, provide written notice of abandonment to the Zoning Inspector. An unused wind turbine or small wind project farm may stand no longer than 12 months following abandonment. All costs associated with the demolition of the wind turbine tower and associated equipment shall be borne by the property owner. A wind turbine tower is considered abandoned when it ceases transmission of electricity for 30 consecutive days. Wind turbines that become inoperable for more than 12 months must be removed by the owner within thirty (30) days of issuance of zoning violation. Removal includes removal of all apparatuses, supports, and or other hardware associated with the existing wind turbine.
- 4.) Decibel Levels: Decibel levels shall not exceed those provided by the manufacturer as requested in Section (B), Permits (3)(b)(v). All units collectively shall operate at not more than 5 decibels above the established ambient decibel levels at property lines. This information shall be included in the engineering report described in Section (B) Permits. This information shall be obtained from the manufacturer of the turbine, and all decibel readings, if necessary, shall be taken from the nearest neighboring property lines. Those turbines not meeting this requirement will be issued a zoning violation and be required to shut down immediately until the required decibel levels are met.
- 5.) Wiring and electrical apparatuses: All wires and electrical apparatuses associated with the operation of a wind turbine unit shall be located underground or in an appropriate enclosed structure and meet all applicable local, state, and federal codes including the County Building Regulations and Residential Building Code of Ohio.
- 6.) Warning Signs: Appropriate warning signs to address voltage shall be posted.
- 7.) Building Permits: All Small Wind Projects Farms and parts thereof shall obtain all applicable Building Permits from the State of Ohio and County Building Regulations where required.

## B.) Permits

- 1.) A permit shall be required before construction is commenced on an individual wind turbine project system.
- 2.) As part of the permit process, the applicant shall inquire with the County Building Regulations as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports.
- 3.) Applicant shall then provide the Township Zoning Inspector with the following items and/or information when applying for a permit:
  - a.) Location of all public and private airports in relation to the location of the wind turbine.
  - b.) An engineering report that shows:
    - i.) The total size and height of the unit

- ii.) If applicable, the total size and depth of the unit's foundation structure concrete mounting pad, as well as soil and bedrock data.
  - iii.) A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring & anchors.
  - iv.) Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
  - v.) The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
  - vi.) Ambient noise levels at property lines.
  - vii.) Hazardous materials containment and disposal plan.
- c.) A site drawing showing the location of the unit in relation to existing structures on the property, roads and other public right-of-ways, and neighboring property lines.
  - d.) Evidence of established setbacks of 1.1 times the height of the wind turbine and "clear fall zone." with manufacturer's recommendation must be attached to the engineering report.
  - e.) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled.

### **Section 6.05 – BUILDINGS UNDER CONSTRUCTION AND NEW CONSTRUCTION**

Nothing contained in this Resolution shall require any change in the plans, construction, size or designated use of a building upon which construction was begun before the effective date of this Resolution or applicable amendments hereof. The Zoning Inspector may require proof in the form of an affidavit or other similar documents that the original intended use of the building has not been changed. The ground story framework, including structural parts of the second floor, shall have been completed within one (1) year and the entire building completed within two (2) years after the effective date of this Resolution or applicable amendments hereto.

### **Section 6.06 – ISSUED ZONING CERTIFICATES**

Any new proposed construction for which a zoning certificate is issued shall have been started within six (6) months of issuance of said permit, and the ground story framework, including structural parts of a second floor, shall have been completed within one (1) year after the issuance of the zoning certificate; provided, however, that any project or building originally contemplated to be constructed in phases or for a period longer than one (1) year may be completed in phases or during such extended time if in accordance with a timetable placed on file with the Township Zoning Inspector with the original request for the certificate.

In the case of phased construction, if the above schedule is not met, any prior right, as a non-conforming use is lost and zoning certificates for new construction invalidated.

**Section 6.07 – SALE OR USE OF ALCOHOLIC BEVERAGES**

The sale or use of alcoholic beverages shall not be prohibited by zoning in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted. (Ohio Revised Code 519.211)

**Section 6.08 – OUTDOOR ADVERTISING**

Outdoor advertising shall be classified as a business use and be permitted (and regulated by this ordinance) in all districts zoned for industry, business, trade or lands used for agricultural purposes. (Ohio Revised Code 519.20)

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**ARTICLE 7 – Reserved for Future Use**

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## **ARTICLE 8 – FARM RESIDENTIAL DISTRICT (FR-1)**

### **Section 8.01 – PURPOSE**

See Section 5.061

### **Section 8.02 – PERMITTED USES**

Within the Farm Residential District the following uses, developed in accordance with all other provisions of this Resolution, shall be permitted:

- A.) Single-family dwellings (limited to one dwelling per parcel, tract, or lot) where each lot conforms to the minimum standards of this district.
- B.) Accessory buildings and accessory uses including private garages and one apartment for domestic help employed on the premises or farm labor.
- C.) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.
- D.) Agricultural, as may be permitted under Section 6.02
- E.) Temporary structures such as mobile or manufactured homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than three times. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The Board of Township Trustees thereof shall establish the fees for such permit and renewals. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.
- F.) Limited Home Occupation as provided in Section 21.13.
- G.) Schools and Parks
  - 1.) Public or private school offering general educational courses and having no rooms regularly used for housing or sleeping of students.
  - 2.) Parks, playgrounds, and play fields open to the public without fee.
- H.) Religious Land Uses- Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, landscaping, lighting and signage conform to Article 21.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site.
  - 3.) All aspects of public health, safety and welfare are provided for (meets building code, life safety code, electrical code, etc.)

- I.) Residential Facilities in accordance with ORC 5123.19 and ORC 5119.34(B)(1)(b)(i and ii).
- J.) Child Day Care- Child day care provided in-home for six or fewer children, provided the day care is accessory to the use of the dwelling as a residence, and further provided that such child day care qualifies as a “Type B family day care home” as defined in Ohio Revised Codes Section 5104.01.
- K.) Common Access Driveway Subdivision.

### **Section 8.03 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Expanded Home Occupations as provided in Section 21.14.
- B.) Public or Private Schools or Colleges. Instructional areas, whether improved with buildings or not, shall provide adequate parking areas for faculty, staff and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Board of Zoning Appeals and shall provide screening adjacent to residential areas.
- C.) Farm Labor Housing. One occupied manufactured home to be occupied by full-time farm labor only and provided that said manufactured home is installed in compliance with rules and regulations established by the Delaware Public Health District. Not more than one manufactured home shall be located on any farm within this township. Permanent farm labor housing may be provided on the same premises as the resident farmer, provided that all local building codes are complied with, all utilities are provided, and perimeter setback of 25' from all property lines is met.
- D.) Kindergarten or Child Care Facilities, provided they occupy the residence of the operator or an accessory building which is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- E.) Convalescent Homes, Rest Homes, or Homes for Children or Aged, provided that the area of the tract is adequate to provide setbacks parking and recreational areas prescribed by the Board of Zoning Appeals.
- F.) Playgrounds, Playfields, Picnic Areas and Summer Camps with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions, and any other improvement necessary to protect users from harm or danger.

- G.) Public or Private Golf Courses, Country Clubs, Hunt Clubs, Sportsmen's Clubs, fishing lakes, or similar recreational uses with all buildings and club houses incident thereto including restaurant to serve members and/or users of the facility.
- H.) Cemetery, provided:
- 1.) Internment shall not be within 300' of a dwelling house, unless the owner of such dwelling house gives his consent, or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in ORC 1721.03.
  - 2.) A mausoleum shall not be within three hundred feet of any property line.
  - 3.) A Crematory or other structure shall not be within one thousand (1,000) feet of any property line.
  - 4.) Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with ORC 1721.09.
- I.) Borrow Pits, provided the excavation is completed within one (1) year and the contractor posts such bond as required by the Board of Township Trustees, Board of County Commissioners and/or the County Engineer to ensure compliance with the restrictions and conditions imposed to ensure regarding, reseeding and general restoration of the area including haul roads. All applications or plans the Delaware County Engineer, and his comments thereto shall review submitted incident should be included in the record regarding the matter.
- J.) Dog Kennels or Catteries provided that the building or structure dedicated to the use is located at least two hundred (200) feet from the lot line in any Residential District.
- K.) Group homes or Residential Care Facilities in which not more than ten (10) persons are provided with room, board, specialized care, rehabilitative services and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary, the Board of Zoning Appeals shall impose the following conditions.
- 1.) No exterior alterations of the structure shall be made which depart from the residential character of the building, All new structures shall be compatible in residential design with the surrounding neighborhood,
  - 2.) All exterior lighting fixtures will be shaded whenever necessary to avoid casting direct light upon any adjoining property located in Residential District.
- L.) Granny flat, provided it meets the following conditions:
- 1.) Property owner must live on site, and the granny flat must be subservient to the principal use of the property as a dwelling.
  - 2.) Maximum size: 816 square feet.

- 3.) Must maintain a single-family residential appearance that blends with the principal structure and the neighborhood. An architectural rendering and floor plan must be provided to and approved by the Board of Zoning Appeals. Said plans shall include a landscape plan.
  - 4.) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal to serve both the principal residence and the granny flat.
  - 5.) Off-street parking on a hard all-weather surface must be provided, 2 spaces for the principal residence and one space for the granny flat, 9' x 18' per space. No one space shall block another. Garages count as parking spaces.
  - 6.) Maximum Height of the accessory structure is 24' at the peak. A granny flat may be located on the first or second floor.
  - 7.) Maximum lot coverage by all residential structures - 25%.
  - 8.) All structures must meet all applicable local, state, and federal codes including the County Building Regulations and Residential Building Code of Ohio.
- M.) Permanent structures or improvements used for roadside sale of agricultural products, produced in this township or adjacent townships.
- N.) Telecommunications Towers as provided under Section 6.03.
- O.) Agritourism activities, as provided and regulated by Section 6.02 (D).

#### **Section 8.04 – PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles including trailers detached from semi-tractors, for a period exceeding seven (7) days is prohibited. Said vehicles stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No motor home, trailer or camper of any type may be occupied by a guest of the resident owner or by the resident for more than fourteen (14) days in a six-month period. No more than one (1) motor home, trailer, or camper may be occupied for such a period on any lot, parcel, or farm.
- D.) Except for permanently sited manufactured homes or as specifically permitted in Section 8.03(E) and Section 8.04(D) herein no mobile home shall be placed or occupied in the FR-I district.
- E.) No trash, debris, refuse or discarded materials which creates an eyesore, hazard or nuisance to the neighborhood or general public, shall be permitted to accumulate or be stored on any lot, parcel, or portion thereof.

- F.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any parcel within this district for a period exceeding twenty-four (24) hours. If a dwelling is located on said lot, the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- G.) The cultivation, processing, or retail dispensing of marijuana is prohibited.

**Section 8.05 – DEVELOPMENT STANDARDS**

All lands and uses within the Farm Residential District shall be developed in strict compliance with standards hereinafter established:

- A.) Lot Area - No parcel of land that has an area of less than one and a half (1.5) acre (65,340 square feet) in this district shall be used for residential purposes if served by on-site sewage treatment or one (1) acre if served by sanitary sewer. All other uses in this district shall have such lot area prescribed by the article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B.) Lot Frontage – All lots must have the following continuous frontage on a dedicated public or private street or an approved Common Access Drive.

Smaller than 2 acres	150 feet
Between 2.001 and 3 acres	175 feet
Between 3.001 and 4 acres	200 feet
Between 4.001 and 5 acres	250 feet
Larger than 5 acres	300 feet

Lots or parcels having less than the above listed minimum frontages on the right-of-way line of the adjoining approved easement, road or street must have the required minimum lot width at a line fifty (50) feet forward of the building line. In no case shall the parcel or lot frontage at the right-of-way be less than sixty (60) feet, and width of sixty (60) feet shall not be decreased at any point forward of the building line of the principal residence located on the premises. If an irregularly shaped lot (e.g. pie-shaped) located on a curve or cul-de-sac widens to the minimum lot width within seventy-five (75) feet of the right -of-way line of adjoining roadway, the requirement for extra setback is required to conform to setback lines for principal structures on adjoining lots.

- C.) Minimum lot width at building setback line – equal to the frontage as defined by lot size listed in 8.05 B.) herein.
- D.) Building Height Limits - No building in this district shall exceed thirty-five (35) feet in height measured from the finished grade established not closer than fifteen (15) feet to the exterior wall of the structure. Barns, silos, grain handling conveyors, church spires, domes, flag poles and elevator shafts, as permitted, are exempted from any height regulation and may be erected to any safe height. No windmills, aerial, antenna or communications tower (except as provided in Section 6.03) shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.

- E.) Building Dimensions (Floor Space Requirements) - Each single family dwelling hereafter erected in this district shall have a living area of not less than one thousand (1000) square feet. All such living areas shall be exclusive of unfinished basements, porches and garages.
- F.) Building Setback - No building or use shall be located closer to the centerline of the adjacent public or private road than permitted in Section 21.09 herein.
- G.) Side Yard Setback - No building or structure shall be located closer than twenty-five (25) feet to any side lot line.
- H.) Rear Yard Requirements - No principal dwelling shall be located closer than eighty (80) feet to the rear line of any lot, and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.
- I.) Maximum Lot Coverage - On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- J.) Parking - Off street parking shall be provided at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 21 of this Resolution.
- K.) Signs - Except as provided under the provisions of this article for home occupations or as controlled by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding forty-eight (48) square feet in area per side advertising said subdivision, development or tract for sale.



## **ARTICLE 9 – LOW DENSITY RESIDENTIAL DISTRICT (R-2)**

### **Section 9.01 – PURPOSE**

See Section 5.062

### **Section 9.02 – PERMITTED USES**

Within the Low Density Residential District (R-2) the following uses, developed in accordance with all other provisions of this Resolution, shall be permitted:

- A.) Single-family dwellings (Limited to one single family dwelling per parcel, tract, or lot).
- B.) Accessory buildings and accessory uses including private garages.
- C.) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.
- D.) Temporary structures such as manufactured or mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during periods while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use. The permit shall be valid for six (6) months and may be renewed not more than three times. Renewal of the permit shall be at the discretion of the Zoning Inspector on the finding of reasonable Progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The Board of Township Trustees thereof shall establish the fees for such permit and renewal. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.
- E.) Limited Home Occupation as provided in Section 21.13.
- F.) Schools and Parks
  - 1.) Public or private school offering general educational courses and having no rooms regularly used for housing or sleeping of students.
  - 2.) Parks, playgrounds, and play fields open to the public without fee.
- G.) Religious Land Uses- Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, landscaping, lighting and signage conform to Article 21 ~~XXI~~.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site.
  - 3.) All aspects of public health, safety and welfare are provided for (meets building code, electrical code, etc.).
- H.) Residential Facilities in accordance with ORC 5123.19 and ORC 5119.34(B)(1)(b)(i and ii).
- I.) Child Day Care- Child day care provided in-home for six or fewer children, provided the day care is accessory to the use of the dwelling as a residence which is architecturally compatible with the

neighborhood, and further provided that such child day care qualifies as a “Type B family day care home” as defined in Ohio Revised Codes Section 5104.01. Provisions shall be made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards.

J.) Common Access Driveway Subdivision

**Section 9.03 – CONDITIONAL USES**

Within the R-2 zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution, Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with the conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Expanded Home Occupations as provided in Section 21.14.
- B.) Playgrounds, Playfields, Picnic Areas and Summer Camps with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions, and any other improvement necessary to protect users from harm or danger.
- C.) Residential Facilities in ORC 5123.19 and ORC 5119.34(B)(1)(b)(iii). All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the Board of Zoning Appeals shall impose the following conditions.
  - 1) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2) All exterior lighting fixtures will be shaded whenever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
- D.) Permanent structures or improvements used for roadside sale of agricultural Products produced in this township or adjacent townships.
- E.) Telecommunications Towers as provided under Section 6.03.
- F.) Granny flat, provided it meets the following conditions:
  - 1.) Property owner must live on site, and the granny flat must be subservient to the principal use of the property as a dwelling.
  - 2.) Maximum size: 816 square feet.

- 3.) Must maintain a single-family residential appearance that blends with the principal structure and the neighborhood. An architectural rendering and floor plan must be provided to and approved by the Board of Zoning Appeals. Said plans shall include a landscape plan.
  - 4.) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal to serve both the principal residence and the granny flat.
  - 5.) Off-street parking on a hard all-weather surface must be provided, 2 spaces for the principal residence and one space for the granny flat, 9' x 18' per space. No one space shall block another. Garages count as parking spaces.
  - 6.) Maximum Height of the accessory structure is 24' at the peak. A granny flat may be located on the first or second floor.
  - 7.) Maximum lot coverage by all residential structures - 25%.
  - 8.) All structures must meet the current edition of the CABO One and Two family building and the Delaware County Plumbing Code.
- G.) Cemetery, as provided in Section 8.04(h).
- H.) Common wall or zero lot line housing, provided that the minimum lot area per unit is maintained.

#### **Section 9.04 – PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles including trailers detached from semi-tractors, for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or Public road.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any parcel within this district for a period exceeding twenty-four (24) hours. If a dwelling is located on said lot the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- D.) No trash, debris, unused property or discarded materials, which creates an eyesore, hazard or nuisance to the neighborhood or general public, shall be permitted to accumulate on any lot or portion thereof.
- E.) No motor home, mobile home, or camper of any type may be occupied by a guest of the resident owner or by the resident for more than fourteen (14) days within a six (6) month period. No more

than one motor home, trailer, or camper may be occupied for such a period on any lot, parcel, or farm.

- F.) Except as specifically permitted in Section 9.03(D) herein no mobile home shall be placed or occupied in this district.
- G.) The cultivation, processing, or retail dispensing of marijuana is prohibited.

### **Section 9.05 – DEVELOPMENT STANDARDS**

All land and uses within the Low Density Residential District (R-2) shall be developed in strict compliance with the standards hereinafter established:

- A.) Lot Area - Residential lots which are served with an approved central water and sewer systems serving all lots may be developed for such use if they have a lot area of not less than twenty thousand (20,000) square feet. All other parcels, not so serviced, shall contain the lot areas prescribed by the provisions of Article VIII of this Zoning Resolution.
- B.) Lot Frontage - All lots must have a minimum of one hundred (100) feet of continuous frontage on a dedicated, improved public or private street or an approved Common Access Driveway.
- C.) Minimum Lot Width – one hundred (100) feet at the building setback line.
- D.) Building Height Limits - No buildings in this district shall exceed thirty-five (35) feet in height measured from the finished grade established not closer than fifteen (15) feet to the exterior wall of the structure. Barns, silos, grain handling conveyors, church spires, domes and flag poles and elevator shafts, as permitted, are exempted from any height regulation and may be erected to any safe height. No windmills, aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- E.) Building Setbacks - No building or use shall be located closer to the centerline of the adjacent public or private road than permitted in Section 21-09 herein.
- F.) Side Yard Setbacks – Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing under Section 9.03(H) herein, no building or structure shall be located closer than twenty (20) feet to any side lot line.
- G.) Rear Yard Requirement - No Principal dwelling shall be located closer than sixty-five (65) feet to the rear lot line if any lot, and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.
- H.) Maximum Lot Coverage – On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- I.) Parking - Off-street Parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress or egress according to the standards set forth in Article 21 of this Resolution.

- J.) Except as provided under the provisions of this Article for home occupations or as controlled by Article 22 of this Resolution and except as permitted by the Board Of Zoning Appeals incident to Conditional Uses, no signs shall be Permitted in this district except a “For Sale” or “For Rent” or “Lease” sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.
  
- K.) The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding forty-eight (48) square feet in area per side advertising said subdivision, development or tract for sale.

