

**ZONING RESOLUTION AMENDMENTS BROWN TOWNSHIP  
DELAWARE COUNTY OHIO**

**EFFECTIVE**

June 2023

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## **ARTICLE 1 – Title**

### **Section 1.01**

This Resolution shall be known and may be cited and referred to as the Brown Township Zoning Resolution, Delaware County, Ohio.

## **ARTICLE 2 – Purpose**

### **Section 2.01**

This Resolution is enacted for the purposes set forth and pursuant to the authority contained in Chapter 519 of the Ohio Revised Code.

## **ARTICLE 3 – Interpretations of Standards**

### **Section 3.01**

In their interpretation and application, the provisions 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; however, where the provisions of this Resolution are less restrictive, the more restrictive provision of other laws, rules, regulations, restrictions or resolutions shall control. Zoning boards 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 or approved.

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## ARTICLE 4 – Definitions

### Section 4.01

All words used in this Resolution shall have their customary meanings as defined in Webster’s New World Dictionary most recent published edition, except those specifically defined herein or elsewhere in this Zoning Resolution. Unless the context otherwise requires, words used in the present tense include the future tense; the singular number includes the plural; the term “shall” is mandatory; the term “may” is permissive, the phrase “used for” shall include, without limitation, the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”; the word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

**Accessory Use (or Structure):** A use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, and is customarily incidental to the principal use, object, or structure. Among other things, “Accessory Use” includes anything of a subordinate nature attached to or detached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, poles, poster panels, and billboards. Except as otherwise required in the Resolution, an accessory use shall be a permitted use.

**Administrative Officer:** The official charged with the administration and enforcement of the Zoning Resolution; the Brown Township Zoning Inspector.

**Adult:** An individual eighteen years of age or older.

**Adult Arcade:** Any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

**Adult Bookstore, Adult Novelty Store, or Adult Video Store:** A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

- 1.) Hard core material.
- 2.) Adult novelties, instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

**Adult Cabaret:** A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- 1.) Persons who appear in a state of nudity or semi-nudity;
- 2.) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;
- 3.) Films, motion pictures, video cassettes, DVDs, slides, or other photographic reproductions, which are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

**Adult Care Facility:** An adult family home or an adult group home. For the purposes of this Resolution, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. Adult care facility does not include:

- 1.) A facility operated by a hospice care program licensed under ORC 3712.04 that is used exclusively for care of hospice patients;
- 2.) A nursing home, rest home, or home for the aging as defined in ORC 3721.01.
- 3.) A community alternative home as defined in ORC 3724.01.
- 4.) An alcohol and drug addiction program as defined in ORC 5119.81.
- 5.) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code.
- 6.) A facility licensed to provide methadone treatment under section 5119.391 of the Revised Code.
- 7.) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities.
- 8.) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care.
- 9.) Any facility that receives funding or operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless
- 10.) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code.
- 11.) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans 38 USC § 8105.
- 12.) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio Board of Regents under Chapter 1713 of the Revised Code.

**Adult Entertainment:** The sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, DVDs, magazines, periodicals or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

**Adult Entertainment Establishment or Sexually Oriented Business:** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, lingerie modeling studio, nude or seminude model studio, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state ORC engage in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not an "adult entertainment establishment."

**Adult Family Home:** As defined in ORC 5122-33-9, a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three adults.

**Adult Group Home:** As defined under ORC 5122-33-9, an adult group home means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and adult personal care services to at least three of the unrelated adults.

**Adult Material:** Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, DVD, transparency, figure, image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch, and:

- 1.) Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or
- 2.) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

**Adult Motion Picture Theater:** A commercial establishment where films, motion pictures, video cassettes, DVDs, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

**Adults Only Entertainment Establishment:** An establishment which features services which constitute adult material, or which features exhibitions of persons totally nude, or topless, bottomless, strippers, male or female impersonators, or similar entertainment which constitute adult material.

**Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

**Advertising Area:** The entire sign area within a continuous perimeter forming a basic geometric figure which encloses the message or display along with any frame or other material, color, internal illumination or other feature which forms an integral part of the message and is used to differentiate the sign or billboard from the wall or supporting structure upon which it is placed. When a sign has two sides that are parallel and back to back, each side may comprise the maximum advertising area. The necessary supports or uprights are excluded from the graphic area if they give the visual appearance of a single color.

**Advertising Sign:** A sign which directs attention to a use, commodity, or service.

**Agriculture:** The use of land for farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals, poultry husbandry and the production of poultry and 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.

**Alley:** (See thoroughfare).

**Alterations, Structural:** 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.

**Anemometer:** An instrument that measures the force and direction of the wind.

**Antenna, Aerial:** An arrangement of wires or metal rods used in sending or receiving electromagnetic waves. Antennas may be freestanding or affixed to a building. 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.

**Base Flood:** A flood that is representative of a historic flood in the central Ohio region and characteristic of floods expected to have a one per cent chance of being equaled or exceeded in any given year in a century; sometimes referred to as Regional Flood or 100-Year Flood.

**Basement:** Floor space in a building partially or wholly underground, but having more than one-half (1/2) of its clear floor-to-ceiling height below the average grade of the adjoining ground. A basement shall be counted as a story if it does not meet the definition above.

**Bed and Breakfast:** A lodging house where the owners or manager reside in the residence and rent overnight rooms to lodgers for stays of up to two consecutive weeks. The lodging is secondary to the principal use of the dwelling as the owner's principal residence. No more than three rooms may be rented as a bed and breakfast.

**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.

**Boarding Kennel:** The use of any lot or premise where four (4) or more domesticated animals over four months of age are housed, bred, boarded, 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.

**Bottomless:** Bottomless means less than full opaque covering of male or female genitals, pubic area or buttocks.

**Building:** Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

**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 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; (c) 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:** 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 actually be computed at the actual building line, not the minimum setback line.

**Building, Principal:** The structure 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 to be held therein.

**CABO:** Council of American Building Officials.

**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 vacations 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.
- 5) **Travel Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses.
- 6) **Horse Trailer:** A structure mounted on wheels used to transport animals and designed to be drawn by a motor vehicle.

**Carry Out Restaurant:** An establishment which by design of physical facilities or by service or by packaging procedures permits or encourages the purchase of prepared ready to eat foods intended primarily to be consumed off the premises.

**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.

**Centerline:** As used herein, the midpoint between two edges of a paved road used for the purpose of determining setbacks.

**Centralized Sanitary Sewer Service:** Any sanitary sewer system, other than an individual septic tank tile field and individual treatment facility, 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 Inspector 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.

**Child Day-Care:** Administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than the parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four hour day in a place or residence other than the child's own home.

**Clear Fall Zone:** An area surrounding the wind turbine unit into which the turbine and/or turbine components might fall due to inclement weather, poor maintenance, faulty construction methods, or any other condition causing turbine failure that shall remain unobstructed and confined within the property lines of the primary parcel where the turbine is located. The purpose of the zone is that if the turbine should fall or otherwise become damaged, the falling structure will be confined to the primary parcel.

**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.

**Common Access Driveway (CAD) 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 Open Space:** As used herein, parcels of land together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites of the particular development and is accessible to such owners and occupants.

**Community NFIP administrator:** The person, persons, agency, or other local government entity responsible for the administration and enforcement of the National Flood Insurance Program in compliance with Federal Law 44 CFR Parts 59 and 60. For Unincorporated Brown Township the Delaware County Building Department is the Community NFIP Administrator.

**Comprehensive Plan:** A plan, or any portion thereof, adopted by the township showing the general location, extent, use and density 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 and serves as the general guideline or basis for zoning.

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

**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. These uses are permitted only after the applicant has followed the procedures outlined in Section 28.07.

**Conditional Use Permit:** A permit issued by the Zoning Inspector after authorization by the Board of Zoning Appeals to allow certain specific developments that would not otherwise be allowed in a particular zoning district. 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.

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

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

**Conservation Subdivision:** Residential planned unit development where half or more of the buildable land area is designated as undivided, permanent open space, and where most or all of the lots created face or abut common open space.

**Cowling:** A streamlined removable cover that encloses a wind turbine nacelle.

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

**Day Care Center:** (See Child Day Care).

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

**Decibel:** A unit of sound.

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

**Detached Dwelling:** A dwelling that is separate from and does not share a common wall or connect in any way to another dwelling.

**Detention Basin:** A storage facility for the temporary storage of storm water runoff.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Development Standards:** Standards controlling the size of structures and the relationship 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 within which certain regulations and requirements, or various combinations thereof, apply uniformly under the provisions of this Resolution.

**Display Publicly:** The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than hard core material are on display to the public.

**Distinguished or Characterized by their Emphasis upon:** The dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films "that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

**Drive Through Business or Window:** An establishment or part of an establishment designed for the conduct of business with customers who remain within a vehicle during the transaction.

**Dwelling:** Any building or structure which is wholly or partially used or intended to be used for living or sleeping by one or more human occupants.

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

**Dwelling Unit, Common Wall Single Family Attached:** Type of residential construction characterized by a common vertical firewall separating housing units, where no more than three units are attached in a group.

**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 residential building arranged or designed for four (4) or more dwelling units as separate and complete housekeeping units.

**Dwelling, Rooming House (Boarding House, Lodging House, Dormitory):** A dwelling or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

**Dwelling, Two Family:** A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units living independently of each other.

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

**Erection:** The acts of building, construction, altering, reconstructing, moving a structure upon, or 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. Telecommunications towers, as regulated by this Resolution, are excluded from essential services.

**Establishment:** Any business regulated by this Resolution.

**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, or plowing of ground for agricultural purposes, shall be exempted from this definition.

**Existing Features (Site Analysis) Plan:** Plan that depicts:

- 1.) A topographic map as published by the Delaware County Auditor's DALIS office;
- 2.) The location of steep slopes (over 20%), wetlands, watercourses, intermittent streams and 100-year floodplains, and all existing rights-of-way and easements;
- 3.) Soil boundaries as shown on USDA Natural Resources Conservation Service medium-intensity maps; and
- 4.) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails, and any sites listed on the ODNR Natural Diversity Inventory.

**Family:** (a) An individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or (b) A group of not more than five (5) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

**Farm:** A tract of land on which agricultural activities are conducted as the primary use, operated as a single unit by the owner, farm manager, tenant or renter in accordance with ORC 519.

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

**Feed Lot:** Land used for the confining and commercial feeding of livestock and not necessarily connected with any general farming upon the same lot or premises; a plot of land on which livestock are fattened for market. All feed lots shall obtain appropriate permits for waste treatment and disposal from the OEPA or the Delaware County Board of Health prior to the issuance of a zoning permit.

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

**Fence:** An artificially constructed barrier of material, such as wood, stone, vinyl, masonry or a combination of materials which are commonly utilized for attractively and effectively enclosing and screening areas of land. Manufactured material that is not originally manufactured for purposes of fencing and or screening shall not be utilized as fence material.

**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:** A parcel of land that is accessible only by a long narrow strip leading from a county approved road or common access driveway (CAD).

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry areas from (1) the overflow of inland or tidal waters, and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Study:** The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

**Flood Plain, 100 Year:** That land, including the floodway fringe and the floodway, subject to inundation by the 100-year regional flood.

**Flood, 100 Year, or Regional:** A large flood, which has previously occurred or which may be expected to reoccur with an average frequency of once in any one hundred (100) year period.

**Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base (100 year) flood without cumulatively increasing the water surface elevation of the 100 year flood plain more than one foot, as prescribed by the Flood Insurance Study.

**Floodway Fringe:** That portion of the flood plain, excluding the floodway that is necessary to carry and store a 100-year flood.

**Floor Area:** The square foot area of a building within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages exterior stairways, secondary stairways, and basements.

**Free Standing Sign:** A sign intended to be erected and used permanently whose support structure is imbedded in the ground.

**Frontage:** The side(s) of a lot abutting on a dedicated and improved public street, an improved private street, and/or an approved common access drives (CAD).

**Garages, Private:** A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises.

**Garage, Public:** A principal or accessory building other than a private garage, used for parking or temporary storage of motor vehicles.

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

**General Development Standards:** Common standards pertaining to all zoning districts. Minimum standards to be augmented by standards set forth elsewhere in this Resolution.

**GIS:** Geographic Information System.

**Grade:** Degree of inclination.

**Granny Flat:** 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.

**Greenbelt:** An open landscaped area that is used as a buffer between land uses.

**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.

**Gross Floor Area:** Gross floor area of a residential structure shall be computed as the sum of the gross horizontal area of the several floors of the residential structure, excluding finished or unfinished basements, breezeways, carports, garages, storage areas with only outside access, porches, unfinished attics, and other unheated and/or unfinished areas attached to the principal use or structure. Gross floor area of non-residential structure shall be computed as the sum of the gross horizontal floor area of the specified use.

**Gross Public Floor Area:** The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled public), stage areas, aisles, hallways and entryways.

**Groundwater:** The supply of freshwater under the surface in an aquifer or soil that forms the natural reservoir for potable water.

**Group Residential Facility:** A group residential facility is a community residential facility, licensed and/or approved and regulated by the State of Ohio, which provides rehabilitative services.

**Hard-core Material:** Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

**Home Occupation:** Home Occupation means an accessory use which is an activity, profession, occupation, service craft, or revenue-enhancing hobby 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 by conditional use permit, without any significant adverse effect upon the surrounding neighborhood.

**Homeowners Association:** A private non-profit corporation, association or other non-profit entity established by the developer to maintain such open space and facilities as may be dedicated to subdivision residents. Membership in such an association shall be mandatory for property owners and made a required covenant in any deed issued. It shall provide voting and use rights in the open space areas when applicable and may charge dues to cover expenses, which may include tax liabilities of common areas, recreational or utility facilities. Articles of association or incorporation must be recorded pursuant to subdivision plat approval.

**Hotel or Motel and Apartment Hotel:** A building in which lodging and/or boarding are provided and offered to the public for compensation. As such it is open to the public in contradistinction 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(s):** 1. Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment. 2. Street grading and surfacing with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and trees.

**Industrial:** A manufacturing facility or industry.

**Industrialized Unit:** A modular building unit or assembly of closed construction fabricated in an offsite facility, that is substantially self-sufficient as a unit or as a part of a greater structure and that requires transportation to the site of intended use. Industrialized unit includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured or mobile home as defined herein.

**Junk:** For the purposes of this Resolution, junk refers to any discarded material, 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 scrap ferrous or nonferrous materials.

**Junk Vehicle or Inoperable Vehicle:** As described in Ohio Revised Code 505.173 TITLE V.

**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.

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

**Licensed Professional Massage Studio:** An establishment offering massage therapy and/or body work by a massage therapist licensed under the Ohio Revised Code or under the direct supervision of a licensed physician.

**Lingerie Modeling Studio:** An establishment or business that provides the services of live models modeling lingerie to individuals, couples, or small groups in a room smaller than 600 square feet.

**Live Entertainment:** On site entertainment by live entertainers that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

**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 space 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:** For the purposes of this Resolution, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage and may consist of:

- 1.) A single lot of record;
- 2.) A portion of a lot of record;
- 3.) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

**Lot Coverage:** The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

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

**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 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 or parcel described by metes and bounds, the description of which has been so recorded.

**Lot Types:** Terminology used in this Resolution with reference to types of lots as follows:

- 1.) **Corner Lot:** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five (135) degrees.
- 2.) **Interior Lot:** A lot with only one frontage on a street.
- 3.) **Through Lot:** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- 4.) **Reversed Frontage Lot:** A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

**Lowest Floor:** 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.

**Major Thoroughfare Plan:** The portion of the comprehensive plan adopted by the Regional Planning Commission or Township indicating the general location recommended for arterial, collector, and local thoroughfares within the appropriate jurisdiction.

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

**Manufactured Home:** A non-self-propelled building unit or assembly of closed construction fabricated in an offsite 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 body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the number of square feet in a structure's exterior dimensions are 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 TITLE LXV) 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.

**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 compensation.

**Media:** Anything printed or written, or any picture, drawing, photograph, motion picture, film, video, DVD, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is used or may be used as a means of communication. Media includes but shall not necessarily be limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, other magnetic or digital media, and undeveloped pictures.

**Media Shop or Store, Mainstream:** A general term, identifying a category of business that sells and displays publicly various forms of media, at least 90% of which is not hard core material. A maximum of 10 % of the products sold may constitute hard core material, provided that any hard core materials are placed within an enclosed space, where entrance is limited to adult patrons only and where the hard core material is not displayed publicly.

**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 or Manufactured Home Park:** Any site, or tract of land under single ownership, upon which three or more mobile or manufactured 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.

**Multi-family Dwelling:** (See Dwelling, Multi-family).

**Nacelle:** Sits atop a wind tower and contains the essential mechanical components of the turbine to which the rotor is attached.

**NAICS:** North American Industrial Classification System, 2012 edition, for the United States, by the Executive Office of the President, Office of Management and Budget.

**Natural Green Space:** Natural Green Space is typically land perpetually set aside for the purposes of protecting and preserving its natural, scenic, open, wooded, water or wetlands against modification or encroachment. Lands set-aside as natural green space might be, but are not limited to ravines, wetlands, floodplains, woods, scenic views, or appropriate agriculture. If deemed appropriate by the zoning commission, open space may incorporate land for on-site wastewater disposal.

**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 Brown Township Comprehensive Plan;
- 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
- 6.) Local service) wires;
- 7.) Existing bodies of water.

**NFIP:** National Flood Insurance Program.

**Nonconformity:** Lots, uses of land, structures, and uses of structures and land in combination lawfully existing at the time of enactment of this Resolution or its amendments which do not conform to the regulations of the district or zone in which they are situated, and are therefore incompatible.

**Nonconforming Building or Structure:** A building or structure lawfully existing at the time of enactment of the 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.

**Nonconforming Lots of Record:** A parcel of real estate which has been surveyed, given a legal metes and bounds description and legally recorded in the County recorder's office prior to the adoption of or amendment to this Resolution, and which does not conform with the current zoning regulations.

**Nonconforming Use:** A legal use of a building and/or of land that antedates the adoption of these Regulations as amended from time to time and does not conform to the Regulations for the Zoning District in which it is located.

**Nude or Seminude Model Studio:** Any place where a person, who regularly appears in a state of nudity or semi-nudity, is provided money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

- 1.) By a college or university supported entirely or partly by taxation;
- 2.) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;
- 3.) In a structure to which all of the following apply:
  - a) It has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi-nudity is available for viewing.
  - b) In order to participate in a class in the structure, a student must enroll at least three days in advance of the class.
  - c) Not more than one nude or seminude model is on the premises at any one time.



**Nudity, Nude or State of Nudity:** means 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.

**Nursery, Day Care, or Child Care Center:** (See Child Day Care).

**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 smoke are examples of nuisances.

**Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter which is in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or which is placed where the flow of water might carry the same downstream to the damage of life or property.

**Off-Road Motorized Vehicles:** For the purpose of this Resolution off-road motorized vehicles shall include the following: all-terrain vehicles, snowmobiles, motorbikes or what is commonly referred to as dirt bikes.

**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:** Any parcel or area of unimproved land or water set aside, dedicated designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space land may be classified as either “common open space” or “natural green space” (as herein defined), or a combination of both. It does not include the areas of individual fee simple lots conveyed to homeowners. Common open space is typically land set-aside for passive or active recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses such as water areas, swimming pools, and tennis courts, other recreational facilities or land for on-site wastewater disposal if deemed appropriate by the zoning commission.

**Open Space Development:** Land that is designed and developed as a residential unit with open space as an integral characteristic. Instead of subdividing an entire tract into house lots of conventional size, the same number of housing lots may be clustered on a reduced amount of acreage on the condition that the remaining land in the tract is reserved for open space area, the future development or subdivision of which is prohibited.

**Open Space Easement (or Conservation Easement):** A recorded legal instrument that permanently preserves the underlying land for approved open space uses. The easement shall be tied to the title of the land regardless of the subsequent ownership of the land.

**Ordinary High Water Mark:** The ordinary high water mark is defined as the line between upland and bottomland which persists through successive changes in water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

**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 (24) 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:** A manufactured home that meets all of the following criteria:

- 1.) The structure is affixed to a permanent foundation, which means permanent masonry, concrete or locally approved footing or foundation).
- 2.) The structure, excluding any addition has a width of at least 22 feet at one point and a length of at least 22 feet at one point, and a total living area, excluding garages, porches or attachments, of at least 900 square feet.
- 3.) The structure has a minimum residential ("A") roof pitch of 3:12, conventional residential siding (i.e. lap, clapboard, shake, masonry), and a 6-inch minimum eave overhang, including appropriate guttering.
- 4.) The structure was manufactured after January 1, 1995.
- 5.) The structure is connected to appropriate facilities (sewer, water, electric, phone, etc.)
- 6.) Have at least 900 square feet of living area, or whatever greater square footage is uniformly required by zoning.
- 7.) All applicable zoning requirements uniformly imposed (i.e. minimum lot size; setbacks; minimum dwelling unit square footage; all indicia of mobility be removed upon placement upon its foundation) on all single-family dwellings in the district, (excepting contrary requirements for minimum roof pitch and requirements that do not comply with HUD code standards for manufactured housing).

**Permitted Density:** The number of dwelling units in a development. Such number shall be determined by dividing the net developable area by the conventional lot size for the zoning district being overlaid. If the proposed open space development is located in more than one zoning district, then the total number of dwelling units allowed within the tract shall be the sum of those allowed for the portion of land lying within each zoning district.

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

**Planned Unit Development:** An area of land on which a variety of uses are integrated and accommodated in a pre-planned environment under more flexible standards such as lot sizes and setbacks than those restrictions that would normally apply under this Resolution. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles, and landscaping plans.

**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.

**Political Graphic:** A billboard or other graphic the purpose of which is to support or oppose any candidate or candidates for public office or any ballot questions or issues to be voted on in any election.

**Porch:** 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.

**Primary Conservation Areas:** Steep slopes (over 20%), wetlands, watercourses, intermittent streams and 100-year floodplains.

**Primary Structure:** For each property, the structure that one or more persons occupy the majority of the time on that property for any reason. Primary structures include residences, commercial buildings, hospitals, and day care facilities. Primary structures exclude structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

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

**Prostitute:** A male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

**Projecting Sign:** A sign which is attached perpendicular to any building or structure.

**Public Improvement:** Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.

**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 electrical, gas, rail or passenger bus transport, communication, public water and sewerage services, and excluding telecommunications towers.

**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.

**Recreational Facilities, Governmental:** Facilities used for recreational purposes and operated by Brown Township or other governmental entities that are open to the public with or without charge.

**Recreational Facilities, Private:** Facilities used for recreational purposes which are not operated for commercial gain.

**Regularly Featured or Regularly Shown:** A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

**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.

**Religious Use:** A structure or place in which worship, ceremonies, rituals or education pertaining to a particular system of beliefs are held.

