

*"Zoning for the Future"*

# ZONING RESOLUTION

Troy Township

Delaware County, Ohio

Troy Township Hall  
4293 U.S. Route 23 North  
P.O. Box 751  
Delaware, Ohio 43015  
Delaware County, Ohio

September 25, 2023

# Troy Township Zoning Resolution

*Delaware County, Ohio*

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Mark Malcom, Vice Chair  
Earl Lehner, Trustee

Fiscal Officer  
Sharon Malcom

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## Secretary to the Zoning Boards

Kelly Williams

## Zoning Inspector

Richard Lehner  
740-816-6209

**ZONING RESOLUTION FOR TROY TOWNSHIP**  
DELAWARE COUNTY, OHIO

WHEREAS, The Board of Trustees of Troy Township, Delaware County, Ohio has deemed it necessary to promote the public health, safety, morals and general welfare of the residents of said Township; and,

WHEREAS, zoning resolutions for the building and land use within the unincorporated territory of the township were adopted in accordance with Section 519 and related sections of the Ohio Revised Code; and,

WHEREAS, five (5) persons have been duly appointed by the Board of Trustees of Troy Township to serve as a Zoning Commission for said Township; and,

WHEREAS, said Zoning Commission has recommended revisions of the Troy Township Zoning Resolution on 6/3/09 and has submitted such amendments to the Board of Trustees of Troy Township under authority and in accordance with the provisions of Section 519.12 of the Ohio Revised Code; and,

THEREFORE, The Board of Trustees of Troy Township adopt the following amendments to the Zoning Resolution on 3/15/10 under the authority and in accordance with the provisions of the Ohio Revised Code with said amendments becoming effective thirty (30) days thereafter; and

FURTHERMORE, all resolutions or parts of resolutions in conflict with this zoning resolution or inconsistent with provisions of this resolution are hereby repealed to the extent necessary to give this resolution full force and effect.

PASSED: ✓ 3-15-10

BY: The Board of Trustees of Troy Township

EFFECTIVE: 4-14-10

Earl Lehner  
Trustee Earl Lehner

ATTEST: Pam Starling  
Pam Starling, Fiscal Officer

Doug Price  
Trustee Doug Price

ATTEST: Kelly Williams  
Kelly Williams, Zoning Secretary

Paul Price  
Trustee Paul Price



# TROY TOWNSHIP, DELAWARE COUNTY, OHIO

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## ARTICLE I – TITLE

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



## ARTICLE II – 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 III – INTERPRETATIONS OF STANDARDS

**Section 3.01** – In the interpretation and application of this Resolution, 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 provisions of other laws, rules, regulations, restrictions or resolutions shall control. The Zoning Commission 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 considered for approval.



## ARTICLE IV – DEFINITIONS

**Section 4.01** – All words used in this Resolution shall have their customary meanings as defined in Webster's New World Dictionary, 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):** Accessory Use means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is typically located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principle use, object, or structure, is subordinate in area to 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 principle structure or use, such as fences, walls, sheds, garages, parking places, decks, poles, poster panels, and billboards. Except as otherwise required in this Resolution, an accessory use shall be a permitted use.

**Accessory Dwelling Units (ADU):** An ADU is typically an additional living area independent of the primary dwelling that may have been added to, created with, or detached from a primary one-unit dwelling. The ADU must provide for sleeping, cooking and bathroom facilities and be on the same parcel as the primary one-unit dwelling.

**Adult:** Individual eighteen (18) 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 (5) 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:

- A) Hard core material.
- B) 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:

- A) Persons who appear in a state of nudity or semi-nudity;
- B) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities
- C) Films, motion pictures, video cassettes, 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 for and/or supervision to three (3) to sixteen (16) unrelated adults, at least three (3) 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:

- A) A facility operated by a hospice care program licensed under Ohio Revised Code Section 3712.04 that is used exclusively for care of hospice patients;
- B) A nursing home, rest home, or home for the aging as defined in Ohio Revised Code Section 3721.01.
- C) A community alternative home as defined in Ohio Revised Code Section 3724.01.
- D) An alcohol and drug addiction program as defined in Ohio Revised Code Section 3793.01.

**Adult Entertainment:** The sale, rental, or exhibition, for any form of consideration, of books, films, DVD's, video cassettes, CD-ROM's, any other electronic media, 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 engages 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:** A residence or facility that provides accommodations to three (3) to five (5) unrelated adults and supervision and personal care services to at least three (3) adults. (per Ohio Revised Code Chapter 3722)

**Adult Group Home:** As defined under Ohio Revised Code Section 3722, an adult group home means a residence or facility that provides accommodations to six (6) to sixteen (16) unrelated adults and provides supervision and adult personal care services to at least three (3) of the unrelated adults.

**Adult Motion Picture Theatre:** A commercial establishment where films, motion pictures, DVD's, video cassettes, CD-ROM's, any other electronic media, slides, or similar photographic reproductions which are regularly maintained to show images to six (6) or more persons per event, 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 Only Live Entertainment Business:** An establishment where the patron directly or indirectly is charged a fee, and where the establishment features:

- A) Entertainment or services which constitute adult material as defined in this Article; or
- B) Exhibitions, dance routines, or gyration choreography of person(s) totally nude, topless, or bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material as defined in this Article.

**Adult Material:** Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, video cassette, DVD's, CD-ROM's, any other electronic media, motion picture film, record, tape or any other tangible thing, or any service, capable of creating sexual interest through sight, sound or touch, and:



- A) 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
- B) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

**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 advertising area of a sign or billboard is the entire 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 (2) sides that are parallel and back to back, each individual 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.

**Agriculture:** As defined in Ohio Revised Code Section 519.01.

**Alterations, Structural:** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

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

**Antenna, Aerial:** Any of various devices designed to project or receive electromagnetic waves as in television or radio, of, in, or by the air.

**Antenna, Satellite:** A device that can be used to receive a signal from a satellite.

**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 (1) family. (See dwellings, multi-family).

**Attached:** When two (2) structures are joined by a common wall or an internal passageway.

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

**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 (1) per cent chance of being equaled or exceeded in any given year in a century. Sometimes referred to as Regional Flood or One Hundred (100)-Year Flood.

**Basement:** A story all or partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground.

**Bed and Breakfast:** A lodging house where the owners reside on the premises and rent overnight rooms to lodgers for stays of up to two (2) consecutive weeks. The lodging is secondary to the principal use of the dwelling as the owner's principal residence. No more than three (3) rooms may be rented as a bed and breakfast.

**Bedroom:** A room intended for sleeping in.

**Billboard:** 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 or Kennel:** The use of any lot or premise where six (6) or more domesticated animals over four (4) months of age are housed, bred, boarded, groomed, trained and which may offer medical treatment.

**Bottomless:** 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, moveable personal property, or property.

**Building, Height:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height, between eaves and ridge, for gable, hip, and gambrel roofs.

**Building Line:** (See Setback Line)

**Building, Principal:** A building in which is conducted the main or principal use of the lot in which said building is situated.

**Bulletin Board:** A sign intended for public use of advertising upcoming events, activities or public messages.

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

**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:** A plot of land used for the burying of human or animal remains.

**Centerline:** The midpoint between two (2) edges of a paved road.

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

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

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

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

**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 being that if the turbine should fall or otherwise become damaged, the falling structure will be confined to the primary parcel.

**Child Day-Care:** Administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four (24) hour day in a place or residence other than the child's own home.

**Club:** 1) A group of persons organized for a particular purpose or activity, or 2) A structure or room reserved for the use of such a group.

**Common Access Driveway:** A subdivision in which two (2) or more lots share a common easement or driveway. Said subdivision and driveway easement shall meet the Delaware County Subdivision requirements.

**Community NFIP Administrator:** The person, persons, agency, or other local government entity responsible for the administration and enforcement of the National Flood Insurance Program (NFIP) in compliance with Federal Law 44 CFR Parts 59 and 60. For Unincorporated Troy 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.

**Conditional Use:** A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Board of Zoning Appeals.

**Conditional Use Permit:** A permit issued by the Zoning Administrator/Inspector upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.

**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.

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

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

**Container Home:** A Container Home shall be a steel structure originally used for storage and/or shipping.

**Cowling:** A streamlined removable cover that encloses the turbine's nacelle.

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

**Day Care Center / Facility:** An establishment where Child Day-Care is provided.

**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.

- A) **Gross Density** - the number of dwelling units per acre of the total land area included within the development.
- B) **Net Density** - the number of dwelling units per developable 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 Pond:** Basins created by embankment or excavation for the purposes of water quality and flow attenuation. Storm water storage is provided for controlled release rates. Detention ponds do not impound water permanently; hence have no normal pool elevation.

**Development:** Any long term 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 Plan or Development Standards:** An illustration or text document or combination thereof that is intended for the purpose of setting forth specific rules to be adhered to for future development of a property being proposed for development.

**Display Publicly:** The act of exposing, placing, posting, exhibiting, or in any fashion in any location, whether public or private, an item in such a manner that it may be readily seen, distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property.

**District:** A part, zone, or geographic area within the township within which certain zoning or development regulations apply.

**Divergence:** In a planned district a divergence is a variance from these regulations to allow a better development design, approved by the Zoning Commission at the time of the development plan review process.

**Drive Through (Thru) 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 partly used or intended to be used for living or sleeping by one (1) or more human occupants.

- A) **Detached Single Family:** detached, individual dwelling units, which accommodate one family related by blood, adoption, or marriage, or up to five (5) unrelated individuals living as one (1) housekeeping unit. The type of construction of such units shall conform either to the Ohio Building Officials Association, or Council of American Building Officials 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 Section 3781.06 definition of permanently-sited manufactured home as provided for in Ohio Revised Code Section 519.212.
- B) **Multi-Family:** A residential building arranged or designed for three (3) or more dwelling units as separate and complete housekeeping units.
- C) **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 (3) or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

- D) **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.

**Dwelling Unit:** Space, within a dwelling, comprising living, dining, sleeping room or rooms, 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 extending from the foundation up to the underside of the roof separating housing units, where no more than three (3) units are attached in a group.

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

**Essential Services:** The erection, construction, alteration, or maintenance, by public or private utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by each public or private utility or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings. Telecommunication towers, as regulated by this resolution, are excluded from essential services.

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

**Existing Features (Site Analysis) Plan.** Plan that depicts all of the following:

- A) A topographic map as published by the Delaware County Auditor's DALIS office, using the most detailed available contour interval;
- B) The location of slopes greater than twenty percent (20%), wetlands, watercourses, one hundred (100)-year floodplains and all existing rights-of-way and easements;
- C) Soil boundaries as shown on USDA Natural Resources Conservation Service medium-intensity maps; and
- D) 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, drainage tiles, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails, and any sites listed on the ODNr Natural Diversity Inventory, or National Historic Registry.

**Extended Stay and/or Transient Hotels:** Being any structure of one or more buildings containing any combination of more than five (5) sleeping rooms, which is specifically constructed, kept, used, maintained, advertised, or held out to the public to be a place where temporary residence or sleeping accommodations are offered for pay.

**Family:** An individual, or two (2) or more individuals related by blood, adoption or marriage, living together as a single housekeeping unit; or, a group of not more than five (5) persons, who need not be related by blood, adoption or marriage, 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 of at least 5 acres in land area which is devoted to agricultural use.

**Farm Building:** Any building or structure, other than a dwelling unit, built or placed upon land within a bona-fide farm and used for the farm's operations.

**Farm Market Stand:** A temporary building, vehicle, shed or other structure used along a road to sell agricultural goods or products. May or may not be used in conjunction with a Farm Market as defined herein.