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**ARTICLE 10 - (Reserved for Future Use)**

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## **ARTICLE 11 – PLANNED RESIDENTIAL DISTRICT (PRD)**

### **Section 11.01 – PURPOSE**

See Section 5.065

### **Section 11.02 – PERMITTED USES**

Within the Planned Residential District (PRD) the following uses, developed in strict compliance with the approved development plan and standards, shall be permitted:

- A.) Residential structures of any type either single family or multifamily, including but not limited to detached, semi-detached, attached, modular, cluster, patio, common wall or any reasonable variation on the same theme.
- B.) Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the Planned Residential District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- C.) Temporary structures such as mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal and water supply, as he or she deems necessary. The Board of Township Trustees thereof shall establish the fees for such permit and renewal. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.
- D.) Limited Home Occupation as provided in Section 21.13.

### **Section 11.03 – CONDITIONAL USES**

Within the PRD zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution, Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Expanded Home Occupation as provided in Section 21.14.

- B.) Kindergarten or Child Care Facilities, provided the building occupied by the use is architecturally compatible with the neighborhood, and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards.
- C.) Group homes or residential care facilities in which not more than ten (10) persons are provided with room, board, specialized care, rehabilitative services, and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the Board of Zoning Appeals shall impose the following conditions.
- 1) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in Residential District.
- D.) Parking lots or storage yards for boats and recreational vehicles provided such area is owned or controlled by neighborhood or community association and use is limited to residents of the subdivision served. The parking area shall be fenced to provide security and to control access. Fencing, shrubbery, or mounding so as to hide the parking area from view shall screen the parking area. All such shrubbery shall be properly trimmed, and all screening shall be maintained in a neat and tidy manner.
- E.) Telecommunications Towers as provided under Section 6.03.

#### **Section 11.04 – PROHIBITED USES**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, including detached trailers from semi-tractors, for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any parcel within this district for more than twenty-four (24) hours in any ten (10) day period. If a dwelling is located on said lot, the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- D.) A guest of the resident owner may occupy no motor home, mobile home or camper of any type for more than fourteen (14) days. No more than one motor home, trailer, or camper may be occupied for such a period on any lot, parcel, or farm.

- E.) Except as specifically permitted in Section 11.02(C) or approved in the approved development plan, no mobile home shall be placed or occupied in this district.
- F.) The cultivation, processing, or retail dispensing of marijuana is prohibited.

### **Section 11.05 – PROCEDURE**

The applicant, being the owner of subject real estate, may apply one of two ways (either A or B).

- A.) File Preliminary and final development plans separately
  - 1.) Step one - Apply for a zoning map amendment to designate the land as a PRD and submit a Preliminary Development Plan with the application. If the application is approved, then the zoning map is amended to PRD. (This is a legislative act and is subject to referendum).
  - 2.) Step Two - Once an application for a zoning map amendment to PRD has been approved, the applicant submits and seeks approval of a Final Development Plan. Unless simultaneously adopted as part of the zoning map change, the subsequent approval or disapproval of the final development plan is an administrative act by the Township (not subject to referendum), but is subject to the review and approval by the township for appropriateness.
- B.) Simultaneous Application for Zoning Map Amendment and Final Development Plan.

The applicant, being an owner of real estate, may apply for a zoning map amendment to designate the land as a PRD and simultaneously submit, along with the application for the zoning change, a final development plan acceptable to the township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

The applicant is encouraged to engage in informal consultations with the Zoning Commission and Regional Planning Commission prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by officials of the Township or the County shall be binding upon either.

### **Section 11.06 – DEVELOPMENT PLANS**

- A.) Preliminary Development Plan - Ten (10) copies of the Preliminary development plan shall be submitted to the Zoning Commission with the application, which plan shall include in text and map form the following:
  - 1.) The proposed size and location of the Planned Residential District at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, existing and proposed structures, and structures within 200' of the development tract(s).
  - 2.) The general development character of the tract including the limitations or controls to be placed on residential and related uses, with probable lot sizes, minimum set back requirements and other development features including landscaping.
  - 3.) Density calculation and rationale.

- 4.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 5.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 6.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  - 7.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - 8.) Location of schools, parks and other facility sites, if any.
  - 9.) A design of the open space and proposed description of its use and maintenance.
  - 10.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 11.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
  - 12.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 13.) Preliminary Traffic Impact Analysis based upon new trip generation.
  - 14.) Emergency service provisions (letter from Fire and Police departments).
  - 15.) Specific statements of divergence from the development standards in Articles 8, 9, and/or 21 or existing county regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with.
  - 16.) Evidence of the applicant's ability to post a bond if the plan is approved ensuring completion of public service facilities to be constructed within the project by the developer.
- B.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed. New applications for approval shall be subject to

the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRD district.

C.) Final Development Plan-

The review and approval of the Final Development Plan is an administrative act, not subject to referendum unless the final development plan is simultaneously submitted with application for the zoning change. If, in the opinion of the Zoning Commission, there is substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence.

The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. The final development plan shall include in text and map form all of the requirements of a Preliminary Plan plus the following:

- 1.) A plan at a scale of at least 1" =100' showing the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features.
- 2.) The general development character of entrance features, signage, pathways, sidewalks, recreational facilities and all commonly owned structures shown in detail, identifying the quantity and type and typical section of each. The landscape plan shall identify each plant, shrub or tree, its name, its size at planting and rendering of how that section of the development would look in elevation.
- 3.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. Any modification of these structures shall require re-approval of the development plan by the Township. Materials and colors shall be submitted for approval.
- 4.) The proposed provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Line sizes and locations, detention basins and drainage structures shall be drawn.
- 5.) A traffic impact analysis by a competent traffic engineer acceptable to the Delaware County Engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- 6.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.

- 7.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 8.) Specific statements of divergence from any requirements in other applicable Sections of this Zoning Resolution including but not limited to General Standards, Signs, and/or Landscaping, and the related justification, unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built, all standards for setback, landscaping parking and lot size are per plan.
  - 9.) The final development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.
- D.) Expiration of Final Development Plan Approval- If construction of any building has not been commenced within three (3) years after approval of the final development plan, approval of such plan shall expire, unless an extension of the time limit has been approved by the Zoning Commission. Absent an extension, no use shall be established or changed and no structure shall be constructed until a final development plan has been filed with and approved by the Zoning Commission.

#### **Section 11.07 – REQUIRED DESIGN STANDARDS**

PRD developments shall incorporate the following design standards:

- A.) Minimum PRD tract size: 10 acres, unless adjacent to another PRD, in which case the Zoning Commission may permit the tract size to be reduced to 10 acres.
- B.) Residential Building Type: A mix of building types is encouraged, but single-family detached units shall not constitute less than 50% of the overall number of units.
- C.) Intensity of Use: The maximum density shall not exceed 2 units per acre for single-family platted lots and four (4) dwelling units per acre for multi-family, within the area to be developed as multi-family, unless the physical boundaries of land or existing developments adjacent thereto on adjoining lands establish an atmosphere inconsistent with the above densities.
- D.) Common Open Space: Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. A minimum of 20% of the gross acreage shall be dedicated open space.

In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. The common open space shall be subject to the following additional criteria:

- a.) The location, shape, size and character of common open space shall be suitable for the planned development in relation to the location, number and types of buildings it is intended to serve.
- b.) Common Open Space may be used for a school site or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale

and character of the planned development in relation to its size, density, expected population, topography, and the type of dwellings.

- c.) The Common Open Space may be suitably improved for its intended use, but common open space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. Environmentally sensitive areas such as wetlands, floodplains, slopes greater than 20% and utility easements may count for up to 50% of the required open space.
  - d.) The proposed Common Open Space may be conveyed to a public authority that will agree to maintain the Common Open Space and any buildings, structures or improvements that have been placed on it. Public utility or other similar easements for water courses or other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated.
  - e.) The proposed Common Open Space may be conveyed to an owners association or similar organization formed for the maintenance of the planned development. Open space shall be restricted to the uses specified in the Development Plan and shall provide for the maintenance in a manner which assures its continuing use for its intended purpose.
- E.) Perimeter PRD Setback: 50 feet from property lines, unless developed adjacent to another Planned Residential District.
  - F.) Storm Water: Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding. Retention ponds and constructed wetlands as detention basins are preferred over plain detention basins.
  - G.) Subdivision standards: Improvements within the PRD shall conform to the subdivision standards for Delaware County Ohio.
  - H.) Natural area preservation: Wetlands, steep (over 25 %) slopes, forests, 100 year floodplains, ravines should be preserved to the greatest extent possible. Foliage should be retained where practicable.
  - I.) Floodplains: No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.
  - J.) Architecture: The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.
  - K.) Sidewalks: A network of sidewalks or walking paths shall be provided. Where located parallel to the roads, sidewalks shall be separated from the street pavement by at least a 5' landscaped or grassed strip. Walking paths may be located per plan. The zoning commission may require paved/unpaved walkways to connect residential areas and open spaces.

- L.) Street Trees: Deciduous, broad leaf street trees if required by the Zoning Commission, shall be placed one for every 50' of lineal road frontage, except where they may negatively impact intersection sight distance.
- M.) Minimum Front Setbacks: Houses, 30' from the street right of way, or as approved per plan. Front-load garages shall not project in front of the front face of the house.
- N.) Minimum Lot Size: 14,520 square feet (1/3 acre) for single-family detached dwellings.
- O.) Minimum Lot Width at the building line: 90' (ninety feet) for single family detached houses.
- P.) Minimum Side yards: 6' (six feet) each side (12' (twelve feet) between structures), with no encroachments, including chimneys, air conditioning units, etc.
- Q.) Driveway Setbacks: Three feet from the side lot line. Side-load garages shall provide at least 20 feet of paved apron, exclusive of the 3' setback.
- R.) Minimum Rear yard: 30' for houses, 20' for detached garages, or 5' for garages with full masonry construction.
- S.) Streets: Street layouts should be looped or grid to create an interconnected road network. Dead end streets should be avoided, except where severe topography or other physical condition prevents connection.
- T.) Exterior Lighting: As defined in Section 21.15.
- U.) Building Height Limits: No building in this district shall exceed thirty-five feet (35') in height measured from the finished grade elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antennas, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one hundred (100) feet in height.
- V.) Building Dimensions (Floor space requirements):
  - a.) Each detached single family dwelling hereafter erected in this district shall have a living area not less than one-thousand four hundred (1400) square feet or eight-hundred (800) square feet of ground floor living area, if the residence is multi-story. All such living areas shall be exclusive of basements, porches or garages.
  - b.) Each single family dwelling hereafter erected in this district shall have a living area of not less than one thousand (1000) square feet. All such living areas shall be exclusive of basements, porches or garages. All apartments or other multi-family structures constructed within this district shall contain the following minimum living area:
    - One (1) bedroom unit - 800 square feet
    - Two (2) bedroom unit - 900 square feet



Three or more bedroom units - 1000 square feet

- W.) Landscaping: All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- X.) Parking: Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the provisions of Article 21 of this Resolution shall, when appropriate, be incorporated.
- Y.) Signs: Except as provided under the provisions of this article for home occupations or as controlled by Article 22 (Signs) of this Resolution and except as permitted by the Board of Zoning Appeals incidental to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet of advertising area on each side.
- Z.) Exterior Lighting: All exterior lighting shall be as specifically approved as part of the final development plan.
- AA.) A post office box/kiosk plan for mail delivery that has been discussed with the local office of the U.S. Postal Service.
- BB.) Supplemental Conditions and Safeguards: The Township Zoning Commission and/or Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

#### **Section 11.08 – CRITERIA FOR APPROVAL**

In approving an application for a Planned Residential District, the reviewing authorities shall determine:

- A.) If the Proposed development is consistent in all respects with the Purpose, intent and general standards of this Zoning Resolution.
- B.) If the proposed development is in conformity with the comprehensive plan or Portion thereof as it may apply.
- C.) If the Proposed development advances the general welfare of the township and the immediate vicinity.

#### **Section 11.09 – EFFECT OF APPROVAL**

Upon approval of the PRD district, all previous regulations shall no longer be in effect, and the regulations for the PRD shall prevail. The Development Plan as approved by the Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases

subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire.

#### **Section 11.10 – PLAT REQUIRED**

In the Planned Residential District (PRD), no use shall be established or changed, and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and these Regulations. The subdivision plat shall be in accord with the approved development plan and shall include:

- A.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
- B.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for nonresidential uses.
- C.) In the event that any public service facilities not to be otherwise guaranteed by a utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

#### **Section 11.11 – FAILURE TO MAINTAIN**

If the approved development plan is not adhered to, or the open space is not properly maintained, the Township zoning officer may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance as a zoning violation as provided in Article 29 of this Resolution.

#### **Section 11.12 – ADMINISTRATIVE REVIEW**

All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission, ~~and~~ the Township Trustees, or their designated technical advisors as determined by the Township Trustees for administrative review to ensure substantial compliance with the development plan as approved.

**ARTICLE 12 – NEIGHBORHOOD COMMERCIAL and OFFICE DISTRICT (C-1)**

**Section 12.01 – PURPOSE**

See Section 5.063

**Section 12.02 – PERMITTED USES**

Within the Neighborhood Office District (C-1) the following uses, developed in accordance with other provisions of this resolution, shall be permitted.

1997 U.S.

NAICS CODE #

- 1114 Greenhouse, Nursery and Floriculture Production
- 311811 Retail Bakeries
- 442 Furniture and Home Furnishings Stores
- 443 Electronics and Appliance Stores
- 444 Building Material and Garden Equipment and Supplies Dealers
- 445 Food and Beverage Stores
- 446 Health and Personal Care Stores
- 447 Gasoline Stations
- 448 Clothing and Clothing Accessories Stores
- 451 Sporting Goods, Hobby, Book, and Music Stores
- 452 General Merchandise Stores
- 453 Miscellaneous Store Retailers, (except Adults Only Entertainment establishments, and 45393 Manufactured Home Dealers)
- 491 Postal Service
- 51113 Book Publishers
- 51224 Sound Recording Studios
- 513112 Radio Stations
- 51312 Television Broadcasting
  
- Telecommunications
- 514 Information and Data Processing Services
  
- Finance and Insurance
- 5312 Offices of Real Estate Agents and Brokers
- 53211 Passenger Car Rental and Leasing
- 5322 Consumer Goods Rental
- 53242 Office Machinery and Equipment Rental and Leasing
- 54 Professional, Scientific and Technical Services
- 55 Management of Companies and Enterprises
- 561 Administrative and Support Services
  
- 61 Educational Services
- 621 Ambulatory Health Care Services
- 6221 General Medical and Surgical Hospitals
- 623 Nursing and Residential Care Facilities

71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services).
813	Religious, Grantmaking, Civil, Professional and Similar Orgs.
92	Public Administration

- A.) Temporary structures such as mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the Premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The Township Trustees thereof shall establish the fees for such permit and renewals. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

**Section 12.03 – CONDITIONAL USES**

Within this Zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with the conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Kindergarten or Child Care Facilities, provided the building occupied by the use is architecturally compatible with the neighborhood, and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards.
- B.) Single-family Residences, provided the same contain at least one thousand (1000) square feet of living area exclusive of porches, garages, and basements.
- C.) Apartments in areas over or adjacent to the commercial storeroom or office facility, provided that apartments constructed within this district shall contain the following minimum living area, exclusive of porches, basements or garages:
  - One (1) bedroom unit – 800 square feet

Two-bedroom unit – 900 square feet  
 Three or more bedroom unit – 1000 square feet.

#### Section 12.04 - PROHIBITED USES

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) The outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited. Said vehicle, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in the front of the front building line on any lot within this district. If a structure is located on the tract of land or lot the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions on the plat or deed.
- D.) Except as specifically permitted in Section 12.03(e) herein, no mobile home or mobile office structure shall be placed or occupied in this district.

#### Section 12.05 – DEVELOPMENT STANDARDS

In addition to any other provisions of this Resolution, all lands and uses within the Neighborhood Office District shall be developed in strict compliance with the standards hereinafter established:

- A.) Building Size: No structure in this district shall contain more than five thousand (5000) square feet of floor space per floor devoted to any permitted or conditional use.
- B.) Lot Size: No minimum lot size shall be required; however, the lot size shall be adequate to provide the yard spaces and off-street parking as herein required.
- C.) Lot Width: No minimum lot width shall be required; however, all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off-street parking.
- D.) Building Height: No building shall exceed two (2) stories or thirty-five (35) feet in height measured from the finished grade established not closer than fifteen (15) feet to the exterior wall of the structure.
- E.) Building Setback: No building or use shall be located closer to the right of way line or centerline of the adjacent public or private road than permitted in Section 21.09 herein.
- F.) Side Yard: Side yards shall be required adjacent to residential districts not less than one-fourth (1/4) of the sum of the height and depth of the buildings but in no case less than twenty-five (25) feet from the adjacent residential district.
- G.) Rear Yard: Rear yards of not less than thirty (30) feet shall be required when commercial areas are adjacent to residential areas.

- H.) Screening: All commercial and office areas shall provide a screening of shrubbery or artificial fencing so as to hide trash collection areas and service areas from view. All such shrubbery shall be properly trimmed, and all screening shall be maintained in a neat and tidy manner.
- I.) Parking: Off-street parking shall be provided within this district in strict compliance with the provisions of Article 21 of this Resolution.
- J.) Signs: Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 22 of this Resolution.
- K.) Exterior Lighting: As defined in Section 21.15.
- L.) Freight Loading Area: When any use within this district requires the pickup or delivery merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- M.) Landscape Plan: All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the requirements of Article 33.

**ARTICLE 13 – Reserved for Future Use**

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**ARTICLE 14 – PLANNED COMMERCIAL AND OFFICE DISTRICT (PCD)****Section 14.01 – PURPOSE**

See Section 5.066

**Section 14.02 – PERMITTED USES**

Within the Planned Commercial and Office District (PCD) the following uses, developed in strict compliance with the approved development plan and standards shall be permitted. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

- A.) Commercial and Office Establishments of all types developed and maintained within an organized development of associated commercial activities in accordance with the approved development plan.
- B.) Community Facilities such as libraries, Offices or educational facilities operated by a public agency or government.
- C.) Commercial Establishments normally associated with and intended to service the traveling public with motels, service stations, restaurants, travel trailer parks for overnight parking or any other allied activity.
- D.) Hospitals, medical facilities, nursing homes and convalescent homes.
- E.) Medical, dental and optical laboratories.
- F.) Kindergarten or childcare facilities.
- G.) Other Commercial ventures not provided by other sections of this Resolution if approved as part of the plan.
- H.) Wholesale Business; storage and warehousing.
- I.) Temporary structures such as mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The Board of Township Trustees thereof shall establish the fees for such permit and renewals. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

**Section 14.03 – CONDITIONAL USES**

Provisions for conditional uses are unnecessary under this article.

**Section 14.04 – PROHIBITED USES**

- A.) No use not specifically authorized by the express terms of Article 15 ~~XV~~ of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, including trailers detached from semi-tractors, for a period exceeding seven (7) days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- C.) Except as provided in the plan of development no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed, or the development plan.
- D.) Except as specifically permitted in Section 15.02(J) or in the approved development plan, no mobile home or mobile office structure shall be placed or occupied in this district.

**Section 14.05 – PROCEDURE**

The applicant, being the owner of subject real estate, may apply one of two ways (either A or B).

- A.) File Preliminary and final development plans separately
  - 1.) Step one - Apply for a zoning map amendment to designate the land as a PCD and submit a Preliminary Development Plan with the application. If the application is approved, then the zoning map is amended to PRD. (This is a legislative act and is subject to referendum).
  - 2.) Step Two - Once an application for a zoning map amendment to PCD has been approved, the applicant submits and seeks approval of a Final Development Plan. Unless simultaneously adopted as part of the zoning map change, the subsequent approval or disapproval of the final development plan is an administrative act by the Township (not subject to referendum), but is subject to the review and approval by the township for appropriateness.
- B.) Simultaneous Application for Zoning Map Amendment and Approval of the Final Development Plan.