**Residential Care Facility:** (See Adult Care Facility).

**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:** One or more of the following:

- 1.) A signal receiving device which is to receive communication or other signals from satellites in earth orbit and other extraterrestrial 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.

**Secondary Conservation Areas:** Land typically consisting of upland forest, meadows, pastures, and farm fields that are part of the ecologically connected matrix of natural areas significant for wildlife habitat and/or water quality protection; historic, archaeological or cultural features listed (or eligible to be listed) on national, state or county registers or inventories, and scenic views into the property from existing public roads and other reasons. Secondary conservation areas are the “nice places” that are to be saved in a conservation subdivision in addition to the primary conservation areas.

**Seminude or State of Semi nudity:** A state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

**Septic System:** An underground system with a septic tank used for the decomposition of domestic waters.

**Setback:** A line established by this Resolution, generally parallel with and measured from the lot line, defining the limits of a yard in front of which no building, other than accessory building, or structure may be located.

**Sewage Disposal System, Central:** A waste water treatment system, approved by the appropriate county, state, city and/or federal agencies, which provides a collection network and a central waste water 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 General Health District Board of Health 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 a female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, by a finger or other object 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 the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

**Sexual Encounter Establishment:** A business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

- 1.) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.
- 2.) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Ohio Revised Code, is not a "sexual encounter establishment."

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

**Sign:** An outdoor display intended to identify or attract attention to the premises on which it is located; the businesses, organizations, or individuals conducting professional activities on the premises; or the products or services sold, distributed, produced, or repaired on the premises. Signs also include outdoor displays used by businesses, organizations, or individuals conducting professional activities on the premises to convey information, ideas, and opinions to the public.

**Sign Area:** 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 (1) 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.

**Small Wind Project:** Any wind project less than 5 MegaWatts (MW) which includes the wind turbine generator and anemometer.

**Specified Anatomical Areas:** The cleft of the buttocks, anus, male or female genitals, or the female breast.

**Specified Sexual Activity:** Any of the following:

- 1.) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or

- sodomy;
- 2.) Excretory function as part of the activities described in subpart (1) of the definition of “Specified Sexual Activity”.

**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 is not more than four (4) feet difference in elevation between the different levels of the floor. A basement shall not be counted as a story.

**Structure:** An existing building or anything constructed or erected, the use of which requires 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, antennas and signs.

**Structure, Accessory or Ancillary:** A subordinate structure, the use of which is incidental to that of a principal structure on the same lot.

**Structure, Principal:** A structure in which is conducted the principal use of the lot on which it is situated.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**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 one and one half (1.5) 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.

**Temporary Structure:** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**Temporary Use:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**Telecommunications Antenna:** Any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground wired communication systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.

**Telecommunications Tower:** As defined in Ohio Revised Code Section 519.211 (B).

**Thoroughfare Plan:** The Official Thoroughfare Plan of, and as adopted by the Delaware County Regional Planning Commission, 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 full width between property line bounding every public right-of-way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- 1.) **Alley:** A secondary access of not less than twenty (20) feet in width dedicated to public use for travel or transportation and affording vehicular access to abutting property
- 2.) **Arterial Street:** A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route. Arterial streets are designated on the Delaware County Thoroughfare Plan.
- 3.) **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. Collector streets are designated on the Delaware County Thoroughfare Plan.
- 4.) **Cul-de-sac:** A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
- 5.) **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.
- 6.) **Dead-end Street:** A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- 7.) **Local Street:** A street primarily for providing access to residential or other abutting property.
- 8.) **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 one hundred and eighty (180) degrees system of turns are not more than one thousand (1,000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.
- 9.) **Marginal Access Street:** A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called *Frontage Street*).

**Topless:** The showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.

**Touching Business:** Any adult entertainment establishment that encourages and/or allows physical contact between patrons and employees, for the purpose of sexual gratification or stimulation.

**Townhouse:** A building consisting of a series of three (3) or more attached or semi-detached dwelling units, each with a ground floor and a separate ownership.

**Tract:** An area, parcel, site, piece of land, or property that is the subject of a development application.

**Trailer Sign:** A sign mounted on a trailer chassis with or without wheels and used as an on-premise sign.

**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. Ultra-light 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 purposes for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

**Variance:** 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.

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

**Walkway:** A public way, four (4) feet or more in width, for pedestrian use only, whether along the side of a road or not.

**Wall Sign:** A sign 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.

**Wastewater:** Water carrying wastes from homes, businesses, and industries that is a mixture of water and dissolved or suspended solids, or excess irrigation water that is runoff to adjacent land.

**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.

**Watercourse:** 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.

**Wind Power Turbine Owner:** The person or persons who own(s) and/or is responsible for the Wind Turbine structure.

**Wind Power Tower:** The support structure to which the turbine and rotor are attached.

**Wind Power Turbine Height:** The distance from the rotor blade at its highest point to the top surface of the ground at the Wind Power Generating Facility (WPGF) foundation.

**Window Sign:** A sign which is physically affixed or attached to the glass or other structural component of a window and and/or is displayed or intended to be viewed from the outside of a structure through a window.



**Yard:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general ground level of the graded lot upward; provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height installations and requirements limiting obstruction of visibility.

- 1.) **Yard, Front:** A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.
- 2.) **Yard, Rear:** A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.
- 3.) **Yard, Side:** A yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards. a)

**Zoning Certificate:** A document issued by the Zoning Inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

**Zero Discharge Land Application System:** A method of land-applying treated effluent from an approved wastewater treatment plant, without discharge to a stream.

**Zero Lot Line Development:** An arrangement of housing on adjoining lots in which the required side yard is reduced on one side and increased on the other so that the sum of the offsets on any lot is no less than the sum of the required offsets. No building or structure shall be closer to a lot line than five (5) feet unless it abuts the lot line and is provided with an access easement of five (5) feet on the adjoining lot or abuts a building or structure on the adjoining lot. The offset adjacent to property not included in the zero lot line development or a street shall not be less than that required in the zoning district.

**Zoning Inspector:** The person designated by the Board of Township Trustees to administer and enforce zoning regulations and related Resolutions.

**Zoning Map:** The map or maps, which are part of the Zoning Resolution, and delineate the boundaries of the zoning districts. This map or maps may be in both hard copy and computerized form.



## **ARTICLE 5 – Districts and Boundaries**

### **Section 5.01 – ZONING DISTRICT**

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

- FR-1 – Farm Residence District
- R-2 – Low Density Residential District
- R-3 – Medium Density Residential District
- PRD – Planned Residence District
- C-2 – Neighborhood Commercial District
- PC – Planned Commercial and Office District
- PI – Planned Industrial District
- A-1 – Agricultural Preservation District
- PUD – Planned Unit Development
- PRCD – Planned Farm Residential Conservation District

### **Section 5.02 – DISTRICT BOUNDARIES**

The zoning districts and their boundaries are shown on the Official Zoning Map of Brown Township. The Official Zoning District Map, as legally amended from time to time by Resolution of the Brown 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 become part of Brown Township, Delaware County, Ohio, by any method after the effective date of this amendment shall automatically be classified as lying in and being in a Farm Residence District (FR-1).

### **Section 5.04 – RULES FOR INTERPRETATION OF BOUNDARIES**

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

- A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such 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 center lines or street lines of streets, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no 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 tracks of such railroad line.
- E. Where the boundary of a district follows a stream or other body of water, the centerline 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 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 – THE NATURE AND PURPOSES OF THE ZONING DISTRICTS**

The general nature and purpose of each of the Zoning Districts is as follows:

#### **Section 5.051 – FARM RESIDENCE DISTRICT (FR-1)**

The Farm Residence District is for agricultural and undeveloped land in the township where the conservation of farmland, open space and natural resources is important, where the residents wish to retain a rural atmosphere with very large lots, or where urban use of the land cannot be achieved because of the lack of urban services.

The intent of the Farm Residence District is to protect farmland, lands in current agricultural use valuation, and open land from the intrusion and premature development of urban uses. Because land in the Farm Residence District is the most subject to being placed in another Zoning District as growth of the township occurs, such changes should be made with due concern to the protection of established uses and the recommendations of the comprehensive plan.

#### **Section 5.052 – LOW DENSITY RESIDENTIAL DISTRICT (R-2)**

The R-2 district is provided for sections of the township with moderately low-density single family residential development, and access to centralized water and sewer systems. Minimum lot size is 29,600 square feet.

#### **Section 5.053 – MEDIUM DENSITY RESIDENTIAL DISTRICT (R-3)**

The R-3 district is provided in appropriate areas of the township for single family dwellings, and conditionally, multi-family residential development where there is access to centralized water and sewer systems, and a land access to a major collector or arterial street.

#### **Section 5.054 – PLANNED RESIDENCE DISTRICT (PRD)**

The Planned Residence District is a Planned Unit Development district.

- A. The PRD is intended to provide flexibility in the arrangement, design, lot size and setbacks of primarily single family dwellings in designated suburban areas based on a unified development plan.
- B. PRD's 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.
- C. Owner Initiated Planned Unit Development

**Section 5.055 – RESERVED**

**Section 5.056 – RESERVED**

**Section 5.057 – NEIGHBORHOOD COMMERCIAL DISTRICT (C-2)**

The Neighborhood Commercial district was intended to encourage groupings of small retail establishments to promote convenient shopping to residential neighborhoods in the time before the township adopted Planned Commercial zoning. The Neighborhood Commercial District is now archaic and is retained only for the benefit of land already so zoned. It is a standard district, not a Planned Unit Development.

**Section 5.058 – PLANNED COMMERCIAL AND OFFICE DISTRICT (PC)**

The Planned Commercial and Office District is a Planned Unit Development provided to encourage unified commercial areas usually under single ownership and control, or clustered together in planned out lots, 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. The principal tenant and the size of the center have much to do with its physical character, relationship to the community, and economic success, so these factors should be of concern in considering a Planned Commercial and Office District application. It is intended that the Planned Commercial and Office District 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 5.059 – RESERVED**

**Section 5.060 – RESERVED**

**Section 5.061 – PLANNED INDUSTRIAL DISTRICT (PID)**

The Planned Industrial District is a Planned Unit Development provided for many industrial establishments that 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. 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.

**Section 5.062 – RESERVED**

**Section 5.063 – AGRICULTURAL CONSERVATION DISTRICT (A-1)**

The Agricultural Conservation District is provided for landowners that wish to voluntarily place their land in an exclusively agricultural zoning district.

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## **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, constructed, 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**

Except as otherwise prohibited in this Section 6.02, 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.

- A. 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 A3 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.
- B. 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 zoning district, 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 shall 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 farm markets may use grassed areas for parking.

Permanent farm markets shall have graveled or paved parking 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 zoning district.

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

Sections 519.02 to 519.25 of the Ohio Revised Code confer power on a board of township trustees or board of zoning appeals with respect to the location, erection, construction, reconstruction, change, alteration, removal or enlargement of a telecommunications tower, but not with respect to the maintenance or use of such tower or any change or alteration that would not substantially increase the tower's height.

Public utilities or other functionally equivalent providers may site a telecommunications tower as a Conditional Use in zoning districts FR-1, R-2, R-3, PRD or Owner Initiated Planned Unit Development, provided that the following conditions are met (in addition to any other applicable criteria):

#### **A. Application Requirements.**

1. A preliminary development plan must be submitted at the time the application for the conditional use permit is submitted. The preliminary development plan shall contain the following:
  - a. The location of all the applicant's existing facilities both within the Township and within one (1) mile of the proposed site.
  - b. The general location of planned future facilities, if known.
  - c. For each location shown on the plan, there shall be listed:
    - 1.) The type and size of tower at each location;
    - 2.) The type of equipment located or proposed on each tower;
    - 3.) The space available on the tower for additional equipment; and
    - 4.) A site plan showing the parcel on which any existing or proposed tower, antenna or equipment is located.
  - d. A scaled and dimensioned site plan for the facility that is being applied for shall also be submitted containing:
    - 1.) The location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
    - 2.) The location of existing and proposed buildings and structures, access drives, circulation and parking areas;
    - 3.) Detailed drawings of the screening plan and related design standards;
    - 4.) On-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
    - 5.) Setbacks from property lines and dwellings within 600 feet of tower;
    - 6.) 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.
  - e. A written certification(s) from a qualified engineer(s) certifying the following:



- 1.) That the tower's design is structurally sound and in compliance with all applicable federal, state and local building laws including, without limitation, the Ohio Basic Building Code and the National Electric Code;
- 2.) That the equipment placed on the tower and at the site complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER); and
- 3.) 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.

B. General Requirements for all Telecommunications Towers.

1. The applicant or tower provider shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area and that there are no alternative sites reasonably available in any area. This shall include an explanation and accompanying documentation as to why a tower on this proposed site is technically necessary and showing the unavailability of useable sites located in Commercial or Industrial Zoning Districts; a description of the suitability of the use of existing towers, other tall structures or technology not requiring the use of the proposed new tower; and a demonstration that a technically suitable location is not reasonably available on an existing tower or tall structure. 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, utility buildings and structures over 48 feet in height, power transmission towers, existing antenna support structures or other telecommunications towers.
2. All towers shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate such towers. If the applicable standards and regulations are changed, then the owners/operators of the towers shall, if required by the applicable governmental authority, bring such towers into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the applicable governmental authority.
3. The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued. The owner/operator shall annually file during January of each year a declaration with the Zoning Inspector that certifies that the radio frequency transmission and/or reception equipment attached to the tower is in use and is operational.
4. The owner/operator shall provide documentation that a notice has been provided in accordance with Section 519.211 of the Ohio Revised Code. If a timely notice from any person entitled to object under Ohio Revised Code Section 519.211(B) is made, then the applicant shall comply with all requirements set forth in Section 6.03. The provisions of this Resolution shall be interpreted and applied in a manner consistent with 519.211 of the Ohio Revised Code and any applicable federal law, rule or regulation.

C. Development Standards for all Telecommunications Towers.

1. 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.

2. The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 150 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
  - a. Towers proposed for and designed to support the collocation of a total of two antenna facilities – 165 feet;
  - b. Towers proposed for and designed to support the collocation of a total of three antenna facilities – 180 feet; and
  - c. Towers proposed for and designed to support the collocation of four or more antenna facilities – 195 feet.

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.

3. The tower shall not be placed closer than 500 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.
4. 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.
5. The tower shall be located no closer to a street right-of-way than permitted in Section 21.09 herein.
6. A tower 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.
7. Security fencing shall be provided to prevent uncontrolled access to the tower site.
8. The lot on which the tower is to be located shall meet the minimum lot area and frontage requirements of the district in which it is located.
9. The tower shall be screened by a six (6) foot high fence or barrier and, outside of and along the 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. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the area on which the tower is to be located is kept free of weeds and trash. The storage of vehicles is prohibited and any equipment must be contained inside the screened area.

10. 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 Administration (FAA) or the Federal Communications Commission (FCC). Any required illumination shall be fully disclosed on the site plan. All surfaces shall be maintained in good condition, absent of flaking or peeling paint, and rust. Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a noncorrosive monopole design.
11. No advertising is permitted anywhere on the telecommunications tower facility with the exception of one identification sign not to exceed one square foot in size.
12. The tower shall be fully automated and shall be visited only for periodic and necessary maintenance.
13. 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.
14. The applicant shall provide a signed statement indicating that the applicant agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity. Antenna towers are not permitted to be built to a height that exceeds the applicant's service need as substantiated by the testimony of the applicant's engineer. If the tower must be extended in the future to accommodate collocation, the initial tower foundation must be designed to support this co-location capacity, and the tower must be designed to accommodate this extension capability. This ultimate height shall be specified on the drawings submitted with the application. Unless otherwise approved, the tower height shall not be extended until co-locators are installed. In the event the applicant's (or the applicant's successor's) service needs change such that a substantially lower tower height than initially approved will sufficiently accommodate the applicant's service needs in the reasonably foreseeable future, then the tower shall be reduced to such height. After this reduction, the applicant may extend the tower height to the level originally approved if the applicant's service needs require such extension. A "substantially lower tower height" is defined to mean a height reduction of twenty (20) feet or more.
15. A tower may be attached to a residential or nonresidential building or structure that is a permitted use and structure 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; and further provided that all requirements except those found in Items C 2, 7 and 9 are met. All roof-mounted towers shall be screened from view to the extent possible. The outside storage of vehicles or equipment, if not located inside the building or structure on which the tower is located, shall be screened by a minimum six (6) foot high solid fence or barrier and, outside of and along the fence or barrier, a continuous evergreen hedge, trees or similar landscape materials of a size, type and design deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the tower area is kept free of weeds and trash.
16. 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. Exception to Conditional Use Permit.

Telecommunications towers meeting the following conditions shall not be required to obtain a Conditional Use Permit, but shall be deemed to be permitted uses requiring a Zoning Permit and Certificate of Compliance.

1. Should the owner/operator of a telecommunications tower desire to site a tower on property that falls under the direct ownership and with the consent of the Brown Township Board of Trustees, then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: A.1.d.1) and 2); B.2,3 and 4; and C. 10, 11, 13 and 14.
2. Should a telecommunications carrier desire to co-locate a telecommunications antenna on another existing telecommunications tower or on another "tall structure", then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: A.1d.1) and 2) and 3); B. 2, 3 and 4; and C.1 4, 5, 7, 9, 10, 11, 12 and 13. Should the owner/operator of a telecommunications tower or telecommunications antenna desire to site such a tower or antenna using a no-impact design (specifically meaning that the tower, antenna and all related equipment will be completely invisible to the casual observer by incorporating the tower, antenna and related equipment within an existing structure such as within a light post or inside a steeple), then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: A. 1)e and 2); B. 2, 3 and 4; and C. 4, 10, 11, 12 and 13.

**Section 6.04 – SMALL WIND FARMS**

As used in this section, "small wind farm" means wind turbines and associated facilities in a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts.

Wind Projects Farms of 6MW 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/Permit Required 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-I), Planned Residential (PRD) and Planned Residential Conservation District (PRCD).

A. General Requirements:

1. 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 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 6.043( B). 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 6.043 (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 Delaware County Code Compliance Office 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 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:
    - 1) The total size and height of the unit
    - 2) If applicable, the total size and depth of the unit's foundation structure concrete mounting pad as well as soil and bedrock data.

- 3) 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 and anchors.
  - 4) Data specifying the kilowatt size and generating capacity in kilowatt in kilowatts of the particular unit.
  - 5) The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
  - 6) Ambient noise levels at property lines.
  - 7) 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 old construction, if the above schedule is not met, any prior right as a nonconforming 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. (Section 519.211, Ohio Revised Code)

#### **Section 6.08 – OUTDOOR ADVERTISING**

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

#### **Section 6.09 – TOWNSHIP USES PERMITTED IN ANY ZONING DISTRICT**

Any land use by Brown Township that is for a public purpose, including a township meeting hall, shall be permitted use in all of the zoning districts in this Resolution.

## **ARTICLE 7 – Farm Residence District (FR-1)**

### **Section 7.01 – PURPOSE**

The Farm Residence District (FR-1) is established for the purposes set forth in Section 5.051 of this Resolution.

### **Section 7.02 – PERMITTED USES**

Within the Farm Residence District 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, lot or tract) where each lot conforms to the minimum standards of this district.
- B. Accessory buildings and accessory uses including private garages and permanent dwellings for full time domestic help employed on the premises or full time farm labor.
- C. Projects specifically designed for watershed protection, conservation of soil or water or for flood control.
- D. Temporary structures such as mobile or manufactured homes for temporary residential use and temporary structures 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 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 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 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 not later than ten (10) days after expiration of said permit.
- E. Limited Home Occupation as provided in Section 21.13 of this Resolution.
- F. Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in a calendar year or more than three (3) consecutive days.
- 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. There is adequate lot area to accommodate off street parking for all patrons.
  - 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, including but not limited to compliance with all building codes, life safety codes, electrical codes and all other applicable codes.

- I. Adult Family Homes as provided for and defined in Ohio Revised Code Chapter 5119.70.
- 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 day care qualifies as a "Type B" family day care home" as defined in Ohio Revised Code Section 5104.01.
- K. Common Access Driveway subdivision: Common Access Driveway Subdivision is a subdivision plat provided that it does not include more than three lots. In addition to the three lots, two lots contiguous to the CAD at the point of access to the public road by the Common Access Driveway (CAD) may, at the discretion of the Board of Zoning Appeals, be accessed by the CAD for access management purposes on defined roadways in the Township.
- L. Planned Farm Residence Conservation Subdivisions, only as provided in Section 7A.

### **Section 7.03 – 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 and declared abandoned if said use or uses are not commenced within one (1) year 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 or structure wherein the same is located or upon which the same is granted shall void the 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 a permit of compliance is issued by the Zoning Inspector.

- A. Expanded Home Occupations as provided in Section 21.14 of this Resolution.
- B. Convalescent Homes. Rest Homes or Home 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.
- C. 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 improvements necessary to protect users from harm or danger.
- D. Public or Private Golf Courses: County Clubs, hunt clubs, sportsmen's clubs, fishing lakes, or similar recreational uses with all buildings and club houses incident thereto including restaurants to serve members and/or users of the facility.
- E. Zero lot line housing provided that the minimum lot area per unit is maintained.
- F. Model Homes, the same being defined as residential-type structures used as sales offices by builders/developer and to display the builder/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.) in the environment of a



completed home. Model homes may be staffed by the builder/developer's sales force. Model homes shall be subject to the following restrictions:

1. Signage: The owner or developer of a model home may erect one sign not exceeding forty-eight (48) square feet per side advertising said subdivision, development or tract.
  2. Lighting: All exterior lighting must be downcast lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished at the closing time of the model home.
  3. Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking places.
  4. Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by the public.
  5. Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent of the lots therein.
- G. Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.
- H. Veterinary Service subject to the following conditions:
1. No building or structure used for the purpose of an animal shelter shall be located closer than four hundred (400) feet to the lot line of any residence, church, school or any institution of human care.
  2. Full compliance with Delaware County General Health District regulations.
  3. Suitable fencing and/or screening shall be provided as approved by the Brown Township Board of Zoning Appeals.
  4. Such use can be safely conducted in a manner designed not to cause any interference with the right of quiet enjoyment by the residents of the adjoining properties.
  5. Minimum lot size is five (5) acres.
  6. Outside runs are not within 400 feet of a residence.
- I. Private School or college, with students in residence provided:
1. It occupies a lot of not less than one (1) acre per twenty- five (25) day students;
  2. Adequate land area exists to meet required setbacks, water supply and sewage disposal, and off street parking;

3. Adequate area exists for indoor and outdoor recreation.
  4. Additional setbacks or buffering as may be necessary to not disrupt the neighboring residential uses.
- J. Cemetery, provided:
1. Internment shall not be within three hundred (300) feet 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 (300) feet of any property line.
  3. A Crematory or other structure shall not be within one thousand (1000) 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.
- K. Associated Sales: Associated Sales as accessory to and in association with an agricultural permitted use. Such associated sales to cease upon cessation of the agricultural activity. This shall include, but is not limited to, garden supplies with a nursery or greenhouse, milk products with a dairy, or imported produce with a permitted produce stand.
- 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 principle 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 plan shall include a landscape plan.
  4. Public water and sewer must be provided or the lot must be adequately sized for, and system 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, two (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 structure – 25%.
  8. All structures must meet the current edition of the CABO One and Two family building and the Delaware County Plumbing Code.