**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 Ohio Environmental Protection Agency or the Delaware General Health District prior to the issuance of a zoning permit.

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

**Fence:** A fence is an artificially constructed barrier of material, such as wood, stone, vinyl, masonry or a combination of materials which are commonly utilized for attractively and/or 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:** To supply an area with additional material to raise the grade or elevation or the materials used to fill such an area.

**Flag Lot:** A parcel of land which has less than the standard road frontage, but widens away from the road frontage to at least the standard width.

**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.

**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.

**Flood; one hundred (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 (one hundred (100) year) flood without cumulatively increasing the water surface elevation of the one hundred (100) year flood plain more than one (1) foot, as prescribed by the Flood Insurance Study.

**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. For the purposes of this resolution, permitted automobiles stored in private garages shall mean no more than two (2) commercial vehicles, neither one of which exceeds two (2) tons in unloaded gross vehicle weight.

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

**Garage or Yard Sale:** An event held in a private garage and/or on the lawn of a residence that includes the sale of personal belongings not purchased, raised or manufactured for the intent to sell.

**Grade or Slope, Average:** The average degree or percentage of change in topography over a specific distance.

**Granny Flat:** A dwelling unit for over age-55 family members, or family members who are handicapped and need assisted living located in a 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:** A building or structure used to grow plants or other vegetation.

**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 or habilitative services.

**Hard Core Material:** Sexually explicit pictures, writing, or other material whose primary purpose is to cause sexual arousal.

**Historic Buildings / Structures:** Buildings or structures greater than one hundred (100) years old that are structurally sound and deemed worthy of preservation by the Board of Trustees of Troy Township, are listed on the National Register of Historic Places, or a State Inventory of Historic Places.

**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 all purchasers of lots in the development (or units in a condominium). The association shall be responsible for maintenance, control and insurance of common areas, including the open space, and shall have the right to impose assessments upon its members, enforceable by liens, in order to ensure that it will have sufficient financial resources.

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

**Impervious Surfaces:** Areas that have been paved and/or covered with buildings and/or materials (that do not absorb and or allow water to penetrate) which include, but are not limited to, concrete, asphalt, rooftop, blacktop and brick.

**Industrial:** Real property improved specifically for the purpose of manufacturing, fabricating or warehousing goods.

**Industrialized Unit:** A modular building unit or assembly of closed construction fabricated in an off site 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:** Refers to any machinery, appliances, products or merchandise with parts missing, materials that are damaged, or deteriorated or scrap including copper, brass, rope, rags, batteries, paper, rubber, iron and/or steel.

**Junk Motor Vehicle:** As defined in Ohio Revised Code Section 505.173.

**Landscape, Landscaping:** An expanse of natural scenery or the addition of lawns, trees, plants, and other natural and decorative features to the land.

**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 six hundred (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 spaces 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 lots shall have frontage and may consist of:

- A) A single lot of record;
- B) A portion of a lot of record; or
- C) A combination of complete lots of record; of complete lots of record and portions of lots 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 out lot, expressed as a percentage.

**Lot Frontage:** The front of a lot shall be construed to be the portion nearest the street, road or approved easement. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in this section.

**Lot, Minimum Size or Area:** 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:

- A) 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.
- B) 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, which has been so recorded.



**Lot Types:** Terminology used in this resolution with reference to corner lots, interior lots and through lots is as follows:

- A) **Corner Lot:** A lot located at the intersection of two (2) 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.
- B) **Interior Lot:** A lot with only one frontage on a street.
- C) **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.
- D) **Through Lot:** A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

**Major Thoroughfare Plan:** The portion of a 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.

**Manufactured Home:** A non self-propelled building unit or assembly of closed construction fabricated in an off-site facility, and constructed in conformance with the federal construction and safety standards established by the United States 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 (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty (320) 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. (per Ohio Revised Code Section 4501.01) For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connection to utilities and the like.

**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, DVDs, 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 ninety percent (90%) of which is not hard core material. A maximum of ten percent (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.

**Megawatt (MW):** A unit of power, equal to one million watts.

**Minerals:** A fibrous material produced by the action of steam on molten rock under pressure, such as coal, iron, copper, gold, silver, etc.

**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 eight (8) feet or more in width and more than thirty-five (35) feet in length, which when erected on site is three hundred and twenty (320) or more square feet, that is transportable in one (1) 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 (3) or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

**Motor Home:** (See Recreational Vehicle).

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

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

- A) Right of way for streets and utilities (fifteen percent [15%] of gross acreage when estimating density);
- B) 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 fifty percent [50%] wetland vegetation, and are poorly drained soils which are periodically inundated or saturated);
- C) Floodplains within a FEMA one hundred (100)-year floodplain;
- D) Slopes greater than twenty percent (20%), including ravines shown to be critical resource areas on the Troy Township Comprehensive Plan;
- E) Utility rights-of-way and easements for above-ground and currently existing utility structures such as above ground pipelines and existing overhead electric transmission (not local service) wires;
- F) Existing bodies of water.

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

**North American Industrial Classification System (NAICS):** A system of classification of economic activities jointly developed by the governments of the USA, Mexico and Canada. The system places establishments into industrial groupings based upon the activities in which they are primarily engaged. The structure is hierarchical. The first two (2) digits designate the entire sector, and the subsequent digits define more specifically the type of industry or establishment, with definitions given for each number. Code numbers used in this text are from the 2002 NAICS version.

**Nude or Seminude Model Studio:** Any place where a person, who regularly appears in a state of nudity or semi-nudity, is provided for 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 similar restrictions if it is operated in any of the following ways:

- A) By a college or university supported entirely or partly by taxation;
- B) 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;
- C) In a structure to which all of the following apply: (1) 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, (2) In order to participate in a class in the structure, a student must enroll at least three (3) days in advance of the class, and (3) Not more than one (1) nude or semi-nude model is on the premises at any one time.

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

**Nuisance:** A use of property or buildings which interferes with the use or enjoyment of other properties by excessive noise, odors, fumes, or other harmful or unpleasant emissions or uses.

**Obstruction:** Any dam, bridge, 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.

**Open Space:** Land within a development that shall not be built upon and may be classified as either "improved common" or "natural" open space, or a combination of both. It does not include the areas of individual fee simple lots conveyed to homeowners. Open space land may be owned by an association, the Township, a land trust or other conservation organization recognized by the Township, or may be owned by a third party if protected by an open space easement which permanently and irrevocably transfers the development rights from the open space land to a third party. The ownership of open space shall be specified in the final development plan and shall be subject to the approval of the Township.

**Open Space Easement:** A recorded legal instrument which permanently and irrevocably protects land from future development, other than for approved open space use. The easement shall be tied to the title of the land regardless of the subsequent ownership of the land.

- A) **Open Space, Improved Common:** Open space set aside for passive or active recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses as shown on the development plan. If deemed appropriate by the Troy Township Zoning Commission, improved common open space may incorporate land for on-site wastewater disposal.
- B) **Open Space, Natural:** Land set aside in its natural condition. Typical natural conditions might be, but are not limited to ravines, wetlands, floodplains, woods, scenic views, or appropriate agriculture.

**Outdoor Storage:** The keeping, in an unroofed area of any goods, junk, material, merchandise, or unlicensed vehicles in the same place for more than twenty-four (24) consecutive hours that is viewable from an adjacent property or road.

**Parcel:** A piece of real estate, identified by legal description or subdivision lot number, that can be transferred to another owner or ownership interest.

**Parking Lot:** Any lot used for parking vehicles adjacent to or separated from a road.

**Parking Space:** Any space used to park a vehicle when it is not being used.

**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 subdivider 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 subdivider's agreement.

**Permanently sited manufactured home:** manufactured housing constructed and located pursuant to the definition in Ohio Revised Code Section 3781.06(C)(6) and further meeting the following standards:

- A) Be constructed after January 1, 1995 in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, 88 stat. 700, 42 U.S.C.A. 5401 and 5403. It must also have a permanent label attached as specified in 42 U.S.C.A 5415.
- B) Be attached to a permanent foundation (defined in Ohio Revised Code 3781.06(C)(6)).
- C) Be connected to appropriate facilities (water, sanitary sewage disposal, and electric).
- D) Have a length of at least twenty-two (22) feet and a width of at least twenty-two (22) feet, as manufactured.
- E) Conform to minimum size of living area, by zoning standards herein.
- F) Have conventional residential siding (i.e. lap, clapboard, shake, masonry, and vertical natural materials), a 6-inch minimum eave overhang, and a minimum "A" roof pitch of 3:12.
- G) Not be located in a manufactured home park as defined by Section 3733.01 of the Ohio Revised Code.
- H) Meet all applicable zoning requirements uniformly imposed such as minimum lot size, setbacks, and minimum dwelling unit square footage (excepting contrary requirements for minimum roof pitch and requirements that do not comply with HUD code standards for manufactured housing).
- I) All indicia of mobility be removed upon placement upon its foundation, on all single-family dwellings in the district.

**Permitted Density:** The number of dwelling units allowed in a planned unit development.

**Permitted Use:** Any use, including use of structure, 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 these regulations. 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.

**Porch:** An extension from a structure, usually serving as part of the entrance. May be large enough for relaxation and rest. It often has its own roof, rather than a part of the structure's roof.

**Primary Conservation Areas:** Steep slopes (over twenty percent [20%]), wetlands, watercourses, intermittent streams and one hundred (100)-year floodplains.

**Principal Use:** The primary or predominant use of any lot and/or structure.

**Prostitution:** The act of a male or female promiscuously engaging in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

**Professional Engineer:** A qualified individual who is licensed as a Professional Engineer in the State of Ohio.

**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, maintenance of buildings, power plants, substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other similar public service structures by a public or private utility, by a railroad, whether publicly or privately owned, or by a public or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage 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.

**Recreation, Recreational Facilities:** Governmental parks, trails, public swimming pools, dam facilities maintained by a governmental agency, homeowners association or other entity for public enjoyment.

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

**Recreational Vehicle or Camping Vehicle (Camper):** A vehicle which is (1) built on a single chassis, (2) four hundred (400) square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently able to be towed 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 or Church:** A structure or place in which worship, ceremonies, rituals or education pertaining to a particular system of beliefs are held.

**Retention Pond(s):** Basin(s) created by embankment or excavation for the purposes of water quality and flow attenuation. Retention ponds impound water permanently and must be constructed of impermeable material. Retention ponds have a normal pool elevation. Additional storm water storage capacity is provided above the normal pool level for controlled release rates.

**Residential Care Facility:** A facility used to house and permanently care for a group of individuals.

**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.

**Road, Street, or Thoroughfare:** The full width between property line bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- A) **Alley:** A minor street used primarily for vehicular service access to the back or side of a property which has frontage on another street.
- B) **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.
- C) **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.
- D) **Cul-de-Sac:** A local street of relatively short length with one (1) end open to traffic and the other end terminating in a vehicular turnaround.
- E) **Dead-end Street:** A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- F) **Local Street:** A street primarily for providing access to residential or other abutting property.
- G) **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.
- H) **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.)

**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.

**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:** A ground system with a septic tank used for the decomposition of domestic waste water.

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

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

**Sexual Conduct:** Sexual conduct means 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 or (2) Two or more persons appear nude or semi-nude for the purpose of displaying their nude or semi-nude bodies for their receipt of consideration or compensation in any type or form. A "sexual encounter establishment" excludes 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 Revised Code.

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

**Sewers, Centralized or Group:** 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.

**Sewers or Septic, On-Site:** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of Delaware General Health District or Ohio EPA.