The applicant, being an owner of real estate, may apply for a zoning map amendment to designate the land as a PCD and simultaneously submit, along with the application for the zoning change, a final development plan acceptable to the township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

The applicant is encouraged to engage in informal consultations with the Zoning Commission and Regional Planning Commission, prior to formal submission of a development plan and request for an amendment of

the zoning map, it being understood that no statement by Officials of the Township or County shall be binding upon either.

### **Section 14.06 – DEVELOPMENT PLANS**

- A.) Preliminary Development Plan - Ten (10) copies of the Preliminary Development plan shall be submitted to the Zoning Commission with the application, which plan shall include in text and map form the following:
- 1.) The Proposed size and location of the Planned Commercial and Office District at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, existing and proposed structures, and structures within 200' of the development tract(s).
  - 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum setback requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs, with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The Proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  - 6.) The relationship of the Proposed development to existing and probable uses of surrounding areas.
  - 7.) Location of Parks and other public facility sites, if any.
  - 8.) The proposed time schedule for development of the Site including streets, buildings, utilities and other facilities.
  - 9.) A design of any common area and open space and proposed description of its use and maintenance.
  - 10.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
  - 11.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 12.) Specific statements of divergence from the development standards in Articles 8, 9, 21, and/or 22 or existing County regulations or standards and the justification thereof. Unless a

variation from these development standards is specifically approved the same shall be complied with.

- 13.) Evidence of the applicant's ability to post a bond if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

B.) **Preliminary Plan Approval Period** - The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed. New applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD district.

C.) **Final Development Plan** -

The review and approval of the Final Development Plan is an administrative act, not subject to referendum unless the final development plan is simultaneously submitted with application for the zoning change. If, in the opinion of the Zoning Commission, there is substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence.

The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. The final development plan shall include in text and map form all of the requirements of a Preliminary Plan plus the following:

- 1.) A plan at a scale of at least 1" =100' showing the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features.
- 2.) The general development character of entrance features, signage, pathways, sidewalks, recreational facilities and all commonly owned structures shown in detail, identifying the quantity and type and typical section of each. The landscape plan shall identify each plant, shrub or tree, its name, its size at planting and rendering of how that section of the development would look in elevation.
- 3.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. Any modification of these structures shall require re-approval of the development plan by the Township. Materials and colors shall be submitted for approval.

- 4.) The proposed provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Line sizes and locations, detention basins and drainage structures shall be drawn.
  - 5.) A traffic impact analysis by a competent traffic engineer acceptable to the Delaware County Engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 6.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
  - 7.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 8.) Specific statements of divergence from any requirements in other applicable Sections of this Zoning Resolution including but not limited to General Standards, Signs, and/or Landscaping, and the related justification, unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built, all standards for setback, landscaping parking and lot size are per plan.
  - 9.) The final development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.
- D.) Expiration of Final Development Plan Approval- If construction of any building has not been commenced within three (3) years after approval of the final development plan, approval of such plan shall expire, unless an extension of the time limit has been approved by the Zoning Commission. Absent an extension, no use shall be established or changed and no structure shall be constructed until a final development plan has been filed with and approved by the Zoning Commission.

#### **Section 14.07 – REQUIRED DEVELOPMENT STANDARDS**

In addition to any other provisions of this Resolution the following standards are required in this district:

- A.) Minimum tract size - 10 acres, unless adjacent to another commercial use, in which case the Zoning Commission may permit the tract size to be reduced to 5 acres.
- B.) Setbacks -

Front: The Physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 21 unless variance there from is approved.

Side Yard: Side yards shall be required adjacent to residential districts not less than one-fourth (1/4) of the sum of the height and depth of the buildings but in no case less than twenty-five (25) feet from the adjacent residential district.

Rear Yard: Rear yards of not less than thirty (30) feet shall be required when commercial areas are adjacent to residential areas.

- C.) Building Height Limits - No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade established not closer than fifteen (15) feet to the exterior wall of the structure. Elevator shafts, aerials and antennas may be constructed to any safe height.
- D.) Building Dimensions - Buildings may contain such area of floor space as is approved in the development plan.
- E.) Landscaping - All yards, front, side, and rear, shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- F.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.
- G.) Parking - Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In Preparing and approving the parking plan the Provisions of Article 21 ~~XXI~~ of this Resolution shall, when appropriate, be incorporated.
- H.) Signs - Except as provided under the provisions of this article for home occupations or as controlled by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding forty-eight (48) square feet in area per side advertising said subdivision, development or tract for sale.

- I.) Supplemental Conditions and Safeguards - The Township Zoning Commission and/or the Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

#### **Section 14.08 – CRITERIA FOR APPROVAL**

In approving an application for a Planned Commercial and Office District the reviewing authorities shall determine:

- A.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.

- B.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
- C.) If the proposed development advances the general welfare of the township and the immediate vicinity.

#### **Section 14.09 – EFFECT OF APPROVAL**

The Development Plan as approved by the Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless a first Section of the required plat(s) are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire.

#### **Section 14.10 – EXTENSION OF TIME OR MODIFICATION**

An extension of the time limit as a modification of the approved development plan may be approved by the Township Trustees. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the Public or development standards of the district. No extension of time shall be granted except or, application filed with the Township Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 15.06(d) as hereinbefore set forth.

#### **Section 14.11 – SUBDIVISION PLAT**

In the Planned Commercial and Office District (PCD), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and these regulations. When a subdivision plat is required, it shall be in accord with the approved development plan and shall include:

- A.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
- B.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.
- C.) In the event that any public service facilities riot to be otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate of compliance be issued for any building until such time as the facilities for the phase in which the building is located are completed.

**Section 14.12 – FAILURE TO MAINTAIN**

If the approved development plan is not adhered to, or the open space is not properly maintained, the Township zoning officer may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance as a zoning violation as provided in Article 29 of this Resolution.

**Section 14.13 – ADMINISTRATIVE REVIEW**

All plats, construction drawings, restrictive covenants, and other necessary documents shall be submitted to either the Zoning Inspector, the Zoning Commission, ~~and~~ the Township Trustees, or their designated technical advisors, as determined by the Township Trustees, for administrative review to ensure substantial compliance with the development plan as approved, prior to the issuance of any zoning certificate.



**ARTICLE 15 and 16 – Reserved for future use**

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## **ARTICLE 17 – INDUSTRIAL DISTRICT (I)**

### **Section 17.01 – PURPOSE**

See Section 5.064

### **Section 17.02 – PERMITTED USES**

Within the Industrial District (I) the following uses, developed in accordance with other provisions of this Resolution, shall be permitted:

- A.) Wholesale business when all Products are stored within the building.
- B.) Enclosed warehouse or storage activities.
- C.) Enclosed manufacturing industries.
- D.) Enclosed service or repair activities.
- E.) Business Offices.
- F.) Enclosed research facilities.
- G.) Temporary structures such as mobile homes and temporary buildings of a nonresidential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The Board of Township Trustees thereof shall establish the fees for such permit and renewals. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 ~~XXVIII~~ of this resolution.

### **Section 17.03 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions the Board of Zoning Appeals Pursuant to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of this Resolution. Conditional uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Adults Only Entertainment Establishment - provided the Board of Zoning Appeals determines that the following standards are met and the required zoning compliance is applied for:
- 1.) Such use shall not be permitted within 1000 feet (measured from the point of the property line of the Adults Only Establishment closest to any of the following institutions, buildings or locations):
    - a.) church, including its surrounding lot
    - b.) school, including its surrounding lot
    - c.) park or playground
    - d.) residence, including its surrounding lot
    - e.) residential zoning district
  - 2.) Such use shall not be permitted within 1000 feet measured from the point of the property line of the Adults Only Establishment closest to the closest property line of another adults only entertainment establishment.
  - 3.) No sexual activity shall take place within the premises or on the lot.
  - 4.) No private booths for viewing adult videos, adult movies, nude dancing, or private non-therapeutic massage or modeling are permitted on the premises.
- B.) Any use of a commercial nature,
- C.) Circuses, carnivals or similar transient enterprises provided such uses could be operated in safe and sanitary manner Pursuant to previously obtained health permits,
- D.) Petroleum Product storage areas.
- E.) Quarries and other activities providing for the removal, Processing and sale of natural resources.
- F.) Freight or trucking terminals.
- G.) The outdoor storage, display, or sale of raw Materials, supplies, equipment or products.

#### **Section 17.04 – PROHIBITED USES**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution or by the Board of Zoning Appeals shall be permitted.
- B.) Unless specifically Permitted by the Board of Zoning Appeals as incident and necessary to a Permitted or conditional use in this district, the storage of any inoperable, unlicensed or unused motor vehicles, or trailers detached from semi tractors, shall be prohibited unless said vehicles are stored behind properly maintained hedges or fences so as not to be visible from any adjoining property or public road.
- C.) Unless specifically permitted by the Board of Zoning Appeals as incident and necessary to a permitted or conditional use in this district, no trailer of any type, no boats no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this

district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions in the plat or deed.

- D.) Residential use of any kind.
- E.) Except as specifically permitted in Section 17.02(G), no mobile home or mobile office structure shall be placed or occupied in this district.

### **Section 17.05 – DEVELOPMENT STANDARDS**

In addition to any other provisions of this Resolution, all lands and uses within the Industrial District shall be developed in strict compliance with the standards hereinafter established.

- A.) Lot Size - No minimum lot size shall be required; however, the lot size shall be adequate to provide the required yard spaces and off-street parking as herein required.
- B.) Lot Width - No minimum lot width shall be required; however, the industrial tract shall have access to and shall be of sufficient width to provide required yard spaces and off-street parking.
- C.) Building Setback - No building or use shall be located closer to the right-of-way line or centerline of the adjacent public or private road than permitted in Section 21.09 herein.
- D.) Side Yards - There shall be a yard on each side of the main building constructed in this district of not less than (50) feet on each side. No accessory building, outdoors storage area or required off-street parking shall encroach in said side yard except with consent of the Board of Zoning Appeals.
- E.) Rear Yards - No building shall be located closer than thirty (30) feet to the rear line of any lot. No outdoor storage area may encroach in the prescribed rear Yard except with permission of the Board of Zoning Appeals.
- F.) Landscaping - All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped, Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- G.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) Percent shall be maintained.
- H.) Screening - All outside storage areas, service areas and loading docks shall be screened by properly maintained walls, fences, shrubbery or mounding at least six (6) feet but not more than twelve (12) feet in height. These walls, fences or shrubbery shall be of a design so as to effectively screen such storage, service or loading areas and facilities from adjoining streets or other zoning districts. Such shrubbery shall be neatly trimmed, and all other fences or walls shall be maintained in a neat and tidy manner.
- I.) Parking - Off-street parking shall be provided within this district in strict compliance with the provisions of Article 21 of this Resolution.

- J.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 22 of this Resolution.
- K.) Exterior Lighting - as provided in Section 21.13.
- L.) Freight Loading Areas - When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor - trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- M.) Maximum lot coverage by all structures - 50%.
- N.) Standards for External Impacts - No use shall be conducted within this district which fails to maintain the standards defined in Section 21.17, Standards for External Impacts.

**ARTICLE 18 – PLANNED INDUSTRIAL DISTRICT (PID)**

**Section 18.01 – PURPOSE**

See section 5.067

**Section 18.02 – PERMITTED USES**

Within the Planned Industrial District (PID) the following uses, according to their North American Industrial Classification System (NAICS) code number may be permitted when developed in strict compliance with the approved development plan and standards. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

The full text of the listings in the NAICS 1997 or subsequent edition shall be used to define the uses permitted within the PID as set forth below and is hereby adopted as part of Article 18.

Note: The NAICS code numbers are inclusive in ascending order. All two digit sector numbers listed in the left hand column below include as permitted uses all 3-6 digit numbers beginning with those two digits. All three digit codes include all 4-6-digit codes beginning with those three digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 42 means that any use listed in the 1997 NAICS code under Sector 42 (such as 42174, Refrigeration Equipment and Supplies and Wholesalers) is permitted.

Manufacturing and related uses, as specifically described by the 1997 NAICS Code Number below:

1997 U.S. NAICS Code #	<u>Use</u>
233	Building, Developing and General Contracting
3112	Grain and Oilseed milling
3113	Sugar and Confectionery Product Manufacturing
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3115	Dairy Product Manufacturing
3118	Bakeries and Tortilla Manufacturing
3119	Other Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
315	Apparel Manufacturing
3162	Footwear Manufacturing
Wood Product Manufacturing, except 321114 Wood Preservation	
3212	Veneer, plywood and Engineered Wood Product Manufacturing
3219	Other Wood Product Manufacturing
32221	Paperboard Container Manufacturing
32222	Paper bag and Coated and Treated Paper Manufacturing
32223	Stationary Product Manufacturing
323	Printing and Related Support Activities
325314	Fertilizer (mixing only) manufacturing

Pharmaceutical Manufacturing

- 325510 Paint, and Coating Manufacturing
- 3261 Plastics Product Manufacturing
- 3271 Clay, Product and Refractory Manufacturing
- 3272 Glass and Glass Product Manufacturing
- 3273 Cement and Concrete Product Manufacturing provided no hazardous wastes are burned in kilns
- 3323 Architectural and Structural Metals Manufacturing
- 3325 Hardware Manufacturing
- 3326 Spring and Wire Product Manufacturing
- 3327 Machine Shops
- 333 Machinery Manufacturing
- 334 Computer and Electronic Product Manufacturing
- 335 Electrical Equipment, Appliance, and Component Manufacturing
- 3363 Motor Vehicle Parts Manufacturing
- 3364 Aerospace Product and Parts Manufacturing
- 3366 Ship and Boat Building
- 33691 Motorcycle, Bicycle and Parts Manufacturing
- 3399 Other Miscellaneous Manufacturing

Wholesaling

- 42 Wholesale Trade, except 421930, Scrap Materials or auto wrecking yards, which are prohibited;

Retail Uses

- 44111 New Car Dealers
- 44121 Recreational Vehicle Dealers
- 44122 Motorcycle, Boat, and Other Motor Vehicle Dealers
- 4413 Automotive Parts, Accessories, and Tire Stores except 441310 Auto Used Parts sales
- 447 Gasoline Stations
- 45291 Warehouse Clubs and Superstores
- 45393 Manufactured Home Dealers
- 4541 Electronic Shopping and Mail Order Houses
- 45431 Fuel Dealers
- 484 Truck Transportation
- 485 Transit and Ground Passenger Transportation
- 487 Scenic and Sightseeing Transportation
- 491 Postal Service
- 492 Couriers and Messengers
- 493 Warehousing and Storage
  
- 51 Information (except those allowing adult entertainment).
- 532 Rental and Leasing Service
- 5416 Management, Scientific and Technical Consulting Services
- 5418 Advertising and Related Services
- 5419 Other Professional, Scientific, and Technical Services
- 561 Administrative and Support Services
- 562991 Septic Tank and Related Services



- 61 Educational Services
- 72 Accommodation and Food Services
  
- 722 Food Services and Drinking Places (except those allowing adult entertainment).
- 811 Repair and Maintenance

- A.) Commercial Establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the development plan such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation or other personal enrichment facilities, provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved plan for the Planned Industrial District.
  
- B.) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, the permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he or she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

NAICS #

- 562212 Sanitary Land Fills, provided that all required licenses and approvals are issued by appropriate state agencies. In addition to requirements imposed by state agencies the Zoning Commission may require such screening as is necessary to protect adjacent neighborhoods.

**Section 18.03 – CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions the Board of Zoning Appeals Pursuant to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of this Resolution. Conditional uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Adults Only Entertainment Establishment - provided the Board of Zoning Appeals determines that

the following standards are met and the required zoning compliance is applied for:

- 1.) Such use shall not be permitted within 1000 feet (measured from the point of the property line of the Adults Only Establishment closest to any of the following institutions, buildings or locations):
  - a.) church, including its surrounding lot
  - b.) school, including its surrounding lot
  - c.) park or playground
  - d.) residence, including its surrounding lot
  - e.) residential zoning district
- 2.) Such use shall not be permitted within 1000 feet measured from the point of the property line of the Adults Only Establishment closest to the closest property line of another adults only entertainment establishment.
- 3.) No sexual activity shall take place within the premises or on the lot.
- 4.) No private booths for viewing adult videos, adult movies, nude dancing, or private non-therapeutic massage or modeling are permitted on the premises.

#### **Section 18.04 – PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) Except as approved in the development plan the outdoor storage of any inoperable, unlicensed or unused motor vehicle, including trailers detached from semi-tractors for a period exceeding seven (7) days is prohibited.
- C.) Except as provided in the Plan of development no trailer of any type, no boats, motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) Residential uses of any kind.
- E.) Except as specifically permitted in Section 18.02(B) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.

#### **Section 18.05 – PROCEDURE**

In addition to any other procedures set out in this Resolution, all applications for amendments to the zoning map to rezone lands to this district shall follow the procedures hereinafter set forth:

- A.) Application - The owner of lots and lands within the township may request that the zoning map be amended to include such tracts in the Planned Industrial District in accordance with the provisions of this Resolution.

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Regional Planning Commission prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by Officials of the Township or County shall be binding upon either.

- B.) Development Plan -Ten (10) copies of the development plan shall be submitted to the Zoning Commission, with the application, which plan shall include in text and map form the following:
- 1.) The proposed size and location of the Planned Industrial District.
  - 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum setback requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage, with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  - 6.) The relationship of the proposed development to existing and probable uses of surrounding areas.
  - 7.) Location of parks and other Public facility sites, if any.
  - 8.) The proposed time schedule for development of the site, including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in Phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its Plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards, in Article 21 or 22 or existing county regulations or standards. Unless a variation from the development standards is specifically approved, the same shall be complied with.
  - 12.) Evidence of the applicant's ability to post a bond if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval - In approving an application for Planned Industrial District the reviewing authorities shall determine:

- 1.) If the proposed development is consistent in all respects with the Purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or Portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the township and the immediate vicinity.
- D.) Effect of Approval - The Development Plan as approved by the Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio, Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire.
- E.) Extension of Time or Modification - An extension of the time limit as a modification of the approved development plan may be approved by the Township Trustees. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public; development standards of this district. No extension of time shall be granted except or, application filed with the Township Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 18.05(D.) as hereinbefore set forth.
- F.) Plat Required - In the Planned Industrial District (PID), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these Regulations. The subdivision Plat shall be in accord with the approved development Plan and shall include:
- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
  - 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants.
  - 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officer in a satisfactory amount assuring expeditious completion of said facilities within one (1) year after the

recording of said plat. In no event, however, shall any zoning certificate be issued for any building until such time as the facilities for the phase in which the building is located are completed.

- G.) **Failure to Maintain** - If the approved development plan is not adhered to, or the open space is not properly maintained, the Township zoning officer may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance as a zoning violation as provided in Article 29 of this Resolution.
- H.) **Administrative Review** - All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission and the Board of Township Trustees or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved.

### **Section 18.06 – DEVELOPMENT STANDARDS**

In addition to any development standards imposed or approved as part of the plan of development, the following standards shall apply:

- A.) **Setbacks** - The physical relationship of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 21 unless variance there from is approved.
- B.) **Building Dimensions** - Buildings may contain such area of floor space as is approved in the development plan.
- C.) **Landscaping** - All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped, Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- D.) **Site Development** - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) Percent shall be maintained.
- E.) **Parking** - Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 21 of this Resolution shall, when appropriate, be incorporated.
- F.) **Signs** - Except as controlled by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a “For Sale” or “For Rent or Lease” sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time Period established by the Board of Zoning Appeals, erect one sign not exceeding forty-eight (48) square feet in area per side advertising said subdivision, development or tract for sale.