- M. Bed and Breakfast Inns: as provided the following conditions are met.
  - 1. No more than three bedrooms are available for overnight lodging.
  - 2. Owner or manager must reside in the residence.
  - 3. Adequate off street parking is provided.
  - 4. Adequate potable water and sewage disposal must be provided.
  - 5. Signs must comply with the Home Occupation sign requirements.
  - 6. Maximum length of stay of lodgers- two weeks
- N. Telecommunications Towers: provided that all requirements of Section 6.03 of this Resolution are met.
- O. Owners or developers of a model home may erect one sign not exceeding forty-eight (48) square feet per side advertising said subdivision, development or tract.

#### **Section 7.04 – PROHIBITED USES**

Within the Farm Residence District the following uses shall be prohibited:

- A. Outdoor storage of inoperable or unlicensed motor vehicles 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.
- B. 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.
- C. No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more that fourteen (14) days in any six-month period.
- D. Except for permanently sited manufactured homes no mobile home shall be placed or occupied in this district.
- E. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- F. Adult entertainment and adult only entertainment establishments are prohibited.
- G. For the purpose of this Resolution, flag lots are prohibited.

### **Section 7.05 – DEVELOPMENT STANDARDS**

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

- A. Minimum Lot Area: No parcel of land in this district shall be used for residential purposes which have an area of less than two (2) acres (87,120 square feet) exclusive of storm water detention basins and easements greater than thirty (30) feet wide. All other uses in this district shall have such lot area prescribed by the Section of this Article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B. Lot Frontage: Except as hereinafter set forth all lots or parcels within this zoning district shall have the following minimum lot frontage:
  - 2 acres or fewer – 200 feet
  - At least 2 acres but less than 3 acres – 225 feet
  - At least 3 acres but less than 4 acres – 250 feet
  - At least 4 acres but less than 5 acres – 300 feet
  - 5 acres or more – 350 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 a width fifty (50) feet forward of the front building line equal to the required minimum lot frontage for the acreage of the lot or parcel.

- C. 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 from the exterior wall of the structure. Barns, silos, grain handling conveyors, church spires, domes, flag poles and elevator shafts are exempted from any height regulation and may be erected to any safe height. No windmill, 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.
- D. Building Dimensions (Floor Space Requirements) - Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand two hundred (1,200) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than sixteen (1,600) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling shall have living area of not less than fourteen hundred (1,400) square feet of area, exclusive of basements, porches, and garages.
- E. Building Set Back: 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 of this Resolution. 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 nearest right of-way line of an adjoining roadway, the setback is required to conform to setback lines for principal structures on adjoining lots.
- F. Side Yard Set Back: No building or structure shall be located closer than twenty-five (25) feet to any side lot line.
- G. Rear Yard Requirement: 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.

- 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 provision for ingress and egress according to the standards set forth in Article 21 of this Resolution.
- J. Signs: Except as permitted under the provisions of this Article for home occupations or as permitted by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses:
  - 1. No signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" signs advertising the tract on which the said sign is located.
  - 2. Such sign shall not exceed six (6) square feet in area on each side.
  - 3. 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.
- K. Central Mail Boxes: The United States Postal Service requires a centralized mail delivery/collection site for subdivision developments. To address safety concerns, in creating these mail box centers developers must include:
  - 1. Pull off areas,
  - 2. One to two parking spaces,
  - 3. Lighting, and
  - 4. Signage

**Section 7.06 – RESERVED**

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## **ARTICLE 7A – PLANNED FARM RESIDENCE CONSERVATION DISTRICT (PFRCD)**

*Effective 11/11/2021 (formerly Article 7 § 7.07)*

### **7A.01 – PURPOSE**

Pursuant to Section 519.021 of the Ohio Revised Code, the Planned Farm Residence Conservation District is created 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 and building of all types of development. The Planned Farm Residence Conservation District achieves this purpose while permanently preserving and integrating open space within farm residential developments; offering landowners alternatives to standard tract use of their land, thereby establishing a less sprawling, more efficient use of land, streets and utilities; preserving natural topography in wooded areas; creating usable and accessible open space, recreational areas, and green corridors for wildlife, walking trails and/or bike paths; and encouraging creativity in design through a controlled process of review and approval of the development plan and related documents.

### **7A.02 – OVERLAY AREA**

The Planned Farm Residence Conservation District (PFRCD) is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes and overlays all land that is contained within the Farm Residence Zoning District as shown on the Brown Township Zoning District Map. The Farm Residence Zoning District and the zoning regulations there under shall continue to apply to all property within the Planned Farm Residence Conservation District unless the Zoning Commission approves an application of an owner of property within the Farm Residence District to subject the owner's property to the provisions of the Planned Farm Residence Conservation District. Such an application shall be made in accordance with the provisions of Section 7A.05 D of the Brown Township Zoning Resolution and shall include a development plan in compliance with the provisions of said Section. Upon receiving such an application, the Zoning Commission shall determine whether the application and development plan comply with the provisions of Section 7A.05 D of this Resolution. If the Zoning Commission determines that the application and development plan comply with the provisions of Section 7A.06 of this Resolution and approves the application, the Zoning Commission shall cause the zoning map to be changed so that the Farm Residence District no longer applies to such property, with the property being thenceforth located in the Planned Farm Residence Conservation District and subject to the regulations there under. The approval of the application and development plan and the removal of the prior Farm Residence Zoning District from the zoning map is an administrative act and shall not be considered to be an amendment this Resolution.

### **7A.03 – RESERVED**

### **7A.04 – DESIGNING A PLANNED CONSERVATION FARM RESIDENCE SUBDIVISION**

A conservation subdivision is an open space development designed in accordance with the following process:

- A. Five Step Sequential Design Process:
  1. Delineate all primary conservation areas; preserve as natural open space.
  2. Delineate select secondary conservation areas; preserve as improved common open space. Preserved natural and improved common open space must exceed 50% of gross tract area, as in Section 7A.06 C. 1-4.
  3. Draw house footprints outside the conservation areas. The number of houses is based either on 7A.06 D 1 or 7A.06 D 2 (applicant's preference).

4. Draw roads to connect the houses.

5. Draw lot lines.

B. Design Requirements: A conservation subdivision shall incorporate the following design features:

1. Dwellings should generally be located along the edges of fields, as seen from existing public roads, rather than in the center to reduce visual impact.
2. Eighty-five (85%) or more of all house lots should abut open space.
3. Retain or replant native vegetation adjacent to wetlands and surface waters.
4. Preserve existing hedge and tree lines.
5. Preserve scenic views and vistas.
6. Avoid new construction on prominent hilltops or ridges.
7. Protect wildlife habitat areas of species listed as endangered, threatened, or of special concern by the Ohio Department of Natural Resources.
8. Preserve historic or archaeological sites (for example, earthworks, burial grounds).
9. Front dwellings on internal roads, not on external roads.
10. Landscape or retain vegetation in common areas with native trees and shrubs. Regulations and requirements as set forth in Article 23.03 of this Resolution shall apply to this zoning classification.
11. Provide active recreational areas in suitable locations.
12. Include a viable pedestrian circulation system.
13. Protect natural drainage swales and creeks. No construction of buildings inside the one hundred (100) year floodplain.

**7A.05 – PROCEDURE TO CREATE A CONSERVATION SUBDIVISION**

- A. Prepare Site Analysis Map: The applicant shall prepare a site analysis map and calculate the net developable acreage and yield as provided herein.
- B. Submit Site Analysis Map: The applicant shall submit the existing features (site analysis) map for a tract(s) of land to be considered as a conservation subdivision under this Section to the Zoning Commission, and schedule an agreeable time to jointly visit the site for an on-site walkabout. No fee will be charged by the township for this initial submission.
- C. On-Site Walkabout: The applicant and the Zoning Commission shall walk the site, at which time the primary and secondary conservation areas to be saved shall be identified. At the completion of the site walk or shortly thereafter a very conceptual development plan should be quickly sketched on the site analysis map by the



applicant or his consultant for impromptu comments from the Zoning Commission. No binding decisions or votes are made at the on-site walkabout. Based upon such comments, a formal development plan can be prepared for public hearing. The On-Site Walkabout is a public meeting pursuant to Ohio Sunshine Law (ORC §121.22), must be properly noticed, and open to the public. Minutes must be kept.

D. Prepare Application and Formal Development Plan: Applicant shall prepare and submit a formal application and development plan, with fifteen (15) copies and fees, to the Zoning Commission. Zoning Commission shall schedule a public hearing. Abutting landowners within five hundred (500) feet of the subject tract shall be notified. Zoning Commission may request the Delaware County Regional Planning Commission (DCRPC) to comment. Zoning Commission's review is administrative; no zoning amendment is required. The DCRPC's review is also administrative. The final Development Plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
2. A grading plan drawn at a scale of one inch (1") = one hundred feet (100'), showing all information pertaining to surface drainage.
3. A landscape plan which depicts and identifies all proposed landscaping features, including those specified in Section 7A.06 T.
4. An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually preserve the required open space.
5. The Development Plan shall be to a scale of at least one inch (1") = one hundred feet (100') and shall show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, including the following:
  - a. The general development character, design features and the permitted and accessory uses, buildings and structures to be located on the tract including the limitations or controls to be placed on each, with proposed lot sizes, and minimum setback and spacing requirements. Other development features, including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities and open space areas. All commonly owned structures shall be shown in detail which identifies the location, quantity, 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. The Development Plan shall identify dwelling unit densities, dwelling unit types, the total number of dwelling units proposed for the site, and the method and manner used to calculate density.
  - b. Primary conservation areas such as the one hundred (100) year floodplain, wetlands, and slopes greater than twenty percent (20%) shall be mapped.
  - c. No structure (other than approved drainage structures as shown on The Development Plan) shall be constructed within the limits of the one hundred (100) year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

- d. Locations of stream channels, watercourses, wooded areas and buffer areas shall be designated. Existing topography and drainage patterns shall also be shown. Primary and secondary conservation areas to be conserved and such areas to be impacted or altered shall be identified on the Plan.
- e. Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the Development Plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.
- f. The proposed provisions for water, fire hydrants, sewage disposal and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
- g. A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing streets and conditions.
- h. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- i. Identification and location of all uses and structures proposed within the site and the location of schools, parks and other public facility sites within or adjacent to the site. This includes a showing of:
  - 1) The exact location and dimension of private streets, common drives and public street rights-of-way;
  - 2) Exact location of building footprints or envelopes within which dwelling units are to be constructed, and lot lines with dimensions for all residential units for which individual ownership is proposed;
  - 3) Dimensions of building/unit spacing;
  - 4) The extent of environmental conservation and change and the exact location of all no cut/no disturb zones;
  - 5) Designated open space areas and a description of proposed open space improvements; and
  - 6) The exact location of all utility easements.
- j. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- k. If the proposed timetable for development includes developing the land (including open space) in phases, all phases shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

- l. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - m. Except for density and the percentage of required open space, the applicant may request a divergence from the other development standards set forth in Section 7.07 of this Resolution. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved "per plan." Unless specifically supplemented by the standards contained in Section 7.07 of this Resolution or those standards approved in the Development Plan, the development shall comply with the General Development Standards applicable to all zoning districts, as set forth in Articles 21 and 22 of the Resolution.
  - n. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land, the improvements thereon, including those areas which are to be commonly owned and maintained as well as the open space.
  - o. Other information, as may be required by the Township Zoning Commission, in order to determine compliance with this Resolution.
  - p. The Development Plan shall bear the seal of a registered engineer or surveyor and an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.
- E. Public Hearing: The Zoning Commission shall hold a public hearing on the request within a reasonable period of time after receipt of the application, final development plan and submission of fees.
- F. Action by Zoning Commission: The Zoning Commission may approve the application and final development plan for the PFRCD provided it finds that:
  - 1. The proposed use complies with all purposes, requirements and standards established in this zoning Resolution and that any divergence is warranted by the design and amenities incorporated in the development plan;
  - 2. The design preserves and protects primary conservation areas, and adequately provides useable open space in secondary conservation areas;
  - 3. The proposed use is in accord with applicable plans or policies for the area;
  - 4. The proposed development will be adequately served by essential public facilities and services such as roads, walks, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; and
  - 5. The proposed development is in keeping with the existing land use character and physical development potential of the area. In approving the application and Final Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.
- G. Subdivision Plat: No zoning certificate shall be issued for any structure in any portion of a planned development for which a plat is required by the Delaware County Subdivision Regulations unless and until:

1. The final subdivision plat for that portion has been approved by the Delaware County Regional Planning Commission, Delaware County Commissioners, and recorded.
2. A full size and an eleven inch by seventeen inch (11" x 17") copy have been filed with the Zoning inspector.

No modification of the provisions of the Final Development Plan, or part thereof, as finally approved shall be made unless the provisions of subsection 7A.08 of this Resolution are followed. The applicant shall submit the subdivision plat to the Zoning Inspector for review in order to assure the notes and agreed conditions on the Development Plan are not compromised by final engineering.

H. Zoning Certificate

After the Final Development Plan is approved and any required final Subdivision Plat is recorded, the Zoning Inspector may issue a zoning permit upon payment of the required fees and submission of the detailed landscaping plan for each platted lot. The zoning permit for a planned development shall be for a period not to exceed three (3) years or that period approved in the final development plan. If no construction has begun within three (3) years after approval is granted the Final Development Plan approval shall be void.

**7A.06 – PLANNED CONSERVATION FARM RESIDENCE DISTRICT DEVELOPMENT PLAN STANDARDS**

- A. Permitted Uses: Single family detached dwellings; attached two and three unit dwellings; open space; recreation facilities accessory to the development.
- B. Minimum tract size: for a PFRCD Subdivision – ten (10) acres.
- C. Open Space: At least fifty percent (50%) of the gross tract acreage shall be designated as permanent open space, not to be further subdivided. Open space shall be owned, administered and maintained pursuant to Sections 21.15 and 21.16 of this Resolution. Dedication of land for public purposes approved with the development plan including trails, active recreation, spray irrigation fields, etc. may be encouraged by the Township. The decision whether to accept an applicant's offer to dedicate open space for public use shall be within the sole discretion of the Board of Township Trustees. Land dedicated to public purposes may count toward the open space requirement if approved on the development plan.
  1. At least twenty-five percent (25%) of the minimum required open space shall be suitable for active recreation purposes, but no more than fifty percent (50%) shall be utilized for that purpose, in order to preserve a reasonable proportion of natural open space on the site. The development plan shall specify the purposes for which open space areas are proposed. Any recreational facilities proposed to be constructed within open space areas shall be clearly shown on the development plan.
  2. In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included.
  3. The required open space may be used for underground drainage fields for individual or community septic systems, and for "spray fields" for spray irrigation purposes in a land treatment sewage disposal system as approved per the development plan. Spray fields are crop, forage and pasture fields fertilized and irrigated by the nutrient-rich liquid, or mixtures of liquids and manure solids (slurries) from liquid manure storage structures.

Primary conservation areas as defined in Section 4.01 of this Resolution, plus storm water management detention/retention ponds, plus constructed wetlands acting as detention basins, plus sewage treatment ponds may count in their combined aggregate for up to fifty percent (50%) of the required open space.

4. Any area of natural open space that is proposed to be disturbed during construction or otherwise not preserved in its natural state shall be shown on the development plan and shall be restored with vegetation that is compatible with the natural characteristics of the site. The method and timing of any restoration shall be set forth in the development plan.
- D. Determining Density or "Yield:" The permitted density is the number of dwelling units in the development. Applicants shall have two options to establish the legally permitted density. Either:
1. Multiply the net developable area (in acres) by either:
    - a. Six-tenths (0.6) dwelling unit per net developable acre with on-site septic systems; or
    - b. Seventy-five hundredths (.75) dwelling units per net developable acre with centralized sewer. The result in either case shall be rounded down to the nearest whole number; or
  2. Create a "yield plan" for a conventional subdivision of two (2) acre lots. The conservation subdivision may cluster the same number of dwellings as provided herein. Such "yield plan" consists of a conventional lot and street layout and must conform to the Township's regulations for the Farm Residence Zoning District governing lot dimensions, land suitable for development, street design, parking, water supply and general sewage disposal feasibility (by soils mapping or another alternative). Although such plans shall be conceptual in nature, and are not intended to involve significant engineering costs, they must be realistic and must not show potential house sites or streets in areas that would not ordinarily be legally permitted in a conventional layout.
- Typical "yield plans" would include, at minimum, basic topography, location of wetlands, one hundred (100) year floodplains, slopes exceeding twenty percent (20%), and soils subject to slumping, as indicated on the medium-intensity maps contained in the county soil survey published by the USDA Natural Resources Conservation Service.
- E. Sewage Disposal: For sites not served by public centralized sewer, sewage disposal feasibility shall be demonstrated by letter from the local Board of Health, Delaware County Sanitary Engineer, the Ohio EPA, or a licensed sanitary or civil engineer.
- F. Perimeter Setback: No building shall be constructed within fifty feet (50') of the external boundary of the conservation subdivision.
- G. Storm Water: No features shall be designed which are likely to cause erosion or flooding.
- H. Subdivision Standards: Street and drainage improvements shall conform to the subdivision standards for Delaware County Ohio.
- I. Paths: Sidewalks or walking paths may be required for subdivisions of more than fifteen (15) lots. Sidewalks/paths shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed strip. The Zoning Commission may require paved/unpaved walkways to connect residential areas and open spaces.

- J. Street Trees: Deciduous, broad leaf street trees with a minimum caliper of two inches (2") at planting shall be planted (or retained) at least every fifty (50) lineal feet along at least one side of the street(s).
- K. Minimum Front Setbacks: Dwelling Units shall be set back forty (40) feet from the street right of way. Front load garages shall be setback at least ten (10) feet behind the front building line of the dwelling unit, or may be flush with the dwelling unit front if the dwelling unit sets back at least fifty (50) feet from the street right of way. Side load garages shall be setback at least forty (40) feet from the street right of way.
- L. Minimum Lot Size: Twelve thousand (12,000) square feet for single family detached dwellings on fee simple ownership lots. Attached units or detached condominiums as approved per the final development plan.
- M. Minimum Lot Width at the Building Line: One hundred (100) feet for single family detached dwelling units on fee simple ownership lots.
- N. Minimum Side Yards: Twelve and one-half feet (12 ½') each side, with no encroachments, including chimneys, air conditioning units, etc., for single family detached dwellings on fee simple ownership lots. In all other cases, the minimum separation between buildings containing dwelling units shall be thirty (30) feet
- O. Driveway Setbacks: Two feet (2') from side lot line. Side-load garages shall provide at least twenty-four feet (24') of paved apron, exclusive of the 2 foot (2') side lot line for single family detached dwellings on fee simple ownership lots. Attached units or detached condominiums as approved per the final development plan.
- P. Minimum Rear Yard: Thirty feet (30') for single family detached dwellings on fee simple ownership lots and attached garages and fifteen feet (15') for accessory buildings. Attached units or detached condominiums as approved per the final development plan.
- Q. Building Height Requirement: No principal building in this district shall exceed thirty-five feet (35') in height, as defined in Article 4 of the Brown Township Zoning Resolution.
- R. Minimum Dwelling Unit Floor Area: Eleven hundred (1100) square feet per dwelling unit.
- S. Street lighting: All lighting shall be controlled in such a way as to not shine up into the sky or onto any neighboring properties. Examples of ways in which this might be accomplished are:
  - 1. Use of fully shielded cut-off fixtures;
  - 2. Directing light fixtures downward cast rather than upward cast;
  - 3. Shielding the light in such a way that the light emitting portion of the fixture cannot be seen at a reasonable distance;

All outdoor light pole fixtures shall not exceed a maximum height of twenty feet (20') measured from the finished grade established not closer than fifteen feet (15') to the pole;

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.

- T. Landscaping: All yards, front, side and rear, shall be landscaped. All improved common open space shall be landscaped per the approved development plan. A landscape plan for the common open space and streetscape within road right of way shall be prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, and shall be submitted with and approved as a part of the final development plan.
- U. Parking: Off-street parking shall be provided at the time of construction of each principal structure or building, with adequate provisions for ingress and egress in accordance with the development plan. Off-street parking shall comply with the provisions of Article 21 of the Brown Township Zoning Resolution.
- V. Signs: All signs shall be in accordance with Article 22 of this Resolution.
- W. Other Requirements: Unless specifically supplemented by the standards contained in Section 7A.06 of this Resolution or those standards approved in the development plan, the development shall comply with the requirements of the General Development Standards applicable to all zoning districts as set forth in Articles 21 and 22 of the Brown Township Zoning Resolution.
- X. Supplemental Conditions and Safeguards: The Zoning Commission 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 open space (whether improved common open space or natural open space), and any other pertinent development characteristics.
- Y. Divergences: The Zoning Commission, as a part of development plan approval, may grant divergences from any standard or requirement in this Section with the exception of density and the percentage of required open space. An applicant requesting a divergence shall specifically and separately list each requested divergence and the justification therefore on the development plan submittals with a request that the proposed divergence be approved "per plan".

#### **7A.07 – OWNERSHIP AND MAINTENANCE OF OPEN SPACE**

Common open space within a development shall be owned, administered, and maintained pursuant to Sections 21.16 and 21.17 of this Resolution.

#### **7A.08 – EXTENSION OR MODIFICATION OF FINAL DEVELOPMENT PLAN**

- A. An extension of the time limit for the approved Final Development Plan may be granted by the Zoning Commission provided the Zoning Commission finds that such extension is not in conflict with public interest.
- B. A request for minor changes to the Final Development Plan may be approved by the Zoning Commission without being subject to the same procedures as the original application. In approving such requests, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.
- C. In the case of a request for a modification or amendment to the Final Development Plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial departures from the original application:
  - 1. A change in the use or character of the development

2. An increase in overall coverage of structures
3. An increase in the density
4. An increase in the problems of traffic circulation and public utilities
5. A reduction in approved open space
6. A reduction of off-street parking and loading space
7. A reduction in required pavement widths
8. A reduction of the acreage in the planned development

In approving such requests, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.



## **ARTICLE 8 – Low Density Residential District (R-2)**

### **Section 8.01 – PURPOSE**

The Low Density Residence District is established for the purposes set forth in Section 5.052 of this Resolution.