**Sign:** A sign shall be defined as 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.

- A) **Abandoned Sign:** A sign associated with an abandoned use, a sign that remains after the termination of the business or a sign on its immediate premises not adequately maintained and not repaired within the specific time.
- B) **Advertising Sign:** A sign which directs attention to a use, commodity or service.
- C) **Directional Sign:** A temporary or permanent sign placed for government function that provides information regarding locations, instructions for use, or functional/directional data.
- D) **Flagpole:** A structure with the primary function of displaying any fabric or bunting containing the officially recognized and adopted colors, patterns, or symbols used as the official symbol of a government, political, or corporate identity.
- E) **Flashing Sign:** Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.
- F) **For Sale/For Lease Sign:** A sign advertising the sale, rental, or lease of a structure or property.
- G) **Freestanding Sign:** A sign which is supported or suspended by one (1) or more uprights or braces in or upon the ground surface.
- H) **Ground Sign:** A sign which is physically attached to a foundation. These are commonly known as freestanding, pole, pylon, or monument signs.

- I) **Identification Sign:** A sign which displays only the same address and/or use of the premise upon which the sign is located or to which it is affixed or the product or service offered therein.
- J) **Illuminated Sign:** A sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.
- K) **Monument Sign:** A ground sign attached to a wall or a base constructed specifically for the display of the sign.
- L) **Pole Sign:** A sign whose advertising area is mounted on one (1) 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 three (3) feet above grade.
- M) **Political Sign:** 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.
- N) **Portable Sign:** A 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.
- O) **Roof Sign:** A sign erected upon the roof of a building, any portion of which is above the roof line of the building.
- P) **Trailer Sign:** A sign mounted on a trailer chassis with or without wheels and used as an on-premise sign.
- Q) **Wall Sign:** A sign affixed to, painted on, or attached to a building wall or extension of a building which faces a street, parking lot or service drive.

**Sign Area or Total Display Area:** A surface intended for the display of textual or graphic information.

**Sign Height or Height of Sign:** Unless otherwise specified, the height of a sign or billboard is the vertical distance between the top of its advertising area and the nearest existing or approved grade of the earth's surface.

**Sign Structure:** The supporting unit of a sign face, including but not limited to frames, braces and poles.

**Small Wind Project:** Any wind project less than 5MW 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:

- A) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;
- B) Excretory function as part of the activities described in subpart (A) of the definition of "Specified Sexual Activity".

**Story:** An distinguished elevation of a structure where floors allow for individuals to freely stand without interference. They can be layered so as to allow multiple stories exist and are accessed by stairs, ramp, ladder and/or elevator.



**Structure:** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, wells, fences, and billboards.

**Structure, Accessory or Ancillary:** A subordinate structure, the use of which is incidental to that of a principal structure on the same lot. An accessory structure may be attached to or detached from the principal structure.

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

**Subdivision:** A collection of parcels that were subdivided under the authority of the Delaware County Regional Planning Commission through a recorded subdivision plat.

**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 fifty percent (50%) 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 fifty percent (50%) 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:** A artificially constructed receptacle for water which contains or is intended to contain water at least thirty (30) inches in depth at any point within and used for swimming or bathing.

- A) **Private Swimming Pool:** A swimming pool exclusively used without fee by the residents and guests of a residential dwelling.
- B) **Public Swimming Pool:** A swimming pool operated with or without a charge for admission that is intended for use of residents of more than one (1) residential dwelling.

**Telecommunications Antenna or Antenna:** Refers to the actual antenna or dish or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications 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 Carrier:** A public or private utility engaged in the provision of telecommunication services.

**Telecommunications Tower:** Any structure as defined in Ohio Revised Code Section 519.211(B)(1).

**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.

**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 or condominium.

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

**Use:** The specific purpose for which land or a building is designated, arranged, intended, or for while it is or may be occupied or maintained.

**Variance:** A modification of the strict terms of the relevant regulations where such modification 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 the regulations would result in unnecessary and undue hardship.

**Vicinity Map:** A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area 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.

**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, On-Site:** A water system used for one (1) lot (e.g. well).

**Wind Power Turbine Owner:** The person or persons who owns the Wind Turbine structure.

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

**Wind Power Turbine Tower 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.

**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.

- A) **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.
- B) **Yard, Rear:** A Yard extending between side lot lines across the rear of a lot and from the front lot line to the rear of the principal building.
- C) **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.

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

**Zoning Inspector, Zoning Administrator, or Administrative Officer:** The official charged by the Board of Township Trustees with the administration and enforcement of the Zoning Resolution.

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

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



## ARTICLE V – DISTRICTS AND BOUNDARIES

### **Section 5.01 – ZONING DISTRICTS:**

For the purpose of this Resolution, the following districts are hereby created in order that the unincorporated area of Troy Township, Delaware County, Ohio, may be divided into one (1) or more such districts:

FR-1	Farm Residential District
PRD	Planned Residential District
PCD	Planned Commercial and Office District
PID	Planned Industrial District
HSD	Highway Service District

### **Section 5.02 – OFFICIAL ZONING DISTRICT MAP:**

The zoning districts and their boundaries are shown on the Official Zoning District Map of Troy Township. The Official Zoning Map, as legally amended from time to time by Resolution of the Troy 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 changes. 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 Map shall be maintained by the Zoning Inspector at the Township Hall.

### **Section 5.03 – NEW TERRITORY:**

All territory which may hereafter become a part of Troy Township, Delaware County, Ohio, by any method after the effective date of this Resolution shall be classified automatically as lying in and being in a Farm Residence District (FR-1).

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

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

- A) Where district boundaries are indicated approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, 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 center line of right-of-way lines of highways, such district boundaries shall be construed parallel thereto and at such distance as indicated on the zoning map. If no such distance is given the 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 said railroad lines.
- 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 or annexation of any territory, said metes and bounds description shall have 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 – PURPOSES OF THE ZONING DISTRICTS:**

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

- A) **Farm Residential District (FR-1):** The Farm Residential District (FR-1 – Article VIII) 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 these Farm Residential District Regulations 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 Residential 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.

- B) **Planned Residential District (PRD):** The Planned Residential District (PRD - Article XI) is a Planned Unit Development district adopted pursuant to Ohio Revised Code Section 519.021 (A) and 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. PRDs are intended for those areas of the township with centralized water and sewer that are also recommended for densities of greater than one (1) dwelling unit per net developable acre on the adopted Comprehensive Plan. Natural features such as topography, woodlands, wetlands, bodies of water, floodplains, drainage ways and historic architecture should be maintained in a natural state as much as possible to maintain a rural character. Open space is a major component of such a unified development plan.

The objectives of the Planned Residential Development District include:

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

- C) **Planned Commercial & Office District (PCD):** The Planned Commercial and Office District (PCD – Article XV) is a Planned Unit Development adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for unified commercial areas usually under single ownership and control, or clustered together in planned out lots, where the use and layout are known and approved with flexibility per an approved development plan. These centers shall have all necessary utility services, and roads comprehensively provided. Buildings within this District are to be architecturally attractive and compatible. The tract is to be well landscaped. Parking and loading areas are to be screened and pedestrian-vehicular separation achieved. The relationship among individual establishments is to be harmonious, and inasmuch as the principal tenant and the size of the center have much to do with its physical character, relationship to the community, and economic success, these factors should be of concern in considering a Planned Commercial and Office District application. It is intended that the Planned Commercial and Office 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.
- D) **Highway Service District (HSD):** The Highway Service District (HSD – Article XVI) is provided in recognition of the need for large commercial sales, service and repair establishments, as well as the needs of the motoring public for essential services such as food and lodging. These uses typically require access to a major arterial street, with the understanding that limited access is a condition of proper traffic flow on the adjacent arterial street.

Access management policies that are required by the Ohio Department of Transportation District 6 (for properties with access to US Route 23), are part of the zoning permit review. All uses must receive a zoning permit prior to construction or any improvements of structures.

- E) **Planned Industrial District (PID):** The Planned Industrial District (PID – Article XVIII) is a Planned Unit Development adopted pursuant to Ohio Revised Code Section 519.021(A) and is intended for 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.





## ARTICLE VI – APPLICATION OF RESOLUTION

### **Section 6.01 – CONFORMANCE REQUIREMENT:**

Except as otherwise provided herein, no building (temporary or permanent) or part thereof shall be moved on the site, erected, converted, enlarged, reconstructed, or structurally altered, nor shall any, building or land be used or occupied other than in strict conformance with all the use 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:**

Subject to the provisions of Section 6.02(A), with respect to lots greater than five (5) acres of land, 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 (per Section 519.12 of the Ohio Revised Code).

- 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 (1) 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 (1) 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.
  - 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 (1) 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 XXIV of this Resolution. Dairying, poultry and animal husbandry shall be prohibited on all lots within the subdivision after thirty-five percent (35%) of the lots are so developed.
  - 4) Farm markets that derive at least fifty percent (50%) of their gross income from produce raised on farms owned or operated by the market owner in a normal crop year are permitted in any zone, subject to the following regulations.
    - a) Buildings less than one hundred and forty-four (144) square feet must be placed at least fifteen (15) feet outside the road right of way so as to safely allow for adequate customer off street parking. Seasonal farm markets may use grassed areas for parking. Permanent farm markets must have paved or graveled parking.
    - b) For buildings larger than one hundred and forty-four (144) square feet, off-street parking must be provided at the ratio of one (1) space for each four hundred (400) square feet of farm market. Seasonal parking may be grassed areas, but permanent parking must be graveled or paved and provide ingress and egress in accordance with the recommendation

of the Delaware County Engineer. Setbacks are the same as for any structure in the underlying zone.

**Section 6.03 – PUBLIC UTILITIES AND RAILROADS:**

Township Zoning Not to Affect Public Utilities, Railroads, Liquor Sales, or Oil and Gas Production; Exception for Telecommunications Towers - Except as otherwise provided in Section 21.16 of the Troy Township Zoning Resolution, this zoning resolution confers no power on any Board of Township Trustees or Board of Zoning Appeals in respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad, for the operation of its business (per Section 519.211 of the Ohio Revised Code).

**Section 6.04 – SALE OF ALCOHOLIC BEVERAGES:**

Nothing contained in this Resolution shall confer powers on the Zoning Commission, Board of Trustees, or Board of Zoning Appeals to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, or restaurant is permitted. (Per Section 519.211 of the Ohio Revised Code).

**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 foundation shall have been started within six (6) months from the effective date of this Resolution. 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 textual amendments hereto.

**Section 6.06 – ISSUED ZONING CERTIFICATE:**

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 frameworks 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, and with the original request for the certificate. In no case shall the timetable for phased construction be more than two (2) years.

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

## ARTICLE VII – (RESERVED FOR FUTURE USE)



## ARTICLE VIII – FARM RESIDENTIAL DISTRICT (FR-1)

### Section 8.01 – PURPOSE

The Farm Residential District (FR-1) is established for the purposes set forth in Section 5.05(A). All required permits in accordance with Section 25.02 regarding the location or alteration of structures or the use of land are the responsibility of the applicant or landowner.

### Section 8.02 – PROHIBITED USES

- A) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B) Outdoor storage of inoperable, unlicensed, or unused motor vehicles, including trailers detached from semi-tractors and shipping containers, for a period exceeding seven (7) days is prohibited. Said vehicles stored on the premises shall be enclosed within a building so as not to be visible from any public road or adjacent properties. Shipping containers and trailers detached from semi-tractors may not be used as structures or temporary structures.
- C) No motor home, camper, or R.V. of any type may be occupied by a guest of the resident owner for more than fourteen (14) days in a six (6) month period and only one (1) motor home or camper is permitted at any time.
- D) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof, which creates an eyesore, health risk, hazard, or nuisance to the neighborhood or general public.
- E) No manufactured or mobile home shall be placed or occupied in this district.