- G.) The Township Zoning Commission and/or the Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.
- H.) Exterior Lighting - as provided in Section 21.13.
- I.) Maximum lot coverage by all structures - 25%.
- J.) Standards for External Impacts - No use shall be conducted within this district which fails to maintain the standards defined in Section 21.17, Standards for External Impacts.

## **ARTICLE 19 – FLOODPLAIN REGULATORY DISTRICT (FPRD)**

### **Section 19.00 – PURPOSE**

See Section 5.068

### **Section 19.01 – DESIGNATION OF THE REGULATORY FLOODPLAIN DISTRICT**

The Regulatory Floodplain District shall be designated as those flood hazard areas, which are identified in the Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP), and all revisions and amendments thereto. These maps and data shall be on file at the Delaware County Department of Building Safety.

### **Section 19.02 – FLOODWAY AND FLOODWAY FRINGE**

The Regulatory Floodplain District is further divided into two portions consisting of the Floodway and Floodway Fringe. The Floodway is that portion of the Floodplain consisting of the channel and sufficient adjacent lands to convey the Base Flood discharge without increasing the Base Flood Elevation more than one-half foot. The Floodway Fringe is that portion of the Floodplain outside of the Floodway. The FEMA water surface profiles of the Base Flood shall govern the location of the Floodplain boundary. The Base Flood Elevations and the Floodway boundaries shall be established as those indicated by NFIP maps and data published by FEMA, including all revisions and amendments thereto. The Floodplain District shall be illustrated on the Delaware Township Zoning District maps. FEMA maps and data shall be used to establish the Regulatory Floodplain District. FEMA maps and data shall govern in case of omission on or in conflict with the zoning maps.

### **Section 19.03 – NON-DETAILED FLOOD HAZARD AREA**

In designated flood hazard areas for which FEMA has not determined flood elevations and Floodway boundaries, the applicant shall be required to furnish such information prepared by qualified personnel. Such studies shall be submitted to the Community NFIP Administrator and the State NFIP Coordinating Agency. Flood maps and data published by State or Federal sources such as the USDA Soil Conservation Service, U.S. Army Corps of Engineers, U.S. Geological Survey, or Ohio Department of Natural Resources shall be utilized when available. In case of differing information from two or more of these sources, the more comprehensive and recent technical data shall be used.

### **Section 19.04 – PERMITTED USES IN THE FLOODWAY**

The following uses, not including buildings, shall be permitted within the Floodway, provided they comply with all other applicable sections of the Resolution:

- A.) Agricultural land uses such as general farming and cultivation, pasturing, grazing, outdoor open-air nurseries, truck farming, forestry, sod farming, and similar uses.
- B.) Private or public recreational land uses such as golfing, tennis, archery, picnicking, boating, swimming; parks, wildlife, or nature preserves; shooting ranges, hunting and fishing areas; hiking, biking, jogging, and horseback riding trails; and other similar uses, provided no regarding or excavation of land occurs that would increase base flood elevations, and that no such excavation shall occur during times of heavy rainfall that might result in erosion, stream sedimentation.
- C.) Residential open space uses such as lawns, gardens, play areas, and other similar uses.

**Section 19.05 – PROHIBITED USES IN THE FLOODWAY**

The following structures and uses are prohibited in the Floodway unless specifically listed under Section 19.06 as a Conditional Use:

- A.) Building and structures, including mobile homes, for residential, commercial, industrial, agricultural, or other use.
- B.) Storage or processing of materials.
- C.) Trash, garbage, or waste disposal operations; landfills, wastewater treatment and disposal facilities.
- D.) Placement of material, fill, or spoil of any type or the construction and/or extension of levees, dams, dikes, floodwalls, or other such mounding or embankments unless otherwise allowed under this Section.
- E.) Encroachments that would cause any increase in the Base Flood Elevations.
- F.) Extraction of sand, gravel, or other resources.
- G.) Alteration or relocation of the channel or watercourse.

**Section 19.06 – CONDITINAL USES IN THE FLOODWAY**

The following uses shall be Conditional Uses within the Floodway provided they comply with all other applicable sections of this Resolution and any conditions attached by the Board in granting the Conditional Use Permit:

- A.) Navigational and stream flow aids, marinas, boat rentals, docks, piers, wharves, and water measuring and monitoring devices.
- B.) Construction, placement, or improvement or maintenance of public or private culverts, utilities, bridges and stream crossing of any type or size, erosion control and protection measures.

**Section 19.07 – PERMITTED USES IN THE FLOODWAY FRINGE**

- A.) Uses permitted in the Floodway by Section 19.04 shall also be permitted in the Floodway Fringe.
- B.) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$1,000.00.
- C.) Accessory structures, not for human occupancy and no larger than 576 square feet gross floor area provided the structure is certified by a registered professional engineer or architect; or the structure is created with a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding and ensuring that the bottom of all opening shall be no higher than one foot above grade. Opening may be equipped with screens, louvers, valves, or other openings provided that they permit that automatic entry and exit of floodwaters. All accessory structures shall meet the applicable requirements of Section 19.09.



**Section 19.08 – CONDITIONAL USES IN THE FLOODWAY FRINGE**

The following uses shall be Conditional Uses in the Floodway Fringe, provided they meet all applicable standards and requirement of this Resolution and any conditions attached by the Board in granting the Conditional Use Permit:

- A.) All Conditional Uses in the Floodway as listed in Section 19.06.
- B.) Parking and loading areas.
- C.) Wastewater treatment and disposal systems, provided structures are flood proofed or elevated one foot above the base flood elevation of the 100-year flood.
- D.) Flood control or mitigation structures and measures.
- E.) Temporary replacement of earth only as needed for a use permitted in 19.07.

**Section 19.09 – DEVELOPMENT STANDARDS**

In addition to other applicable Development Standards provisions of the Resolution, the following standards for arrangement, development, and use of land and buildings shall be required in the Regulatory Floodplain District:

- A.) **Anchoring:** All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B.) **Maintain Flow Characteristics:** No use of the Floodplain shall unduly or adversely affect or impact the efficiency, flow characteristics, or flood heights of the main channel or other affected tributaries, ditches, drainage facilities or systems, for storm frequencies up to and including the Base Flood event. No use or encroachment within the Floodway shall increase the base Flood Elevation.
- C.) **Minimize Flood Damage:** All activities and developments shall be planned, designed, constructed, and installed consistent with the need to minimize damages in time of flooding.
- D.) **Storage or Processing of Materials:** Storage or processing of materials which are buoyant, pollutants, flammable, explosive, or could be injurious to human, animal or plant life in time of flooding shall be stored one and one half (1 ½) feet above the Base Flood Elevation, or suitably flood-proofed and protected. Proposed protection measures and safeguards shall be approved by the Ohio Department of Natural Resources.

Storage of materials or equipment or placement of other obstructions, which in time of flooding may be dislodged or otherwise carried off site by floodwaters to the possible damage or detriment to life or property must be protected by suitable safety measures, approved by the Board.

- E.) **Parking and Loading Areas:** Public or private parking or loading areas which would be inundated to a depth of one and one-half feet or more or subjected to flow velocities over four (4) feet per second must be provided with adequate flood warning devices and measures.

- F.) Public or Private Utilities or Facilities: Wastewater treatment and disposal facilities must be approved by the Ohio EPA, the County Sanitary Engineer, or the Delaware Public Health District, whichever has jurisdiction, and must be elevated or flood-proofed to provide protection from the Base Flood.

Activities or developments such as bridges, culverts, docks, wharves, piers, water supply systems, sanitary sewer systems, storm sewers and works, or construction of other public or private utility works and appurtenances shall be planned, designed, constructed, installed, and maintained consistent with the need to minimize the potential of flood damage to them and to the community in accordance with this Resolution.

- G.) Flood or Erosion Control Measures or Watercourse Alteration or Relocation  
Dams, dikes, levees, embankments, floodwalls, rip rap, rock protection, or other flood or erosion control measures and any alteration or relocation of the channel or watercourse shall be subject to all applicable provisions of Sections 1521.06 and 1521.07 of the Ohio Revised Code and all other applicable state, federal, county and local ordinances and regulations.

- 1.) Such measures over three (3) feet in height or involving over one thousand (1,000) square feet of surface area may be submitted by the Community NFIP Administrator to the U.S. Army Corps of Engineers and/or the Ohio Department of Natural Resources for review, recommendations, and approval as appropriate.
- 2.) Flood control measures intended to remove lands from the Regulatory Floodplain District classification must be approved by FEMA. The Regulatory Floodplain District shall be changed to coincide only with effective revisions to published NFIP maps.

### **Section 19.10 – BUILDINGS AND STRUCTURES**

Temporary or permanent placement of buildings and structures, new construction and substantial improvement of residential and nonresidential buildings shall meet the following:

- A.) Residential Construction shall be prohibited in the floodway and floodway fringe, and no fill material may be placed to attempt to increase a base flood elevation so as to allow residential construction in the floodway fringe.
- B.) Non-residential Construction
- 1.) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the Base Flood Elevation, plus floodway computation increases; or, together with attendant utility and sanitary facilities, shall:
    - a.) be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to at least one-foot above the Base Flood Elevation, plus floodway computation increases.
    - b.) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

- c.) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. A floodproofing certificate, to be completed by a registered professional engineer or architect is required if floodproofing is chosen over elevation.
- 2.) All structural, site and/or grading plans for nonresidential development activities in the floodplain shall be prepared and sealed by a registered professional engineer and/or architect.
- 3.) The applicant shall obtain and furnish to the Community NFIP Administrator as-built elevations, certified by a Registered Surveyor, of the basement and first floor, to be maintained on file for public inspection.
- 4.) No nonresidential buildings and/or structures shall be located in the Floodway portion of the Floodplain.

### **Section 19.11 – FLOODWAYS**

- A.) Areas with Floodways - The Flood Insurance Study identifies a segment within areas of special flood hazard known as a floodway. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:
  - 1.) See Section 19.10 for residential and nonresidential floodway development provisions.
  - 2.) Other encroachments, including fill, and other developments are prohibited.
  - 3.) ODNR approved flood control, drainage or highway structures may be approved if a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
  - 4.) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon prior approval by the Federal Emergency Management Agency.
- B.) Areas without Floodways - In all areas of special flood hazard where FEMA has provided base flood elevation data but has not delineated a floodway, the following provisions apply:
  - 1.) Encroachments, including fill, and other development shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot at any point.
  - 2.) Fill may not be added to allow residential uses in areas designated as floodway fringe in the FEMA studies.

**Section 19.12 – ADDITIONAL PLAN REQUIREMENTS**

For Zoning Compliance, Conditional Use Permit, and Variance applications involving the Regulatory Floodplain District, the applicant shall furnish sufficient information to permit the Administration Officer and/or the Board to determine the Regulatory Floodplain and Floodway Boundaries and Base Flood Elevations, and to otherwise facilitate the administration and enforcement of this Resolution. Such information shall include but not be limited to the following:

- A.) Plans drawn to scale showing the nature, location, dimensions, and details of the property, development activities, and land use, both existing and proposed;
- B.) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;
- C.) Existing and proposed topographical information;
- D.) Elevation in relation to mean sea level to which any proposed structure will be floodproofed where base flood elevation data are utilized including certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria required by this resolution;
- E.) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.
- F.) Other information as may be reasonably deemed necessary by the Community NFIP Administrator.
- G.) The applicant shall submit certification of finished elevations, and/or other proofs or assurances of compliance with approved plans to the satisfaction of the Community NFIP Administrator.
- H.) Permits issued on the basis of applications, plans, specifications, and other information approved by the Community NFIP Administrator shall authorize only the use, arrangement, and construction set forth therein.

**Section 19.13 – COMPLIANCE WITH APPROVED PLANS**

Certificates of Zoning Compliance and Conditional Use Permits issued on the basis of applications, plans, specifications, and other information approved by the Administration Officer or the Board shall authorize only the use, arrangement, and construction set forth therein.

The applicant shall submit certification of finished elevations, and/or other proofs or assurances of compliance with approved plans to the satisfaction of the Administration Officer and/or the Board.

**Section 19.14 – COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM**

The provisions of Section 19 of this Resolution have been submitted to and reviewed by the National Flood Insurance Program (NFIP) State Coordinating Agency and the Federal Emergency Management Agency (FEMA) as required by Federal Law. These agencies have determined that these provisions meet or exceed the Federal standards of Federal Law 44 CFR part 60.

- A.) Administration - The administration of this Zoning Resolution shall in no way lower any requirement or standard of the National Flood Insurance Program, 44 CFR Part 60.3 and 60.6
- B.) Community NFIP Administrator - The Community NFIP Administrator shall review all applications involving Conditional Uses and Variances in the Floodplain and prepare a brief report and recommendation to be submitted to the Board, prior to action by the Board.

**Section 19.15 – WARNING AND DISCLAIMER OF LIABILITY**

This Resolution does not imply that areas outside the Regulatory Floodplain District or uses allowed or otherwise permitted or approved within the Regulatory Floodplain District in accordance with the provisions of this Resolution will be free from flooding or flood damages. This Resolution or its administration and/or enforcement shall not create liability on the part of Delaware County, or Delaware Township, any officer or employee of Delaware County or Delaware Township or other staff or personnel involved in its administration and/or enforcement. Additional flood protection beyond that required by this Resolution is recommended and encouraged.

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**ARTICLE 20 – Reserved**

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**ARTICLE 21 – GENERAL DEVELOPMENT STANDARDS**

**Section 21.00 – GENERAL**

It is the purpose of these development standards to set forth certain general rules to be adhered to regardless of the type or classification of development. They are designed to ensure that the general welfare of citizens of Delaware Township are protected and enhanced. These development standards apply throughout the township. If a conflict exists between these standards and more specific standards prescribed in any individual zoning district, the specific provisions of the zoning district in question shall prevail. The standards set forth herein are to be considered minimum standards to be augmented by standards set forth elsewhere in this Resolution or prescribed or agreed to by the landowner in any rezoning variance.

**Section 21.01 – PARKING**

Wherever parking areas are be provided as required by the provisions of this Zoning Resolution the following conditions shall apply:

- A.) Dimensions - All parking spaces shall be not less than nine (9) feet wide and twenty (20) feet long. Such spaces shall be measured as a rectangle and shall be served by aisle-ways of sufficient width to permit easy and smooth access to all parking spaces.
- B.) Paving - Except in the Farm Residential Zoning District (FR-1) all common parking areas and adjacent aisles or driveways shall be paved with asphaltic material or cement.
- C.) Driveways - All driveways serving parking lots for five (5) or more vehicles shall be served by a driveway not less than twenty (20) feet in width but adequate in width to permit easy access to parking spaces. No driveway shall be located so that it enters a public road within one hundred (100) feet of the intersection of any two (2) public roads unless there are two (2) driveways serving the lot, one of which is more than one hundred (100) feet and the other not less than forty (40) feet from said intersection. All driveways shall be located and the adjoining lot graded so that vehicular traffic entering a public road has an unobstructed sight distance of at least three hundred (300) feet.
- D.) Parking Area Location - No parking lot or parking areas shall be located nearer than six feet to the side or rear line of the tract on the structure is located, and parking in front of the main structure may be permitted only if not more than forty (40%) percent of the front set-back area outside of the right-of-way is occupied by parking. All parking spaces required herein shall be located on the same lot with the building or use served unless otherwise approved as part of a development plan for a Planned District.
- E.) Required Off-Street Parking Spaces - The user of any tract shall provide off-street parking for all employees, customers, visitors and invitees. The following table shall specify the minimum parking areas to be provided.

<u>USE</u>	<u>REQUIRED PARKING SPACES</u>
1) Single Family Residential (FR-1) and (R-2)	4 per dwelling unit (garages and driveways count toward required spaces)
2) All other residential	2 per dwelling unit (garages and driveways count toward required spaces)

3) Hotels, motels, lodges (without public meeting facilities)	1 per rental unit plus 1 per employee on largest shift plus 1 for each four seats in the dining room or restaurant area.
4) Hotels, motels, lodges exhibition halls and public assembly areas (except churches)	1 per rental unit plus 1 per employee on the largest shift plus 1 per 75 sq. ft. of floor area used for exhibition or assembly purposes plus 1 per 4 seats in any restaurant therein.
5) Churches or places of public assembly	1 for each three (3) seats or 1 for each forty-five (45) sq. ft. of assembly area, whichever is greater.
6) Hospitals	1 1/2 for each bed plus 1 for each employee on the largest shift.
7) Nursing Homes	1 for each 2 beds plus 1 for each employee on the largest shift.
8) Museums, libraries, etc.	1 for each 300 sq. ft. of area open to public plus 1 for each employee on the largest shift.
9) Primary or elementary schools	4 for each classroom
10) Secondary Schools, colleges, Trade schools, etc.	4 for each classroom plus 1 for each four (4) students.
11) Restaurants	1 for each two (2) seats plus 1 for each employee on the largest shift. Not less than 25 parking spaces shall be provided.
12) Offices	1 for each 400 sq. ft. of floor area plus 1 for each employee.
13) Funeral Home	1 for each 25 sq. ft. of public area.
14) Retail Stores	5 per 1,000 square feet gross leasable area.
15) All industrial, manufacturing.	1 for each two (2) employees during the maximum shift plus 1 per each 10,000 square feet.

Any application for initial construction or use or for the expansion of any structure or use shall include plans for adequate off-street parking as required herein.

**Section 21.02 – HEIGHT LIMITATIONS**

The building height limitations set forth in this Resolution shall not apply to church spires, domes, chimneys, cooling towers, elevator shafts, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers, tanks, water towers, or necessary mechanical appurtenances which may be erected to any safe and lawful height except as otherwise provided for telecommunications towers. Windmills, aerials, antenna or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract.

**Section 21.03 – STRUCTURE SEPARATION**

No principal structure shall be located closer than twenty-five (25) feet to another principal structure unless the adjacent walls of the structures are masonry in which event said principal structures shall be no closer than fifteen (15) feet. No principal structure shall be located closer than fifteen (15) feet to another principal structure unless one of said structures has, as its exterior facing wall, a firewall, free of any opening and capable of stopping the spread of any fire.

**Section 21.04 – SANITARY SEWER REQUIREMENTS AND POLLUTION CONTROL**

All uses shall be conducted in conformance with the regulations promulgated by the Ohio Environmental Protection Agency and the Delaware Public Health District. Prior to issuance of any zoning Certificate, evidence of compliance with said regulations shall be presented to the Zoning Inspector.

**Section 21.05 – WATER IMPOUNDMENTS**

All water impoundments such as ponds, lakes or swimming pools shall be constructed and developed in compliance with the following standards:

- A.) Except when adjacent to a Class “A” Roadway, no impoundment shall be located closer than twenty-five (25) feet to the right-of-way or fifty-five (55) feet to the centerline of any adjacent approved road. No impoundment shall be located closer than fifty (50) feet to the right-of-way of a Class “A” Roadway.
- B.) No impoundment shall be located in the front yard in any district except the FR-1 district except upon issuance of a conditional use permit pursuant to Article 28 of this Resolution or as approved in plans of development or approved subdivision plats.
- C.) All permanent installed swimming pools, or the entire property upon which the pool is located, shall be walled or fenced to prevent uncontrolled access by individuals from the street or from adjacent properties, said fence or wall shall be not less than four (4) feet in height and shall be maintained in good condition with a gate and lock.