### **Section 8.02 – PERMITTED USES**

Within any Low Density Residence 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, lot or tract where each lot conforms to the minimum standards of this district.
- 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 mobile or manufactured homes for temporary residential use and temporary structures of a nonresidential 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, 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 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 not later than ten (10) days after expiration of said permit.
- E. Limited Home Occupation as provided in 21.13 of this Resolution.
- F. Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- 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. There is adequate lot area to accommodate off street parking for all patrons.
  - 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 including, but not limited to, compliance with building codes, life safety codes, electrical codes and all other applicable codes.

- I. Adult Family Homes as provided for and defined in Ohio Revised Code Chapter 5119.70.
- 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 day care qualifies as a "Type B" family day care home" as defined in Ohio Revised Code Section 5104.01.
- K. Common Access Driveway Subdivision provided it is recorded in a subdivision plat and does not include more than three lots. In addition to the three lots permitted in this section, two lots contiguous to the CAD at the point of access to the public road by the CAD may, at the discretion of the Board of Zoning Appeals, be accessed by the CAD for access management purposes on defined roadways in the Township.

### **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 and declared abandoned if said use or uses are not commenced within one (1) year 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 or structure wherein the same is located or upon which the same is granted shall void the 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 a permit of compliance is issued by the Zoning Inspector.

- A. Expanded Home Occupations as provided in Section 21.14.
- B. Conversion of existing residential structures to permit occupancy by more than one family.
- C. 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.
- D. Common wall or zero lot line housing provided that the minimum lot area per unit is maintained.
- E. 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.
- F. Model Homes, the same being defined as residential-type structures used as sales offices by builders/ developer and to display the builder/developer's product. The same may be furnished within, since its purpose is to display to prospective buyer the builder/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.) in the environment of a completed home. Model homes may be staffed by the builder/developer's sales force. Model homes shall be subject to the following restrictions:
  - 1. Signage: The owner or developer of a model home may erect one sign not exceeding forty-eight square feet per side advertising said subdivision, development or tract for sale.

2. Lighting: All exterior lighting must be down lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished at the closing time of the model home.
  3. Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking places.
  4. Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by the public.
  5. Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent of the lots therein.
- G. Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.
- H. Veterinary Service, as provided in Section 7.03 H of this Resolution.
- I. Private School or college, with students in residence as provided:
1. It occupies a lot of not less than one (1) acre per twenty-five (25) day students;
  2. Adequate land area exists to meet required setbacks, water supply and sewage disposal, and off street parking;
  3. Adequate area exists for indoor and outdoor recreation;
  4. Additional setbacks or buffering as may be necessary to not disrupt the neighboring residential uses.
- J. Cemetery, as provided in Section 7.03 J of this Resolution.
- K. Associated Sales, as provided in Section 7.03 K of this Resolution.
- L. Granny flat, as provided in Section 7.03 L of this Resolution.
- M. Bed and Breakfast Inns, as provided in 7.03 M of this Resolution.
- N. Telecommunications Towers, provided that all requirements of Section 6.03 of this Resolution are met.
- O. Owners or developers of a model home may erect one sign not exceeding forty-eight (48) square feet per side advertising said subdivision, development or tract for sale.

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

Within any Low Density Residence District (R-2) the following uses shall be prohibited:

- A. Outdoor storage of inoperable or unlicensed motor vehicles 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.
- B. 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.
- C. No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more that fourteen (14) days in any six month period.
- D. Except for permanently sited manufactured homes no mobile home shall be placed or occupied in this district.
- E. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- F. Adult entertainment and adult only entertainment establishments.
- G. For the purpose of this Resolution, flag lots are prohibited.

#### **Section 8.05 – DEVELOPMENT STANDARDS**

All lands and uses within the Low Density Residence District shall be developed in strict compliance with the standards hereinafter established:

- A. Lot Area: Residential lots which are served with 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 29,600 square feet. All other parcels, not so serviced, shall contain the lot areas prescribed by the provisions of Article 7 of this Resolution.
- B. Lot Frontage: All lots or parcels developed within this district having an area of less than one (1) acre shall have a minimum lot frontage of one hundred (100) feet. All other lots or parcels shall have the minimum lot width of Seventy-five (75) feet on an adjoining approved street or road or approved CAD.
- C. 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, church spires, domes, flag poles and elevator shafts are exempted from any height regulation and may be erected to any safe height. No windmill, 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.
- D. Building Dimensions (Floor Space Requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand two hundred (1,200) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than sixteen (1,600) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling shall have

living area of not less than fourteen hundred (1,400) square feet of area, exclusive of basements, porches, and garages.

- 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 of this Resolution. 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 nearest right-of-way line of an adjoining roadway, the setback is required to conform to setback lines for principal structures on adjoining lots.
- F. Side Yard Set Back: Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing under Section 8.03 D of this Resolution, 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 line of 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 and egress according to the standards set forth in Article 21 of this Resolution.
- J. Signs: Except as permitted under the provisions of this article for home occupations or as permitted by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses:
  - 1. 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.
  - 2. Such sign shall not exceed six (6) square feet in area on each side.
  - 3. The owner or developer of a subdivision or similar area with or without a model home, 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.
- K. Central Mail Boxes: The United States Postal Service requires a centralized mail delivery/collection site for subdivision developments. To address safety concerns, in creating these mail box centers developers must include:
  - 1. Pull off areas
  - 2. One to two parking spaces
  - 3. Lighting
  - 4. Signage

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## **ARTICLE 9 – Medium Density Residential District (R-3)**

### **Section 9.01 – PURPOSE**

The Medium Density Residential District (R-3) is established for the purposes set forth in Section 5.053.

### **Section 9.02 – PERMITTED USES**

Within any Medium Density Residential District (R-3) the following uses, developed in accordance with all other provisions of this Resolution, shall be permitted:

- A. Single family dwellings.
- B. Accessory buildings and accessory uses including private garages.
- C. Multi-family, cluster housing structures, patio cluster housing or common wall structures designed to accommodate more than one family in a single structure, provided however, that no more than four (4) dwelling units shall be constructed in any single structure or other modification on the same theme within this district.
- D. Temporary structures such as mobile or manufactured homes for temporary residential use and temporary structures of a nonresidential 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, 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 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 not later than ten (10) days after expiration of said permit. Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- E. Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- F. Limited Home Occupation as provided in Section 21.14 of this Resolution.
- 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. There is adequate lot area to accommodate off street parking for all patrons.
  - 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 including, but not limited to compliance with building codes, life safety codes, electrical codes and all other applicable codes.
- I. Adult Family Homes as provided for and defined in Ohio Revised Code Chapter 5119.70.
- 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 day care qualifies as a "Type B" family day care home" as defined in Ohio Revised Code Section 5104.01.
- K. Common Access Driveway Subdivision

### **Section 9.03 – 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 and declared abandoned if said use or uses are not commenced within one (1) year 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 or structure wherein the same is located or upon which the same is granted shall void the 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 evocate the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Expanded Home Occupations as provided in Section 21.15 of this Resolution.
- 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. Model Homes, the same being defined as residential-type structures used as sales offices by builder/developers and to display the builder/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.) in the environment of a completed home. Model homes may be staffed by the builder/developer's sales force. Model homes shall be subject to the following restrictions:
  1. Lighting: All exterior lighting must be down cast lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished at the closing time (normal business hours) of the model home.
  2. Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking places.
  3. Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the



boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by the public.

4. Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent of the lots therein.

D. Telecommunications Towers- provided that all requirements of Section 6.03 of this Resolution are met.

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

Within any Medium Density Residence District (R-3) the following uses shall be prohibited:

- A. Outdoor storage of inoperable or unlicensed motor vehicles 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.
- B. 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 Resolution or the restrictions on the plat.
- C. No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more that fourteen (14) days in any six month period.
- D. Except for permanently sited manufactured homes no mobile home shall be placed or occupied in this district.
- E. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- F. Adult entertainment and adult only entertainment establishments.

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

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

- A. Lot Area: Residential lots which are served with 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 10,000 square feet per single family unit or 6000 square feet per unit in multi-family development. All other parcels, not so serviced, shall contain the lot areas prescribed by the provisions of Article 7 of this Resolution. Not more than one structure may be constructed on any parcel herein.
- B. Lot Frontage: All lots or parcels developed within this district having an area of less than one (1) acre shall have a minimum lot width of Seventy-five (75) feet on an adjoining approved street or road or approved

CAD. All other lots or parcels shall have the minimum lot frontage prescribed in Section 7.05 of this Resolution and all measurements of such width shall be in conformity with that Article.

- C. 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 are exempted from any height regulation and may be erected to any safe height. No windmill, 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.
- D. Building Dimensions: Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand two hundred (1,200) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than sixteen (1,600) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling shall have living area of not less than fourteen hundred (1,400) square feet of area, exclusive of basements, porches, and garages. All apartments or other multifamily structures constructed within this district shall contain the following minimum floor space, to-wit:
- One (1) bedroom unit 800 sq. ft.
- Two (2)-bedroom unit 900 sq. ft.
- Three or more bedroom unit 1000 sq. ft.
- E. Building Set Back: 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 Sec. 21.09 of this Resolution.
- F. Side Yard Set Back: No building or structure shall be located closer than twelve (12) feet to any side lot line.
- G. Rear Yard Requirement: No principal dwelling shall be located closer than thirty-five (35) feet to the rear line of any lot and no accessory building shall be located closer than five (5) 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 and egress according to the standards set forth in Article 21 of this Resolution.
- J. Signs: Except as permitted under the provisions of this article for home occupations or as permitted by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals 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 16 square feet in area per side advertising said subdivision, development or tract for sale.

## **ARTICLE 10 – Planned Residence District (PRD)**

### **Section 10.01 – PURPOSE**

The Planned Residence District (PRD) is established for the purposes set forth in Section 5.054 of this Resolution.

### **Section 10.02 – PROCEDURE**

The PUD is included in this Resolution pursuant to the procedures in Ohio Revised Code Section 519.021(A).

### **Section 10.03 – DENSITY**

The permitted density is the number of dwelling units in the development. Such number shall be determined by dividing the net developable area by the conventional lot size for the zoning district being overlaid. If the proposed open space development is located in more than one zoning district, then the total number of dwelling units allowed within the tract shall be the sum of those allowed for the portion of land lying within each zoning district.

If land is dedicated to public use as part of the PRD development plan, and such dedicated tract will house public buildings (such as a school, fire station, police station, public recreational facility, township hall) that are approved by the Zoning Commission, and if the public buildings occupy less than 30 % of the tract so dedicated, the full land area of the tract dedicated to a public use may be included in the net developable area for density calculations.

If the buildings on the public dedication tract comprise more than 30% of the land area of the dedicated tract, the amount of acreage in excess of 30% lot coverage of the dedicated tract shall be subtracted from the net developable area and reduce overall allowable project density.

### **Section 10.04 – LOCATION OF PLANNED RESIDENTIAL DEVELOPMENT (OPEN SPACE) DEVELOPMENTS**

Planned Residential Development zoning may be overlaid on the FR-1 and the R-2 zones pursuant to a zoning map amendment approved by the township.

### **Section 10.05 – PERMITTED USES**

- A. Single Family detached residential dwelling units in FR-1 and R2 PRD's; single family attached dwellings (condominiums separated by vertical firewalls) in R-2 PRD's.
- B. Common Area- upon approval of the final development plan by the township, the following uses and improvements may be permitted in the common area:
  1. Outdoor recreation, such as golf, swimming, tennis, skating and other forms of predominantly outdoor recreation, except shooting ranges. If the common areas are intended for spectator events, they shall be so stated and approved as part of the development plan. If outdoor recreation areas are intended to be used as a profit basis as a private commercial venture that shall be so stated and approved as part of the development plan.
  2. Accessory service buildings and structures incidental and pertinent to outdoor recreation, as set forth in paragraph 1.) above where said accessory service buildings and structures are necessary to the pursuit of a permitted recreational use on the premise.
- C. Natural Area- restricted to passive recreational uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area. Accessory buildings should be discouraged in the natural area.

- D. A convenience store without fuel sales according to NAICS, provided it does not exceed .5% of the total residential square footage to be constructed, and it is located within the tract, but fronts on a major arterial street adjacent to the PRD. For example, if there were 100 houses, each with a square footage of 2000 square feet, the convenience store could be provided up to 1000 square feet.
- E. Non-residential uses of a religious, cultural, educational or recreational nature or character.
- F. Schools, if they occupy a lot of not less than 1 acre, with adequate area for indoor and outdoor recreation, and additional setbacks as may be necessary to avoid disruption to adjacent residences.
- G. Adult Family Homes as provided for and defined in ORC Chapter 3722.
- H. Child Day Care provided in the provider's permanent residence for six or fewer children, who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as a residence.
- I. Temporary structures such as mobile office and temporary buildings of a nonresidential character may be used incidental to construction work on the premises or on adjacent public projects. 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 two (2) 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/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.
- J. Conducting of casual sale of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days. The sale and parking area shall be out of the road right-of-way so as not to interfere with traffic on adjacent thoroughfares.
- K. Limited Home occupation as provided in Section 21.14 of this Resolution.
- L. Licensed Residential Facilities as provided for in Ohio Revised Code 5123.19. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.

#### **Section 10.06 – CONDITIONAL USES**

- A. Model Homes in Subdivisions, the same being defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor coverings, etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:
  - 1. Lighting: All exterior lighting, except for security lighting, must be downcast lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting, except for security lighting, shall be extinguished at the closing time (normal business hours) of the model home.

2. Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking spaces.
3. Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by visitors to the home.
4. Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent (90%) of the lots.
5. Model Home Signs: Model home signs may be approved by the Board of Zoning Appeals provided the following conditions are met:
  - a. The sign shall not exceed 16 (sixteen) square feet per side with 32 (thirty two) square feet maximum total display area;
  - b. The overall height of the sign shall be no more than four (4) feet above grade.
  - c. The model home sign shall be located on the same lot as the model home.
6. If sign information is not presented at the time the development is submitted and approved, the applicant will apply for a conditional use permit to the Board of Zoning Appeals, which will rule on additional sign conditions.

B. Telecommunication towers pursuant to Section 6.03 of this Resolution.

#### **Section 10.07 – PROHIBITED USES**

- A. Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers, 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.
- B. No trailer of any type, no boats, no motor homes nor equipment of any type shall be parked in front of the 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 Resolution or the restrictions on the plat.
- C. No motor home, mobile home or camper of any type may be occupied by a guest of the resident/owner for more than fourteen (14) days. No more than one (1) motor home, trailer, or camper may be occupied for such a period on any lot or parcel.
- D. Except as specifically permitted in Section 23.03 or approved in the approved development plan, no manufactured housing/mobile home shall be placed or occupied in this district.

- E. No trash, debris, unused property, or discarded materials which create an eyesore, hazard or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or portion thereof.
- F. In subdivided areas that meet the requirements of Section 711.131 of the Ohio Revised Code, the keeping of livestock and poultry is prohibited.
- G. Cellular towers, upon notification to the sighting and receipt of an objection meeting the requirements of Section 519.211 of the Ohio Revised Code.

#### **Section 10.08 – INITIAL DISCUSSIONS**

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map. Any and/or all such informal consultations with the Zoning Commission are subject to Ohio's open meeting laws (ORC 121.22) and are required to be held in an open public meeting.

No statement by officials of the Township or the DCRPC shall be binding upon either prior to formal submission of a development plan and application to amend the zoning map.

#### **Section 10.09 – DESIGN FEATURES REQUIRED OF A PRD**

The development plan shall incorporate the following standards:

- A. 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;
- B. No building shall be constructed within 50 feet of the perimeter property line of the overall PRD tract;
- C. The zoning commission may require walkways to connect all dwelling areas with open space and to interconnect the open spaces;
- D. Moderate to thick coverage by trees and natural undergrowth is desirable to most intended functions of the open space. Where such foliage exists naturally, it should be retained where practicable. Where adequate foliage does not exist, the Zoning Commission may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space to buffer adjacent uses;
- E. Scenic areas and views shall be preserved to the maximum extent practicable, including views from the adjacent road;
- F. 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 of the proposed or existing houses;
- G. Minimum overall tract size for a PRD is 40 acres, unless adjacent to a neighborhood of comparable density or design, in which case the Zoning Commission may permit the tract size to be reduced to 10 acres;
- H. Improvements within the PRD shall conform to the subdivision standards for Delaware County Ohio;
- I. Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat are to be preserved to the greatest extent possible;

- J. The permitted density shall not be exceeded.
- K. The required percent of open space shall be provided. The percent of open space required varies according to the zoning district overlaid;

FR-1- 40% (of gross tract area) open space

R-2: - 20% (of gross tract area) open space

In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. Unbuildable areas, as provided in Net Developable area calculation, may count for up to 50% of the required open space. That portion of land dedicated to public purposes that remain either open and unbuilt upon by any structure (including parking) or which houses a recreational facility approved by the Zoning Commission on the Development Plan may count toward the open space requirement.

- L. No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.
- M. In FR-1 zones, water supply and sanitary sewage disposal shall be as approved by the Delaware County Board Health District and/or the Ohio EPA. Feasibility shall be indicated by the appropriate agency at the time of the preliminary plan. In the R-2 zone, centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Health District and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.
- N. 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. All residential roofs must be a minimum of 5/12 pitch, or as approved by plan.
- O. Lots shall be fenced for safety if they abut agriculture.
- P. Sidewalks or paths shall be provided in the area. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Deciduous, broad leaf street trees (i.e., maple, oak, sycamore, chestnut, and sweet gum) shall be planted (or saved) at the rate of one per 60 feet of frontage on both sides of the street. Trees must be at least a 2.5 inch caliper at planting. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township Trustees; otherwise they shall be placed in the front lawn of the residences.
- Q. Setbacks: Houses shall be setback a minimum of 50 feet from the street centerline, or as approved per plan.
- R. Minimum lot size: None, per plan
- S. Minimum Lot Width (at the building line): None, per plan.
- T. Minimum Side yards: Eight feet each side for houses, eight feet from an attached garage to side lot line. Detached garages with one hour fire rated construction may be constructed within five feet of the lot line provided the garage is located to the rear of the house, and that the garage does not abut an adjacent residence.

- U. Minimum Rear yard: Fifty (50) feet for houses and attached garages, or as per plan.
- V. Street layouts should be looped, grid, square or other traditional village layout. Cul-de-sacs should be avoided where possible.
- W. If street parking is not provided, attached garages shall be setback at least 12 feet from the front building line of the house.
- X. Porches: A covered porch or portico across some portion of the front of the house is a recommended structural design element.
- Y. Street lighting (if provided): must be of white light, with light standards of traditional or Victorian design (no modern gooseneck lamps or yellow lighting). Maximum height of standards is 16 feet. All lighting shall be downcast.
- Z. Building Height Limits: No buildings in this district shall exceed thirty-five (35) feet in height measured from the 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.
- AA. Building Dimensions (Floor space requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than twelve hundred (1,200) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than sixteen (1,600) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling shall have living area of not less than fourteen hundred (1,400) square feet of area, exclusive of basements, porches, and garages.
- BB. All attached single 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
- CC. Landscaping: 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 23 of this Resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.
- DD. 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, when appropriate, shall be incorporated.
- EE. 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 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 in area on each side.

- FF. The owner or developer of a subdivision or similar area, upon the conditions and for the time period established by the Zoning Commission, may erect one (1) sign not exceeding sixteen (16) square feet in area per side advertising said subdivision, development or tract for sale.
- GG. Exterior Lighting: All exterior lighting shall meet the lighting requirements of Article 21 of this Resolution, unless a variation from these standards is specifically approved as part of the final development plan.
- HH. Other required provisions as stated in this Resolution.

The Brown Township Zoning Commission and/or Board of 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 10.10 – REQUIRED FINDINGS FOR APPROVAL OF A PLANNED RESIDENTIAL DEVELOPMENT**

The Zoning Commission and Trustees may approve a Planned Residential Development zoning overlay provided they find that the proposed use complies with all of the following requirements:

- A. That the proposed development is consistent in all aspects with the intent, and general standards of this Resolution.
- B. That the proposed development is consistent with the comprehensive plan or portion thereof as it may apply.
- C. That the proposed development advances the general welfare of the Township and the immediate vicinity.
- D. That the proposed plan meets all of the design features required in this Resolution.
- E. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
- F. That the proposed development will be compatible in appearance with the remainder of the district; and
- G. That the minimum open space as required herein has been provided.

#### **Section 10.11 – APPLICATION PROCEDURE**

An application for a PRD requires:

- Step 1. A change in the zoning map to show the PRD as an overlay zone. This includes a preliminary development plan. The change in the zoning map is considered a legislative amendment and is subject to referendum by the citizens of the township.

A rezoning to another district may be submitted simultaneously with a PRD overlay application. For example, if a PRD/R-2 were desired for land zoned FR-1; a rezoning from FR-1 to R-2 would be filed with the application for PRD. No double fees shall be charged. In order to receive the PRD at the higher density, both zoning would need to be approved;

Step 2. The submission and 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, based on the PRD standards adopted of this Resolution. Approval or disapproval of the final development plan is an administrative action, but is subject to the review and approval by the Township for appropriateness.

#### **Section 10.12 – PROCESS FOR AMENDMENT**

Simultaneous with the application for a PRD, the applicant shall schedule a walkabout on the site with the Zoning Commission to familiarize all parties with the lay of the land, and the general design intent of the applicant. The on-site walkabout is a public meeting pursuant to Ohio Sunshine Law (ORC §121.22) and must be properly noticed and open to the public.

Planned Residential Developments may be approved according to one of the following procedures:

- A. The applicant, being a land owner, may apply for designation of the land as a PRD overlay. A preliminary development plan must be submitted with the application. If the application is approved, then the zoning map is amended to PRD overlay, either FR-1/PRD or R-2 /PRD. (This is a legislative act and is subject to referendum).
- B. The applicant, being a land owner, may apply for designation of 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).

#### **Section 10.13 – EFFECT OF PRD ZONING OVERLAY ON THE PREVIOUS ZONING DISTRICT REGULATIONS**

Upon approval of the PRD district, all previous regulations shall no longer be in effect, and the regulations for the PRD shall prevail.

#### **Section 10.14 – DEVELOPMENT PLANS**

- A. Preliminary Development Application.— Upon application for a PRD District, the owner(s) of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site in accordance with PRD standards.

Fifteen (15) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PRD application. The plan shall include in text and map form, the following:

- 1. The proposed size and location of the PRD district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.
- 2. Suggested architectural designs for all structures and signs.
- 3. The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage, to the extent known. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.
- 4. The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5. A design of the open space and proposed description of its use and maintenance.
  6. Specific statements of divergence from the development standards in this article.
  7. Proposed location of all structures
  8. Preliminary Traffic Impact Analysis, based upon new trip generation.
  9. The responsibility and maintenance of any proposed onsite sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
  10. All required design features from Section 10.09 of this Resolution.
  11. Emergency service provisions (letter from Fire and Police departments).
  12. Phasing plans.
- B. Final Development Plan – The applicant shall submit fifteen (15) copies of the final development plan to the Zoning Commission may be submitted with the application or later following the rezoning of the land to PRD but before development begins. The Zoning Commission shall be the review authority for the final development plan.