### Section 8.03 – PERMITTED USES:

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

- A) Single family dwellings. (Limited to one (1) single family dwelling per parcel, tract, or lot).
- B) Accessory buildings and accessory uses including private garages and an apartment for full time domestic or farm help employed on the premises or full time farm labor.
- C) Projects specifically designed for watershed protection, conservation of soil, water, or for flood control.
- D) Agricultural purposes: See Sec. 6.02.
- E) Temporary structures such as manufactured/mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects during construction. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than once. 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 may be occupied for residential purposes.

F) Limited Home Occupation

Troy Township Zoning recognizes a growing trend toward home occupations, mainly "home" type of businesses. The Zoning Commission recognizes the viability of the Home Occupation Business and feels that certain home occupations should not only be permitted but encouraged in Troy Township. The benefits to the Township include, but are not limited to; less commuting traffic, less pollution, less latch key children, lower crime rates, and important economic opportunities not only for the Township but to the residents as well. With this in mind, zoning standards that will work in harmony with respect to adjacent neighbors and our desire and commitment to preserve the rural residential and farmland character of the Township, Limited Home Occupation must necessarily be controlled by the following regulations.

- 1) Home Occupation Business shall maintain the rural and residential character of the neighborhood with low to no impact and shall be clearly incidental and secondary to the use for dwelling purposes.
- 2) Business activity must be carried on solely within the confines of the dwelling unit, not to exceed twenty (20) percent of the dwelling unit.
- 3) Home Occupation Businesses are required to have a permit from the Township Zoning Inspector.
- 4) The business shall be conducted principally within the home, however, a detached garage, shed or other accessory building may be used to conduct a portion of the business.
- 5) The appearance of the structure shall not be altered or the occupation within the dwelling unit shall not be conducted in a manner which would cause the premises to differ from its residential character either by use of colors, materials, construction, or lighting.
- 6) One sign, no larger than 4 square feet per side, front and back, is allowed. The sign must otherwise conform to Section 8.05(J).
- 7) No employees other than residents living in the dwelling unit are permitted to conduct the business.
- 8) Only six (6) customers can visit the dwelling unit residence daily to conduct business and the hours of such activity are restricted to; 8 a.m. to 8 p.m.
- 9) Delivery or Shipping of material related to a home-based business by a commercial truck service is limited to three (3) per day and no truck or trailer is permitted to remain on the property for more than 3 hours.
- 10) Commercial vehicles located on the site are limited to one (1) directly associated with the Limited Home Occupation Business.
- 11) All products and materials must be stored in a building. Outdoor storage, even if it is screened, is not permitted. No equipment, process, or storage associated with a home occupation shall create a fire or explosion hazard or involve the use of any hazardous material in any concentration greater than that which would normally be found in a dwelling containing no home occupation business.

- 12) The use cannot generate noise, dust, glare, offensive odor, electrical interference, disturbances or other nuisance beyond the property line.
  - 13) No growth or expansion beyond the scope of what is legally acceptable and recognized as a Permitted Limited Home Occupation Business is permitted.
  - 14) Limited Home Occupation Businesses shall also comply with all other general zoning standards for Troy Township, including but not limited to: disposition of waste, lighting & off-street parking.
  - 15) Professional Licensed Services such as Dentist, Doctor, Chiropractor, Veterinary, Cosmetology or Retail, Industrial, Instructional Services including but not limited to, Patient/Client Office, Some Teaching/Instructional Facilities, Coffee Shop, Tea Rooms, Bakeries, Gift Shops, Restaurants, Machine Shops and Auto Repair or any other high impact businesses or services not permitted as a Limited Home Occupation Business.
  - 16) The purpose of the Permit is to validate and affirm that a Limited Home Occupation Business exists, assures compliance, and establishes a record for The Troy Township Trustees and Zoning Commission which will be beneficial in future planning. The permit allows the use for the applicant and specific location. Any transfer of the property shall require a new permit.
- G) 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 twelve (12) days in any calendar year or for more than three (3) consecutive days.
- H) Schools and Parks: (1) public school offering general educational courses and having no rooms regularly used for housing or sleeping of students, or (2) parks, playgrounds, and play fields open to the public without fee.
- I) Religious Land Uses: churches, places of worship, places of religious assembly, religious institutions, and parsonages 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, and (3) all aspects of public health, safety and welfare are provided for (e.g. meets building code, life safety code, electrical code, etc.).
- J) Adult Family Homes as provided for and defined in Chapter 3722 of the Ohio Revised Code.
- K) Child Day Care: Child day care provided in-home for six (6) 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 Section 5104.01 of the Ohio Revised Code.
- L) To require a special temporary permit for food trucks operating for more than two days in the calendar month at a cost of \$50 to the vendor and they will be limited to commercial or exempt properties. The permit will be good for six months.
- M) Common Access Driveway Subdivisions
- N) Wind Turbine as regulated in Section 21.19

#### **Section 8.04 – 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 XXVIII of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of Board of Zoning Appeals approval, or use is discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his/her 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 the 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) Cemeteries, provided:
  - 1) Internment shall not be within three hundred (300) feet of any dwelling, unless the owner(s) of such dwelling(s) give(s) consent, or unless the entire tract acquired or appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in Section 1721.03 of the Ohio Revised Code.
  - 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 (1,000) feet of any property line.
  - 4) Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the County Recorder in accordance with Section 1721.09 of the Ohio Revised Code.
- B) Borrow Pits, provided the excavation is completed within one (1) year and the contractor posts such bond as required by the Board of Township Trustees, Board of County Commissioners and/or the County Engineer to ensure compliance with the restrictions and conditions imposed to insure regrading, reseeding and general restoration of the area including haul roads. All applications or plans submitted incident thereto shall be reviewed by the Delaware County Engineer and his/her comments shall be included in the record regarding the matter. An extension of the time limit may be approved by the Board of Zoning Appeals.
- C) 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 not limited to, garden supplies with a nursery or greenhouse, milk production with a dairy, or imported produce with a permitted produce stand.
- D) Private landing fields for aircraft, ultra lights and hot air balloons for use by the owner of the property and his/her guests. Helicopter landing pad prohibited. Absolutely no commercial activities shall take place on said premises. Private landing fields shall conform to F.A.A. regulations.
- E) 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) 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. See Sec. 21.18 for further development standards.
  - 2) Parking: All model homes shall provide off-street paved parking for the public. Such offered 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 (90%) of the lots.
  - 5) Model Home Sign: Troy Township may approve one (1) model home sign 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;
    - d) the sign information must be presented at the time the final development plan is submitted and approved;
    - e) the model home sign must be removed when the model home is discontinued as a sales office.
- F) Bed and Breakfast home provided that:
- 1) Lighting: All exterior lighting must be down lighting, so that no light shall be cast onto adjoining residential properties. See Sec. 21.18 for further development standards.
  - 2) Parking: All bed & breakfast 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 eight (8). The driveway of the bed & breakfast home may be utilized for not more than two (2) parking places.
  - 3) Screening and trash receptacles: Landscape drawings shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the bed and breakfast lot. Trash receptacles shall be provided around the bed and breakfast for use by the public.

- 4) No more than three bedrooms are available for overnight lodging.
  - a) Owner or manager must reside in the residence.
  - b) Adequate potable water and sewage disposal must be provided.
  - c) Signs must comply with Limited Home Occupation sign requirements and 8.05(J).
  - d) Maximum length of stay of lodgers is two (2) consecutive weeks.
- G) Reserved
- H) Expanded Home Occupation
 

Any Home Occupation Business which cannot operate within the scope and criteria of Limited Home Occupation, Section 8.03(F), may be appropriate for a residential area provided the following additional standards are addressed through the Conditional Use permit in accordance with the procedure as defined in Section 28.07. Expanded Home Occupation Business Conditional Use may be allowed, provided it meets the following requirements:

For purposes of this Resolution, a Home Occupation Business Conditional Use Permit ceases to be valid once the premises are no longer occupied by the holder of the Conditional Use Permit or upon the conduct of a Home Occupation Business in a manner not approved by the Board of Zoning Appeals.

Conditional uses shall be limited by the following criteria and/or any other condition as determined to be necessary by the Board of Zoning Appeals in order to protect the residential character of the subject area. Expanded Home Occupations conducted by the resident are permitted under the following restrictions:

  - 1) The home occupation shall be carried solely within the confines of the dwelling structures and architecturally compatible accessory buildings which are customarily associated with the dwelling unit use and character of the neighborhood.
  - 2) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and no more than 1,000 square feet, of the combined floor space in any detached garage or accessory building.
  - 3) No more than one (1) non-resident employee shall work on said premises.
  - 4) Services may be rendered on the premises or elsewhere.
  - 5) All parking demands created by the conduct of the home occupation shall be met off the street, and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line.
  - 6) The use cannot generate noise, dust, glare, offensive odor, electrical interference, disturbances or other nuisance beyond the property line.
- I) 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 from the lot line of any residence, church, school or any institution of human care.

- 2) Full compliance with Delaware Public Health District regulations.
  - 3) Suitable fencing and/or screening shall be provided as approved by the Troy 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 adjoining properties.
  - 5) Minimum lot size is five (5) acres.
  - 6) Outside runs are not within four hundred (400) feet of a residence.
- J) Granny flat, provided it meets the following conditions:
- 1) Property owner must live on site, and the granny flat must be subservient to the principal use of the property as a dwelling.
  - 2) Maximum size: 816 square feet.
  - 3) Must maintain a single-family residential appearance that blends with the principal structure and the neighborhood. An architectural rendering and floor plan must be provided to and approved by the Board of Zoning Appeals. Said plans shall include a landscape plan.
  - 4) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal regulated by the Delaware Public Health District 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 (1) additional space for the granny flat, nine (9) feet by eighteen (18) feet per space. No one space shall block another. Garages count as parking spaces.
  - 6) Maximum height of the accessory structure is twenty-four (24) feet at the peak. A granny flat may be located on the first and/or second floor.
  - 7) Maximum lot coverage by all residential structures is twenty-five (25) percent.
  - 8) All structures must meet the applicable state and local building and plumbing codes.
- K) Telecommunication towers provided all requirements of Section 21.16 are met.

**Section 8.05 – DEVELOPMENT STANDARDS**

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

- A) Minimum Lot Area – Two (2) acres (87,120 square feet) exclusive of easements, road right-of-way, and sixty (60) foot access strips within flag lots.
- B) Lot Frontage - Except as hereinafter set forth all lots or parcels within this zoning district shall have the following minimum frontage on a dedicated, improved public or private street, or an approved common access driveway:

2 acres but less than 3 acres - 150 feet  
3 acres but less than 4 acres - 175 feet  
4 acres but less than 5 acres - 225 feet  
5 acres or larger – 300 feet

Lots or parcels having less than the above listed minimum frontages on the right-of-way line of the adjoining approved road or common access driveway shall have a lot width of seventy five (75) feet forward of the front building line which is equal to or greater than that minimum lot frontage requirement. In no case shall the parcel or lot frontage at the road right-of-way line or common access driveway easement be less than sixty (60) feet (flag lot) and the width of sixty (60) feet shall not be decreased at any point forward of the front building line. 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 the adjoining roadway or common access driveway, the setback is required to conform to setback lines for principal structures on adjoining lots.

No two (2) lots or parcels having less than the above listed minimum frontages on the road right-of-way line shall be located adjacent each other at the road right-of-way.