**Section 21.06 – LANDSCAPING**

All uses and improvements the township should pay close attention to maintenance of proper landscaping as soon as possible after completion of construction of the principal structures or improvements. Maintenance of ground cover at all times is encouraged to prevent erosion. Trees removed during the clearing should be replaced as soon as possible.

**Section 21.07 – DRAINAGE**

All construction within this township shall be accomplished in a manner consistent with maintenance of good surface drainage. In all improvements or uses where submittal of drainage plans is not specifically required every reasonable effort shall be made to ensure that proper drainage on the subject property and adjacent or subservient properties is maintained or improved.

In no event shall any person interdict or interfere with any existing tile or surface drain channel unless it is determined that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties.

**Section 21.08 – FLOOD PLAIN REGULATIONS**

Certain limited areas of the Township lie within the flood plain of the Olentangy River and its tributaries (See Section 19).

**Section 21.09 – SETBACK REGULATIONS**

No building or use (except parking areas) shall be located closer to the center line of adjoining streets, roads, highways or approved private roadways than the distances set forth in the table or chart set forth hereinafter. For purposes of this chart or table and for all other purposes of the Zoning Resolution streets, roads, highways and approved private roadways shall be classified in one of the three following classes:

- A.) CLASS A – Any public street or road with a right-of-way width of 100 feet or wider, designated by Delaware Township, Delaware County, Ohio as CLASS A roads and the following listed roads within the township, for example: U.S. 23, U.S. 42, S.R. 37, U.S. 36 and any other roads as later designated by the Trustees of the Township.
- B.) CLASS B – Any other through public street or road with a right-of-way of not less than sixty (60) feet nor more than one hundred (100) feet. The following roads are designated Class B Roads: Berlin Station Road, Braumiller Road, Curve Road, Horseshoe Road, Hudson Road, Kingsbury Road, Liberty Road, Owen-Fraley Road, Panhandle Road, Pollack Road, Vernon Road, Warrensburg Road.
- C.) CLASS C – Dead-end roads ending at a cul-de-sac or approved turn-around when the lot configuration or approved Plan precludes future extension of said roadway or any branch therefrom to create a connecting street between two or more existing or future streets or roads. Any existing roads with right-of-way less than 60 feet and not otherwise listed above.

**MINIMUM SETBACK DISTANCES**

All distances are measured from the centerline of the existing or proposed roadway to the nearest use or improvement, except Parking areas or signs, which may be located within the setback area as regulated by Section 21 of this Resolution.

<u>USE CLASSIFICATION</u>	<u>ROAD CLASSIFICATION</u>		
	CLASS A	CLASS B	CLASS C
FR-1 – Residential	130	90	90
R-2 – Residential	130	75	60
PRD – Residential	As approved in development Plan		
C-1 – Neighborhood Office	130	80	60
C-2 – Neighborhood Commercial	130	80	60
POD - Planned Office	As approved in development Plan		
PCD – Planned Commercial and Office	As approved in development Plan		
I – Industrial	130	130	100
PID – Planned Industrial	As approved in development Plan		

**Section 21.10 – OLENTANGY SCENIC RIVER**

The section of the Olentangy River which flows through the unincorporated area of Delaware Township have been designated a State Scenic River. Unless otherwise limited by the provisions of Article 19, no structure shall be constructed within one-hundred twenty (120) feet in a horizontal plane outward from the ordinary high water mark of the floodway of the Olentangy River and within forty (40) feet of the ordinary high water mark of its tributaries and adjacent wetlands.

**Section 21.11 – DRIVEWAY REGULATIONS**

It being considered important that driveways serving any property or use be constructed in a manner that ensures access by emergency vehicles and the free and safe flow of traffic from public streets or roads, the following standards are required for such driveways:

- A.) All driveways (any use): In addition to the conditions or specifications imposed in subsections (b) or (c) hereinafter established the following specifications are required for all driveways, regardless of the use served thereby:
- 1.) Driveway shall not have a grade, up or down, from the public road pavement level exceeding eight (8) percent for a minimum of twenty-five (25) feet.
  - 2.) Driveway shall not, at any point over its entire length, contain a grade exceeding twelve (12) percent.
  - 3.) At the point the driveway intersects the public road, the same shall have such radii and drain pipe as specified or required by the governmental agency (State, County or Township), which controls the public roadway. Drainage pipes shall be a minimum of twelve (12) inches in diameter and should be sized to handle a five-year storm.
  - 4.) If the driveway leaves the public road on an up-grade, the design and construction shall include a vertical curve or saddle to prevent the flow of surface drainage from said driveway onto the traveled portion of the public road.
  - 5.) If any driveway crosses a drainage swale, stream or ditch the same should be bridged by pipe or such structure as required to permit the unobstructed passage of all surface water generated by a five-year storm. Any pipe should be of sufficient length to extend not less than three (3) feet beyond the toe of the slope of the fill over said pipe unless a properly designed headwall is installed to protect the end of such pipe. Any bridge or structure spanning a stream or ditch should be designed with HS 15 loading by a professional Engineer. No bridge should be less than twelve (12) feet in width. If the driveway serves a commercial or industrial use, the bridge should be not less than eighteen (18) feet in width.
  - 6.) If a fill is placed over any drainage structure or placed to alter the grade of any driveway, the vertical slopes on said fill should be no steeper than a two-to-one slope. All fill areas shall be scalped of vegetation and excavated to load-bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and should be compacted to a density of ninety-five (95) percent proctor. The fill shall be of sufficient width to include a compacted berm beside the graveled or paved area of reasonable width to facilitate safe passage of vehicles. Guardrails or barriers shall be installed when necessary to create safe conditions.
  - 7.) Drainage ditches shall be constructed as necessary parallel to said driveway; such ditches should be graded to a good and sufficient outlet. Siltation control should be placed in any ditch, and such siltation should not flow to roadside ditches along public roads.
  - 8.) All curves in the driveway shall be of sufficient radius (not less than 50 feet) to permit unhindered passage of public safety vehicles including fire vehicles and all other vehicles reasonably expected to utilize the same.
  - 9.) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.

- 10.) Obstructions on the prevailing windward side of the driveway, which contribute to drifting snow, shall, when possible, be removed.
  - 11.) An adequate open area shall be provided at the end of the driveway to allow emergency and fire vehicles to turn around.
  - 12.) The first phase of any construction project shall be the construction of a driveway if aggregate to provide off street parking for construction vehicles and to prevent the tracking of dirt onto the public roadway.
- B.) Residential driveways: In addition to the conditions imposed by Section 21.11(A) hereinbefore set forth, the following standards are required for driveways serving residential structures or uses:
- 1.) Driveways serving individual residential structures shall not be less than ten (10) feet in width and shall be constructed over an aggregate base of reasonable depth.
  - 2.) If the driveway serves two (2) or more residences, the same shall be twelve (12) feet in width and shall be constructed over an aggregate base of reasonable depth.
  - 3.) If any residential driveway is over five hundred (500) feet in length, widened paved passing areas at least fifteen (15) feet in width shall be provided at reasonable intervals, not more than three hundred (300) feet in distance from each other, to permit the free passage of traffic over said drive.
  - 4.) Dust control shall be provided on an “as needed” basis.
- C.) Commercial, industrial, public facility and apartment complex driveways: In addition to the conditions recommended by Section 21.11(A) hereinbefore set forth the following standards are required for driveways serving all commercial and industrial uses and apartment complexes containing ten (10) or more units and served by a. common parking area:
- 1.) Driveways shall be not less than twenty (20) feet in width.
  - 2.) A professional engineer shall design driveway base and surface with sufficient depth for anticipated use and access by public safety vehicles, with a cross-section that meets the Delaware County Engineer’s standards for a design life of 20 years.
  - 3.) The finished surface of the driveway shall be hard-surfaced and may be of any Ohio Department of Transportation approved materials.

### **Section 21.12 – INDUSTRIALIZED UNITS**

For the purpose of this Resolution, a modular home, modular office or modular industrial unit shall be defined as an industrialized unit which has been inspected and certified to be in compliance with the Ohio Building Code. All such units shall be approved for their appropriate zoning district, the same as a site built structure. All local, state, and Federal requirements and permits shall be required.

Except for permanently sited manufactured homes, all other manufactured homes or offices shall be considered a temporary structure, trailer, or mobile home, mobile office, and shall be limited in placement by this Resolution.

### **Section 21.13 – LIMITED HOME OCCUPATION**

A limited home occupation shall be permitted within a permitted dwelling as an accessory use (not detached garages or pole barns) in accordance with the following provisions:

- A.) It does not occupy more than twenty percent (20%) of the gross floor area of the dwelling unit or two hundred (200) square feet, whichever is larger.
- B.) Requirements:
  - 1.) The business shall be conducted by a resident of the home and there shall be no non-resident employees.
  - 2.) The appearance of the structure shall not be altered and the occupation within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or unauthorized signs. A home occupation shall be clearly incidental and secondary to the use of the unit for dwelling purposes. Other than a permitted sign, there should be no outward appearance of any business use.
  - 3.) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, computers, wireless phones or hand held wireless transmitting devices off the premises, or causes fluctuations in line voltage off the premises.
  - 4.) One (1) sign shall be permitted, with a maximum area of three (3) square feet per face. The sign may be mounted flat against a building or hanging from a bracket, perpendicular to the road, on a five-foot pole in the front yard. No sign illumination is permitted. A certificate of zoning compliance shall be obtained.
  - 5.) There shall be no outside storage of any kind.
  - 6.) Specialized instruction or tutoring shall be limited to one (1) individual at a time.
  - 7.) No traffic shall be generated in substantially greater volumes than would be generated by a single family home.

### **Section 21.14 – EXPANDED HOME OCCUPATION CONDITIONAL USE**

It is recognized that there may be some Home Occupations which do not meet the criteria of Sections 21.13 but which may be appropriate for a residential area provided the following additional standards are addressed through the Conditional Use permit procedure. An expanded Home Occupation Conditional Use may be permitted, provided it meets the procedures and requirements of Section 28.07 and the following requirements:

- A.) The home occupation shall be carried on solely within the confines of the dwelling unit and/or architecturally compatible accessory buildings, which are customarily associated with the residential use and character of the neighborhood.
- B.) The Home Occupation shall be carried on by the individual(s) residing within the dwelling unit and there shall be no more than a total of one (1) non-resident employee.
- C.) Sales of commodities or services produced on the premises may be permitted provided such commodities or services are specified and approved as a part of the application. Examples of possible home occupation conditional use services or commodity sales:
- 1.) Insurance or real estate sales, word processing, Internet web hosting.
  - 2.) Arts, crafts or other artistic instruction with united sales of associated materials used in the instruction and preparation of artistic works.
  - 3.) Small machinery and equipment repair such as computers, cameras, clocks or other similar small items including the limited sales of repaired or associated parts and equipment.
  - 4.) Limited, seasonal sales of specialized items such as holiday ornaments, handicrafts, or sporting supplies.
- D.) Organized instruction may be permitted provided the class size does not exceed six (6) pupils at any given time. Prior to any approval for organized instruction associated with a home occupation conditional use permit, the Board of Zoning Appeals shall determine that because of the location and orientation of the residence and lot in question, the regularly organized instruction of up to six (6) pupils at any given time will not become a detriment to the existing residential character of the lot or the general area through an increase in traffic, street parking, or any other factor resulting in an adverse impact as determined by the Board of Zoning Appeals.
- E.) No outside storage of any kind associated with a home occupation conditional use shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.
- F.) Only one sign, not larger than three (3) square feet of advertising area per face and five (5) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be mounted flat against a building or hanging from a bracket, perpendicular to the road, on a five-foot pole in the front yard. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
- G.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side yard or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces).



- H.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- I.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware Public Health District and do not create a burden on adjoining property.
- J.) No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- K.) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty percent of the total floor area of the dwelling unit shall be used in the conduct of the home occupation nor more than fifty percent of the floor space of any garage or accessory building.
- L.) Unless otherwise provided by the Board of Zoning Appeals, the Expanded Home Occupation Conditional Use Permit shall cease to be valid and terminates once the premises used for the Home Occupation is no longer occupied by the applicant.

### **Section 21.15 – GENERAL LIGHTING STANDARDS**

All lighting shall be controlled in such a way as to not shine up into the sky or onto any neighboring properties.

- A.) Examples of ways in which this shall be accomplished are:
  - 1.) Use of fully shielded cut-off fixtures.
  - 2.) Directing light fixtures downward rather than upward.
  - 3.) Shielding the light in such a way that the light-emitting portion of the fixture cannot be seen at a reasonable distance.
- B.) Specific Requirements:
  - 1.) Where used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots, only fully shielded cut-off style outdoor light fixtures shall be utilized.
  - 2.) Where used for signs or for decorative effects or recreational facilities, such as for building, landscape or ballfield illumination, the outdoor light fixtures shall be equipped with automatic timing devices and shielded and focused to minimize light pollution.

- 3.) All outdoor light fixtures installed and maintained upon private property within all zoning districts shall be turned off between 11:00 P.M. and sunrise, EXCEPT when used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots.
  - 4.) All illuminated signs for commercial purposes shall be turned off between 11:00 P.M. and sunrise, EXCEPT that signs may be illuminated while the business facility is open to the public. All forms of flashing, rotating, moving or digital lights shall be prohibited.
  - 5.) All outdoor light pole fixtures shall not exceed a maximum height of thirty (30) feet.
  - 6.) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of this Resolution.
- C.) Exemptions:
- 1.) All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this section.
  - 2.) All low-voltage lighting rated twenty-four (24) volts or less and holiday lighting shall be exempt from the requirements of this section.

### **Section 21.16 – FENCES**

All fencing shall conform to all of the following (Homeowners' Associations may have more restrictive regulations):

- A.) No fence or wall shall be erected or constructed until a Fence permit has been issued. The application for this permit shall be accompanied by plans or drawings including a plot plan or property survey showing the actual shape and dimension of the lot on which the fence or wall is to be erected, architectural rendering of the fence or wall to include the exact height, style and type of material, location, length of the fencing, and the location of all existing buildings on the lot. Accurate distance measurements from all property lines must be shown.
- B.) The signature of the property owner(s) must be shown on the plans or drawings submitted for the required zoning permit for the fence.
- C.) The smooth finished side of the fence or wall shall be the side facing outward from the yard being fenced, and any horizontal, diagonal, or supporting members shall be on the interior side of the fence.
- D.) When erected near a property or lot line, the entire fence and any supporting structures shall be contained within the lot or property of the owner of said fence.
- E.) Fences located at or behind the rear line of the principal structure on the lot shall not exceed six (6) feet in height, measured from the finished grade to the top of the fence at any point along the length of the fence.
- F.) Fences located in front of the rear line of the principal structure on the lot shall not exceed four (4) feet in height, measured from the finished grade to the top of the fence at any point along the length

of the fence. Additionally, chain-link or similar metal fencing shall be prohibited in front of the rear line of the principal structure.

- G.) No fence shall be located within the public right-of-way of any road.
- H.) Fences shall be kept in proper repair and maintained.

### **Section 21.17 – STANDARDS FOR EXTERNAL IMPACTS**

All development within the township shall comply with the following development standards:

- A.) Fire and Explosion Hazard - All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B.) Air Pollution - No emission of air Pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- C.) Glare, Heat, and Exterior Light - Any operation Producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted. Exterior Lighting as provided in Section 21.13.
- D.) Dust and Erosion - Dust or silt shall be minimized through landscaping or paving in such a manner as to Prevent their transfer by wind or water to Points off the lot in objectionable quantities.
- E.) Liquid or Solid Wastes - No discharge at any point into any public sewer, Private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- F.) Vibrations and Noise - No uses shall be located and no equipment shall be installed in such a way as to Produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property line of the subject premises, Noise standards of the Environmental Protection Agency shall be adhered to.
- G.) Odors - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.

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## **ARTICLE 22 – SIGN AND BILLBOARD REGULATIONS**

### **Section 22.01 – PURPOSE**

The purpose of this sign regulation is to promote and protect the public safety and general welfare by regulating existing and proposed outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance, preserve the scenic and natural beauty of the communities and countryside, reduce sign distraction and obstructions that may contribute to traffic accidents, provide more open space and generally curb the deterioration of the natural environment.

### **Section 22.02 – PERMITTED SIGNS – NO PERMIT REQUIRED**

The following signs shall be permitted in the township subject to the regulations set forth herein. No zoning permit shall be required for any sign constructed or erected under the terms of this article.

- A.) Signs for Sale, Lease, or Rent of the premises on which the sign is located. Not more than two signs shall be displayed on any lot or parcel. Such signs shall not be illuminated and shall not exceed six (6) square feet of advertising area per side with not more than two (2) sides, or signs of the same size identifying the builder or contractor. All such signs shall be removed within thirty (30) days after occupancy.
- B.) Signs for Home Occupations One sign per lot shall be permitted in any residential district for the purpose of announcing a home occupation as approved by the Board of Zoning Appeals, as provided in Section 21.13 and Section 21.14.
- C.) Vehicular Signs Directional or other incidental signs pertaining to vehicular or pedestrian control on private property shall be permitted, provided that said signs are located outside the right-of-way of any public street or road, do not exceed two (2) square feet of area per side, and do not interfere or obstruct visibility when entering or leaving said property.
- D.) Name and Address of Occupant of residential property, provided that such sign is not more than two (2) square feet in area per side and is located outside the right-of-way of any public road. Said sign shall not be higher than three (3) feet above the ground, and not more than one (1) sign shall be permitted.
- E.) Temporary Signs announcing special public or institutional events. Such signs shall not exceed (32) square feet in area per side and shall not be permitted more than thirty (30) days prior to the planned event nor more than seven (7) days after said event. Such sign shall designate the name and address of the person charged with the duty of removing said sign.
- F.) Signs approved in Planned Residence District plans of development provided that the approved sign is constructed in strict compliance with the approved guidelines.
- G.) Farm Signs denoting the name and address of the occupants, denoting produce or products for sale on the premises, and denoting membership in organizations. No more than one sign of any type may be permitted, and it shall be located outside the road right-of-way. Advertising signs may not exceed thirty-two (32) square feet of area per side and all other signs shall be limited to four (4) square feet per side.

- H.) Signs Approved as Part of Conditional Use Permit in residential zoning districts, provided such signs are constructed in strict compliance with the imposed conditions.
- I.) Political Signs: The erection of political signs shall be permitted in any district of the township provided that said signs
- 1.) do not interfere with visibility of vehicular traffic entering or leaving the road;
  - 2.) may be posted and removed without destruction of public or private property;
  - 3.) designate the name and address of the person charged with removal of the sign;
  - 4.) shall be placed outside the road right of way.

### **Section 22.03 – PERMITTED SIGNS – PERMIT REQUIRED**

The following shall be permitted in areas clearly delineated herein and subject to the reasonable regulations set forth.

- A.) Commercial or Industrial Display Signs- All display signs shall be mounted on the building which houses the business establishment advertised by such signs, except as otherwise specifically authorized by this Resolution. Such signs shall be located on or along a wall of such building which faces a street, parking lot or service drive, and shall not project above the roof line or the cap of parapets of such building, whichever is higher. Signs may be erected on a wall which is an extension of a building wall which faces a street, parking lot or service drive, provided that the design and construction of such extension are architecturally compatible with the building, that such wall does not extend beyond any required building setback line, and does not exceed twelve (12) feet in height or the height of the ceiling of the first floor of the building to which such extension wall is attached, whichever is less. The display area of the sign must be located either on the wall or extension; it may not be located on both.

All such signs shall be parallel to the wall on which they are installed, and shall not project more than eighteen (18) inches from such wall, it being hereby intended to prohibit signs projecting outward from the wall, at right angles or otherwise, except as follows:

- 1.) Signs may be installed on an attached canopy, roof or marquee, which projects beyond the building over a walk or yard, provided that no part of such signs may extend above such canopy, roof or marquee.
- 2.) One sign, not more than fifteen (15) inches in height and five (5) square feet in area, projecting outward from the building wall not more than three (3) feet, may be erected at each entrance to such building, and the area of such sign shall not be included in determining the aggregate sign area of such building.