The review and approval of the Final Development Plan is an administrative, not legislative act, 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 final development plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Planned Residential District.
2. The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:
  - a. The general development character of the tract including the limitations or controls to be placed on all uses, with proposed lot sizes, minimum setback requirements. Other development features, including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities and all commonly owned structures shall be shown in detail and identify the quantity and type and typical section of each. For example, 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.
  - b. Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be

constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

- c. Architectural design criteria including materials, colors and exact renderings for all structures and criteria for proposed signs, with proposed control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township. Materials and colors shall be submitted for approval.
- d. 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.
- e. A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- f. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- g. Location of schools, parks and other public facility sites, within or adjacent to the site.
- h. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- i. 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.
- j. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- k. Specific statements of divergence from the development standards in Articles 21 (General Standards), 22 (Signs) and/or 23 (Landscaping) or existing County Subdivision regulations or standards and the justification therefore, 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.
- l. Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- m. The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.

- C. Effect of Final Development Plan Approval: The Final Development Plan as approved by the Township Zoning Commission shall be the subject of a subdivision plat to be approved by the Delaware County Regional Planning Commission if required by Ohio Revised Code. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the approved timetable.
- D. Failure to Maintain: If the organization established to own and maintain the open space, or the owners of dwelling units within the PRD shall, for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, the Township Trustees shall serve written notice upon such organization of the deficiencies and demand that corrective action be taken within 14 days.

If such maintenance shall not have been performed within 14 days, the Township, in order to preserve the taxable values of the properties within and adjacent to the PRD, may enter upon the open space and maintain it for a period of up to one year. Said entry shall not vest any rights in the public to use and enjoyment of the open space. The cost of such maintenance shall be assessed against the properties within the PRD in direct relation to their proportionate interest in the open space and shall become a tax lien on such properties.

- E. Plat Required: If required by applicable law, 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 this Resolution. The subdivision plat and plan shall be in accordance 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 right-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, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3. In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording 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 that the facilities for the phase in which the building or use is located are completed.
- F. Extension of Time or Modification of Final Development Plan
  - 1. An extension of the time limit for either filing the required subdivision plat or recording the approved subdivision plat may be granted by the Zoning Commission provided the Board finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose

and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation.

2. A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application.
  3. In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of final development plan approval as the original application. The following shall be considered substantial departures from the original application:
    - a. A change in the use or character of the development;
    - b. An increase in overall lot coverage of structures and off-street parking;
    - c. An increase in the density;
    - d. An increase in the problems of traffic circulation and public utilities;
    - e. A reduction in approved open space;
    - f. A reduction of off street parking and loading space;
    - g. A reduction in required pavement widths;
    - h. A reduction of the acreage in the planned development;
    - i. Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.
- G. Administrative Review - All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved.

## **ARTICLE 11 – Owner Initiated Planned Unit Development**

### **Section 11.01 – PURPOSE**

The Owner Initiate Planned Unit Development is established for the purposes set forth in Section 5.054 of this Resolution.

### **Section 11.02 – PROCEDURE**

The Owner Initiated Planned Unit Development is included in this Resolution pursuant to the Procedures in Ohio Revised Code Section 519.021 (B).

### **Section 11.03 – CRITERIA FOR APPROVING AN OWNER-INITIATED PLANNED UNIT DEVELOPMENT**

The Owner Initiated Planned Unit Development requires a development plan pursuant to Ohio Revised Code 519.021, in determining whether to approve or disapprove any proposed development within an Owner Initiated Planned Unit Development, the Zoning Commission shall consider the following:

The planned-unit development shall:

- A. Promote the public health and safety.
- B. Further the purpose of promoting the general public welfare,
- C. Encourage the efficient use of land and resources,
- D. Promote greater efficiency in providing public and utility services,
- E. And encourage innovation in the planning and building of all types of development.

Any approved development plan or regulations approved pursuant to this Article 11 shall become the development plan and regulations applicable to, and shall govern only the Planned Unit Development and property for which they were approved.

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## **ARTICLE 12 – Reserved**

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## **ARTICLE 13 – Reserved**

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## ARTICLE 14 – Planned Commercial and Office District (PC)

### Section 14.01 – PURPOSE

The Planned Commercial and Office District (PC) is established for the purposes set forth in Section 5.058 of this Resolution.

### Section 14.02 – PROCEDURE

The PC is included in this Resolution pursuant to the procedures in Ohio Revised Code Section 519.021 (A) and (C.)

### Section 14.03 – PERMITTED USES

Within the Planned Commercial and Office District (PC) the following uses, according to their North American Industrial Classification System (NAICS) code number, shall be permitted when approved by the development plan process in strict compliance with the approved development plan and standards.

The full text of the listings in the 2012 NAICS or subsequent edition as specifically referenced and subsequently adopted shall be used to define the uses permitted within the PC District as set forth below and is hereby adopted as part of this Article 14 .

The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

*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 52 means that any use listed in the 2012 or subsequently referenced and adopted NAICS code under Sector 52 (such as 52212 Savings Institutions) is permitted.*

NAICS Code #	Permitted Uses
111421	Nursery and Tree Production
111422	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 (except Truck Stops)
448	Clothing and Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores <i>(except Adult Only Entertainment)</i>
452	General Merchandise Stores
453	Miscellaneous Store Detailers <i>(except Adult Only Entertainment and Manufactured Home Dealers)</i>
491	Postal Services
51	Information <i>(except Adult Only Entertainment Establishments)</i>
5312	Offices of Real Estate Agents and Brokers Activities Related to Real Estate Passenger Car Rental and Leasing Consumer Goods Rental Office Machinery and Equipment Rental and Leasing

54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
56	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
622	Hospitals
623	Nursing and Residential Care Facilities
62314	Services for the Elderly and Persons with Disabilities
6244	Child Day Care
71111	Theater Companies and Dinner Theaters <i>(except Adult Only Entertainment Establishments)</i>
71112	Dance Companies <i>(except Adult Only Entertainment Establishments)</i>
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels <i>(except Casinos)</i> and Motels
721191	Bed and Breakfast
722	Food Services and Drinking Places <i>(except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services)</i>
811	Repair and Maintenance
812	Personal and Laundry Services <i>(except Adults Only Entertainment Establishments)</i>
813	Religious, Grant-making, Civil, Professional and Similar Organizations
92	Public Administration

Temporary structures such as manufactured/mobile offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The users 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/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 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 Article 28 of this Resolution.

#### **Section 14.04 – CONDITIONAL USES**

There are no conditional uses permitted in the Planned Commercial District.

#### **Section 14.05 – PROHIBITED USES**

- A. Outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) days in a calendar year 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 legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- B. Except as provided in the development plan 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 Resolution, the restrictions in the plat or deed or the development plan.

- C. Except as specifically permitted by Section 14.03, 453 Miscellaneous Store Retailers (except Adults Only Entertainment Establishments and 45393 Manufactured Home Dealers) and as permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.
- D. No trash, debris, unused property or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public.
- E. Adults Only Entertainment Establishments.
- F. NAICS code # 711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities.

#### **Section 14.06 – REQUIRED PC DESIGN STANDARDS**

- A. The development plan shall incorporate the following standards for all permitted uses:
  - 1. Access: Requires frontage on or direct access to one or more dedicated and improved public arterial roads as shown on the Delaware County Thoroughfare Plan, or to an access road that runs parallel to an arterial road. Provision for future connections to other public roads may be required by the Township, the County Engineer and/or the Regional Planning Commission.
  - 2. Maximum Commercial Ground Coverage by Buildings and Parking (all impervious surfaces): 70% of the total tract, exclusive of public street rights of way. Land underneath overhead high voltage electric transmission lines may be used for open space, landscaping, parking and roads with the permission of the electric utility company.
  - 3. Minimum Open Space for Commercial Developments: 30% of the total tract acreage. Open spaces may be used for the retention, detention and disposal of storm water drainage. Features that are likely to cause erosion or flooding shall not be permitted. A 15-foot wide landscaped “green belt” shall be provided between the edge of any parking area and the adjacent public street right of way.
  - 4. Floodplain: No commercial or office structures shall be constructed within the 100-year floodplain of any stream or river.
  - 5. Walkways and Street Trees: The Township may require walkways to connect parking areas with buildings. Where sidewalks or bike paths are required, they shall be separated from the paved street or parking lot surface by at least five feet (5') of landscaped or grassed tree lawn with street trees that conform to Township standards placed in the tree lawn.
  - 6. Setbacks: Approved per development plan.
  - 7. Pavement Width and Street Cross Section: Shall be constructed to meet the Average Daily Traffic and weights anticipated in the Delaware County Engineer’s Location and Design Manual, and shall have a design life of 20 years.

8. Underground Utilities: All utilities constructed to service the proposed commercial use shall be located underground.
9. Minimum Lot Width: At the building line- as approved per plan.
10. Minimum Side Yards : Shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.
11. Minimum Rear Yard : Shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.
12. Parking Setback: No parking shall be constructed within 35 feet of the lot line of an existing or proposed Residential Zoning District or Planned Residential District.
13. Buffering: Natural foliage shall be retained where practicable. The Township may require establishment of tree cover or other foliage to buffer adjacent uses.
14. Environmentally Sensitive Areas: Jurisdictional wetlands, slopes greater than 20% and 100-year floodplains shall be preserved to the greatest extent possible.
15. Water Supply and Sewage Disposal: For sewage disposal, the state or county agencies with jurisdiction shall indicate feasibility of wastewater disposal systems at the time of the preliminary development plan review. For water supply, the appropriate public or private utility shall indicate feasibility of water supply at the time of the preliminary development plan review.
16. Building Design: Building orientation, massing, roof shape, pitch and exterior materials shall be detailed and approved as part of the final development plan.
17. Building Height Limits: 35 feet unless otherwise approved.
18. Landscaping: All yards, front, side and rear, shall be landscaped, and all open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this Resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan prepared by a licensed landscape architect shall show the caliper, height, numbers, name and placement of all material, and be subject to approval as part of the final development plan.
19. 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 final development plan. In preparing and approving the parking plan, the parking provisions Article 21 of this Resolution shall be incorporated, or a divergence requested and is subject to approval as part of the final development plan.
20. Signs: Signs shall conform to provisions of Article 22 of this Resolution, or a divergence must be requested and subject to approval as part of the final development per plan.



21. Exterior Lighting: All exterior lighting shall conform to the provisions of Article 21 of this Resolution and be subject to approval as part of the final development plan.
22. Supplemental Conditions and Safeguards: The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; and maintenance of open space areas; and other development characteristics.

#### **Section 14.07 – REQUIRED FINDINGS FOR PC APPROVAL**

The Zoning Commission and Trustees may approve an application requesting that property be included in the PC zoning district, provided they find that the proposed use complies with all of the following requirements:

- A. That the proposed development is consistent in all aspects with the purpose, criteria, intent, and standards of this Resolution.
- B. That the proposed development is in conformity with the comprehensive plan as adopted or concurrently amended or portion thereof as it may apply.
- C. That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.
- D. That the proposed plan meets all of the design features required in this Resolution.
- E. That the proposed development will be compatible in appearance with surrounding existing or proposed land uses.
- F. That the development promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

#### **Section 14.08 – PROCESS FOR AMENDMENT**

Applications for amendment to rezone property to the PC District may be approved according to one of the following procedures:

- A. The applicant, being the owner and, if applicable, a lessee of the subject real estate, may apply for a zoning map amendment to designate the land as PC District. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PC District. After the designation of the property as a PC District on the zoning map, any approval or disapproval of subsequent use or development of property in the PC District established as authorized by this division shall not be considered to be an amendment or supplement to the township zoning map pursuant to Ohio Revised Code 519.021 (A), but as an administrative act subject to appeal according to Chapter 2506 of the Ohio Revised Code. A final development plan shall be subsequently submitted to the Zoning Commission for review and approval. This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres; or
- B. The applicant, being an owner and, if applicable, a lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PC District and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein.

In addition to complying with the procedures set forth in this Resolution, all applications for amendment to rezone property to the PC District shall comply with the procedures outlined in Ohio Revised Code Section 519.12.

Following the filing of an application for a PC District, the Zoning Commission may schedule a walkabout on the site with the applicant to familiarize all parties with the lay of the land, and the general design intent of the applicant. The on-site walkabout is a public meeting pursuant to the Ohio Sunshine Law (ORC §121.22) and must be properly noticed and open to the public. Minutes shall be kept.

#### **Section 14.09 – EFFECT OF PROPERTY OWNER INITIATED PC ZONING AMENDMENT**

Upon approval of an application for a zoning amendment to rezone property to the PC District, all previous regulations regarding that specific property shall no longer be in effect, and the regulations set forth in this Article and in the approved final development plan shall govern.

#### **Section 14.10 – DEVELOPMENT PLANS**

A. Preliminary Development Plan: With the filing of any application to rezone a property to the PC District, the owner(s) or lessees of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site.

Fifteen (15) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PC District application. The plan shall include in text and map form, the following:

1. The proposed size and location of the PC District, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.
2. Conceptual architectural elevations for all structures and signs.
3. The intended provisions for water, fire hydrants, sanitary sewer and adequate storm water drainage outlet. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented by the utility provider or a registered civil engineer.
4. The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.
5. A design of the open space and proposed description of its use, ownership and plan for maintenance.
6. Specific statements of divergence, if any, from the development standards in this Article or the general standards of this Resolution such as setbacks, parking, landscaping, lighting, signage and so forth, and a statement of justification therefore.
7. Proposed location of all structures and uses.
8. Preliminary Traffic Impact Analysis based upon new trip generation as estimated by the Delaware County Engineer's standards.
9. All required design standards in Section 14.05 of this Resolution.

10. Emergency service provisions (letter from Fire department regarding access and water supply to the proposed development site).
  11. Phasing plans, if any.
  12. Calculation of net developable acreage and proposed lot coverage.
  13. Proposed permitted and accessory uses listed numerically and selected from the NAICS list in Section 14.03 of this Resolution.
- B. Preliminary Plan Approval Period - The approval of a preliminary development plan shall be effective for a period of one (1) year from the date 30 days after the zoning became final in order to allow for the preparation and submission of the final development plan. No zoning text 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 Township Trustees have 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 until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. All new applications shall comply with the terms of the 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 PC District.
- C. Modifications of the Preliminary Development Plan-In the event that an applicant or owner who has obtained approval of a Preliminary Development Plan wishes to change or modify said approved plan in any respect, he or she shall make a detailed written modification request, and file that request and fee with the Zoning Inspector. The application shall specifically detail the changes requested, and shall state the reasons for all changes requested.
1. Upon receipt of such an application, the Zoning Inspector shall refer the application to the Board of Trustees for a determination to be made at the sole discretion of the Trustees as to whether the Application shall be treated as a request for a major or minor modification.
  2. If the Trustees determine by a majority vote that the application should be handled as a minor modification request, it shall set the matter for a public meeting before the Board of Trustees. The applicant shall have the right to amend his or her application at any time prior to the vote of the Board of Trustees.
  3. If the Trustees determine by a majority vote that the Application should be addressed as a major modification request, it shall forward the Application to the Zoning Commission and the Zoning Commission shall schedule and conduct a public meeting, and make a written recommendation for the approval, modification, or the denial of the application to the Board of Trustees. The applicant shall have the right to amend the application at any time prior to the vote of the Zoning Commission. Upon receipt of the Zoning Commission's recommendation, the Trustees shall hold a public meeting for consideration of the application and the recommendation of the Zoning Commission. The public meeting shall be held within thirty (30) days of the Trustees receipt of the Zoning Commission's recommendation. Notice of the public meeting shall be published once at least ten (10) days before the date of the meeting. Following the conclusion of a public meeting for determination of an

application (including all adjournments thereof), the Township Trustees shall either approve or disapprove the application.

4. If an amendment is sought with respect to an application deemed major after a vote by the Commission, the amended application will be returned to the Commission for additional review and recommendation.
5. Consideration of requests for modifications of an approved Preliminary Development Plan shall be considered in all respects to be a legislative process and approval or denial of any such request shall be considered and treated as a legislative act. Subject only to referendum rights which apply, any decision by the Board of Trustees upon an application for modification shall be final and shall not be appealable.

- D. Final Development Plan The applicant shall submit fifteen (15) copies of the final development plan to the Zoning Inspector with the application. Except as otherwise provided in Article 14 of this Resolution or as provided in the initial rezoning of property to the PC District, the Zoning Commission shall be the review authority for the final development plan.

The final development plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the area designated on the final development plan.
2. The final development plan shall be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following items in detail satisfactory to the reviewing bodies:
  - a. The permitted and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, with proposed lot sizes, and minimum setback requirements. Other development features, including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities, common open space areas, and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, 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.
  - b. Environmentally sensitive areas including the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.
  - c. Architectural design detail including specification of materials, colors and elevations for all structures, signs, and improvements, including paving. Proposed architectural control procedures shall be included.
  - d. Building heights and dimensions.

- e. Off-street parking.
- f. Size, height and location of all signs.
- g. Exterior Lighting: All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- h. The utility provider-approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
- i. A traffic impact analysis by a civil engineer who specializes in traffic evaluations showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- j. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- k. Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
- l. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- m. 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.
- n. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- o. Specific statements of divergence from the development standards of this Resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is a rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.
- p. Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- q. The drawings that are a part of the development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio, with respect to the design of each professional

- r. The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PC District.
  - s. The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:
    - 1.) Fire and Explosion Hazards: 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.
    - 2.) 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.
    - 3.) Glare Heat and Exterior Lighting: 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 wherein the use is conducted.
    - 4.) 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
    - 5.) 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.
    - 6.) 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 discernible without instruments at or beyond the property line of the subject premises.
    - 7.) 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 met.
  - t. The Zoning Commission 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.
- E. Final Development Plan Approval Period: The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of

construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction of any building has not commenced within the established approval period, then the final development plan 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 until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the 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 PC District.

- F. Phasing: Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in general compliance with the timetable in the approved development.
- G. Failure to Maintain: If the organization established to own and maintain the open space, or the owners of dwelling units within the PC District shall, for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, such failure shall constitute a breach of the development plan and a violation of this Resolution. The Board of Township Trustees or its designee may serve written notice upon such organization of the deficiencies and demand that corrective action be taken immediately and pursue enforcement of this Resolution.
- H. Plat Required: If a plat is required by applicable law, no use shall be established or changed, and no building, structure, or improvement 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 this Resolution. The subdivision plat and plan shall be in accordance 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 right-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, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3. In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance surety 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 that the facilities for the phase in which the building or use is located are completed.
  - 4. A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

I. Extension of Time/ Modification of Final Development Plan

An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission provided the Zoning Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

1. A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.
2. In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:
  - a. A change in the use or character of the development;
  - b. An increase in overall lot coverage of structures and/or off-street parking;
  - c. An increase in the density;
  - d. A substantial increase in traffic impact circulation and public utilities usage;
  - e. A reduction in approved open space;
  - f. A reduction of off street parking and loading space;
  - g. A reduction in required pavement widths;
  - h. A reduction of the acreage in the planned development;
  - i. Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

K. Divergences - The Township, as a part of either preliminary or final development plan approval, may grant divergences from any standard or requirement in this Article that is noted "as approved per plan." An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.



## **ARTICLE 15 – Reserved**

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## **ARTICLE 16 – RESERVED**

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## ARTICLE 17 – Planned Industrial District (PID)

### Section 17.01 – PURPOSE

The Planned Industrial District (PID) is established for the purposes set forth in Section 5.058 of this Resolution.

**Section 17.02 PROCEDURE** – The PID is included in this Resolution pursuant to the procedures in Ohio Revised Code Section 519.021 (A).

### Section 17.03 – PERMITTED USES

Within the Planned Industrial District (PID) the following uses, as described by the North American Industrial Classification System (NAICS) printed by the US Government Printing Office, shall be permitted when developed in strict compliance with the approved development plan and the standards of this Resolution.

*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 2012 NAICS code under Sector 42 (such as 42174, Refrigeration Equipment and Supplies and Wholesalers) is permitted.*

2012 NAICS Code #	Permitted Uses
233	Building, Developing and General Contracting
3112	Grain and Oilseed Milling
3113	Sugar and Confectionary 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
3162	Footwear Manufacturing
321	Wood Product Manufacturing ( <i>except 321114 Wood Preservation</i> )
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	Stationery Product Manufacturing
323	Printing and Related Support Activities
325314	Fertilizer (mixing only) Manufacturing
3254	Pharmaceutical Manufacturing
3261	Plastics Products Manufacturing
3271	Clay, Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3273	Cement and Concrete Product Manufacturing ( <i>provided no hazardous wastes are burned in kilns</i> )
3323	Architectural and Structural Metals Manufacturing
3325	Hardware Manufacturing

3326	Spring and Wire Products Manufacturing
3327	Machine Shops
333	Machinery Manufacturing
334	Computer and Electronic Products Manufacturing
335	Electrical Equipment, Appliance and Component Manufacturing
3363	Motor Vehicle Parts Manufacturing
3364	Aerospace Products and Parts Manufacturing
3366	Ship and Boat Building
33691	Motorcycle, Bicycle and Parts Manufacturing
3399	Other Miscellaneous Manufacturing
<i>Wholesaling 42</i>	<i>Wholesale Trade (except 421930, Scrap Metals or Auto Wrecking yards, which are prohibited)</i>
<i>Retailing 44111</i>	<i>New Car Dealers</i>
44121	Recreational Vehicle Dealers
44122	Motorcycle, Boats 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
562212	Sanitary Land Fills (provided that all 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.)
56291	Septic Tank and Related Services
61	Educational Services
711	Performing Arts, Spectator Sports and Related Industries (except 711310, Promoters of Performing Arts, Sports and Similar Events with open air facilities for the outdoor conducting of such events)
711	Museums, Historical Sites
712	Amusement and Recreation Industries (except 7132, Gambling Industries)
72	Accommodation and Food Services (except those allowing Adult Entertainment and except 72112, Casino Hotels)
811	Repair and Maintenance

#### **Section 17.04 – CONDITIONAL USES**

Within this zoning district the uses may be permitted, subject 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 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 or structure wherein the same is located or upon which the same is granted shall be void 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 rights of authorities to enforce compliance. No conditional use shall be implemented until a compliance permit is issued by the Zoning Inspector.

- A. Adults Only Entertainment Establishment - provided the Board of Zoning Appeals determines that the following standards as set forth in Section 19.02 (B) are met.
- B. Temporary structures- manufactured/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 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/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 not later than ten (10) days after expiration of said permit.