Lots or parcels not meeting the minimum frontage requirements in Section 8.05(B) (e.g. narrow frontage and flag lots) must be separated by a lot meeting the required frontage minimum (conforming lot) at the road right-of-way or common access driveway easement.

All lots shall have a frontage line, two (2) side parcel lines and a rear parcel line. The rear parcel line may not decrease in width from the frontage line by more than ten percent (10%) and may never decrease in size from the minimum frontage widths. The only exception to this shall be if the rear or side parcel line follows a natural terrain feature (e.g. ravine, creek), road or railroad.

- 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. Agricultural 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 windmills, aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line or road right-of-way of said tract. See Sec. 21.02.
- D) Building Dimensions (Living Area Requirements) - Each single family dwelling hereafter erected in this district shall have a ground floor living area of not less than nine hundred and fifty (950) square feet. All such living areas shall be exclusive of basements, porches, breezeways and garages.
- E) Building Set Back - No building or use shall be located closer to the center line of the adjacent public or private road or common access driveway than permitted in Section 21.09. If an irregularly shaped lot (e.g. pie shaped) located on a curve or cul-de-sac widens to the minimum lot within seventy-five (75) feet of the nearest right-of-way line of adjoining roadway, the setback is required to conform with setback lines for principal structures on adjoining lots.
- F) Side Yard Set Back – No building or structures, swimming pools or ponds shall be located closer than twenty-five (25) feet to any side lot line.
- G) Rear Yard Requirements - No principal dwelling shall be located closer than fifty (50) feet to the rear line of any lot and no accessory building, deck, patio or other accouterments shall be located closer than twenty five (25) feet to said rear lot line.

- H) Maximum Lot Coverage - On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than fifty (50%) percent of the lot area. Structures shall cover no more than twenty-five (25%) percent of the lot or parcel 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 Articles XXI of this Resolution.
- J) Signs - Except as provided under the provisions of this article for Limited and Expanded Home Occupations or as controlled by Article XXII of this Resolution (political signs are excluded) as permitted by the Board of Zoning Appeals incident to Conditional Uses, one (1) "For Sale" or "For Rent or Lease" per tract per road frontage on which said sign is located shall be permitted. All signs shall be non-illuminated and shall not exceed four (4) square feet of advertising area on each side. The owner or developer of a subdivision of similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one (1) sign not exceeding forty-eight (48) square feet of advertising area per side advertising said subdivision, development or tract for sale.
- K) Exterior Lighting Standards - All exterior lighting shall be controlled by the provisions of Article XXI.
- L) Landscaping - All yards, front, side and rear shall be landscaped and all organized open space; or non-residential use areas shall be landscaped.
- M) Driveways- All driveways shall be constructed in accordance with the provisions of Section 21.10 of this Resolution.
- N) Drainage - No excavation or construction of any primary dwelling or accessory building shall adversely affect the natural drainage or sub-surface drainage of any lot, parcel or adjoining lot or parcel. Any sub-surface drainage that is disturbed, broken or in any way altered must be repaired or rerouted to continue any and all drainage prior to excavation, construction of any primary dwelling or accessory building. NO EXISTING SUB-SURFACE TILES MAY BE CAPPED. See relevant sections of the County Engineer's Drainage Standards.



## ARTICLE IX – (RESERVED FOR FUTURE USE)





## ARTICLE X – (RESERVED FOR FUTURE USE)



## ARTICLE XI – PLANNED RESIDENTIAL DISTRICT (PRD)

### **Section 11.01 – PURPOSE:**

The Planned Residential District (PRD) is established for the purposes set forth in Section 5.05(B).

### **Section 11.02 – DENSITY:**

The permitted density is a minimum of one (1) unit per net developable acre, with a maximum of 2 units per net developable acre. There are a variety of factors the Township must consider in determining the appropriate density, including, but not limited to, access to arterial or collector streets and the capacity of those roads to carry the anticipated traffic to be generated, proximity to equivalent densities in the township or the city of Delaware, the recommended density on the adopted Troy Township Comprehensive Plan, centralized sewer and water availability and capacity, the impact on township and county services, including but not limited to schools, fire, police and recreation. Land developers should understand that typically the maximum density may not be achieved due to the lack of currently available services, but that their mitigation of shortages of such services can increase their maximum allowable density. It is understood that the actual permitted density is solely the township's discretionary decision, made after weighing these many factors and the developer's proposed mitigation effort of his/her impacts. The township makes this determination in the interest of the public health, safety, morals and general welfare. Land dedicated to and accepted for public use (school, fire station, park, etc.) may be included in the net developable area for density calculations, provided building footprints on the public dedication tract comprise less than thirty (30) percent of its land area.

### **Section 11.03 – PERMITTED USES:**

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

- A) Single family (detached) residential dwellings.
- B) Attached single family (attached by a common vertical firewall to the underside of the roof, such as townhouses, or patio homes) residential owner occupied dwellings in groupings of up to three (3) attached units.
- C) Multi-family dwellings, so long as they comprise no more than fifteen percent (15%) of the total housing of the PRD.
- D) Common Open Space-upon approval of the final development plan by the township, the following uses and improvements may be permitted in the common area:
  - 1) Recreation, such as golf, swimming, boating, basketball, soccer, football, baseball, tennis, horseback riding, skating and other forms of predominantly outdoor recreation, except outdoor shooting ranges or motorized sports. 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 to be used on a for-profit basis as a private, commercial venture they 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.
  - 3) If approved as part of a final development plan, common open space may incorporate land for on-site centralized wastewater disposal systems.

- E) Natural Green Space - restricted to passive uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area.
  - 1) If approved as part of a final development plan, natural green space may incorporate land for on-site centralized wastewater disposal systems.
- F) Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the PRD development. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to major thoroughfares as to permit access without burdening residential streets.
- G) Schools with adequate area as approved per plan for indoor and outdoor recreation, parking and additional setbacks as may be necessary to avoid disruption to adjacent residences.
- H) Limited Home Occupation as defined in Section 21.14, including family day care home as defined in Section 5104.01 of the Ohio Revised Code.
- 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 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 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.
- 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.

**Section 11.04 – CONDITIONAL USES:**

The Board of Zoning Appeals may approve the following conditional uses within a PRD, provided the established standards are met:

- A) Telecommunication towers pursuant to Section 21.16.
- B) Expanded Home Occupation as provided in Section 21.15.
- C) Model Homes, 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/developer 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/developer sales force. Model homes shall be subject to the following restrictions:
  - 1) Lighting: All exterior lighting, except for security 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, except for security lighting, shall be extinguished at the closing time 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.
- 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 five percent (95%) of the lots.
- 5) Model Home Sign: Troy Township may approve one (1) model home sign 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;
  - d) the sign information must be presented at the time the final development plan is submitted and approved;
  - e) the model home sign must be removed when the model home is discontinued as a sales office.

**Section 11.05 – PROHIBITED USES:**

- A) Uses not specifically authorized by the express terms of this article of the zoning resolution shall be prohibited.
- B) Outdoor storage of inoperable or unlicensed vehicles or trailers for a period exceeding seven (7) days in any 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.
- C) 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 code or the restrictions on the plat or subdivision.
- D) No motor home, mobile home or camper of any type may be occupied by a guest of the resident/owner.
- E) Except for permanently-sited manufactured housing as may be approved in the development plan, no manufactured housing or mobile home shall be placed or occupied in this district.

- F) Agricultural uses and/or activities are prohibited as provided by Ohio Revised Code Section 519.21 in subdivisions that meet the requirements of Ohio Revised Code section 519.21(B) (See Section 6.02 of this resolution).
- G) No trash, debris or discarded materials that create an eyesore, hazard or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or portion thereof.

**Section 11.06 – INITIAL DISCUSSIONS – CONCEPT STAGE:**

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.

Simultaneous with initial discussions, it is recommended that the applicant schedule a walkabout on the site with the Zoning Commission and DCRPC staff to familiarize all parties with the lay of the land, and the general design intent.

No statement by officials of the Township or the DCRPC shall be binding upon either party at the concept stage.

In addition to any other procedures set out in this Resolution, all applications for amendments to the zoning map to rezone lands to PRD shall follow the procedures herein.

Any and all meetings, discussions, walkabouts, or other gatherings of the Zoning Commission and/or DCRPC, formal or informal, where a quorum of the members of either the Zoning Commission or DCRPC are present, shall be properly noticed and held in compliance with Ohio Revised Code Section 121.22 (Ohio's Open Meetings Law.)

**Section 11.07 – REQUIRED DESIGN STANDARDS:**

PRD developments shall incorporate the following design standards:

- A) Minimum PRD Tract Size - Twenty (20) acres, unless adjacent to another PRD, in which case the Zoning Commission may permit the tract size to be reduced to ten (10) acres.
- B) Open Space - Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. A minimum of twenty percent (20%) of the net developable acreage shall be dedicated open space.  
  
In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. Environmentally sensitive areas deleted from the net developable area such as wetlands, floodplains, slopes greater than twenty percent (20%) and utility easements may count for up to fifty percent (50%) of the required open space. Land dedicated to public purposes such as a park, or school athletic fields may count toward the open space requirement.
- C) Perimeter PRD Setback - one hundred (100') feet from property lines.
- D) Storm Water - Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding. Retention ponds and constructed wetlands as detention basins are preferred over plain detention basins.
- E) Subdivision Standards - Improvements within the PRD shall conform to the subdivision standards for Delaware County, Ohio.

- F) Natural Area Preservation - Wetlands, steep (over 20 %) slopes, forests, one hundred (100)-year floodplains and ravines should be preserved to the greatest extent possible. Foliage should be retained where practicable.
- G) Floodplains - No residential dwelling structures shall be constructed within the one hundred (100)-year floodplain of any stream or river.
- H) Architecture - The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.
- I) Sidewalks - A network of sidewalks or walking paths shall be provided. Where located parallel to the roads, sidewalks shall be separated from the street pavement by at least a five foot (5') landscaped or grassed strip. Walking paths may be located per plan. The zoning commission may require paved/unpaved walkways to connect residential areas and open spaces.
- J) Street Trees - Deciduous, broad leaf street trees if required by the Zoning Commission, shall be placed one (1) for every fifty feet (50') of lineal road frontage.
- K) Minimum Front Setbacks - Houses, forty feet (40') from the street right of way, or as approved per plan. Front load garages shall setback at least fifty feet (50') from the street right-of-way.
- L) Minimum Lot Size - 12,000 square feet for single family detached dwellings.
- M) Minimum Lot Width at the Building Line – One hundred feet (100') for single family detached dwellings.
- N) Minimum Side Yards - 12 ½ feet each side (25' between structures), with a maximum of three (3) feet encroachment for chimneys and air conditioning units.
- O) Driveway Setbacks - Three feet (3') from side lot line. Side-load garages shall provide at least 20 feet (20') of paved apron, exclusive of the three feet (3') setback.
- P) Minimum Rear Yard- Thirty feet (30') for houses. Twenty feet (20') for detached garages, or 12 ½ feet for garages with full masonry construction.
- Q) Streets- Street layouts should be looped to create an interconnected road network with more than one (1) access point.
- R) Street Lighting- If required by the Township must be of white light, maximum height twenty feet (20'), with full cutoff downward cast lighting.
- S) Building Height Limits- No buildings in this district shall exceed thirty-five feet (35') in height measured from the average finished grade elevation to the highest point of the roof.
- T) Building Dimensions- (Floor space requirements)
  - 1) Each detached single family dwelling hereafter erected in this district shall have a living area not less than one-thousand four hundred (1400) square feet for a single story house or nine-hundred (900) square feet of ground floor living area, if the residence is multi-story. All such living areas shall be exclusive of basements, porches and garages.