No part of any sign shall be less than eight (8) feet above the sidewalk or ground level, if such projects forward of the wall on which it is mounted to such an extent as to constitute a hazard or inconvenience to pedestrian or vehicular traffic. No part of any sign shall be closer to either end of the building face, including any wall extension, on which it is erected than eighteen (18) inches. Where more than one sign is erected on the same face of a building, there shall be a distance of at least three (3) feet between signs. Letters, numerals or other graphics attached directly to the building wall shall be considered a wall sign. Unlighted letter numerals or other graphics carved into the face of the building shall generally not be considered wall signs unless they are over nineteen (19) inches high, or one

inch thick, or the color contrasts with that of the building, Super-graphics (large scale painted graphic devices) and architectural detailing which has a graphic or signage function, which are painted upon a building, shall be subject to regulation as a wall sign.

- 3.) The display area of any one surface does not exceed twenty-five (25) square feet.

B.) Free-Standing Signs Identifying Commercial or Office Complexes: A sign supported by posts, Pillars, columns or other structures identifying a commercial or office complex on the following conditions:

- 1.) The maximum height of such sign does not exceed eight (8) feet above the average grade of the site when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional three (3) feet setback from the street right-of-way line, an additional one (1) foot in height will be permitted up to a maximum of fifteen (15) feet high.
- 2.) The total display area of all surfaces does not exceed fifteen (15) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional one (1) foot setback from the street right-of-way line, an additional three (3) square feet of display area will be permitted up to a maximum of forty-five (45) square feet.
- 3.) The display area of any one surface does not exceed twenty-five (25) square feet.
- 4.) No part of such sign will be closer to any street right-of-way line than fifteen (15) feet, or closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.
- 5.) The function of such sign is in keeping with the uses in the surrounding area.
- 6.) Such sign will be in harmony with the buildings on the site, and will not detract from the appearance of the general neighborhood in which it is located adversely affect property values in such neighborhood.
- 7.) Such sign will not constitute a traffic; hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists.

#### **Section 22.04 – CONDITIONALLY PERMITTED SIGNS – PERMIT REQUIRED**

Within any commercial or industrial district or within any non-residential portion of a residential district the following signs may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of

authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until the Zoning Inspector issues a permit of compliance.

- A.) Free-Standing Signs which are defined as signs supported by or supported from posts, pillars, columns or other structures, except signs attached to buildings as described in Section 22.03(b) of this Resolution. Freestanding signs heretofore lawfully erected and maintained and now in place may be maintained until such sign is destroyed, dismantled or removed. No sign shall hereafter be relocated, rebuilt, enlarged, extended or otherwise altered in any material respect. If, in the opinion of the Board of Zoning Appeals, a change in product name is required which is beyond the control of the owner/occupant, such substitution of signage may be approved. In the event of a violation of this provision, the continued maintenance of such sign shall be unlawful. Provided, however, that such sign may, prior to January 1, 1989, be relocated on the same lot or parcel of ground or reduced in size or height, but only upon the granting of a variance therefore by the Board of Zoning Appeals.

The Board of Zoning Appeals may grant a permit for the erection or maintenance of a freestanding sign only upon compliance with the following requirements:

- 1.) The filing of a written application for such sign, together with a scale drawing of the proposed sign showing its design, color and materials, and a site and the location of the proposed sign.
- 2.) A determination by the Board of Zoning Appeals that a free-standing sign is necessary to the conduct of the business, professional or commercial activity on the site and that an attached sign would not be in harmony with the building thereon.
- 3.) A determination that the proposed sign meets all of the following requirements:
  - a.) The maximum height of such sign does not exceed eight (8) feet above the average grade of the site when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional three (3) feet setback from the street right-of-way, an additional one (1) foot in height will be permitted up to a Maximum of fifteen (15) feet high.
  - b.) The total display area of all Surfaces does not exceed fifteen (15) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional one (1) foot setback from the street right-of-way line, an additional three (3) square feet of display area will be permitted up to a maximum of forty-five (45) square feet.
  - c.) No part of such sign will be closer to any street right-of-way line than fifteen (15) feet, or closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.
  - d.) The function of such sign is in keeping with the uses in the surrounding area.



- e.) Such sign will be in harmony with the buildings on the site, and will not detract from the appearance of the general neighborhood in which it is located or adversely affect property values in such neighborhood.
  - f.) Such sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists.
- 4.) In making its determination, the Board of Zoning Appeals shall take into consideration all pertinent factors relating to the compatibility of such sign with the surrounding neighborhood, including, but not limited to its size, shape, color, brightness, design and its general appearance.
  - 5.) Not more than one (1) freestanding sign may be authorized for any one-business establishment. Where more than one business establishment is located on a single tract of land, having an entrance or entrances or parking area or areas used in common by the customers of such establishments, only one (1) free standing sign may be authorized for the entire tract. The existence and boundaries of such tract shall be determined by community of use, rather than by the ownership thereof, it being intended by this provision to limit each shopping center or similar joint operation to one (1) free standing sign, except in the case of a shopping center which is contiguous to two streets which do not intersect each other at a point adjacent to such shopping center, in which case one (1) free-standing sign, fronting on each street, may be authorized.

### **Section 22.05 – PROHIBITED SIGNS**

The following signs and billboards shall be prohibited in Delaware Township:

- A.) All signs not specifically permitted by the express terms of the Delaware Township Zoning Resolution.
- B.) Portable signs or billboards, pennants, streamers, flashing lights, string of lights, or air-activated attraction device.
- C.) Signs or advertising erected and maintained in trees or painted or drawn upon rocks or other natural features.
- D.) Except for identification signs on agricultural buildings, no sign or billboard shall be painted directly upon the wall or roof of any building or structure.
- E.) No sign shall be attached to any fence within the right-of-way of any road, and no sign shall be attached to any board or wooden fence regardless of location without the permission of the owner of the fence.
- F.) Signs mounted upon the roof of any building or structure.
- G.) Signs or advertising devices, which attempt, or appears to attempt, to direct the movement of traffic, or which interfere with, imitate or resemble an official sign, signal or device.

Billboards for a product or service not located upon the premises on which the sign is located.

### **Section 22.06 – GENERAL REGULATIONS**

The following regulations and restrictions shall apply to all signs located and erected within the township, regardless of type, style, design or other classification.

- A.) Location – No sign shall be located within the right-of-way of any public or private road within the township. Said sign or signs shall be located in strict compliance with this Resolution and the approved Development Plan or restrictions imposed by the Board of Zoning Appeals.
- B.) Lighting
- 1.) No sign shall be illuminated to a level which causes unnaturally high light levels on adjacent residential lots.
  - 2.) No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent thoroughfares thereby creating a hazard to vehicular traffic.
  - 3.) No flashing, rotating or moving light source shall be permitted on any sign within this township.
  - 4.) Full cut-off lighting is required.
- C.) Height - No signs within Delaware Township shall be erected to a height greater than fifteen (15) feet.
- D.) Sight Interference - No sign shall be permitted in Delaware Township, which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on thoroughfares.
- E.) Stability – Display signs shall be so constructed that they will withstand a wind pressure of at least thirty (30) pounds per square foot of surface, and will be otherwise fastened, suspended or supported so that they will not be a menace to persons or property.
- F.) Maintenance - All signs or billboards constructed or erected within Delaware Township shall be maintained as follows:
- All sign surfaces, supports, braces, guys and anchors shall be kept in repair and in a proper state of preservation by painting or otherwise.
- G.) Traffic Safety – Colors, etc. - Display Signs shall not closely resemble or approximate the shape, form and color of official traffic signs, signals and devices.
- H.) Sign Area - The aggregate sign area or display surface of all exterior signs of every nature shall not exceed three (3) square feet for each lineal foot of the street frontage of such building, if a one-story building, or four (4) square feet per foot, if more than one-story in height, street frontage being defined as the total width of that side of the building which faces the street, excluding any extension of a building wall beyond the building itself. In the case of a corner lot or other situation where the

building site abuts more than one public street, not including alleys, the applicant shall specify which is the primary frontage, and signs may be permitted on the basis of the area authorized above for each lineal foot of primary street frontage and one-half thereof for each lineal foot of other street frontage. The total sign area on any one side of a building shall not exceed the allowable area for such side computed in accordance with the foregoing rules. In the case of a building which does not front on a public street, as in shopping centers, the drives and parking areas adjacent to such building shall be considered as public streets for the purpose of this Resolution, provided that where any such drive or parking area abuts a Residential District, the frontage of the building on such drive or parking area shall not be considered as frontage for such purpose if the distance from such building to the nearest private property in said Residential District is less than one hundred fifty (150) feet.

### **Section 22.07 – ABANDONED SIGNS**

If any sign or billboard shall become abandoned, in the manner defined herein, such a sign or billboard is declared to be a public nuisance by reason that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any one of the following criteria:

- A.) Any sign or billboard associated with an abandoned nonconforming use.
- B.) Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least one hundred and eighty (180) consecutive days. Seasonal businesses are exempted from this determination.
- C.) Any sign or billboard that is not maintained in accordance with this Resolution.

When the Zoning Inspector finds, upon investigation, that a sign or billboard has been abandoned, as defined herein, he shall notify the owner of said sign, together with the owner of the land on which the sign is located, by certified mail or by personal delivery, of his findings. Such notice shall advise the owner that the sign has been declared abandoned and must be removed within thirty (30) days from the date of mailing of said notice. The owner may appeal such decision to the Board of Zoning Appeals as provided in Article 28 of this Resolution.

It shall be the duty of the Zoning Inspector to maintain a photograph and file on said sign together with a written report of his findings for submission to the Board of Zoning Appeals upon request.

If the sign is not removed, as ordered, the township at the expense of the lessee or owner may remove the same. If the township is not immediately reimbursed for such costs, the amount thereof shall be certified to the Delaware County Auditor for collection as a special assessment against the property on which sign is located.

### **Section 22.08 – NON-CONFORMING SIGNS OR BILLBOARDS**

Any sign or billboard in existence within the Township prior to the effective date of this Article that does not conform with the provisions of this Article is considered to be non-conforming.

Any sign or billboard that does not conform to the provisions of this Article shall be allowed to continue in its non-conforming status provided the sign or billboard was erected in compliance in all respects with applicable laws in existence on the date of its erection.

A non-conforming sign or billboard shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Article. Should any replacement or relocation take place without being brought into compliance, the sign or billboard shall exist illegally.

A non-conforming sign or billboard shall be maintained or repaired in accordance with the following provisions:

- A.) The size and structural shape shall not be changed or altered.
- B.) The copy may be changed, provided that the change applies to the original non-conforming use associated with the sign or billboard and that the change is made by the owner of the sign or billboard at the time the sign or billboard became non-conforming; the copy area shall not be enlarged. Any subsequent owner or user shall bring the sign or billboard into compliance.
- C.) In the case where damage occurs to the sign or billboard to the extent of fifty (50%) percent or more of either the structure or the replacement value of the sign or billboard, the sign or billboard shall be brought into compliance. Where the damage to the sign or billboard is less than fifty (50%) percent of the structure or its replacement value, the sign or billboard shall be repaired within sixty (60) days.

#### **Section 22.09 – PERMIT**

No signs, except as provided for in Article 22.02 of this Resolution, shall be erected prior to the issuance of a permit therefore by the Township Zoning Inspector.

- A.) Fees - The applicant for a permit herein shall pay such fee as is prescribed by the Delaware Township Trustees. The Trustees shall prescribe such fees annually, or more often.
- B.) Term of Permit - The zoning permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.
- C.) Inspector - All signs or billboards erected within this township are subject to inspection, whether a permit is required or not, prior to erection. The Township Zoning Inspector or any other official of the township is hereby authorized to enter upon any property or premises to ascertain whether the provisions of this Article are being complied with. Such inspection may be made at any reasonable time, and the Township Zoning Inspector may order the removal of any sign or billboard that is not maintained in accordance with the provisions of this Resolution.
- D.) Cancellation of Permit - In the event that the owner of any sign or property fails to comply with the terms of this Zoning Resolution, said permit may be revoked upon compliance with the following terms:
- E.) Notice - The Township Zoning Inspector shall notify both the owner of the sign and land upon which it is located of any deficiency or violation of this resolution. Notice shall be served personally or by ordinary mail at the last known address of the permit holder. The permit holder may seek a hearing on said notice by complying with the provisions of Article 28 of this Resolution dealing with revocation of the Conditional Use Permit. Failure to correct deficiencies or to appeal the decision

of the Zoning Inspector within thirty (30) days will result in cancellation of the permit for such sign and said sign shall then be removed as provided by this Resolution.

- F.) Removal of Signs - The Township Zoning Inspector may effect removal of any sign illegally placed within the right-of-way of any road within this township. The Zoning Inspector shall store said sign and shall notify the owner thereof of its location, by ordinary mail. If the owner of any sign fails to claim the same within one hundred eighty (180) days after mailing of notice by the Zoning Inspector, said sign may be destroyed.

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## **ARTICLE 23 – LANDSCAPING STANDARDS**

### **Section 23.01 – PURPOSE**

The intent of this article is to improve the appearance of vehicular use areas and property abutting public right of ways; to require buffering between non-compatible land uses; and to protect, preserve and promote the aesthetic appeal, character and value of the surrounding neighborhoods; to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature and artificial glare.

It is further the purpose of this article to specifically promote the preservation and replacement of trees and significant vegetation removed in the course of land development, and to promote the proper utilization of landscaping as a buffer between certain land uses to minimize the opportunities of nuisance.

### **Section 23.02 – APPLICATION**

- A.) New Sites: No certificate of zoning compliance shall be issued hereafter for any site development plan within any planned district or the construction or improvement of any building, structure or vehicular use within any planned district except where landscaping for such development, construction has been approved as required by the provisions of this article.
- B.) Existing Sites: No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping required by the provisions of this Article is provided to the property to the extent of its alteration or expansion and not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:
- 1.) In the case of a building or structure expansion which does not involve additional land, the square footage of the alteration or expansion exceeds twenty-five percent (25%) of the square footage of the existing building exclusive of the alteration or expansion, and
  - 2.) In the case of an alteration or expansion involving both an existing building or structure and additional land, and, if applicable, additional structures or buildings, the area or square footage of the expanded or altered land or structure or building, respectively, exceeds twenty-five percent (25%) of the area or square footage of the existing land or structure or building respectively, exclusive of alteration or expansion.
  - 3.) “Land” as used herein, includes land used for space, parking or building purposes.

### **Section 23.03 – MINIMUM LANDSCAPING REQUIREMENTS**

This section describes the minimum requirements that shall be met in regards to perimeter landscaping for non-compatible land use areas landscaping for service areas and interior landscaping for businesses, buildings, structures or other new developments of land.

- A.) Perimeter Landscaping Requirements: Unless otherwise provided, landscaping material shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one foot above finished grade level to the top of the required planting, hedge, fence, wall or earth mound within four years after installation. The required landscaping shall be provided either in easements in certain zones or adjacent to vehicular use area.

1.) **Property Perimeter Requirements:**

When the use below	Adjoins the use below or vice versa	the minimum landscaping within a buffer zone of this average width (with 3 ft. as the least dimension) is required. See footnote #3.	which will contain this material, to achieve opacity required.
1. Residential zone	Mobile Home Park	10 ft., adjacent to all common boundaries, including street frontage.	1 tree/40 ft. of lineal boundary continuous 6 ft. high planting, hedge, fence, wall or earth mound.
2. Residential zone	Office Use	6 ft., adjacent to all common boundaries, except street frontage.	1 tree/40 ft. of lineal boundary continuous 6 ft. high planting, hedge, fence, wall or earth mound.
3. Residential zone	Commercial Use	10 ft., adjacent to all common boundaries, except street frontage.	1 tree/40 ft. of lineal boundary continuous 6 ft. high planting, hedge, fence, wall or earth mound.
4. Residential zone	Industrial Use	15 ft., adjacent to all common boundaries, except street frontage.	1 tree/40 ft. of lineal boundary continuous 6 ft. high planting, hedge, fence, wall or earth mound.
5. Office or Commercial Use	Industrial Use	15 ft., adjacent to all common boundaries, except street frontage.	1 tree/40 ft. of lineal boundary continuous 6 ft. high planting, hedge, fence, wall or earth mound.
6. Any zone (unless the property within the zone is used for vehicular sales or service) except agricultural zones	a freeway or arterial street	20 ft. for residential zones and 10 ft. for all other zones adjacent to freeway or arterial	1 tree/30 ft., plus continuous 6 ft. high planting, hedge, wall, fence or earth mound.
7. Any zone except agricultural and industrial zones	Railroad (except spur tracks)	20 ft. for residential zones and 10 ft. for all other zones adjacent to freeway or arterial	1 tree/30 ft., plus continuous 6 ft. high planting, hedge, wall, fence or earth mound.
8. Any property boundary, including road or street right of ways	utility sub-station, junk yards, landfills, sewage plants or similar uses	15 ft. adjacent to all boundaries except only 5 ft. for utility substations measured adjacent to the enclosure	1 tree/30 ft., plus continuous 6 ft. high planting, hedge, wall, fence or earth mound.
9. Any property used for vehicular sales or service	a highway or arterial	10 ft. adjacent to highway or arterial	1 tree/50, plus 1 low shrub/10 ft. (opacity requirements do not apply) for the first 300 linear feet of easement; if an easement for the property exceeds 300 ft. in length, the remaining easement shall contain 1 tree/30 ft.



(#1) Grass or ground cover shall be planted on all portions of the easements not occupied by other landscape material.

(#2) All fractional distances shall be rounded up. Trees do not have to be equally spaced, but may be grouped.

(#3) Six feet shall be the least dimension for any Commercial or Industrial Zone with three feet as the least dimension for any other district.

2.) **Vehicular Use Area Perimeter Requirements:**

When the use below	adjoins the use below or vice versa...	The minimum landscape easement of this width is required...	which will contain this material (#2) to achieve opacity required.
<b>1. Any property in any zone except</b>	any Vehicular Use Areas on any adjacent property	4 ft. minimum to all tree from edge of paving where vehicles overhang and 3 ft. strip that prohibits any vehicular overhang for other areas, adjacent to planting, point of vehicular use area that use that faces building adjacent property	1 tree/40 ft. boundary of vehicular area, plus a 3 ft. average height continuous hedge, fence wall or earth mound
<b>2. Public or private street right-of-way or service road, except freeways</b>	any vehicular use area, (except vehicular sales or service facility) in any zone	(applies to VUA portion facing public or private street or road) 4 ft. minimum to all tree from edge of paving where vehicles overhang and 3 ft. strip that prohibits any vehicular overhang for other areas, adjacent to planting, point of vehicular use area that use that faces building adjacent property	1 tree/40 ft., plus a 3 ft. average height continuous planting, hedge fence, wall or earth mound
<b>3. Public or private street right-of-way or service road, except freeways</b>	any vehicular sales or service area	4 ft. minimum to all tree from edge of paving where vehicles overhang and 3 ft. strip that prohibits any vehicular overhang for other areas, adjacent to planting, point of vehicular use area that use that faces building adjacent property	1 tree/50 ft., plus 1 low shrub 10 ft. (opacity requirements do not apply)

(#1) A vehicular use area (VUA) is any open or unenclosed area containing more than 1,800 square feet of area and/or used by more six or more of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or roads or other vehicular use elements described previously in this paragraph, and where intervening curbs, sidewalks, landscape strips, etc. do not eliminate adjacency.