#### **Section 17.05 – PROHIBITED USES**

- A. Except as approved in the development plan, the outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) days is prohibited.
- B. Except as provided in the development plan, no trailer of any type, no boats, no motor homes nor 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 said 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 Resolution, the restrictions in the plat or deed or the development plan.
- C. Residential uses of any kind.
- D. Except as specifically permitted in Section 17.04(B) of this Resolution or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- E. No trash, debris, unused property or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

#### **Section 17.06 – APPLICATION PROCEDURE**

Applicants may select either the two-step (preferred) or one step (optional) application procedure.

- A. Two Step Application Process –
  - 1. Step 1. The applicant, being the owner of subject real estate, applies for a zoning map amendment to PID.

- a. The applicant shall simultaneously schedule a walkabout on the site with the Zoning Commission to familiarize all parties with the lay of the land, and the general design intent of the applicant. The on-site walkabout is a public meeting pursuant to Ohio Sunshine Law (ORC §121.22) and must be properly noticed and open to the public. Minutes shall be kept.
  - b. This zoning map amendment application shall only require submission of a preliminary development plan. The applicant may however, choose to simultaneously submit a final development plan for concurrent review and approval.
  - c. If the application is approved, then the zoning map is amended to PID. The change in the zoning map is considered a legislative amendment adopted pursuant to ORC 519.021 (A), and is subject to referendum by the citizens of the township.
2. Step 2. The applicant submits a final development plan to the Zoning Commission for approval. Approval of the final development plan is an administrative act and not subject to referendum.

**B. One Step Process (Optional)**

An applicant may request simultaneous final development plan approval concurrent with the zoning map amendment to PID. All the information and standards for the preliminary development plan are not submitted but instead a complete final development plan is submitted for consideration. The approval of the final development plan and the simultaneous map amendment to PID is considered a legislative act pursuant to the provisions of ORC 519.021 A. which is subject to referendum.

**Section 17.07 – DEVELOPMENT PLANS**

- A. Preliminary Development Plan– Upon application for a PID zoning map amendment, the owner(s) of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site in accordance with PID standards. If an applicant chooses to simultaneously submit the final development plan, all requirements for a preliminary development must also be submitted.

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PID application. The plan shall include in text and map form, the following:

1. The proposed size and location of the PID district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, and 100-year floodplains.
2. Suggested architectural designs for all structures and signs to the extent known.
3. The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage, to the extent known. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.
4. The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.
5. A design of the common open space and proposed description of its use and maintenance.



6. Specific statements of divergence from the development standards in this article.
  7. Proposed location of all structures, to the extent known.
  8. Preliminary Traffic Impact Analysis, based upon new trip generation.
  9. The responsibility and maintenance of any proposed on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
  10. All required design features.
  11. Emergency service provisions (letter from Fire and Police departments).
  12. Phasing plans.
- B. Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application for final development plan approval. The Zoning Commission shall be the reviewing authority for the final development plan.

The review and approval of the Final Development Plan is an administrative, not legislative act, unless the final development plan is simultaneously submitted with an 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 final development plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PID.
2. The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:
  - a. The general development character of the tract including the limitations or controls to be placed on all uses, with proposed lot sizes, and minimum setback requirements. Other development features, including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, 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.
  - b. Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

- c. Architectural design criteria including materials, colors and renderings for all structures including proposed signs.
- d. 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.
- e. A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- f. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- g. Location of schools, parks and other public facility sites, within or adjacent to the site.
- h. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- i. 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.
- j. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- k. Specific statements of divergence from the development standards in Articles 21 (General Standards), 22 (Signs) and/or 23 (Landscaping) or existing County Subdivision regulations or standards and the justification therefore. Unless a divergence from these development standards is specifically approved by the Zoning Commission, 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.
- l. Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- m. The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.

C. Required findings for Approval of a Planned Industrial Development

The Zoning Commission and Trustees may approve a Planned Industrial Development zoning map amendment provided they find that the proposed development complies with all of the following requirements:

1. That the proposed development is consistent in all aspects with the intent, and general standards of this Resolution.

2. That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  3. That the proposed development advances the health and safety of the township and the immediate vicinity.
  4. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
  5. That the proposed development will be compatible in appearance with the remainder of the district; and
  6. That the minimum open space as required herein has been provided.
- D. Effect of Final Development Plan Approval- Plat Required - The Final Development Plan as approved by the Township Zoning Commission shall be the subject of a subdivision plat to be approved by the Delaware County Regional Planning Commission if required by the Ohio Revised Code.

In the Planned Industrial District (PID), no use shall be established or changed and no structure shall be constructed or altered until the required plat and plan have been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio, and this Resolution.

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.

The subdivision plat and plan shall be in accordance 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 right-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, and the improvements thereon.
  3. In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording 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 that the facilities for the phase in which the building or use is located are completed.
- E. Failure to Maintain: if the organization established to own and maintain the open space, or the owners of land and/or structures or buildings within the PID District shall, for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, such failure shall constitute a breach of the development plan and a violation of this Resolution. The Board of Township Trustees or its

designee may serve written notice upon such organization of the deficiencies and demand that corrective action be taken immediately and pursue enforcement of this Resolution.

F. Extension of Time or Modification

1. An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or extending the approval period for either a preliminary or final development plan may be granted by the Zoning Commission provided the Zoning Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.
2. A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application.
3. In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application, including the right of referendum. The following shall be considered substantial departures from the original application:
  - a. A change in the use or character of the development;
  - b. An increase in overall lot coverage of structures and off-street parking;
  - c. An increase in the density;
  - d. An increase in traffic circulation;
  - e. A reduction in approved open space;
  - f. A reduction of off street parking and loading space;
  - g. A reduction in required pavement widths;
  - h. A reduction of the acreage in the planned development;
  - i. Any other departure from the approved development plan which is deemed substantial under by the Zoning Commission.

- G. Administrative Review: All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, or their designated technical advisors, for administrative review to ensure substantial compliance with the development plan as approved, prior to the issuance of any zoning certificate.

### **Section 17.08 – DEVELOPMENT STANDARDS**

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

- A. Setbacks: 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 of this Resolution unless a divergence is approved by the Zoning Commission.
- B. Building Dimensions: Buildings may contain such area of floor space as is approved in the development plan.
- C. Building Height Limits: No building or structure in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point on the roof. Chimneys, spires, domes, flag poles, and elevator shafts, may be constructed to any safe height, but not to exceed one-hundred (100) feet in height. No windmill, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and not to exceed one hundred (100) feet in height.
- D. Maximum Lot Coverage and Minimum Open Space: On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than seventy-five percent (75%) of the lot area.
- E. Landscaping: All yards, front, side, and rear shall be landscaped, and all organized open spaces or areas shall be landscaped as required in Article 23 of this Resolution.
- F. Site Development: All natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained to the maximum extent possible.
- 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 of this Resolution shall, when appropriate, be incorporated.
- H. Lighting: Exterior lighting fixtures shall meet the requirements of Article 21 of the Resolution.
- I. Signs: According to Article 22 or as approved per development plan.
- J. Performance Standards: No use shall be conducted within PID which fails to maintain the following standards:
  - 1. Fire and Explosion Hazards: All activities, including storage involving flammable, explosive or hazardous materials shall include the provisions of adequate safety devices against the hazard of spill, fire and/or 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.
  - 2. 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.

3. 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 where on the use is conducted.
  4. 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. Applicants shall meet the required standards of the Delaware County Engineer.
  5. 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.
  6. Vibrations: No uses shall be located and no equipment shall be installed in such a way as to produce intense earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.
  7. 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.
- K. 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.
- L. Expiration of Final Development Plan Approval: If construction of any structure 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.

## **ARTICLE 18 – Agricultural Preservation District (A-1)**

### **Section 18.01 – PURPOSE**

The Agriculture Preservation District (A-1) is established for the purposes set forth in Section 5.063 of this Resolution.

### **Section 18.02 – PERMITTED USES**

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

- A. Farm residence limited to one single family dwelling per parcel, lot or tract.
- B. Accessory buildings and accessory uses including private garages and permanent dwellings for full time domestic help employed on the premises or full time 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 of this Resolution.
- E. Farm markets, as may be permitted under Section 6.02 of this Resolution.
- F. Facilities for the storage, sorting, preliminary processing or sale of agricultural products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor, in association with a permitted agricultural use.
- G. 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 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 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 not later than ten (10) days after expiration of said permit.
- H. Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- I. Limited Home Occupation as provided in Section 21.14 of this Resolution.
- J. 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.

K. Religious Land Uses- Church, place of worship, place of religious assembly, religious institution, and parsonage provided:

1. There is adequate lot area to accommodate off street parking for all patrons.
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. Adult Family Homes as provided for and defined in Ohio Revised Code Chapter 5119.70.

M. 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 day care qualifies as a "Type B" family day care home" as defined in Ohio Revised Code Section 5104.01.

N. Common Access Driveway Subdivision.

#### **Section 18.03 – 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 and declared abandoned if said use or uses are not commenced within one (1) year 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 or structure wherein the same is located or upon which the same is granted shall void the 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 a permit of compliance is issued by the Zoning Inspector.

- A. Expanded Home Occupations as provided in Section 21.15 of this Resolution.
- B. Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.
- C. Permanent structures or improvements used for retail sale of agricultural products produced on the premises.
- D. Granny flat, as provided in Section 7.03 L of this Resolution.

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

- A. Outdoor storage of inoperable, unlicensed or unused motor vehicles 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.
- B. 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.

- C. No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than seven (7) days in any six month period.
- D. Except for permanently sited manufactured homes no mobile home shall be placed or occupied in this district.

#### **Section 18.05 – DEVELOPMENT STANDARDS**

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

- A. Lot Area: No parcel of land in this district shall be used for residential purposes which have an area of less than five (5) acres (217,800 square feet). 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 or parcels within this zoning district shall have three hundred (300) feet of frontage on a State or County approved road or common access driveways (CAD).
- C. 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 are exempted from any height regulation and may be erected to any safe height. No 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.
- D. Building Dimensions: (Floor Space Requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand two hundred (1,200) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than sixteen (1,600) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling shall have living area of not less than fourteen hundred (1,400) square feet of area, exclusive of basements, porches, and garages.
- E. Building Set Back: 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 of this Resolution. 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 nearest right -of-way line of adjoining roadway, the setback is required to conform to setback lines for principal structures on adjoining lots.
- F. Side Yard Set Back: No building or structure shall be located closer than twenty-five (25) feet to any side lot line.
- G. Rear Yard Requirement: 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.
- 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 and egress according to the standards set forth in Article 21 of this Resolution.

- J. 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 may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding 48 square feet in area per side advertising said tract for sale.

## **ARTICLE 19 – ADULT ENTERTAINMENT**

The Adult Entertainment Regulations grow out of noted concerns raised by Brown Township concerning the possibility of adult businesses locating in the Township and the potential of resulting ill effects on the Township.

### **SECTION 19.01 – BACKGROUND AND PURPOSE**

- A. Zoning Authority: Brown Township, Delaware County, Ohio, pursuant to Ohio Revised Code Section 519.02 and for the purposes specified there under, may and does regulate and has local zoning control over land use in Brown Township. Adult Only Entertainment Establishments are a type of land use.
- B. Studies of Sexually Oriented Businesses: Brown Township has analyzed thirteen studies of sexually oriented businesses in communities that specifically possess relevant conditions and/or conclusions about adverse secondary effects that could also occur in Brown Township. Brown Township believes that the detailed findings of these studies are indicative of the kinds of problems that can occur when Adult Only Entertainment Establishments locate within a community like Brown Township. The studies which were selected for relevance and appropriateness to Brown Township are the following:
1. EFFECTS ON SURROUNDING AREA OF ADULT ENTERTAINMENT BUSINESSES IN SAINT PAUL, MINNESOTA, by the Division of Planning, Department of Planning and Economic Development, St. Paul, Minnesota, 1978.
  2. ADULT ENTERTAINMENT 40-ACRE STUDY, Planning Division, Department of Planning and Economic Development, St. Paul, Minnesota, 1987.
  3. REPORT OF THE ATTORNEY GENERAL'S WORKING GROUP ON THE REGULATION OF SEXUALLY ORIENTED BUSINESSES, 1989, Hubert H. Humphrey III, Attorney General, State of Minnesota.
  4. SEXUALLY ORIENTED BUSINESS STUDY, ROCHESTER, NEW YORK, by Duncan Associates, July 2000.
  5. ADULT ENTERTAINMENT BUSINESSES IN INDIANAPOLIS: AN ANALYSIS, 1984.
  6. CITY OF AUSTIN TEXAS STUDY OF THE TIME, PLACE AND MANNER REGULATION OF [ADULT] BUSINESS ACTIVITY, by the Special Programs Division of the Office of Land Development Services, Austin Police Department, and Austin Building Inspection Department, 1986.
  7. A REPORT ON THE SECONDARY IMPACTS OF ADULT USE BUSINESSES IN THE CITY OF DENVER, prepared for Denver City Council by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and City Attorney's Office, January 1998.
  8. STUDY OF ADULT BUSINESSES AND OTHER BUSINESSES WITH ADULT MATERIALS, KANSAS CITY, MISSOURI, by Attorney Eric Damian Kelley, Ph.D., AICP and Connie B. Cooper, AICP, April 1998.
  9. ADULT ENTERTAINMENT STUDY, Department of City Planning, City of New York, November 1994.
  10. A STUDY OF LAND USE REGULATION OF ADULT ENTERTAINMENT ESTABLISHMENTS, Springfield, Missouri; Department of Community Development, November 1986.
  11. ADULT USE STUDY, Newport News, Virginia, Department of Planning and Development, March 1986.

12. STUDY OF THE EFFECTS OF THE CONCENTRATION OF ADULT ENTERTAINMENT ESTABLISHMENTS IN THE CITY OF LOS ANGELES, by the Los Angeles City Planning Department, June 1977.
13. "Everything you always wanted to know about regulating sex businesses xxx", by Eric Damian Kelley FAICP and Connie Cooper FAICP for the American Planning Association, Planning Advisory Service Report Number 495/496.

C. Adverse Secondary Impacts of Sexually Oriented Businesses:

1. There is a correlation between sexually oriented businesses and a reduction in appraised property values and an increase in property deterioration to both residential and commercial property values within a 1-3 block surrounding area.
  - a. The 1984 Indianapolis Study "undertook the quantification of possible effects of the proximity of adult entertainment businesses on the value of residential properties within a 1,000 foot radius of their locations". The study looked at a comparison in property values between the "Control" area and the "Study" area. The "Study" areas were defined areas where adult entertainment establishments were located. The "Control" areas were defined areas similar in nature but outside the areas where adult entertainment uses were established. The study noted that "despite average property values in the Study area being 'distinctly higher than the Control Areas', during the period 1979- 1982, the Control Area showed an average annual appreciation of 24.7%, while the Study Area appreciated only 8.7% annually."
  - b. As reported in the Kelley and Cooper APA report #495/496, a nationwide Survey of MAI appraisers revealed that 78% of respondents indicated that an adult bookstore would have a negative effect on residential property values within one block of the premises. 19% of the appraisers felt this depreciation would be in excess of 20%; 59% of appraisers felt the depreciation would be from 1-20%. 69 % of appraisers also felt that a similar decrease in value would occur to commercial values within one block of an adult bookstore.
  - c. The Denver study reported that for the period 1994-97 residential properties "showed a loss in value for the ones that abut the adult business block" (page 43 of the study).
2. The Denver Study found that 69% of residents surveyed felt that adult use businesses had a negative overall effect on their neighborhood. 23% of residents polled within the study areas in Denver reported they had considered moving to get away from the adverse secondary impacts of adult entertainment establishments (see page 26 of the study). Specific activities observed by those living near adult entertainment establishments included littering, trespassing, and drinking alcohol in public. Litter generated by customers of such businesses includes pornographic printed matter, used condoms, sex paraphernalia and used syringes. Residents also mentioned having seen people urinating, masturbating and soliciting for prostitution in areas adjacent to adult use businesses (page 26 of the study).
3. Patrons of standard businesses that were located in areas of adult entertainment felt less safe going to do business there. (St. Paul 40-Acre Study, 1987)

4. There is a correlation between sexually oriented businesses and significantly increased major crime rates (such as indecent exposure, prostitution, rape, robbery and violent offenses) in the immediate area of sexually oriented businesses.
  - a. The St. Paul 40- Acre Study cited a separate Phoenix, Arizona study, which noted that "on average, in the three study areas, property crimes were 43 percent higher, violent crimes were four percent higher, and sex crimes were 500 percent higher than in the control areas. Moreover, the study area with one of the city's highest concentrations of adult businesses had a sex crime rate over 11 times as large as a similar area having no adult businesses. Finally. 89 percent of the reported crimes of indecent exposure were committed at the addresses of adult businesses."
  - b. The 1987 St. Paul 40-Acre Study noted that adult entertainment correlates to street prostitution, which leads to other crimes. 70% of all street prostitution in the St. Paul study was located within the "street prostitution zone" which was within the adult entertainment business areas studied. Street prostitution increased within 1-8 pedestrian blocks of sexually oriented businesses.
  - c. The 1984 Indianapolis Study established a "Control" area and a "Study" area for comparison. The "Control" area closely resembled the "Study" area socially, economically and geographically, but did not have adult entertainment uses. The "Study" area was the area of concentration of adult entertainment uses. The Indianapolis study created a mathematical scoring system to evaluate crime both within and out of the "Study" area. The Indianapolis study noted that:
    - 1.) "The average crime rate figure for the Indianapolis Police Department district was 784.55. The Control Area had a rate that was 137.79 higher than the overall police district, whereas the Study area was 204.18 points higher than the control Area. In other words, people living in the Control Area of the study were exposed to a major crime rate in their neighborhoods that was 18% higher than that of the IPD generally" (reference to page 10 of the study).
    - 2.) "Residents of the Study Area, however, were exposed to a major crime rate that was 23% higher than that of the control area and 46% higher than the population of the IPD District as a whole" (reference to page 10 of the study).
    - 3.) "The Study Area exhibits a crime rate that is 127% higher than the Control Area in locations that are mixed district- commercial and residential in nature" (reference to page 12 of the study).
    - 4.) "Both the Control and the Study Areas experienced a significantly higher incidence of major crimes/10,000 population than the IPD District as a whole. Much of this increase would be expected given their location in generally older, less affluent and more populous areas of the city. It is more difficult to explain the distinctly higher crime rate in the Study Area as compared to the Control Area- 1,099.51 versus 886.34" (reference page 18 of the study).
    - 5.) "The average sex related crime rate in the control area was 26.2. The Study Area had an average rate of 46.4. If the same ratio between the Control and Study Areas established for major crime during this period were applied, we would expect a crime rate that was 23% higher in the study area. The actual rate is 77% higher. An obvious difference lies in

the presence of one or more adult entertainment establishments" (reference pages 18-19 of the study).

- d. The Austin Study (p.113) "reveals a definite pattern concerning sex- related crime rates. Sex-related crime rates in the control area are consistently low, ranging from 65% to 88% of the city wide average. In contrast, sex related crimes in the Study Areas are 187%-482% higher than the city wide average."
- e. The Denver study noted that the vice detail "has made arrests, primarily for public indecency, at all of the adult bookstores and theater/bookstores in Denver over the past several years" (p.31 of the study).
- f. The Denver study also noted that:
  - 1.) Crimes against persons accounted for 12.1% of all reported offenses in the Study areas, compared to 7.8% for the city as a whole (p. 34 of the study).
  - 2.) Drug related crimes were 10.7% of all reported offenses in the study area vs. 4.5% citywide.
  - 3.) Robberies were highest in Adult Theater study areas, at 9.1% of all crimes versus 2.7% citywide.
  - 4.) Adult Theater study areas had by far the most crimes related to them. For the period 1995-96 the city tallied major crimes that included assault, criminal mischief, disturbance, DUI, fight, harassment, threat, prowler, noise, vice/narcotics, robbery, shooting, stabbing, theft, and sexual assault. Incidence of crimes was greatest near 24-hour operating sexual oriented businesses.
- g. There is a correlation between illegal prostitution and the human contact businesses such as "health clubs", escort services, non-therapeutic massage, and lingerie modeling (see APA Report 495 by Kelley and Cooper).
- h. Adult video arcades or "peep shows" correlate with illicit sexual activity, acts of indecent exposure, loitering and unsanitary conditions on the premises (see APA Report 495 by Kelley and Cooper, and the studies for Austin TX, and Indianapolis).
- i. The concentration of two or more adult businesses in one location multiplies the adverse secondary impacts related to that site (St. Paul, Denver, Kansas City, Los Angeles, Austin, Newport News, and Rochester, New York). Dispersion by separation is an important regulation to reduce adverse secondary effects. The co-location of multiple adult uses within one building is also problematic and should not be allowed.
- j. Brown Township incorporates the detailed findings of the adverse secondary effects of Adult Only Entertainment Establishments in the thirteen specific studies listed herein into this Resolution by reference, and notes that, without specific zoning to mitigate such effects, the same adverse secondary effects can be expected to occur in Brown Township at such time when Adult Only Entertainment Establishments choose to locate there. Brown Township intends to use its zoning

powers over local land use authorized by Ohio Revised Code 519.02 to regulate Adult Only Entertainment Establishments, and therefore to mitigate the anticipated adverse secondary impacts of such establishments.

D. Zoning Issues Regarding Adult Only Entertainment Establishments

1. Although as of the date of adoption of this Amendment, there are no sexually oriented businesses in Brown Township, there is the possibility that Adult Only Entertainment Establishments will someday want to locate within the Township. Brown Township is a rural residential community with a 2010 population of 1,416. Renton, Washington, a suburb of Seattle enacted 1000 foot separation standards between Adult Only Entertainment Establishments and certain other land uses; those standards were upheld by the United States Supreme Court. Brown Township wishes to use zoning powers to establish appropriate locations for Adult Only Entertainment Establishments so as to minimize the adverse secondary effects of such establishments. Brown Township has chosen to emulate the Renton standards in Section 19.02.
2. At the time of the adoption of this amendment to the zoning Resolution, Brown Township has 23 acres zoned or planned for Planned Industrial (PID) along US Route 36/State Route 37, a four-lane federal highway. The PID district would be the most appropriate location for Adult Only Entertainment Establishments provided they can meet the 1000 foot separation requirement in Section 19.02.

**SECTION 19.02 – ADULT ENTERTAINMENT REGULATIONS**

- A. No sexual activity shall take place within the premises or on the lot.
- B. No private booths for viewing adult videos, adult movies, nude dancing or private non-therapeutic massage or modeling are permitted on the premises.
- C. Mainstream media shops or stores that have a maximum of 10 percent of their gross floor area devoted to hard core material are permitted in Planned Commercial and Planned Industrial Districts, provided:
  1. Hard core material shall be physically and visually separated from main stream media, and shall not be displayed publicly as defined in Article 4 of this Resolution.
  2. Separation shall be by a solid opaque-walled enclosure at least eight feet high or reaching to the ceiling.
  3. Inventory marketed to and predominantly consumed by minors shall not be displayed within 15 feet of the entrance to the hard core material section.
  4. Access to the hard core material section shall be controlled by electronic or other means to provide assurance that a person under age 18 will not obtain access, and the general public will not accidentally enter this section.
  5. The hard core material section shall provide signage at its entrance warning that persons under the age of 18 are not permitted inside.
  6. No adult arcades are permitted in mainstream media stores.