- 2) All attached single family or multi family structures constructed within a PRD shall contain the following minimum living area, or as approved per plan:
 

One (1) bedroom unit -	900 square feet
Two (2) bedroom unit -	1,000 square feet
Three (3) or more bedroom units -	1,100 square feet
  
- U) 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 XXIII, 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 showing the caliper, height, numbers, name and placement of all material is required and subject to approval as a part of the final development plan. Planting of native species is strongly encouraged.
  
- V) 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 XXI of this Resolution shall be incorporated unless specific divergence is approved per plan.
  
- W) Signs- Except as provided under the provisions of this article for home occupations or as controlled by Article XXII (Signs) of this Resolution and except as permitted by the Board of Zoning Appeals incidental to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet of advertising area on each side. 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 thirty-two (32) square feet of advertising area per side advertising said subdivision, development or tract for sale.
  
- X) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan in accordance with Section 21.18.
  
- Y) Common Open Space- A minimum of twenty percent (20%) of the net developable acreage within a Planned Residential Development shall be required to be common open space, available to all residents or users of the Planned Development. The common open space shall be subject to the following additional criteria:
  - 1) The location, shape, size and character of common open space shall be suitable for the planned development in relation to the location, number and types of buildings it is intended to serve. In any case, it shall be accessible to all residents or users of the planned development.
  - 2) The common open space shall be for the use and enjoyment of the owners and occupants of the individual building sites of the development and shall be accessible to all such owners and occupants. The common open space may be used for a school site, or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the planned development in relation to its size, density, expected population, topography, and the type of dwellings.
  - 3) The common open space may be suitably improved for its intended use, but common open space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. The buildings, structures, and improvements that are permitted in the common open space must be appropriate to the uses that are



authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.

- 4) The proposed common open space may be conveyed to a public authority that will agree to maintain the common open space and any buildings, structures or improvements that have been placed on it. All land dedicated to the public must meet the requirements of the appropriate authority as to size, shape, and location. Public utility or other similar easements and right of way for water courses or other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated.
- 5) The proposed common open space may be conveyed to an owners association or similar organization formed for the maintenance of the planned development. The common open space must be conveyed by covenants under such an arrangement subject to approval by the Zoning Commission. Such covenants shall restrict the common open space to the uses specified in the Development Plan and provide for the maintenance of common open space in a manner, which assures its continuing use for its intended purpose. Membership in the owners' association shall, by deed restriction, be mandatory for any owner within the planned development.
- 6) If the proposed common open space is not conveyed to a public authority or to an owners' association it must be deeded in title to a fiduciary which, for a fee, acts as a trustee for the benefit of all owners and occupants of the planned development. The trustee shall give easements across the open space and the right to use the facilities to all owners and occupants of planned development. The trustee shall be provided the right to charge and lien each property of its proportionate share of upkeep costs for the common facilities.

**Section 11.08 – SUPPLEMENTAL CONDITIONS AND SAFEGUARDS:**

The Troy 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 11.09 – 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 divergence on the preliminary and final development plan submittals.

**Section 11.10 – EXPIRATION OF FINAL DEVELOPMENT PLAN APPROVAL:**

If construction of any building has not been commenced within three (3) years after approval of the final development plan, approval of such plan shall expire, unless an extension of the time limit has been approved by the Zoning Commission. Absent an extension, no use shall be established or changed and no structure shall be constructed until a final development plan has been filed with and approved by the Zoning Commission.

**Section 11.11 – APPLICATION PROCEDURE**

The applicant, being the owner of subject real estate, may apply one of two (2) ways (either A or B).

- A) File Preliminary and final development plans separately
  - 1) Step one- Apply for a zoning map amendment to designate the land as a PRD and submit a preliminary development plan with the application. If the application is approved, then the zoning map is amended to PRD. (This is a legislative act and is subject to referendum).

- 2) Step Two- Once an application for a zoning map amendment to PRD has been approved, the applicant submits and seeks approval of a final development plan. Unless simultaneously adopted as part of the zoning map change, the subsequent approval or disapproval of the final development plan is an administrative act by the Township (not subject to referendum), but is subject to the review and approval by the township for appropriateness.
- B) Simultaneous Application for Zoning Map Amendment and Approval of the Final Development Plan: The applicant, being an owner of real estate, may apply for a zoning map amendment to designate the land as a 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 11.12 – REQUIRED FINDINGS FOR APPROVAL OF A PLANNED RESIDENTIAL DEVELOPMENT:**

The Zoning Commission and Trustees may approve an application to rezone property to the Planned Residential Development 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 Zoning Resolution.
- B) That the proposed development reflects the recommendations of the Comprehensive Plan 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 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 surrounding land uses.
- G) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

**Section 11.13 – EFFECT OF PRD ZONING:**

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

**Section 11.14 – DEVELOPMENT PLANS:**

- A) Preliminary Development Application – Upon application for a PRD, 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.
  - 1) 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:
    - a) 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, existing and proposed structures, structures within 200' of the development tract.

- b) Environmentally sensitive areas such as the one hundred (100)-year floodplain, bodies of water, forested areas, wetlands, and slopes greater than 20%. No structure (other than approved drainage structures) 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.
- c) Permitted density calculations.
- d) Generalized architectural designs for all structures and signs.
- e) The intended general provisions for fire hydrants and surface drainage, to the extent known. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.
- f) Water supply and sanitary sewage disposal feasibility shall be indicated by the appropriate agency (Del-Co or Delaware City Water, Delaware County Board of Health, Delaware County Sanitary Engineer, Delaware City and/or the Ohio EPA) at the time of the preliminary plan. Centralized sanitary sewage disposal systems, if necessary, shall be provided subject to Delaware County Sanitary Engineer and Ohio Environmental Protection Agency approval. If on-site centralized sewage disposal systems are proposed, the applicant shall indicate who shall be responsible for their operation and maintenance, and shall provide a letter from the appropriate county or state agency declaring the site feasible for such systems, and for the anticipated sanitary flows.
- g) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.
- h) A design of the open space and proposed description of its use and maintenance.
- i) Proposed public land dedications.
- j) Specific statements of requested divergences from the development standards in this article or other articles in this resolution.
- k) Preliminary Traffic Impact Analysis based upon new trip generation rates as specified in either the Delaware County Engineer's standards or the International Transportation Engineering standards. Preliminary mitigation proposals such as turning lanes, signals, roundabouts, or widening to alleviate the impacts of new traffic shall be described.
- l) Design standard items A-D, F-G, L-Q, and W from Section 11.07.
- m) Emergency service provisions (letter from Fire and Police departments).
- n) General phasing plans, if any.
- o) Supplemental Conditions and Safeguards: The Township Zoning Commission and/or Board of Trustees may impose 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 development characteristics.

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

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.

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.

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 Township Zoning Commission and the 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 Commission. The public meeting shall be held within thirty (30) days of the Trustees receipt of the 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.

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.

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.

- D) **Final Development Plan**- The applicant shall submit fifteen (15) copies of the final development plan to the Zoning Commission with the application.

The review and approval of the Final Development Plan is an administrative act, not subject to referendum unless the final development plan is simultaneously submitted with application for the zoning change. If, in the opinion of the Zoning Commission, there is substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence. The 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 PRD development.
- 2) The 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:
  - a) All design standards from Section 11.07.
  - b) 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 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.
  - c) Architectural design criteria including materials, colors and 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 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.
  - f) A private street cross section and drainage plan that meets the design standards of the Delaware County Engineer for the weight of the vehicle and the traffic anticipated with an estimated design life of twenty (20) years.
  - g) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - h) Specific location of schools, parks and other public facility sites, within or adjacent to the site.

- i) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - j) 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.
  - k) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - l) Specific statements of divergence from the development standards in Articles XXI (General Development Standards), XXII (Signs) and/or XXIII (Landscaping) 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.
  - m) 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.
  - n) The drawings that are a part of the final development plan shall bear the seal of an architect, landscape architect, and/or professional engineer licensed to practice in the state of Ohio, with respect to the design of each professional.
- 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 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. This new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRD.
- F) **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 the 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 timetable in the approved development.
- G) **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.
- H) **Failure to Maintain**- If the approved development plan is not adhered to, or the open space is not properly maintained, the Township zoning officer may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance as a zoning violation as provided in Article XXIX of this Resolution.
- I) **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 an administrative review to ensure substantial compliance with the development plan as approved, prior to issuance of a zoning certificate. The Board of Trustees may establish a fee to be deposited with each administrative review in order to defray the costs associated with such a review.
- J) **Extension of Time/ Modification**
- 1) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or lengthening the approval period for either a preliminary or final development plan may be granted by the Zoning Commission at a public meeting provided the 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. 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 change in the acreage in the planned development;
- i) Any other departure from the approved development plan, which is deemed substantial by the Zoning Commission.



## ARTICLE XII – (RESERVED FOR FUTURE USE)



## ARTICLE XIII – (RESERVED FOR FUTURE USE)



## ARTICLE XIV – (RESERVED FOR FUTURE USE)



## ARTICLE XV – PLANNED COMMERCIAL & OFFICE (PCD)

**Section 15.01 – PURPOSE:** The Planned Commercial and Office District (PCD) is a Planned Unit Development adopted pursuant to Ohio Revised Code Section 519.021(A). The Planned Commercial and Office District (PCD) is established for the purposes set forth in Section 5.05(C).

**Section 15.02 – PERMITTED USES:** Within the Planned Commercial and Office District (PCD) the following uses, according to their North American Industrial Classification System (NAICS) code number, shall be permitted when developed in strict compliance with the approved development plan and standards.

The full text of the listings in the 2002 NAICS as specifically referenced and subsequently adopted shall be used to define the uses permitted within the PCD as set forth below and is hereby adopted as part of Article XV.

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 (2) digits. All three-digit codes include all 4-6-digit codes beginning with those three (3) digits, and so on. If a specific six-digit code is used, it refers to only one (1) permitted use. For example, Code 52 means that any use listed in the 2002 or subsequently referenced and adopted NAICS code under Sector 52 (such as 52212 Savings Institutions) is permitted.

2002 U.S. NAICS CODE #	PERMITTED USES
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
441	Motor Vehicle and Parts Dealers (excluding scrap parts, scrap materials including used tires or junk yards as described by NAICS numbers 423930 and 423140)
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 (except Adults Only Entertainment)
447	Gasoline Stations (except 447109 Truck Stops)
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores (except Adults Only Entertainment)
452	General Merchandise Stores
453	Miscellaneous Store Retailers, (except Adults Only Entertainment establishments, fireworks sales, and NAICS #45393 Manufactured Home Dealers)
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers

5313	Activities related to real estate
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental (except Adults Only Entertainment establishments)
53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services (except fixed-base helicopter transport service)
622	Hospitals
6221	General Medical and Surgical Hospitals
623	Nursing and Residential Care Facilities
62412	Services for the elderly and persons with disabilities
6244	Child Day Care
71111	Theater Companies and Dinner Theaters (except Adults Only Entertainment)
71112	Dance Companies (except Adults Only Entertainment)
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
721110	Hotels and Motels (except 72112 casino hotels)
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services).
811	Repair and Maintenance
812	Personal and Laundry Services (except Adults Only Entertainment establishments)
813	Religious, Grant making, Civil, Professional and Similar Organizations
92	Public Administration

#### OTHER PERMITTED USES THAT DO NOT HAVE A LISTED NAICS NUMBER

- A) Residential uses- Common wall single family attached dwellings, two family dwellings, and multifamily dwellings are permitted. All living units 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 (3) or more bedroom unit	1,000 square feet

No commercial or business activity shall be conducted in a unit designed for residential use except for Home Occupations as provided in Section 21.14 and 21.15.