(#2) Grass or ground cover shall be planted on all portions of easements not occupied by other landscape material.

(#3) All fractional distances shall be rounded up. Trees do not have to be equally spaced, but may be grouped.

3.) **Landscape Buffer Zone:** The landscape buffer zone and material required adjacent to any street under this Article shall be provided by the property owner adjoining street, unless the authority building the street has fully met all requirements on the street right of way. When adjacent to other common boundaries, the landscape buffer zone and materials:

- a.) May be placed on either adjoining parcel, or astride the boundary, if both owned and being processed by the same owner; or
- b.) Generally be placed on the activity listed under Property Perimeter Requirement Chart, Column B and Vehicular Use Area Perimeter Chart, Column B when adjoining parcels have different owners; or

- c.) May be placed astride the boundary of adjoining parcels having different owners if a written agreement signed by both owners, is filed with the Township Zoning Office, as a public record; or
  - d.) Shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of Property Perimeter Requirement Chart, lines 6 and; or
  - e.) Shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this Article.
- 4.) Requirements Conflicts: Whenever a parcel or activity falls under two or more of the categories listed in the tables the most stringent requirements shall be enforced.
- 5.) Landscape, Buffer Zone Conflicts: The required landscape buffer zone may be combined with a utility or other easement as long as all of the landscape requirements can be provided in addition to, and separate from, any other easement. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer zone more two and one-half feet, and wheel stops or curbs shall be required.
- 6.) Existing Landscape Material: Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objectives of this Article.
- 7.) Landscaping at Driveway and Street Intersections: To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, no landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as, except during the early growth stages, only the tree trunk is visible between the ground and eight feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.
- a.) Driveway Intersections Triangle: At intersection of driveways with streets, the sight triangle shall be established by locating the intersection of the street curb or edge with the driveway edge, and by measuring from this point and a distance of ten feet along the driveway to a point and a distance of twenty feet along the street curb to a point and connecting these points.
  - b.) Street Intersection Sight Triangles: At the street intersections, the sight triangle shall be formed by measuring at least thirty-five (35) feet along curb lines or edge of pavement of each street and connecting these points.
- 8.) Interior Landscaping for Vehicular Use Areas: Any open vehicular use area, excluding loading, unloading and storage areas in an industrial zone or business zone, containing more than six-thousand (6,000) square feet of area, or twenty or more vehicular parking spaces,

shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping may be peninsular or island types.

- a.) Landscape Area: For each 100 square feet or fraction thereof, of vehicular use area, a minimum total of five square feet of landscaped area shall be provided.
    - 1.) Minimum Area: The minimum landscape area permitted shall be 64 square feet with a four-foot minimum dimension to all trees from edge of pavement where vehicles overhang.
    - 2.) Contiguous Area: In order to encourage the required landscaped areas to be properly dispersed, no individual areas shall be larger than 350 square feet in size, and no individual area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. In both cases, the least dimension of any required area shall be four feet minimum dimension to all trees from edge of pavement where vehicles overhang. Individual landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum total.
  - b.) Minimum Trees: The following minimums are required, based upon total ground coverage of structures and vehicular uses areas:
    - 1.) Up to 20,000 square feet: A minimum of one tree per 5,000 square feet of ground coverage and, a total tree planting equal to one inch in tree trunk size for every 2,000 square feet of ground coverage.
    - 2.) Between 20,000 and 50,000 square feet: A minimum of one tree for every 5,000 square feet of ground coverage and, a total tree planting equal to ten inches plus one-half inch in tree trunk size for every 2,000 square feet over 20,000 square feet in ground coverage.
    - 3.) Over 50,000 square feet: A minimum of one tree for every 5,000 square feet of ground coverage and, a total tree planting equal to twenty-five inches plus one-half inch in tree trunk size for every 4,000 square feet over 50,000 square feet in ground coverage.
    - 4.) Trees shall have a clear trunk of at least five feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two feet in height.
  - c.) Vehicular Overhang: Parked vehicles may hang over the interior landscaping area no more than two and one-half feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.
- 9.) Landscaping for Service Structures: Any service structure, accessory use, shall be screened whenever located in any residential zone, commercial zone, or when located on property abutting any residential zone) freeway or arterial street prohibiting driveway access.

Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures.

- a.) Location of Screening: A continuous planting hedge, fence or wall of earth, having one hundred percent (100%) opacity, shall enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed ten feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirements for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.
  - b.) Curbs to Protect Screening Material: Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.
- 10.) Interior Landscaping For All New Developments: All new developments regardless of type and all alterations or expansions to existing developments shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall consist primarily of new tree planting or the preservation of existing trees or hedges within the development site.
- a.) Preservation of Existing Landscape Materials: All trees having a trunk diameter of six inches or greater as measured twenty-four inches from ground level shall be preserved unless Such trees are exempted as follows:
    - 1.) Trees within public rights of way or utility easements, or a temporary construction easement approved by the County Engineer.
    - 2.) Trees within the ground coverage of proposed structures or within twelve feet of the perimeter of such structure.
    - 3.) Trees within the driveway access to parking or service areas or proposed areas to service a single family-home.
    - 4.) Trees that in the judgment of the Township Authority are damaged, diseased, over mature, which interfere with utility lines or are an inappropriate or undesirable species for that specific location.

It is encouraged that exempted trees subject to destruction be preserved by relocating and replanting of such trees.

Preservation of wooded areas: It is encouraged that efforts be made to preserve natural vegetation areas. Consideration shall be given to laying out streets, lots, structures and parking areas to avoid unnecessary destruction of heavily wooded areas or outstanding tree specimens. It is further encouraged that whenever possible, heavily wooded areas be designated as park reserves.

b.) Tree Planting Requirements:

1.) For all new development the following landscape requirements shall apply:

<u>Use</u>	<u>Requirements</u>
PRD district	There shall be tree plantings equal to one-half inch in tree trunk size for every 150 square feet in ground coverage by a single-family structure. Such plantings shall be required within the property lot lines of each structure.
Business and Community Shopping Uses per Lot	In addition to the requirements of section 23.03(A)(8) hereafter for vehicular use areas, the following shall apply: there shall be landscaped areas equal to 20 square feet for every 1,000 square feet of building ground coverage area, or fraction thereof. Such landscaping areas shall contain trees, planting beds, hedges, fences, walls, earth mounds, benches or other material designed and located in a manner complimentary to the overall architecture to the surrounding buildings.
Office/Institutional Uses	In addition to the requirements of subsection (A) hereof, for vehicular use areas, the following shall apply, there shall be tree plantings equal to one inch in tree trunk size for every 1,500 square feet of building ground coverage, or fraction thereof.
Industrial Uses	In addition to the requirements of subsection (A) hereof, for vehicular use areas, the following shall apply: there shall be tree plantings equal to one inch in tree trunk size for every 2,000 square feet of building ground coverage, or fraction thereof.

2.) Parking Lots: see Section 23.03(A)(8) hereof.

3.) No new tree planting shall be required if existing trees and the aggregate trunk sizes of such trees meet or exceed the requirements as set forth in this Article and providing that such trees are evenly distributed throughout the developed area and not confined either to out-of-the-way dense clusters or to the perimeter of the developed area. The minimum tree size for such tree plantings shall be no less than one and one-half inch in trunk diameter.

- 4.) For new development or construction, if new tree plantings are required for conformance to the landscaping requirements of this Article, the applicant or owner shall indicate on the landscape plan the location and size of such tree plantings. If such trees landscape plan is approved, the applicant or owner shall plant such trees as may be required within one year or the next planting season after issuance of a zoning permit.

### **Section 23.04 – STREET TREE PLANTING REQUIREMENTS**

The following are street tree planting requirements for all zoning districts:

- A.) **Requirements:** It shall be required that all subdividers or developers plant trees along public streets of their developments in such a manner, type, quantity and location as approved by the Zoning Commission and as defined by the following conditions, and that any undeveloped street or existing street with undeveloped frontage shall conform to these requirements at the time of development.
  - 1.) The tree to be planted is not an undesirable tree species, as listed on the Township's Public Tree Program.
  - 2.) The minimum spacing between this and other trees is forty-five feet for large trees, thirty-five (35) feet for medium trees and twenty-five (25) feet for a small tree. See definitions below.
  - 3.) The tree location is to be at least twenty (20) feet from street intersections and ten (10) feet from fire hydrants or utility poles.
  - 4.) A small tree is to be used when planting under or within ten (10) vertical feet of overhead utility wires. A small or medium tree is to be used when planting within ten (10) or twenty (20) vertical feet of overhead utility wires.
  - 5.) The developer shall maintain the trees for one year and replace any tree which dies within one year of approval by the Township Zoning Department. Upon completion of a tree planting, the landscape contractor shall contact the Township Zoning Department for a preliminary inspection. The guarantee period shall begin after approval of the Zoning Department. A final inspection shall be made at the end of the guarantee period. All trees not exhibiting a healthy, vigorous growing condition, as determined by the Township Inspector, shall be promptly replaced at the expense of the developer.
  - 6.) The trees should be of one and the same genus and species planted continuously down each street as per this Article.
  - 7.) The minimum trunk caliper measured at six (6) inches above the ground for all street trees shall be no less than one and one-half inches.
  - 8.) The maximum spacing for large trees shall be fifty (50) feet, for medium trees, forty (40) feet and thirty (30) feet for small trees.

- B.) Tree Topping: No person shall, as a normal practice, top any tree within the public right of way. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or trees under utility wires or other obstructions where other pruning practices are impractical are hereby exempted from this Subsection.
- C.) Height of Limbs Over Sidewalks and Streets: Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than seven (7) feet above sidewalks. Tree limbs extending over streets shall be trimmed to such an extent that no portion of the same shall interfere with normal traffic flow.
- D.) Reducing Tree-Lawn: No person shall by any type of construction reduce the size of the tree-lawn without first obtaining permission from the Zoning Commission.
- E.) Violations: A person who removes, damages or causes to be removed a public tree from the tree-lawn or other public place shall be required to replace the tree at his expense, with a tree having a minimum diameter of two and one-half (2 ½) inches.
- F.) Definitions:
- 1.) Large Tree: means any tree species which normally attains a full grown height in excess of fifty (50) feet.
  - 2.) Medium Tree: means any tree species which normally attains a full growth height of between twenty-five (25) and fifty (50) feet.
  - 3.) Small Tree: means tree species which normally attains a full-growth height of under twenty-five (25) feet.

### **Section 23.05 – PLAN SUBMISSION AND APPROVAL**

Whenever any property is affected by these landscaping requirements, the property owner or developer shall prepare a landscape plan. Where such plans are part of an application for rezoning, variance, conditional use or other matters which must be approved by the Township Zoning Commission or Township Board of Zoning Appeals, such plans shall be submitted as part of the required application and other required plans. All other landscape plans shall be approved by the Township Zoning Department.

- A.) Plan Content: The contents of the plan shall include the following:
- 1.) Plot plan, drawn to an easily readable scale no smaller than one inch equal twenty feet; showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings and other structures, vehicular use areas including parking stalls, driveways, service areas square footage, etc., location of structures on adjoining parcels, water outlets and landscape materials, including botanical names and common names, installation sizes, on center planting dimensions where applicable, and qualities for all plants used and all existing trees:
  - 2.) Typical elevations and/or cross sections as may be required.



- 3.) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, general orient plan so that north is to top of plan and zoning district.
- B.) Zoning Permit and Certificate of Occupancy: Where landscaping is required, no zoning permit shall be issued until the required landscaping plan has been submitted and approved and no certificate of occupancy shall be issued until landscaping is completed as certified by an on-site inspection by the Zoning Department, unless a performance bond, or irrevocable letter of credit from a banking institution, has been posted. If the required landscaping has not been completed and a temporary certificate of occupancy is issued, a performance bond or irrevocable letter of credit from a banking institution shall be posted at that time.
- C.) Posting of Bond or Irrevocable Letter of Credit: After a performance bond or irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within six months after the date of posting the bond or irrevocable letter of credit. A one month extension of the planting period may be granted by the Zoning Department upon demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant material. No more than three such one month extensions may be granted. Proceedings shall be brought against the performance bond or irrevocable letter of credit if the required landscaping plans have not been complied with by the end of the approved planting period.

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## **ARTICLE 24 – NON-CONFORMING USES**

### **Section 24.01 – CONTINUANCE**

The lawful use of any dwelling, building or structure and of any land or premises, as existing and lawful at the time of enactment of this Zoning Resolution or any amendments hereto, may be continued, although such use does not conform with this Zoning Resolution or amendments hereto, but if any such nonconforming use is voluntarily discontinued for two years or more, any future use shall be in conformity with this Zoning Resolution and amendments hereto.

### **Section 24.02 – RESTORATION**

When a structure, the use of which does not conform to the provisions of this Zoning Resolution, is damaged by fire, explosion, flood, wind, earthquake, or other calamity outside the control of the owner or occupant, to the extent that the cost of restoration is more than sixty (60%) percent of its value, it shall not be restored unless in conformity with the provisions set forth in this Zoning Resolution, as amended, for the district in which it is located, or unless a variance is granted by the Board of Zoning Appeals pursuant to Article 28; provided, however, such restoration shall be commenced within ninety (90) days of such calamity and diligently continued until completed. For the purposes of this section “value” shall be defined as the replacement cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines for the structure.

### **Section 24.03 – ENLARGEMENT**

No non-conforming building or use may be completed, restored, reconstructed, extended or substituted except upon the granting of a variance by the Board of Zoning Appeals pursuant to Article 28 and this section.

The Board of Zoning Appeals shall have the power to permit changes and extensions of nonconforming uses as follows:

- A.) A non-conforming use of less objectionable nature may be substituted for an existing non-conforming use.
- B.) An existing, legal non-conforming use, which occupies only a portion of all existing structure or premises, may be extended to additional portions of such structure or premises.
- C.) The alteration or reconstruction of a non-conforming use, structure, sign or building provided that such will make the non-conforming use substantially more in character with its surroundings.
- D.) The extension of a non-conforming use when such extension will substantially make the nonconforming use more in character with its surroundings.
- E.) Any extension shall not be more than fifty (50%) percent greater in size than the non-conforming use that existed at the time of passage of this Zoning Resolution.

The Board of Zoning Appeals may impose such requirements and conditions, as they may deem necessary for the protection of adjacent properties and the public interest.

**Section 24.04 – NON-CONFORMING LOTS**

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record at the time of the enactment of this resolution, which has an area and/or lot width less than that required for such structure or permit use in the Zoning District in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of Article 28. Such non-conform lots must be in separate ownership and not have continuous frontage with other land in the same ownership on the effective date of the applicable amendment to the Zoning Resolution. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

Such non-conforming lots which must, for public health purposes, construct on-site water supply and/or wastewater disposal systems, may not divide or convey adjacent lots in common ownership and of continuous frontage with other land in the same ownership on the effective date of this amendment to the Zoning Resolution, if such conveyance would decrease the effective lot size below that required for public health standards. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located. A non-conforming lot shall not be built upon without a valid sewer tap or sewage permit from the Delaware Public Health District.

## **ARTICLE 25 – ZONING INSPECTOR, ZONING CERTIFICATES, AND APPLICATIONS**

### **Section 25.01 – TOWNSHIP ZONING INSPECTOR**

The Board of Township Trustees shall appoint a Township Zoning Inspector, together with such assistants as may be necessary. It shall be the duty of the Township Zoning Inspector to compare each zoning certificate application with the then existing zoning map. The Township Zoning Inspector, before entering upon the duties of his office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, signed by two (2) or more freeholders having real estate in the value of double the amount of the bond, over and above all encumbrances to the state, in the sum of not less than one thousand dollars (\$1,000.00) or more than five thousand dollars (\$5,000.00) as fixed by the Board of Township Trustees. The Board of Township Trustees shall approve such surety company or real estate bond, and the bond shall be conditioned upon the faithful performance of such Zoning Inspector's official duties. Such bond shall be deposited with the Township Fiscal Officer. The compensation for such Zoning Inspector shall be set and paid by the Board of Township Trustees. Duties of the Zoning Inspector shall include:

Section 25.01(a) Review all applications within the Township for zoning permits to insure they conform to all applicable provisions of this Resolution. The Zoning inspector shall keep a record of all applications.

Section 25.01(b) Conduct on-site inspections to insure the actual construction will conform to the zoning permit.

Section 25.01(c) Upon finding that any of the provisions of this resolution are being violated, the Zoning Inspector shall notify, in writing, the person responsible for such violation and order the action necessary to correct such violation.

Section 25.01(d) Order discontinuance of illegal uses of land, buildings or structures.

Section 25.01(e) Order removal of illegal buildings or structures or illegal additions or structural alterations.

Section 25.01(f) Review all applicable subdivision plats and lot splits that are submitted to the Delaware County Regional Planning Commission in order to determine if the plat or lot split conforms to all applicable provisions of this Resolution.

Section 25.01(g) Inspect sites where applications for Zoning Variances have been requested, and provide testimony as a witness for the township at the Board of Zoning Appeals hearing, stating evidence of what was witnessed at the site in relation to the conditions upon which the variance request is based.

### **Section 25.02 – ZONING CERTIFICATE REQUIRED**

No structure shall hereafter be located, constructed, reconstructed, enlarged or structurally altered, nor shall any work be started upon the same, nor shall any use of land be commenced until a zoning certificate for same has been issued by the Delaware Township Zoning Inspector, which certificate shall state that the proposed building and use comply with all the provisions of this Zoning Resolution or the approved Development Plan. No zoning certificate shall be required for any agricultural building to be erected on land presently used for agricultural purposes or for any building incidental to the agricultural use of the land

on which said buildings are proposed to be located nor shall a certificate be required for use of land or building or construction of any building used for public utility or railroad purposes. The Zoning Inspector will require a zoning certificate for cell towers in a residential district pursuant to O.R.C 519.211.

### **Section 25.03 – PROCEDURES FOR OBTAINING ZONING CERTIFICATE**

No zoning certificate shall be issued by the Township Zoning Inspector until the zoning certificate application shows that the property is being or is to be used in complete conformity with this Zoning Resolution and the official Zoning Map. In every case where the lot is not served and is not proposed to be served with public water, supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Delaware Public Health District of the proposed method of water supply and/or disposal of sanitary wastes. The Township Zoning Inspector shall issue no zoning certificate until the applicant for said zoning certificate has submitted a plot plan of the area upon which the applicant's structure or use is proposed. Said plan shall show the type of proposed use, structural dimensions at the ground, lot dimensions, side, front and rear yard setbacks, compliance with all applicable development standards and a signed statement that said applicant will conform with all zoning regulations then in force for said area.

Fees for zoning certificates shall be established by the Township Trustees.

### **Section 25.04 – CONDITIONS OF CERTIFICATE**

No zoning certificate shall be effective for more than one (1) year unless the use specified in the permit is implemented in accordance with the approved plans within said period or timetable attached to said plans.

### **Section 25.05 – CERTIFICATE OF COMPLIANCE**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefore the Zoning Inspector, stating that the proposed use of the building or land conforms to the requirements of this Resolution.

### **Section 25.06 – TEMPORARY CERTIFICATE OF COMPLIANCE**

A temporary certificate of compliance may be issued by the Zoning Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion; such permit may be renewed twice at the discretion of the Zoning Inspector.

### **Section 25.07 – ZONING CERTIFICATE (CHANGE OF USE)**

Change of use shall be made in any building or part thereof now or hereafter located, constructed, reconstructed, enlarged or structurally altered except for agricultural purposes, without a zoning certificate being issued by the Township Zoning Inspector. No zoning certificate shall issued to make a change in use unless the changes have been made in conformity with the provisions of this Zoning Resolution, or unless a variance or special permit has been granted by the Board of Zoning Appeals.