7. No more than one designated area for sexually oriented merchandise per store.
  8. There shall be no exterior signs that advertise hard core or XXX media.
- D. Permitted Adult Only Entertainment Establishments – Adult Entertainment Establishments, with the exception of "touching businesses", are a conditional use in the Planned Industrial district provided:
1. Adult Only Entertainment Establishments shall not be permitted within 1000 feet (measured from the closest property line of each use) of:
    - a. A religious institution
    - b. A kindergarten -12<sup>th</sup> grade school
    - c. A park or playground
    - d. A residence within a residential zoning district
    - e. A library
    - f. A day care center
    - g. Another Adult Only Entertainment Establishment
  2. Only one adult entertainment establishment (i.e. adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, lingerie modeling studio, nude or seminude model studio, or sexual encounter establishment) is permitted in a single building. No colocation of adult entertainment establishments is permitted within one building. It is not permissible to co-locate an adult bookstore with an adult theater, for example.
  3. Hard core material is not displayed publicly, as defined in Article 4.
  4. No adult only entertainment establishment shall be open for business prior to 10:00 a.m. or later than 11:00 p.m.
  5. Adult entertainment stores that sell both mainstream media and hard core material shall physically and visually separate hard core material from main stream media using the standards in Section 19.02 (1) (g.)
- E. Prohibited Adult Only Entertainment Establishments- "Touching businesses" such as non-therapeutic massage, lap dancing, and nude modeling that involves employee-client touching are not permitted in Brown Township.



## **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 insure that the general welfare of citizens of Brown 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 land owner in any rezoning or variance.

### Section 21.01 – PARKING

Wherever parking areas are to 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 rectangularly 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 Residence Zoning District (FR-1) and the Agricultural Preservation District (A-1) all common parking areas and adjacent aisles or driveways shall be paved with asphalt material or cement.
- C. Driveway Location: No driveway or entrance to common parking areas 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 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 lots graded so that vehicular traffic entering a public road has an unobstructed sight distance of at least three hundred (300) feet. Driveway construction shall be completed in accordance with standards imposed in Section 21.12 of this Resolution.
- D. Parking Area Location: No driveway, parking lot or parking area shall be located nearer than six (6) feet to the side or rear line of the tract on which 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>
Single Family Residential	Four (4) per dwelling unit (garages and driveways count in FR-1 and A-1.
All Other Residential	Three (3) per dwelling unit (garages and driveway count)
Hotels, Motels, Lodges (without public facilities)	One (1) per rental unit, plus 1 per employee on the largest shift, plus 1 per four seats in the dining room or restaurant area.
Hotels, Motels, Lodges, Exhibition Halls and Public Assembly Areas (except churches)	One (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 purpose, plus 1 per 4 seats in any restaurant herein.

Churches or Places Public	One (1) for each three (3) seats or one (1) for each forty-five (45) sq. ft. of assembly area, whichever is greater.
Hospitals	One and one half (1-1/2) for each bed, plus 1 for each employee on the largest shift.
Nursing Homes	One (1) for each 2 beds, plus 1 for each employee on the largest shift.
Museums, Libraries, etc.	One (1) for each 400 sq. ft. of area open to public plus 1 for each employee on the largest shift.
Primary or Elementary Schools	Four (4) for each classroom.
Secondary Schools, Colleges	Four (4) for each classroom plus 1 for each four (4) trade schools, etc. students.
Restaurants	One (1) for each two (2) seats plus 1 for each employee on the largest shift. Not less than 25 parking spaces shall be provided.
Offices	One (1) for each 300 sq. ft. of floor area.
Funeral Homes	One (1) for each 25 sq. ft. of public area.
Retail Stores	Five (5) per 1000 sq. ft. of gross leasable area.
All Industrial, Warehousing	Twenty (20) plus 1 for each two (2) employees plus 1 for each vehicle maintained on the premises.

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, antennas or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base grade 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) ft. to another principal structure unless the adjacent walls of both 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 fire wall, 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 regulations promulgated by the Environmental Protection Agency and the Delaware General Health District. Prior to the 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 or lakes shall be constructed and developed in compliance with the following standards:

- A. Except adjacent to U.S. Rt. 36/37 or State Route 521, no impoundment shall be located closer than twenty-five (25) feet to the right-of-way or fifty-five (55) feet of the centerline of any adjacent approved road. No

impoundment shall be located closer than fifty (50) feet to the right-of-way of U.S. Rt. 36/37 or State Route 521.

- B. No impoundment shall be located in the front yard in any district except the FR-1 or A-I 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. Newly constructed water impoundments may not significantly affect existing waterways or their collection systems.

#### **Section 21.06 – LANDSCAPING**

All uses and improvements in 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. Replacement of trees, removed during the land clearing, should be accomplished as soon as possible. All requirements of Article 23 of this Resolution shall be met.

#### **Section 21.07 – DRAINAGE**

All construction within the 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 servient properties is maintained or improved. Where applicable the Delaware County Urban Sediment Pollution and Water Run-Off Control Regulations shall be complied with. In no event shall any person interdict or interfere with any existing tile or surface drain channel unless it is determined by Delaware County Soil & Water Conservation District that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties.

#### **Section 21.08 – FLOOD PLAIN RESTRICTIONS**

Certain limited areas of the Township lie within the flood plain or special flood hazard areas of Alum Creek or its tributaries. Inundation of those areas during periods of high water can impose great loss of property value unless controls are imposed to ensure that land uses within those areas consider such risks and minimize the impact of such flooding. All construction within the designated Flood Plain shall be regulated by the Delaware County Flood Prevention Resolution.

#### **Section 21.09 – SET BACK REGULATIONS**

For the purposes of this Resolution, streets, roads, highways and approved private roadways shall be classified in one of the three following classes:

1. CLASS A: Any public street or road with a right of way width of one hundred (100) feet or wider designated in the Road Classification Plan of Delaware County, Ohio as CLASS A roads and the following listed roads within the township, to-wit: State Route 521, State Route 36/37, U.S. Route 42, Old State Road (County Road 10), Leonardsburg Road (Road 80 and 221), County Home Road and Kilbourne Road (County Road 65), Three B's & K Road (County Road 35) and/or any other roads as later designated by the Board of Township Trustees.
2. CLASS B: Any other through public street or road or any private roadway approved by County Engineer connecting two or more public roads.
3. CLASS C: Common Access Driveways or 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 there from to create a connecting street between two or more existing or future streets or roads.

- A. **Minimum Set Back Distances:** No building or use (except parking areas) shall be located closer to the centerline of adjoining streets, roads, highways or approved private roadways than the distances set forth in this section. All distances are measured in feet from the centerline of the existing road or proposed road to the nearest use or improvement, except parking areas or signs which may be located within the setback area as regulated by Article 22 of this Resolution.

**USE CLASSIFICATION ROAD CLASSIFICATION**

	Class A	Class B	Class C
FR-1 – Residential	130	90	90
R-2 – Residential	130	75	60
R-3 – Residential	130	60	60
PRD – Residential	<i>As approved in Development Plan</i>		
C-2 Commercial/Office	130	80	60
PC - Commercial Office	<i>As approved in Development Plan</i>		
PI – Planned Industrial	<i>As approved in Development Plan</i>		
A-1 – Agricultural	130	90	90

*NOTE: No building or use (except signs or parking areas as permitted in Articles 21 and 22 of this Resolution shall be permitted closer than eighty (80) feet to the right-of-way line of State Rt. 36/37 (Sunbury Road).*

**Section 21.10 – INSTALLATION OF SATELLITE SIGNAL RECEIVING EARTH STATIONS**

Installation of dish type Satellite Signal Receiving Earth Stations shall be governed by this Article and the following regulations shall be imposed:

- A. No installation may be made forward of the front building line of the principal structure and no antenna or dish shall be placed nearer than twenty (20) feet to any property line.
- B. No disk or dish having a diameter of greater than 24 inches may be located on the roof of any residential structure or accessory building on a residential or agricultural lot and the top of such disk or dish may not be more than twelve (12) feet above the ground level.
- C. No disk or dish having a diameter of more than thirty-six (36) inches shall be installed on the roof or other mounting more than six (6) feet above ground level in a commercial or industrial district unless the mounting of the same is designed to withstand a wind force of eighty-five (85) miles per hour and a certificate is furnished to the Zoning Inspector, signed by a licensed and qualified engineer, that the installation is in conformity to the above limitations.
- D. No dish or disk shall be permitted within the township which exceeds twelve (12) ft. in diameter unless the same is specifically approved as part of the development plan in the Planned Office/Commercial District or an Industrial District.
- E. No permit for installation of a disk or dish shall be required for a dish measuring thirty-six (36) inches in diameter or less. For any dishes greater than thirty-six (36) inches in diameter a permit fee as prescribed by the Board of Township Trustees shall be paid to the Zoning Inspector and permit forms shall be executed as prescribed.

### **Section 21.11 – DRIVEWAY CONSTRUCTION**

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

- A. Approval Criteria: Approval criteria to be applied in determining the suitability of driveway construction include, but are not limited to the following:
1. Traffic Safety Issues including access control considerations, sight distance, and excessive road grades.
  2. Environmental Conditions including wetlands, drainage courses, flood plains, mature tree stands, rock outcrops, sensitive wildlife habitat, and slope stability.
  3. Historical Resources including structures of historic, archaeological, and paleontological significance.
  4. Unique Physical Shape Factors including exceptional narrowness, shallowness, or other extraordinary characteristics of the land.
- B. All Driveways (any use): In addition to the conditions or specifications imposed in Sections 21.11 C, D, or E of this Resolution, the following specifications shall apply to all driveways, regardless of the use served thereby:
1. No driveway shall have a grade, up or down, from the public road pavement level exceeding eight (8) percent.
  2. No driveway shall, at any point over its entire length, contain a grade exceeding eight (8) percent.
  3. At the point the driveway intersects the public road the same shall have such radius and drain pipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway.
  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 shall be bridged by pipe or such structures as required to permit the unobstructed passage of all surface water generated by a five (5) year storm. Any pipe shall 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 shall be designed by a Professional Engineer with HS fifteen (15) loading. No bridge shall be less than twelve (12) feet in width. If the driveway serves a commercial or industrial use the bridge shall be not less than eighteen (18) feet in width. A signed and sealed copy of the design plans and specifications shall be filed with the Zoning Inspector prior to commencement of use and the structure shall be constructed in strict compliance with the plans and specifications.
  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 shall be no steeper than a two (2) to one (1) 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 shall be compacted to a density of ninety five (95) proctors. 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 and shall be graded to a good and sufficient outlet. Siltation control shall be placed in any ditch and such siltation shall not flow to roadside ditches along public roads.
  8. All curves in the driveway shall be of sufficient radius (not less than fifty (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 wind-ward side of the driveway which contribute to drifting of snow should, when possible, be removed.
  11. Street address and house numbering for each lot and common access drive shall be located at the public street access. An additional address house numbering shall also be located on each residence for a common access drive.
  12. 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.
- C. Residential Driveways: In addition to the conditions imposed by Section 21.11 A and B of this Resolution, the following standards shall apply to driveways serving residential structures or uses.
1. Driveways serving individual residential structures shall be not less than ten (10) feet in width and shall be constructed over an aggregate base of acceptable depth.
  2. If the driveway serves two (2) or more residences (not including apartment structures) the same shall be twelve (12) feet in width and shall be constructed over an aggregate base of acceptable 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 distant from each other, to permit the free passage of traffic over said drive.
  4. Dust control shall be provided on an "as needed" basis.
- D. Commercial, Industrial, Public Facility and Apartment Complex Driveways: In addition to the conditions imposed by Section 21.12 A and B of this Resolution, the following standards shall apply to 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. Driveway base and surface shall be designed by a professional engineer to sufficient depth for anticipated use and access by public safety vehicles.
3. The finished surface of the driveway shall be hard surfaced and may be of any Ohio Department of Transportation approved materials.

Common Access Driveways (CAD): A CAD may be permitted in accordance with Delaware County Subdivision Regulations.

#### **Section 21.12 – ACCESSORY SWIMMING POOLS FOR SINGLE FAMILY DWELLINGS**

*(Excluding natural bodies of water such as ponds.)*

Private accessory swimming pools for single family dwellings may be permitted in any district, provided the following provisions are met:

- A. The pool is intended solely for the enjoyment of the occupants and guests of the principal users of the property on which it is located.
- B. It may not be located closer than fifteen (15) feet to any rear property line and twenty five (25) feet to any side property line and may not encroach upon any required front yard or side yard setback, or any required on-site waste water leaching areas. No installation may be made forward of the front building line of the principal structure.
- C. The swimming pool shall be equipped with an approved enclosure or automatic pool cover prescribed in the Delaware County Building Code to prevent uncontrolled access.
- D. Fencing requirements will follow the prescribed standards of the Delaware County Building Code.
- E. Exterior lighting shall be shaded wherever necessary in order to avoid casting direct light upon any other property or any public street.

#### **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 appearance of the structure shall not be altered or 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.
  2. There are no non-resident employees.

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. Sign-One (1) sign shall be permitted, maximum area three (3) square feet on one (1) side. Sign may be flatly affixed against the surface of the dwelling, or erected on a pole no more than five feet tall 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 associated with the limited home occupation.
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 21.14 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 of this Resolution 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.
  5. 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 an Expanded 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.

6. No outside storage of any kind associated with an Expanded Home Occupation Conditional use shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.
7. Only one sign, not larger than three (3) square feet of advertising area 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 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.
8. 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, with a setback of 12' minimum from adjacent property 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).
9. 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.
10. 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 General Health District and do not create a burden on adjoining property.
11. No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
12. 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.
13. 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 – OWNERSHIP OF COMMON OPEN SPACE**

Different ownership and management options apply to the permanently protected common open space created through the development process. The common open space shall remain undivided and may be owned and managed

by a home-owners association, the township, or a recognized land trust or conservation district (conservancy). A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

Ownership Standards: Common open space within the development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the Township.

- A. Homeowners Association: The undivided common open space and associated facilities may be held in common ownership by a home-owners association. The association shall be formed and operated under the following provisions:
1. The developer shall provide a description of the association, including its bylaws and methods for maintaining the common open space.
  2. The association shall be organized by the developer and shall be operated by the developer, before the sale of any lots within the development.
  3. Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
  4. The association shall be responsible for maintenance of insurance and taxes on the undivided common open space. The association may establish rules to ensure proper maintenance of property, including monetary liens on the homes and home sites of its members who fail to pay their association dues in a timely manner. Such liens may impose a penalty of interest charges.
  5. The members of the association shall share equitably the costs of maintaining and developing such undivided common open space. Shares shall be defined within the association bylaws.
  6. In the event of transfer of undivided common open space land by the home-owners association, or the assumption of maintenance of undivided common open space land by the Township, notice of such pending action shall be given to all property owners within the development.
  7. The association shall provide for adequate staff to administer common facilities and property and continually maintain the undivided common open space.
  8. The home-owners association may lease common open space lands to any other qualified person, or corporation, for operation and maintenance of common open space lands, but such a lease agreement shall provide:
    - a. That the residents of the development shall at all times have access to the common open space lands contained therein (except croplands during the growing season);
    - b. That the undivided common open space shall be maintained for purposes set forth in this Section; and
    - c. That the operation of common open space facilities may be for the benefit of the residents only, or may be open to the public, at the election of the developer and/or homeowners

association. In cases where public trails or paths are provided as linkage between developments or as a continuous link of common open space within the Township, the public shall have access to such identified paths/walkways.

9. The lease shall be subject to the approval of the homeowners' association board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements shall be recorded with the Delaware County Recorder's office and notification shall be provided to the Board of Township Trustees within thirty (30) days of action by the board.
10. Condominiums: The undivided common open space and associated facilities may be controlled through the use of condominium agreements, approved by the Township. Such agreements shall be in conformance with all applicable laws and regulations. All undivided common open space land shall be held as a common element.
11. Dedication of Easements: The Township may, but shall not be required to, accept easements for public use of any portion or portions of undivided common open space land, title of which is to remain in ownership by condominium or home-owners association, provided:
  - a. Such land is accessible to the public;
  - b. There is no cost of acquisition other than incidental transfer of ownership costs;
  - c. A satisfactory maintenance agreement is reached between the developer, association and the Township.
12. Transfer of Easements to a Private Conservation Organization: With the permission of the Township, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that:
  - a. The organization is acceptable to the Township, and is a bona fide conservation organization with perpetual existence;
  - b. The conveyance contains appropriate provisions for the proper reverted or retransfer in the event that organization becomes unwilling or unable to continue carrying out its function; and,
  - c. A maintenance agreement acceptable to the Board of Township Trustees is entered into by the developer and the organization.

#### **Section 21.16 – MAINTENANCE OF OPEN SPACE**

- A. The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The owner shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
- B. In the event that the organization established to own and maintain common open space shall at any time after establishment of the planned development fails to maintain the common open space in reasonable order and condition in accordance with the Final Development Plan, the Board of Township Trustees may serve written

notice upon such organization and/or upon the residents of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition.

1. Notice of Hearing shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice.
2. A hearing held by the Board of Township Trustees may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured.
3. Failure to Cure - If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Board of Township Trustees, in order to preserve the taxable values of the properties within the planned development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one (1) year. Cost of the maintenance shall be assessed upon the properties within the planned development that have a right of enjoyment of the common open space. Said entry and maintenance shall not vest in the public any rights to use the common open space.
4. Hearing to Show Cause - Before the expiration of said year, the Board of Township Trustees shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space.
  - a. Call a public hearing to be held by the Board of Township Trustees,
  - b. Provide notice to such organization, and/or to the residents of the planned development of the hearing,
  - c. Conduct a public hearing with the organization and/or the residents of the planned development who shall show cause why such maintenance by the Board of Township Trustees shall not, at the election of the Township Trustees, continue for a succeeding year.
5. Final Administrative Decision
  - a. If the Board of Township Trustees shall determine such organization is ready and able to maintain said common open space in reasonable condition, the Board of Township Trustees shall cease to maintain said common open space at the end of said year.
  - b. If the Board of Township Trustees shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, the Board of Township Trustees may, in its discretion, continue to maintain said common open space during the next succeeding year and subject to a similar hearing and determination, in each year thereafter.
  - c. The decision of the Board of Township Trustees in any such case shall constitute a final administrative decision subject to review as provided by law.

- d. The cost of such maintenance by the Board of Township Trustees shall be assessed against the properties within the planned development that have a right of enjoyment of the common open space, and shall become a tax lien on said properties.
- e. The Board of Township Trustees, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the Delaware County Recorder, upon the properties affected by such lien within the planned development.

#### **Section 21.17– FENCES, WALLS, AND DRIVEWAY ENTRANCE GATES**

A zoning permit/certificate shall be required prior to the erection of any fence, wall or driveway entrance gate that encloses any portion of a property or is intended to complete an enclosure. All fences and walls, however, must meet all other provisions of this section.

- A. A fence or wall may be erected, placed or maintained along a lot line in all districts or adjacent thereto to a height not exceeding six (6) feet above the ground level for fence or wall. A fence or wall may be erected to a height not exceeding eight (8) feet if located in a PID district and may contain an additional two (2) feet of barbed wire or razor wire, such that total fence or wall height shall not exceed ten (10) feet. No such fence or wall which is located in a required front or corner side yard shall exceed a height of three and one-half (3 1/2) feet. Fences or walls shall be subject to the following provisions:
  - 1. Each span of any fence or wall shall be uniformly constructed of any commonly used fencing materials, such as: masonry, wood, chain link, wrought iron or wire, "span" being defined as any portion of a fence or wall without corners. Barbed wire, razor wire or electrified fences are prohibited on residential lots of one (1) acre or less except in the A-1 Agricultural District. Fences or walls must be constructed and maintained according to commonly accepted practices.
  - 2. Double frontage lots (those with both front and rear yards on a road right of way) not on a corner, may have a fence or wall built to a height not exceeding six (6) feet, provided any such fence or wall is at least five (5) feet from the road right of way line to the rear of the residence.
  - 3. Any structure ahead of the frontline of the house shall maintain fifty (50) % visibility.
- B. Driveway Entrance Gates. A driveway entrance gate may be constructed off the road right of way.
  - 1. The gate shall be thirty (30) feet from the centerline of the road.
  - 2. The width of the gate shall accommodate a ten (10) feet driveway for a single residence and a twelve (12) feet driveway for two or more residences (see section 21.A11 C of this Resolution).
  - 3. The construction shall be of material that could breakaway if necessary for emergency vehicles and shall have fifty (50) % transparency.
  - 4. Gate abutments shall not exceed ten (10) feet in length on either side of the gate.

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## ARTICLE 22 – Sign and Billboard Regulation

### Section 22.01 – PURPOSE

The purpose of these sign regulations is to promote and protect the public health and safety by regulating existing and proposed outdoor signs of all types. It is intended to protect values, create a more attractive economic and business climate, enhance and protect the physical appearance and 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.

- 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 area per side with not more than two sides, or signs of the same size identifying the builder or contractor. All such signs shall be removed within thirty (30) days after occupancy by the purchaser.
- B. Signs for Home Occupations: One sign per residence shall be permitted in any residential district for the purpose of announcing a home occupation which has complied with all conditions imposed by the Board of Zoning Appeals.
- 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 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 six square feet in area per side and is located outside the easement or right-of-way of any road. Not more than one sign shall be permitted.
- E. Political Signs: The erection of political signs shall be permitted in any district of the township provided that said signs:
  - 1. Are located outside the right-of-way limits of the road and do not interfere with visibility of vehicular traffic entering or leaving the highway.
  - 2. Are erected or posted not more than ninety (90) days prior to the election and are removed within fifteen (15) days after the election by both winning and losing candidates.
  - 3. Are capable of posting and removal without destruction of public or private property.
  - 4. Designate the name and address of the person charged with removal of the sign.
- F. Temporary Signs: Announcing special public or institutional events. Said signs shall not be placed within the easement or right-of-way of any road. Such signs shall not exceed thirty-two (32) square feet in advertising 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.