- B) Temporary structures such as manufactured/mobile offices and temporary buildings 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 no later than ten (10) days after expiration of said permit. No temporary structure or unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with Article XXVIII of this Resolution.

**Section 15.03 – PROHIBITED USES:**

- A) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B) Outdoor storage of inoperable or unlicensed vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) consecutive days per vehicle is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- C) Except as provided in the development plan for sales of permitted uses, no trailer of any type; no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D) Except as specifically permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.
- E) No trash, debris, unused property or discarded materials which creates an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or parcel.
- F) Adults Only Establishments are prohibited.
- G) Uses pursuant to NAICS code # 711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities are prohibited.
- H) Extended Stay and/or Transient Hotels being any structure or one or more buildings containing any combination of more than five sleeping rooms, which is specifically constructed, kept, used, maintained, advertised, or held out to the public to be a place where temporary residence or sleeping accommodations are offered for pay.

**Section 15.04 – 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 to PCD.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

Any and all meetings, discussions, walkabouts, or other gatherings of the Zoning Commission and/or DCRPC, formal or informal, where a quorum of the members of either the Zoning Commission or DCRPC are present, shall be properly noticed and held in compliance with Ohio Revised Code Section 121.22 (Ohio's Open Meetings Law.)

**Section 15.05 – REQUIRED PCD DESIGN STANDARDS:**

- A) The development plan shall incorporate the following standards for all permitted uses:

- 1) Access- Requires frontage on and direct access to, one (1) or more dedicated and improved public arterial roads as shown on the Delaware County Thoroughfare Plan or to an access road that runs parallel and within 500 feet of 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) Minimum tract size- ten (10) acres, or as approved on the final development plan.
- 3) Maximum commercial (not multi family residential) ground coverage by buildings and parking (all impervious surfaces) – eighty percent (80%) 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.
- 4) Minimum Open space for commercial developments- twenty percent (20%) 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 fifteen (15) foot wide landscaped “green belt” shall be provided between the edge of any parking area and the adjacent public street right of way.
- 5) Maximum commercial floor space requirements: as approved per development plan, see also items 22 and 23 of Section 15.05.
- 6) Residential standards for common wall single family attached dwelling, two family dwellings, and multi-family dwellings:
  - a) Density - Maximum of five (5) dwelling units per net developable acre.
  - b) Common open space - ten percent (10%) of the net developable acreage must be set aside as useable common open space, meaning areas exclusive of landscape islands and berms for parking lots and yards or courts immediately adjacent to the dwelling units. The township shall determine if the open space configuration meets the intent of these standards during preliminary development plan review.
  - c) Assure by development plan, plat and deed restriction that no more than twenty percent (20%) of multi-family units may be designated as rental units held back by the developer for lease; all other dwelling units must be for sale to individual owners.
  - d) All units shall be sheathed in brick, stucco, stucco-stone, stone, wood or cementitious lap siding.
  - e) A development plan shall be submitted that meets all the standards and requirements of this Article XV, and which demonstrates that the design proposes buildings grouped together with a defined center, a network of open space and connecting sidewalks or pathways, resident parking provided off street, and street trees and a tree lawn adjacent to the edge of the street.
  - f) Centralized water and sewer service shall be provided.
  - g) Floodplain - No residential dwelling structures shall be constructed within the one hundred (100)-year floodplain of any stream or river.

- h) Roof pitch - All residential roofs shall be a minimum of 6/12 pitch, or as otherwise approved by plan.
  - i) Walkways and street trees - The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks or bike paths, where required, shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed tree lawn. Street trees shall conform to Township standards and may be placed in the tree lawn if permitted by the County Engineer and/or Township.
  - j) Yards and setbacks - approved per development plan.
  - k) Curbed street with enclosed drainage.
  - l) Private street pavement width and cross section- shall be constructed to meet the Average Daily Traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual or shall have a design life of twenty (20) years, certified by a professional engineer. Parking lot pavement does not have to meet street cross sectional standards, but parking lot drive aisles that connect to the public streets shall be constructed to public street cross sectional and design life standards within fifty (50) feet of the edge of the public paved road.
  - m) Underground utilities- all utility lines constructed to service the proposed development shall be located underground.
  - n) Architectural details are desirable- examples are wide corner boards or quoins, lintels, columns, window boxes, shutters, round louvers, etc.
- 7) Minimum Lot Width - At the building line- as approved per development plan.
  - 8) Minimum Side Yards - For non-residential structures 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. Side yards can be reduced to zero if an approved masonry party wall is constructed up through the roof of the attached commercial buildings.
  - 9) Minimum Rear Yard - For non residential structures 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.
  - 10) Perimeter Area - No building or parking shall be constructed within twenty-five (25) feet of the lot line of an existing or proposed single family home, or a residentially zoned district.
  - 11) Buffering - Natural foliage shall be retained where practicable. The Township may require establishment of such tree cover or other foliage to buffer adjacent uses.
  - 12) Environmentally Sensitive Areas – Jurisdictional wetlands, slopes greater than 20% and one hundred (100)-year floodplains shall be preserved to the greatest extent possible. No commercial or office structures shall be constructed within the one hundred (100)-year floodplain of any stream or river.

- 13) Water and Sewer - Centralized water and sewer service shall be provided unless otherwise approved on the final development plan. The appropriate state and/or county agencies with jurisdiction shall indicate feasibility of water supply and wastewater disposal systems at the time of the preliminary development plan review.
- 14) 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 by at least five (5) feet of grassed tree lawn with street trees.
- 15) Building Design - 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.
- 16) Building Height Limits - As approved on the final development plan.
- 17) 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 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 showing the caliper, height, number, name, and placement of all material is required and subject to approval as a part of the Final Development Plan. Natural foliage shall be retained as buffers where practicable.
- 18) 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 of Article XXI of this Resolution shall be incorporated.
- 19) Signs - Signs shall conform to provisions of Article XXII of this resolution.
- 20) Exterior Lighting - All exterior lighting shall be downcast as specifically approved as part of the final development plan in accordance with this resolution.
- 21) 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 public improvements to be installed, landscaping, development improvement and maintenance of common open space, and other development characteristics.
- 22) Building Size Limits - Retail or office buildings, including but not limited to NAICS Codes 114, 311811, 442, 443, 444, 445, 446, 447, 448, 451, 452, 453, 51, 52, 5312, 5313, 53211, 5322, 53242, 54, 55, and 561 shall contain no more than 65,000 square feet of bulk (i.e. first floor footprint) for any individual use.
- 23) Exception to Retail and Office Building Size Limits - Retail and office uses permitted in Section 15.02, and NAICS code 441 (Motor Vehicle and parts dealers) with an individual commercial or office use bulk (i.e. first floor footprint) that exceeds 65,000 square feet may be approved by the Township provided they have direct access to U.S. Route 23, or access to a commercial frontage road located parallel to and within five hundred (500) feet of U.S. 23.

**Section 15.06 – REQUIRED FINDINGS FOR PCD APPROVAL:** The Zoning Commission and Trustees may approve an application requesting that property be included in the PCD 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 Zoning Resolution.
- B) That the proposed development reflects the recommendations of 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 15.07 – PROCESS FOR AMENDMENT:** Applications for amendment to rezone property to the PCD Zoning District may be approved according to one (1) 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 a PCD. 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 PCD. (This is a legislative act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum.) This procedure may only be used if the real estate proposed to be rezoned consists of at least ten (10) acres.
- 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 PCD 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. (This is a legislative act and is subject to referendum).
- C) In addition to the procedures set forth in this Zoning Resolution, all applications for amendment to rezone property to the PCD district shall comply with the procedures outlined in Ohio Revised Code Section 519.12. Following the filing of an application for a PCD, 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. If a majority (quorum) of the Zoning Commission is present, the meeting must be advertised in accordance with the Ohio open meetings (Sunshine) law, the meeting must be open to attendance by any member of the public, and minutes must be kept.

**Section 15.08 – EFFECT OF PROPERTY OWNER INITIATED PCD ZONING AMENDMENT:** Upon approval of an application for a zoning amendment to rezone property to the PCD district, all previous zoning regulations shall no longer be in effect, and the regulations set forth in this Article for the PCD designation, as approved, shall prevail.

## Section 15.09 – DEVELOPMENT PLANS:

- A) Preliminary Development Plan Application – With the filing of any application to rezone property to the PCD District, the owner(s) or lessees of the subject lots or land to be rezoned 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 PCD application. The plan shall include in text and map form, the following:

- 1) The proposed size and location of the proposed PCD district, at a scale of at least 1" = 200', showing topographic contours of at least five (5) foot intervals, wooded areas, wetlands, adjacent (within two hundred [200] feet) of structures, one hundred (100) year floodplains.
- 2) Conceptual architectural elevations for all structures and signs.
- 3) The intended general 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 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.
- 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 15.05.
- 10) Fire fighting plan- letter from Fire department regarding access and water needs for fire fighting.
- 11) Phasing plans, if any.
- 12) Calculation of net developable acreage and proposed lot coverage for commercial uses and project density for proposed multi family uses.
- 13) Proposed permitted and accessory uses listed numerically and selected from the NAICS list in Section 15.02.

- 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 thirty (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 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. In the event the one (1) year timeline expires, any preliminary development plan thereafter filed shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD district.

- C) 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.

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.

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.

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 Township Zoning Commission and the 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 Commission. The public meeting shall be held within thirty (30) days of the Trustees receipt of the 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.

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.

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.

- D) Final Development Plan – The applicant shall submit fifteen (15) copies of the final development plan to the Zoning Commission with the application. 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 district change.

If, in the opinion of the Zoning Commission, there is a 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 area on the final development plan.
- 2.) The 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:
  - 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. 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 one hundred (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 one hundred (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 downcast and shaded whenever necessary to avoid casting direct light upon any adjoining property.
  - h) The proposed 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 in 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 final 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 PCD district.
- s) The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:
  - i) 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.
  - ii) 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.
  - iii) 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 whereon the use is conducted.

- iv) 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.
  - v) 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.
  - vi) 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.
  - vii) 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 Township 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 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 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 Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD District.
- 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 PCD 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 the zoning 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 the zoning 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 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
- 1) 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 at a public meeting provided the 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 plan 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, 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 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. An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.

## ARTICLE XVI – HIGHWAY SERVICE DISTRICT (HSD)

### Section 16.01 – PURPOSE:

The Highway Service District (HSD) is established for the purposes set forth in Section 5.05(D).

### Section 16.02 – PERMITTED USES

- A) Residential dwellings ancillary to permitted uses.
- B) Administrative, professional, institutional and business offices according to the North American Industry Classification System as listed below:

NAICS Group Code    Type of Business

512131	Motion Picture Theaters (except adult entertainment)
52	Finance and Insurance
531	Real Estate (except public warehousing 53113 - conditional use)
541	Professional, Scientific and Technical Services (except veterinary services - conditional use)
5615	Travel Arrangement and Reservation Services
611	Educational Services
621	Ambulatory Health Care Service
813	Religious, Grantmaking, Civic, Professional, and Similar Organizations
92	Public Administration

- C) Retail Stores and Personal Services according to the NAICS as listed below:

NAICS Group Code    Type of Business

442	Furniture and Home Furnishings
443	Electronic and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
4451	Grocery Stores
4452	Specialty Food Stores
446	Health and Personal Care Stores
447	Gasoline Stations and
448	Clothing and Clothing Accessories
451	Sporting Goods, Hobby, Book and Music Stores
453	Misc. Store Retailers (except for manufactured homes 45393 - conditional use)
5322	Consumer Goods Rental (except recreational goods 532292- conditional use)
81211	Hair, Nail, and Skin Care
81221	Funeral Homes and Services
8123	Dry Cleaning and Laundry Services (non-industrial only)

**Section 16.03 – CONDITIONAL USES:** The following uses shall be allowed as conditional uses in the Highway Service District provided a site plan showing building layout, parking and access is approved in accordance with the development standards herein by the Board of Zoning Appeals.