### **Section 25.08 – NON-CONFORMING USES**

Nothing in this Article shall prevent the continuance of a non-conforming use as hereinbefore authorized unless discontinuance is necessary for the safety of life or property.

### **Section 25.09 – RECORD**

A record of all zoning certificates shall be kept on file in the office of the Township Zoning Inspector,

**Section 25.10 – COMPLAINTS**

The Zoning Inspector shall investigate all complaints received from residents alleging illegal activity and shall report findings to the Township Trustees. The Inspector may require that all such complaints be submitted in writing.

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## **ARTICLE 26 – ZONING COMMISSION**

### **Section 26.01 – TOWNSHIP ZONING COMMISSION**

The Delaware Township Trustees hereby creates and establishes a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the township, to be appointed by the Board, and the terms of the members shall be five (5) years and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the Board upon written charges being filed with the Board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Delaware Township Trustees and shall be for the unexpired term. The Township Trustees may appoint two (2) alternates to the Township Zoning Commission for a term not to exceed five (5) years.

### **Section 26.02 – COMPENSATION AND EXPENSES**

The members of the Zoning Commission may be allowed their expenses or such compensation, or both, as the Township Trustees may approve and provide. The Zoning Commission may, within the limits of monies appropriated by the Township Trustees for the purpose, employ such executives, professionals, technical assistants or other assistants, as it deems necessary.

### **Section 26.03 – FUNCTIONS OF THE TOWNSHIP ZONING COMMISSION**

The Township Zoning Commission shall initiate or review all proposed amendments to this resolution and make recommendations to the Township Trustees in accordance with both the provisions of the Zoning Resolution and applicable law, and shall perform such other functions as provided for herein.

The Township Zoning Commission may, within the limits of the monies appropriated by the Board of Township Trustees for the purpose, employ or contract with such planning consultants and executive and other assistants, as it deems necessary.

The Township Zoning Commission shall organize, adopt rules for the transaction of its business, and keep a record of its actions and determinations.

The Township Zoning Commission shall employ no Township Trustee. The Zoning Commission shall make use of such information and counsel as is available from appropriate public officials, departments, and agencies, and such officials, departments, and agencies having information, maps, and data pertinent to township zoning shall make them available for the use of the Zoning Commission.

In any county where there is a county or regional planning commission, the Zoning Commission may request such planning commission to prepare or make available to the Zoning Commission a zoning plan, including text and maps, for the unincorporated area of the township or any portion of the same.

### **Section 26.04 – ZONING SECRETARY**

To assist in the administration of this Zoning Resolution, the Township Trustees may appoint a Zoning Secretary whose duty it shall be to maintain township zoning records, confirm information in applications, process all notices required under this Zoning Resolution, record the minutes of the Zoning Commission and the Board of Zoning Appeals, assist the Zoning Inspector, and perform such other duties relating to

this Zoning Resolution as the Township Trustees may from time to time direct. The Zoning Secretary shall be compensated at rates set from time to time by the Township Trustees. The Township Fiscal Officer may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

**Section 26.05 – MEETINGS AND AGENDA OF TOWNSHIP ZONING COMMISSION**

The Zoning Commission shall meet as necessary in a public building within the township.

**Section 26.06 – MINUTES**

The minutes of each meeting of the Zoning Commission shall be kept by the Zoning Secretary on file in the township hall with the other zoning records.

## **ARTICLE 27 – AMENDMENTS (ZONING CHANGES)**

### **Section 27.01 – AMENDMENTS OR SUPPLEMENTS**

This article is intended to be a restatement of section 519.12 of the Revised Code of Ohio and is adopted herein for the convenience of the citizens of Delaware Township. Any amendments to Section 519.12 adopted by the Ohio Legislature shall be considered adopted herein, Amendments to the Zoning Resolution may be initiated by motion of the Township Rural Zoning Commission, by the passage of a resolution therefore by the Board of Township Trustees or by filing of an application therefore by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement with the Township Zoning Commission. The Board of Township Trustees may require that the owner or lessee of the property filing an application to amend the Zoning Resolution to pay a fee therefore to defray the cost of advertising, mailing, and other expenses. If the Township Trustees require such a fee, it shall be required generally, for each application. The Board of Township Trustees shall upon the passage of such resolution certify it to the Township Zoning Commission.

Upon the adoption of such motion, or the certification of such resolution or the filing of such application the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than twenty (20) nor more than forty (40) days from the date of the certification of such resolution, or the date of adoption of such motion or the date of the filing of such application. The Township Zoning Commission shall give notice of such hearing by one publication in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing. The published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, as listed on the County Auditor's current tax list, written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within, contiguous to, directly across the street from, and within 200 feet of the perimeter boundaries of the area proposed to be rezoned or redistricted to the addresses of such owners as appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment. The mailed notices shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

Within five (5) days after the adoption of such motion or the certification of such resolution or the filing of such application the Township Zoning Commission shall transmit a copy thereof together with text and map pertaining thereto to the County or Regional Planning Commission, if there is such commission.

The County or Regional Planning Commission shall recommend the approval or denial of the proposed amendment or the approval of some modification thereof and shall submit such recommendations to the Township Zoning commission. Such recommendation shall be considered at the public hearing held by the Township Zoning Commission on such posed amendment.

The Township Zoning Commission shall, within thirty (30) days after such hearing, recommend the approval or denial of the proposed amendment, or the approval of some modification thereof and submit such recommendation together with such application or resolution, the text and map pertaining thereto, and the recommendation of the County or Regional Planning Commission thereon to the Board of Township Trustees.

The Township Trustees shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment, which date shall not be more than thirty (30) days from the date of the receipt of recommendation from the Township Zoning Commission. The Board of Township Trustees shall give notice of such public hearing by one publication in one or more newspapers of general circulation in the Township, at least ten (10) days before the date of such hearing.

The Published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

Within twenty (20) days after such public hearing the board of Township Trustees shall either adopt or deny the recommendations of the Zoning Commission or adopt some modification thereof. In the event the Township Trustees denies or modifies the recommendation of the Township Zoning Commission the unanimous vote of the Board of Township Trustees shall be required.

Such amendment adopted by the Board of Township Trustees shall become effective in thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the township equal to not less than eight (8%) percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at the next primary or general election. The petition shall comply with the requirements of Sections 519.12 and 3501.38 of the Ohio Revised Code.

No amendment or supplement for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment. Upon certification by the Board of Elections that the voters have approved the amendment it shall take immediate effect.

Within five (5) working days after an amendment's effect date, the Board of Township Trustees shall file the text and maps of the amendment in the office of the County Recorder and with the Regional or County Planning Commission if one exists.

The Board shall file all amendments, including text and maps, that are in effect on January 1, of each year in the office of the County Recorder within thirty (30) working days after date. The Board shall also file a duplicate of the same documents with the Delaware County Regional Planning Commission within the same period.

The failure to file any amendment, or any text and maps, or duplicates of any of these documents, with the office of the County Recorder or the County or Regional Planning Commission as required by the section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.

### **Section 27.02 – FORM OF APPLICATION**

All applications to amend this Resolution and/or the zoning map shall be submitted on such forms as designated and approved by the Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application.

**Section 27.03 – RECORD**

On any application for an amendment or supplement to the Zoning Resolution of which the applicant desires a record to be made, the applicant shall give notice to the Secretary of the Zoning Commission or the Fiscal Officer of the Board of Township Trustees, as the case may be requesting that a court reporter be retained to make such record. The applicant shall make such request not less than ten (10) days prior to the scheduled hearing and shall deposit with his request cash in the amount established by the Trustees to be used to defray the expenses incurred in making the record. All expenses of transcribing the record shall be borne by the person requesting the preparation of the transcript. In all hearings wherein no timely request has been made for a record, or where a party does not request and pay for official stenographic transcript, the notes the Zoning Secretary of the Township Zoning Commission or of the Fiscal Officer of the Board of Township Trustees, as the case may be, shall serve as the sole transcript of such hearing.

**Section 27.04 – FEES**

The owner or lessee of property filing an application to amend or supplement this Zoning Resolution shall deposit with such application a fee. The Township Trustees shall establish the amount of such fee. See fee schedule.

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## **ARTICLE 28 – BOARD OF ZONING APPEALS**

### **Section 28.01 – BOARD OF ZONING APPEALS**

A township Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five (5) members who shall be appointed by the Board of Township Trustees and who shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five (5) years and so arranged that the term of one member will expire each year. Each member of the Board of Zoning Appeals shall serve until his successor is appointed and qualified. Members of the Board of Zoning Appeals shall be removable for the reason specified and in compliance with the procedure established in Chapter 519 of the Ohio Revised Code. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term. The Township Trustees may appoint (2) alternate members to the Board of Zoning Appeals for terms not to exceed (5) years.

### **Section 28.02 – ORGANIZATION**

The Board of Zoning Appeals shall organize, electing a chairman and vice chairman, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceeding showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees at the Township Hall, and shall be public record. The presence of three (3) persons from the Board of Zoning Appeals and/or designated alternates as defined in Section 28.11 shall constitute a quorum.

### **Section 28.03 – COMPENSATION AND EXPENSES**

The members of the Board of Zoning Appeals may be allowed their expenses or such compensation, or both, as the Board of Township Trustees may approve and provide. The Board of Zoning Appeals may, within the limits of monies appropriated by the Board of Township Trustees for the purpose, employ such executives, professionals, technical assistants and other assistants, as it deems necessary.

### **Section 28.04 – POWERS OF THE BOARD:**

The Township Board of Zoning Appeals may:

- A.) Hear and decide appeals where it is alleged there is error in any order requirement, decision, or determination made by an administrative official in the enforcement of Section 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto.
- B.) The Board of Zoning Appeals shall have the power to authorize, in specific cases, variances that relate solely to area requirements from the provisions of this resolution as will not be contrary to the public interest.

Such area variances shall be granted only in cases of special conditions, involving physical conditions of the land, whereby strict application of such provisions or requirements would result in practical difficulty that would deprive the owner of the beneficial use of the land and buildings involved. No variance from the strict application of any provision of this Resolution shall be granted by the Board unless it finds that, based upon the relevant facts and circumstances, that applicant has established

by a preponderance of the evidence that the applicant has encountered practical difficulties and that a strict application of an area zoning requirement, e.g. frontage, setback is inequitable.

In considering an application for an area variance, the Board of Zoning Appeals shall observe the spirit of this Resolution and weigh the competing interests of the applicant and the community. The factors to be considered and weighed in determining whether an applicant has encountered practical difficulties include, but are not limited to the following:

- 1.) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
- 2.) Whether the variance is substantial.
- 3.) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
- 4.) Whether the variance would adversely affect the delivery of governmental services.
- 5.) Whether the property owner purchased the property with knowledge of the zoning restriction.
- 6.) Whether the problem can be solved by some manner other than the granting of the variance;
- 7.) Whether the variance preserves the "spirit and intent" of the zoning requirement and whether "substantial justice" would be done by granting the variance; and
- 8.) Whether the property owner has created a self-imposed hardship.

- C.) In considering an application for a use variance, the Board of Zoning Appeals shall determine whether, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Resolution, or by reason of exceptional topographic conditions, or other extraordinary situations or conditions of such parcel of property, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Resolution would involve unnecessary hardship, the Board shall have power to authorize a use variance from the terms of this Resolution.

Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates are provided for in the Zoning Resolution.

Revoke an authorized conditional zoning certificate granted for the extraction of minerals, if any condition of the certificate is violated.

The Board of Zoning Appeals shall notify the holder of the conditional use certificate by certified mail of its intent to revoke the certificate and of his right to a hearing before the Board, within thirty (30) days of the mailing of the notice, if he so requests. If the holder requests a hearing, the Board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person by his attorney or other representative, or he may present his position in writing, may present evidence and examine witnesses appearing for or against him. If no hearing is requested, the Board may revoke the conditional use certificate without a hearing. The authority to revoke a conditional use certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above mentioned powers, such Board, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed



from, and may make such orders, requirement, decision, or determination as ought to be, and to that end has all powers of the officer from whom appeal is taken.

### **Section 28.05 – PROCEDURE ON HEARING APPEALS**

Appeals the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give ten (10) days written notice by ordinary mail to the applicant and any abutting property owners within 500 feet of the property in question, give notice of such public hearing by one publication in a newspaper of general circulation within the township at least ten (10) days prior to the date of such hearing, and decide the same within a reasonable time after it is submitted. At the hearing, any party may appear in person or by attorney.

### **Section 28.06 – PROCEDURE ON APPLICATION FOR VARIANCE**

The Township Board of Zoning Appeals, appointed by the Township Board of Trustees, may upon application, grant such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest, and shall provide written notice of its decision to the applicant.

- A.) **Form of Application:** All applications for variances under this section shall be submitted on such forms as designated and approved by the Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application and all applicable fees have been paid.
- B.) **Public Notice:** Written application for a variance shall be made to the Township Zoning Inspector who shall transmit said application to the Board of Zoning Appeals. The Board of Zoning Appeals shall give written notice by ordinary mail to the applicant and to all owners of land within five hundred (500) feet of the exterior boundaries of the land for which a variance is requested. An application for a variance shall be advertised at least once in a newspaper of general circulation within the township not less than ten (10) days prior to the scheduled hearing. The notice shall state the time and place of the public hearing, and the nature of the proposed appeal or variance.
- C.) **Hearing and Decision:** At such hearing the applicant shall present a statement and adequate evidence, in such form as the Township Board of Zoning Appeals may require. Within a reasonable period of time after the public hearing of the Board of Zoning Appeals shall either approve, disapprove or approve with supplementary conditions. In granting such variance the Board shall observe the spirit of this Resolution and weigh the competing interests of the applicant and the community using the factors as defined in Section 28.04(B) (1)-(8).

In granting any variance under the provisions of this section, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions as deemed necessary to secure the objectives of the standards set forth in this Article and to carry out the general purpose and intent of this Resolution. Violation of the conditions, safeguards and restrictions when made party to the terms under which the request for the variance is granted, shall be deemed a violation of this resolution.

**Section 28.07 – PROCEDURE ON APPLICATION FOR CONDITIONAL USE PERMIT**

The owner of any land or building within a zoning district within the township may apply to the, Board of Zoning Appeals for authority to carry out any use designated as a Conditional Use within that district.

- A.) Form of Application – An application for a Conditional Use permit shall be submitted on such forms as designated and/or approved by the Township Trustees. No application shall be considered unless the same is fully completed and accompanied by all required information on said application together with plot plans or drawing as necessary and all applicable fees have been paid.
- B.) Hearing - The application shall be transmitted to the Board of Zoning Appeals who shall cause a public hearing to be held.
- C.) Notice - Notice of the application for a Conditional Use permit and the hearing thereon shall be given to all property owners within five hundred (500) feet of the premises on which the use is planned. Notice shall be given by ordinary mail. In addition thereto one notice of said meeting shall be published once in the newspaper of general circulation within the township not less than ten (10) days prior to the scheduled hearing. The notice shall set out the time and place of the meeting, as well as the general nature of the conditional use.
- D.) Decision - The Board shall make its decision within a reasonable time after the hearing. If the Board, in its discretion, approves the Conditional Use permit, it may impose such conditions, as it deems necessary to ensure that the use will be conducted in the best interest of the zoning district.

In addition to the specific requirements for conditional uses specified in the district regulations, a proposed conditional use shall meet all of the following requirements:

- 1.) The use is in fact a conditional use as established under the district regulations.
- 2.) The use is of such nature and will be designed, constructed, operated and maintained so as to be harmonious and appropriate with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- 3.) The use will not pose a discernible hazard to existing adjacent uses.
- 4.) The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
- 5.) The use will not involve uses activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- 6.) The use will be consistent with the objectives of this Zoning Resolution.

Failure to comply with the terms of a conditional use permit shall result in a zoning violation.

- E.) Expiration: If, for any reason, the Conditional Use is not started within six (6) months or if said use ceases for a period of more than six (6) months, the Permit shall expire and a new application shall be required.

**Section 28.08 – DECISION OF BOARD**

The Board of Zoning Appeals shall act by resolution, in which three (3) members concur and every action shall be accompanied by a written finding of fact, based on testimony and evidence and specifying the

reason for a granting or denying of the request. A copy of the Board's resolution accompanied by the Board's finding of fact shall be mailed to the applicant by ordinary mail.

**Section 28.09 – RECORD**

For any hearing at which the applicant desires a record to be made, the applicant shall give notice not less than ten (10) days prior to the date scheduled for said hearing to the Zoning Secretary requesting that a court reporter be retained to make such record, and the applicant shall deposit with his request cash in the amount established by the Trustees to be used to defray the expenses of making a record.

**Section 28.10 – FEES TO ACCOMPANY NOTICE OF APPEAL OR APPLICATION FOR VARIANCE OR CONDITIONAL USE**

For all actions of the Board of Zoning Appeals the Board of Township Trustees shall establish fees to be deposited with each application. Such fees shall be assessed annually and shall be required generally for each application to defray the costs of mailing and other expenses.

**Section 28.11 – ALTERNATES**

The Board of Trustees may appoint two (2) alternate members to the Board of Zoning Appeals for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.

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## **ARTICLE 29 – ENFORCEMENT**

### **Section 29.01 – VIOLATIONS**

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of this Zoning Resolution, or amendment or supplement to such Resolution, adopted by the Township Board of Trustees pursuant to Chapter 519, Ohio Revised Code. Each day's continuation of a violation of this section shall be deemed a separate offense irrespective of whether or not a separate notice of violation or affidavit charging a violation has been served upon the violator for each day the offense continues.

### **Section 29.02 – REMEDIES**

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of Chapter 519, Ohio Revised Code, or of this Zoning Resolution or amendments hereto adopted by the Board of Township Trustees under such Resolution, such Board, the prosecuting attorney of the county, the township zoning inspector, or any adjacent or neighboring property owner who would be especially damaged such violation, in addition to other remedies, provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction enlargement, change, maintenance, or use. The Board of Township Trustees may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section.

### **Section 29.03 – PENALTY**

Whoever violates the provisions of this Zoning Resolution and amendments hereto Chapter 519, Ohio Revised Code, shall be fined not more than five hundred (\$500.00) dollars for each offense or the maximum fine or imprisonment as provided by law, whichever is greater.

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## **ARTICLE 30 – SEVERABILITY AND REPEAL**

### **Section 30.01 – SEVERABILITY**

If for any reason any one or more articles, sections, sentences, clause or parts of this Zoning Resolution are held invalid, judgment shall not affect, impair or invalidate the remaining provisions of this Zoning Resolution but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Zoning Resolution held invalid, and the invalidity of any section, sentence, clauses or parts of this Zoning Resolution in any one or more instances shall not affect or prejudice in any way the validity of this Zoning Resolution in any other instance.

### **Section 30.02 – REPEAL**

Only complying with the requirements of Chapter 519, Ohio Revised Code, as amended, may repeal This Zoning Resolution.

### **Section 30.03 – REPEAL OF CONFLICTING RESOLUTION**

The Township Zoning Resolution or parts thereof previously in effect in Delaware Township, Delaware County, Ohio not otherwise adopted as part of this Amended Zoning Resolution, and in conflict with the Zoning Resolution as it initially was established or established hereafter are hereby repealed. However, all civil legal proceedings and/or all prosecutions resulting from violation of any Zoning Resolution or part thereof heretofore in effect, which are now pending in any of the Courts of the State of Ohio or of the United States, shall not be abated or abandoned by reason of the adoption of any amendment to this Zoning Resolution but shall be prosecuted to their finality the same as if amendments to this Zoning Resolution had not been adopted. Any and all violations of existing Zoning Resolutions, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Zoning Resolution shall be construed to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

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(end of Resolution)