- G. Signs Approved in Planned District: Development plan provided that the approved sign is constructed in strict compliance with the approved guidelines.
- H. 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 advertising area per side and all other signs shall be limited to six (6) square feet per side.
- I. Signs Approved as Part of Conditional Use Permit: In residential zoning districts provided such signs are constructed in strict compliance with the imposed conditions.
- J. Signs: Having not more than ten (10) square feet of display area on or over a show window or door of a store or business establishment, announcing without display or elaboration, only the name of the proprietor and the nature of his business.
- K. Signs Required or Authorized for a Public Purpose: By any law, statute or ordinance, such signs to include traffic control devices provided that such signs contain no supplementary advertising.
- L. Flags and Insignia: of any country or State of the United States.
- M. Integral Decoration or Architectural Details: of buildings except letters, trademarks, moving parts or moving lights.
- N. Signs: which are in the nature of cornerstones, commemorative tablets and historical signs, provided that such signs are less than nine (9) square feet in size and not illuminated.
- O. Projecting Signs: Displaying the name of the business and having an area of two (2) square feet or less when located under a pedestrian canopy.
- P. A Sign which Advertises the Sale of Personal Property: such as a garage, yard, porch or moving sale sign provided that it is limited to one sign, not greater than four (4) square feet in size and which sign is located on the sale premises for a time period not greater than two consecutive days. Such signs shall not be located in a public right-of-way.

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

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

- A. Outdoor Advertising or Billboards: for a product or service not located upon the premises on which the sign is located shall be classified as a business use and shall be permitted in all commercial and industrial districts and/or lands used for agricultural purposes subject to regulations set forth herein.
  - 1. No billboard shall exceed three hundred (300) sq. ft. of advertising area per side nor have more than two sides.
  - 2. No billboard shall exceed fifteen (15) feet in height nor have a length in excess of four times the height of the sign face.

3. The use shall comply with the general regulations set forth in other provisions of this Resolution and article.
  4. All billboards shall be located in compliance with all state and federal regulations controlling the same.
  5. All billboards shall be located behind the building set back lines established for the district in which the sign is located.
  6. No billboard or outdoor advertising sign shall be located nearer than twenty-five (25) feet to any side lot line.
- B. Spacing Requirements: Each billboard site location shall be separated from every other billboard site location in accordance with the following:
1. Billboards shall be located at least one thousand fifty (1250) feet from other billboards.
  2. Spacing requirements shall be measured along the curb line of the street that the billboard is oriented to and the measurement shall apply to both sides of the street.
  3. Spacing requirements shall be measured from existing billboards regardless of the political jurisdiction within which any other billboard may be located.
  4. Measurement of the spacing between billboard locations shall begin at a point nearest to the proposed billboard site location from an existing billboard site location and extending to a point nearest to the existing billboard site location from the proposed billboard site location.
- C. 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.
1. The display area of any one surface does not exceed twenty-five (25) square feet.
  2. 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).
  3. 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 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.
  4. 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 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:

- a. Such 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.
- b. 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 signs shall not be included in determining the aggregate sign area of such building.
- c. 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.
- d. 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.
- e. 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.
  - 1) Letters, numerals or other graphics attached directly to the building wall shall be considered a wall sign.
  - 2) 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.
  - 3) Super-graphics (large scale painted graphic devices) and architectural detailing which has a graphic or signage function, which is painted upon a building, shall be subject to regulation as a wall sign.

**D. Free Standing Ground or Monument Signs Identifying Commercial or Office Complexes:**

A permanent sign identifying a commercial or office complex on the property supported by finished stone or brick base, where the main face of the sign is either flush with the base or affixed to poles less than three (3) feet in height so there is a maximum of three (3) feet clearance from the base to the bottom of the sign is permitted 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 area of one face of the sign does not exceed twenty-five (25) 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 area will be permitted up to a maximum of fifty (50) square feet of area for each face of the sign.

3. No part of such sign will be closer to nearest street right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.
4. 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, nor create a visual distraction for such motorists.

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

Within any commercial or industrial district or within any nonresidential 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 and declared abandoned if said use or uses are not commenced within one (1) year 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 or structure wherein the same is located or upon which the same is granted shall void the 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 a permit of compliance is issued by the Zoning Inspector.

- A. Free Standing Pole Signs: Free standing pole signs heretofore lawfully erected and maintained and now in place may be maintained until such sign is destroyed, dismantled or removed.
- B. The Board of Zoning Appeals may grant a conditional use permit for the erection or maintenance of a free standing pole 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 the location of the proposed sign.
  2. A determination by the Board that a free standing pole sign is necessary to the conduct of the business, professional or commercial activity on the site and that a permitted ground or monument sign would not constitute a hazard or create a hardship due to sight lines, topography, or some other unique site feature not generally shared with other similar properties in the district.
  3. A determination that the proposed pole 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 set back 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 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 set back from the street right-of-way line, an additional three (3) square feet of advertising area will be permitted up to a maximum of forty-five (45) square feet.
    - c. The total area of any one surface does not exceed twenty-five (25) square feet.

- d. Not more than three (3) colors are used. For the purposes of this section, black and white shall be considered colors.
  - e. 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 set-back line, if the adjoining property is in a Residential District.
  - f. The function of such sign is in keeping with the uses in the surrounding area.
  - g. 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.
  - h. 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 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) free standing pole 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 pole 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 pole sign, fronting on each street, may be authorized.

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

The following signs shall be prohibited in Brown Township:

- A. Signs mounted upon the roof of any building or structure.
- B. Portable signs and billboards, pennants, streamers, flashing lights, string of lights, “A” frame signs and billboards, or air-activated attraction devices.
- C. Signs or advertising erected and maintained on 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 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 or advertising devices which attempt or appear to attempt to direct the movement of traffic, or which interfere with, imitate or resemble an official sign, signal or device.

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

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

- A. 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.
- B. 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, in strict compliance with the approved development plan or restrictions imposed by the Board of Zoning Appeals.
- C. 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 the township.
- D. Lettering: There shall be not more than two types or more than three sizes of lettering used for any sign including characters or trademarks used for identification.
- E. Colors: Not more than three colors, including black and white, shall be used on any sign.
- F. Sight Interference: No sign shall be permitted in Brown Township which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on thoroughfares.
- G. Maintenance: All signs or billboards constructed or erected within Brown Township shall be maintained by being kept in repair and in a proper state of preservation by painting or otherwise.
- H. Traffic Safety - Colors, etc.: Display signs shall not closely resemble or approximate the shape, form and color of official traffic signs, signals and devices.
- I. Height: No sign shall be erected to a height greater than permitted by the specific provisions of Section 22.03 and 22.04 of this Resolution. If no maximum height is otherwise set forth no sign shall be erected at a height greater than fifteen (15) feet.
- J. Sign Area: The aggregate sign area 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. If more than one story, four (4) square feet per lineal foot.

1. Street frontage is defined as the total width of that side of the building which faces the street, excluding any extension of building wall beyond the building itself.
2. 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.
3. The total sign area on any side of a building shall not exceed the allowable area for such side computed in accordance with the foregoing rules.
4. 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 ordinance, provided that where any such drive or parking area abuts an 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 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 shall be 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.

- A. An abandoned sign or billboard is defined as any sign or billboard that meets any of the following criteria:
  1. Any sign or billboard associated with an abandoned non-conforming use.
  2. 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.
  3. Any sign or billboard that is not maintained in accordance with this Resolution.
- B. 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 ordinary mail, of his findings. Such notice shall advise the owner that the sign has been declared abandoned and must be removed within 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.
- C. 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.
- D. If the sign is not removed as ordered, the same may be removed by the Township at the expense of the lessee or owner. 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 the 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 to the provisions of this Article is considered to be non-conforming.

- A. 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.
- B. 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 be in violation of the provisions of this Article.
- C. A non-conforming sign or billboard shall be maintained or repaired in accordance with the following provisions:
  - 1. The size and structural shape shall not be changed or altered.
  - 2. 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.
  - 3. In the case where damage occurs to the sign or billboard to the extent of 50% 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 50% of the structure or its replacement value, the sign or billboard may be restored to its non-conforming condition. A damaged sign shall be repaired or brought into compliance 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 Board of Township Trustees.
- 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 Resolution or any amendment thereto.

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## ARTICLE 23 – Landscaping

### 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 within any planned district 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:

<b>A. When the following</b>	<b>B. Adjoins the following or vice versa</b>	<b>C. The minimum landscaping within a buffer zone of this average width (with 3 ft. as the least dimension) is required. See footnote #3.</b>	<b>D. Which will contain this material, to achieve opacity required</b>
1. Any Residential Zone	Mobile Home Park	10 ft., adjacent to all common boundaries, including street frontage	1 tree/40 ft. of lineal boundary, OFT (#2) continuous 6 ft. high planting, hedge, fence, wall or earth mound
2. Any Residential Zone	Any Office Use	6 ft., adjacent to all common boundaries, including street frontage	Same as 1-D
3. Any Residential Zone	Any Commercial Use	10 ft., located as above (2-C)	Same as 1-D
4. Any Residential Zone	Any Industrial Use	15 ft. located as above (2-C)	Same as 1-D
5. Any Office or Commercial Use	Any Industrial Use	15 ft. located as above (2-C)	Same as 1-D
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., OFT, plus continuous 6 ft. high planting, hedge, wall, fence or earth mound
7. Any zone except agricultural and industrial zones	Railroad (except spur tracks)	Same as 6-C adjacent to railroad boundaries	Same as 6-D
8. Any property boundary, including road or street right of way	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	Same as 6-D
9. Any property used for vehicular sales	A freeway or arterial	10 ft. adjacent to freeway or arterial	1 tree/50, plus 1 low shrub/10 ft. OFT (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. OFT

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

(#2) OFT means "or fraction thereof." 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

<b>A. When the following</b>	<b>B. Adjoins the following or vice versa</b>	<b>C. The minimum landscape easement of this width is required</b>	<b>D. Which will contain this material, (#2) to achieve opacity required</b>
1. Any property in any zone except	Any vehicular use areas (see #1) on any adjacent property	4 ft. minimum to all trees 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 faces building adjacent property	1 tree/40 ft. OFT boundary of vehicular area (#1) plus a 3 ft. average height continuous hedge, fence, wall, or earth mound
2. Any public use or private street right-of-way or service road, except freeways	Any vehicular use areas, (except vehicular sales or service facility) in any zone	Same as 1-C above except applies to VUA portion facing public or private street or road	1 tree/40 ft. OFT plus a 3 ft. average height continuous planting, hedge, fence, wall or earth mound
3. Same as 2A	Any vehicular sales or service area	Same as 2-C above	1 tree/50 ft. OFT, plus 1 low shrub 10 ft. OFT (opacity requirements do not apply)

(#1) A vehicular use area (VUA) is any open or unenclosed area containing more than 1,800 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 an easement not occupied by other landscape material.

(#3) OFT means “or fraction thereof”.

### 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 whose property adjoins the 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 Proper Perimeter Requirement Chart, Column B and Vehicular Use Area Perimeter Chart, Column B when adjoining have different owners;
- 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 and other objects shall not overhang or otherwise intrude upon the required landscape buffer zone more than 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 ensure 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, neither 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 and connecting these points.
- 8. Interior Landscaping for Vehicular Use Areas: Any open vehicular use area, excluding loading, and 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 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 (having one hundred percent (100%) opacity) planting hedge, fence, wall of earth, which would 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 that 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.
- B. 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.
  - 1. 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:
    - a. Trees within public rights of way or utility easements, or a temporary construction easement approved by the County Engineer.
    - b. Trees within the ground coverage of proposed structures or within twelve feet of the perimeter of such structure.
    - c. Trees within the driveway access to parking or service areas or proposed areas to service a single family-home.
    - d. Trees that in the judgment of the Township 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.

- 2. 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.
- 3. Tree Planting Requirements:  
For all new development the following landscape requirements shall apply:
  - a. Use Requirements:
    - 1) PRD/ PERRC Districts: 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.
    - 2) Business and Community Shopping Uses per Lot: In addition to the requirements of section 23.03 B) of this Resolution 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.

- 3) Office/Institutional Uses: In addition to the requirements of Section 23.03 B of this Resolution for vehicular use areas, the following shall apply: there shall be tree plantings equal to one inch in tree size for every 1,500 square feet of building ground coverage, or fraction thereof.
- 4) Industrial Uses: In addition to the requirements of Section 23.03 B of this Resolution for vehicular use areas, the following shall apply: there shall be tree plantings equal to one inch in tree size for over 2,000 square feet of building ground coverage, or fraction thereof.

- b. Parking Lots: see Section 23.03 A (8.) (a.) Of this Resolution.
- c. 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.
- d. 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 sub-divider 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 small trees. See definitions in Section 23.04(f) of this Resolution.
  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) lateral feet of overhead utility wires. A small or medium tree is to be used when planting within ten (10) or twenty (20) lateral feet to overhead utility wires.
  5. The developer shall guarantee and be required to maintain the trees for one year after the trees are planted and to replace any tree which dies within such one year period. Upon completion of a tree planting, the landscape contractor shall contact the Township Zoning Inspector for a preliminary inspection. The one year guarantee period shall begin after approval of the Zoning Inspector. A final inspection shall be made at the end of the one year 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 Inspector.

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 Inspector, 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 an 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 Inspector upon a 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 Resolution or any amendments hereto, may be continued, although such use does not conform with this Resolution or amendments hereto, but if any such non-conforming use is voluntarily discontinued for two years or more, any future use shall be in conformity with this Resolution and amendments hereto.

### **Section 24.02 – RESTORATION**

When a structure, the use of which does not conform to the provisions of this 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 Resolution, as amended, for the district in which it is located, or unless a conditional use permit is issued by the Board of Zoning Appeals pursuant to Article 28 of this Resolution; provided, however, such restoration shall be commenced within 90 days of such calamity and diligently continued until completed. For the purposes of this section "value" shall be defined as the reproduction 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 permit issued by the Board of Zoning Appeals pursuant to Article 28 and this section.

- A. The Board shall have the power to permit changes and extensions of non-conforming uses as follows:
  - 1. A non-conforming use of a less objectionable nature may be substituted for an existing non-conforming use.
  - 2. An existing, legal non-conforming use which occupied only a portion of an existing structure or premises may be extended to additional portions of such structure or premises.
  - 3. 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.
  - 4. The extension of a non-conforming use when such extension will substantially make the non-conforming use more in character with its surroundings.
  - 5. Any extension shall not be more than 50% greater in size than the non-conforming use that existed at the time of passage of this Zoning Resolution.
- B. The Board 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 may be allowed on any lot of record which has an area and/or lot width less than that required for such structure or permitted 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 of this Resolution. Such nonconforming 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 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 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 General 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. Such surety company or real estate bond shall be approved by the Board of Township Trustees 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.

### **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 same, nor shall any use of land be commenced nor development begun until a zoning certificate for the same has been issued by the Township Zoning Inspector, which certificate shall state that the proposed building and use and/or development comply with all the provisions of this Resolution and/or the approved Development Plan.

### **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 General Health District of the proposed method of water supply and/or disposal of sanitary wastes. No zoning certificate shall be issued by the Township Zoning Inspector until the applicant for said zoning certificate has submitted a plat plan of the area upon which the applicant's use or structure is proposed. Said plat plan shall show the type or 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 to all zoning regulations then in force for said area.

### **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 by 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.

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

No change of use shall be made in any building or part thereof now or hereafter located, constructed, reconstructed, enlarged or structurally altered without a zoning certificate being issued by the Township Zoning Inspector. No zoning certificate shall be 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 health and safety of life or property.

**Section 25.09 – RECORDS**

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

**Section 25.10 – COMPLAINTS**

The Township Zoning Inspector shall investigate all complaints received from residents alleging illegal activity and shall report findings to the Board of Township Trustees. The Township Zoning Inspector may require that all such complaints be submitted in writing. If violations are evident the Township Zoning Inspector shall take the appropriate action to bring the use into compliance. A written notice by first class mail or personal service shall be served on the property owner in violation giving them thirty (30) days to bring the use into compliance. If compliance is not obtained by the end of thirty days appropriate legal recourse shall be taken. If a clear and present danger exists the thirty (30) day written notice may be waived and the Township Zoning Inspector may refer the matter for immediate appropriate legal recourse.



## **ARTICLE 26 – Zoning Commission**

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

The Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The Zoning Commission shall be composed of five (5) members who reside in the unincorporated area of the township, to be appointed by the Board of Trustees, and the terms of the members shall be five (5) years and so arranged that the term of one member will expire each year. Where there is a county or regional planning commission the Board may appoint qualified members of such commission to serve on the Township Zoning Commission. Each member shall serve until his successor is appointed and qualified. No member shall be appointed to serve more than two (2) consecutive full terms. Members of the Zoning Commission shall be removable for non-performance of duty, misconduct in office, or other cause by the Board, upon written charges being filed with the Board of Trustees, 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 Board of Trustees and shall be for the unexpired term.

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

The members of the Zoning Commission may be allowed their expenses or such compensation, or both, as the Board of Township Trustees may approve and provide.

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

- A. 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.
- B. 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.
- C. The Township Zoning Commission shall organize, adopt rules for the transaction of its business, and keep a record of its actions and determinations.
- D. No township trustee shall be employed by the Township Zoning Commission.
- E. 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.
- F. 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 Board of Township Trustees shall 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 Board of 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.

**Section 26.07 – ALTERNATES**

The Board of Township Trustees may appoint two (2) alternate members to the Zoning Commission for such terms as determined by the Board of Township 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 Township 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.

## ARTICLE 27 – Amendments

### Section 27.01 – AMENDMENTS

This article is intended to be a restatement of Section 519.12 of the Ohio Revised Code and is adopted herein for the convenience of the citizens of Brown Township. Any amendments to Section 519.12 adopted by the Ohio Legislature shall be considered adopted herein.

- A. Amendments to the zoning Resolution may be initiated by motion of the Township 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 amendments with the Township Zoning Commission. The Board of Township Trustees may require that the owner or lessee of 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.
- B. 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. Notice of such hearing shall be given by the Township Zoning Commission 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.
- C. The mailed notices 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 re-zone or re-district ten or fewer parcels of land, as listed on the 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, and directly across the street from 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.
- D. 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 a commission.
- E. 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 recommendation to the Township Zoning Commission. Such recommendation shall be considered at the public hearing held by the Township Zoning Commission on such proposed amendment.
- F. 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.
- G. The Board of 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 such recommendation from the Township Zoning Commission. Notice of such public hearing shall be given by the board 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.

- H. Within twenty (20) days after such public hearing the Board of Trustee shall either adopt or deny the recommendations of the Zoning Commission or adopt some modification of them. If the Board of Township Trustees denies or modifies the Zoning Commission recommendations, a majority vote of the Board shall be required.
- I. Such amendment adopted by the Board 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.
- J. No amendment 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 amendment has been approved by the voters it shall take immediate effect.
- K. 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 Court Recorder and with the Regional or County Planning Commission if one exists.
- L. 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 this 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 at 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 Board of Township 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 an official stenographic transcript, the notes of 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 this zoning Resolution shall deposit with such application a fee, as prescribed by the Board of Township Trustees, to defray the cost of advertising, mailing and other expenses. This fee shall be required generally for each application and the amount of such fee shall be established annually by the Board of Township Trustees.

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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. No member shall be appointed to serve more than two (2) consecutive full terms. Members of the Board of 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.

### **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 proceedings 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 in Kilbourne and shall be a public record. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Inspector or to decide in favor of an applicant on any matter which the Board is required to hear under the Brown Township Zoning Resolution. The failure of an applicant to secure at least three (3) concurring votes shall constitute a decision for disapproval of the application and, in the case of an appeal, shall be deemed a confirmation and affirmation of the decision of the Zoning Inspector. The Board of Township Trustees, the Township Fiscal Officer and the Zoning Inspector shall be notified in advance of all meetings conducted by the board.

### **Section 28.03 – COMPENSATION AND EXPENSE**

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 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 Sections 519.02 to 519.25 of the Revised Code of Ohio, or of any resolution adopted pursuant thereto;
- B. Authorize, in specific cases, variances from the terms of the Zoning Resolution as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the Resolution will result in unnecessary hardship, and so that the spirit of the Resolution shall be observed and substantial justice done.

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 requirement 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 provisions of this Resolution shall be granted by the Board unless it finds that, based upon the relevant facts and circumstances, that the applicant has encountered practical difficulties and that a strict application of an area zoning requirement is inequitable.

In considering an application for a 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 substantially altered or whether adjoining properties or the comprehensive plan for the community 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 owner's predicament feasibly can be obviated through some method other than a variance.
  7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- C. Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates are provided for in the Zoning Resolution;
- D. Revoke an authorized conditional zoning certificate granted for the extraction of minerals, if any condition of the certificate is violated.

The board shall notify the holder of the conditional use certificate by certified mail of its intent to revoke the variance or certificate under division (d) of this section 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. He may present evidence and examine witnesses appearing for or against him. If no hearing is requested, the board may revoke the conditional use or certificate without a hearing. The authority to revoke a conditional use or certificate is in addition to any other means of zoning enforcement provided by law.



wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken.

The Board of Zoning Appeals shall issue its decision in writing. Such written decision shall include findings of fact and conclusions supporting the decision. All parties shall receive or be sent a copy of the written decision of the Board.

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

Appeals to 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 at question, give notice of such public hearing by 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.

Where, 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 or 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 practical difficulty the Board shall have power to authorize a variance from the terms of this Resolution.

- A. 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 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, ten (10) days in advance of the time set for the public hearing, in a newspaper of general circulation within the township. The notice shall state the time and place of the public hearing, and the nature of the proposed appeal or variance.
- B. 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 the Board of Zoning Appeals shall either approve, disapprove or approve with supplementary conditions. In granting such variance the board shall determine that said variance will not be contrary to the public interest, is justified due to special conditions, that the literal enforcement of the Resolution will result in practical difficulties and that the spirit of this Resolution will be observed and substantial justice done. 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.

- C. 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.

#### **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. Application: An application for 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.
- 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 Conditional Use permit and the hearing thereon shall be given to the applicant and 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, one notice of said meeting shall be published in a 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, date 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 and the Comprehensive Plan.

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

#### **Section 28.08 – DECISION OF BOARD**

The Board of Zoning Appeals shall act by and shall provide written notice of its decision to the applicant.

#### **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 APPLICATION FOR VARIANCE OR CONDITIONAL USES**

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 required generally for each application to defray the costs of advertising, 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 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 by 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 or Chapter 519, Ohio Revised Code, shall be fined not more than five hundred dollars (\$500.00) 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, clauses or parts of this Zoning Resolution are held invalid, such 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 anyone or more instances shall not attest or prejudice in any way the validity of this Zoning Resolution in any other instance.

### **Section 30.02 – REPEAL**

This Zoning Resolution may be repealed only by complying with the requirements of Chapter 519 of the Ohio Revised Code as amended.

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

The Township Zoning Resolution or parts thereof previously in effect in Brown Township, Delaware County, Ohio, not otherwise adopted as part of this Zoning Resolution, and in conflict with the Zoning Resolution as it was initially established, or established hereafter are hereby repealed. However, all suits at law or in equity 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; and 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 so construed as 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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