- A) Drive-in or Drive-through facility
- 1) Drive-in, Drive-through or outdoor service facilities developed in association with a permitted use provided no outdoor voice amplification call box or menu is located within one hundred (100) feet of a residence.

B) Veterinary Services (large and small animals, with outdoor runs, provided such runs are not within two hundred (200) feet of a residence).

C) Other Conditional Uses: The following uses shall be allowed in the Highway Service District provided they can meet the conditions of 16.02.

441 Motor Vehicle Dealers (including motor vehicle's, RV's, boats, new and used)  
45393 Manufactured (Mobile) home dealers  
53113 Public Warehousing  
5321 Automobile Equipment Rental and Leasing Services  
532292 Recreational Equipment Rental

1) Additional Standards for uses in Section 16.03(C).

a) Screening of Exterior Storage. Exterior storage may be permitted adjacent to a residential or planned residential district when screened by a one-hundred percent (100%) opaque, eight (8) foot wall or vegetative buffer. New or finished products or vehicles, which are sold and displayed as part of the permitted use business, do not have to be screened.

b) A thirty (30) foot landscaped green belt and eighty percent (80%) opaque perimeter evergreen screening, six (6) feet high is required when adjacent to residential uses and/or zones.

c) A thirty (30) foot wide front "greenbelt" or landscaped area is required between the existing street right-of-way line and any structure or paved area.

d) All lighting shall be directed downward. No lighting shall be directed outward from buildings toward surrounding properties.

e) When abutting residential zones, there shall be no exterior storage other than two (2) axle vehicles weighing less than 6,000 pounds unless such storage is completely enclosed by a solid eight (8) foot fence or one-hundred percent (100%) opaque evergreens.

f) A landscape plan prepared by a registered landscape architect and a building elevation (rendering) shall be approved by the Board of Zoning Appeals.

g) Minimum Lot Size

i) For uses listed in NAICS 441 and 45393, one (1) acre in size abutting a public street or 32,670 square feet (3/4 acre) of lot size for a corner lot abutting two (2) intersecting streets.

ii) For uses listed in NAICS 441 and 45393 there shall be a lot width of not less than two hundred (200) feet abutting on and having access to a public street right-of-way depicted as a major arterial street on the Delaware County Thoroughfare Plan, current edition. The lot abutment on a public street may be reduced to a sum of one hundred and seventy-five (175) feet for a corner lot abutting two (2) intersecting major arterial streets.

- h) Motor Vehicle Dealers (new and used cars), Aircraft, Marine, Boat, Motorcycle, Recreational Vehicle and Mobile Home Dealers:
  - i) All areas within required yard areas and parking setback areas shall be maintained with grass or natural vegetation and shall be properly maintained.
  - ii) Repair and service of automotive and marine vehicles, equipment, or related items shall be conducted wholly within an enclosed structure permanently located on the lot.
  - iii) All exterior lighting shall be designed to prevent direct glare on adjoining residential zoning. All lighting details shall be submitted for approval by the Board of Zoning Appeals. No "string lights" or strung banners shall be permitted.
  - iv) The required parking setback shall be established by the appropriate placement of bumper guards designed to prohibit direct access from the areas onto the public right-of-way. Bumper guards may be concrete cast, landscaping timbers or vertical poles, all of which are permanently attached to the ground and designed to prohibit direct access to the public road.
  - v) Attention-getting devices such as banners, posters, ribbons, streamers, spinners or other similar moving devices shall be prohibited.
  - vi) Noise attention-getting devices such as loudspeakers and amplified music shall be so controlled that at the property line on which such loudspeaker or noise attention-getting device is used, the noise level emitted from such loudspeaker shall not be above a decibel level of seventy (70) as measured at any property line.

**Section 16.04 – DEVELOPMENT STANDARDS:** The following standards for arrangement and development of land and buildings are required in the Highway Service District:

- A) Minimum Lot size - No minimum lot size is required, however, lot size shall be adequate to provide the yard space required by these development standards and those provided in Article XXI General Development Standards. For lots without centralized water and/or sanitary sewer, adequate space on the lot must be provided for on site wells and/or wastewater treatment facilities.
- B) One (1) or more main buildings or permitted uses may be placed on a lot, however, main and accessory structures including paved areas shall not occupy more than eighty percent (80%) of the lot area.
- C) At least twenty percent (20%) of the lot must be landscaped open space.
- D) Lot Width - No minimum lot width is required, however all lots shall abut a street and have adequate width to provide the yard space required by these development standards and those in Article XXI.
- E) Minimum Side Yard

- 1) When adjacent to a residential district or planned residential district, the side yard shall be at least  $\frac{1}{4}$  the sum of the height of the structure and the length of the wall nearly parallel to the side lot line. In no case shall the setback be less than fifteen (15) feet.
  - 2) When adjacent to another commercial district, the side yard shall be at least ten (10) feet, unless fireproof walls of adjacent building are attached, in which case no side yard is required.
- F) Minimum Rear Yard - When adjacent to a residential district or planned residential district, the rear yard shall be at least  $\frac{1}{4}$  the sum of the height of the structure and the length of the wall most nearly parallel to the rear lot line, but in no case shall it be less than fifteen (15) feet. A use to be serviced from the rear shall have a service court, alleyway or combination thereof no less than forty (40) feet wide.
- G) Front Green Belt - A landscaped area of at least fifteen (15) feet in width shall be provided between the existing street right-of-way line, or as depicted on the Delaware County Thoroughfare Plan, current edition, whichever is greater, and any structure or paved area.
- H) Minimum Front Building Setback Line - All buildings shall be setback a distance measured from the street centerline to the building a distance equal to the width of the existing right-of-way, or right-of-way as proposed on the Delaware County Thoroughfare Plan, current edition as adopted, whichever is greater. However, where, adjoins a limited access right-of-way with no access across its frontage, a building line shall be established fifty (50) feet from the property line adjoining the limited access line.
- I) Maximum Height - Thirty-eight (38) feet.

#### **Section 16.05 – PROHIBITED USES:**

- A) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B) Outdoor storage of inoperable or unlicensed vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) consecutive days per vehicle is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- C) Except as provided in the development plan for sales of permitted uses, no trailer of any type; no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D) Except as specifically permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.
- E) No trash, debris, unused property or discarded materials which creates an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or parcel.
- F) Adults Only Establishments are prohibited.
- G) Uses pursuant to NAICS code # 711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities are prohibited.



## ARTICLE XVII – (RESERVED FOR FUTURE USE)



## ARTICLE XVIII – PLANNED INDUSTRIAL DISTRICT (PID)

**Section 18.01- PURPOSE:** The Planned Industrial District (PID) is a Planned Unit Development adopted pursuant to Ohio Revised Code Section 519.021(A). The Planned Industrial District (PID) is established for the purposes set forth in Section 5.05(E).

**Section 18.02 – PERMITTED USES:** Within the Planned Industrial District (PID) the following uses, according to their North American Industrial Classification System (NAICS) code number may be permitted when developed in strict compliance with the approved development plan and standards. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

The full text of the listings in the NAICS 2002 or subsequent edition shall be used to define the uses permitted within the PID as set forth below and is hereby adopted as part of Article XVIII.

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 (2) digits. All three-digit codes include all 4-6 digit codes beginning with those three (3) digits, and so on. If a specific six-digit code is used, it refers to only one (1) permitted use. For example, Code 42 means that any use listed in the 2002 NAICS code under Sector 42 (such as 42321, Furniture Merchant Wholesalers) is permitted.

Manufacturing and related uses, as specifically described by the 2002 NAICS Code Number below:

<u>2002 U.S. NAICS Code #</u>	<u>Use</u>
23	Construction
3112	Grain and Oilseed milling
3113	Sugar and Confectionery Product Manufacturing
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3115	Dairy Product Manufacturing
3118	Bakeries and Tortilla Manufacturing
3119	Other Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
315	Apparel Manufacturing
3162	Footwear Manufacturing
321219	Reconstituted Wood Products
32221	Paperboard Container Manufacturing
32222	Paper bag and Coated and Treated Paper Manufacturing
32223	Stationary Product Manufacturing
323	Printing and Related Support Activities
325314	Fertilizer (mixing only) manufacturing
3254	Pharmaceutical and Medicine Manufacturing
325510	Paint and Coating Manufacturing
3261	Plastics Product Manufacturing
3271	Clay, Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3273	Cement and Concrete Product Manufacturing (no hazardous wastes)
3323	Architectural and Structural Metals Manufacturing
3325	Hardware Manufacturing
3326	Spring and Wire Product Manufacturing

- 3327 Machine Shops
- 333 Machinery Manufacturing
- 334 Computer and Electronic Product Manufacturing
- 335 Electrical Equipment, Appliance, and Component Manufacturing
- 3363 Motor Vehicle Parts Manufacturing
- 3364 Aerospace Product and Parts Manufacturing
- 3366 Ship and Boat Building
- 336991 Motorcycle, Bicycle and Parts Manufacturing
- 3399 Other Miscellaneous Manufacturing

#### Wholesaling

- 42 Wholesale Trade, except 423930 Recyclable Material Merchant Wholesalers; 425110 Business to Business Electronic Markets (pt); and 425120 Wholesale Trade Agents and Brokers (pt), which are prohibited;

#### Retail Uses

- 44111 New Car Dealers
- 4412 Other Motor Vehicle Dealers
- 4413 Automotive Parts, Accessories, and Tire Stores
- 447 Gasoline Stations
- 45291 Warehouse Clubs and Superstores
- 45393 Manufactured (mobile) Home Dealers
- 4541 Electronic Shopping and Mail Order Houses
- 45431 Fuel Dealers
- 484 Truck Transportation
- 485 Transit and Ground Passenger Transportation
- 487 Scenic and Sightseeing Transportation
- 491 Postal Service
- 492 Couriers and Messengers
- 493 Warehousing and Storage
- 51 Information (except those allowing adult entertainment).
- 532 Rental and Leasing Service
- 5416 Management, Scientific and Technical Consulting Services
- 5418 Advertising and Related Services
- 5419 Other Professional, Scientific, and Technical Services
- 561 Administrative and Support Services
- 562991 Septic Tank and Related Services
- 61 Educational Services
- 72 Accommodation and Food Services
- 811 Repair and Maintenance

A) Commercial Establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the development plan such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation or other personal enrichment facilities, provided that such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved plan for the Planned Industrial District.

B) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for

such temporary use. The permit shall be valid for six (6) months and may be renewed not more than one (1) time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he/she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article XXVIII of this Resolution.

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

**Section 18.03 – CONDITIONAL USES:** Within a PID 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 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/her 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 all applicable requirements contained in Article XIX (Adult Entertainment) are met.

**Section 18.04 – PROHIBITED USES:**

- A) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B) Except as approved in the development plan the outdoor storage of any inoperable, unlicensed or unused motor vehicle, including trailers detached from semi-tractors, for a period exceeding seven (7) days is prohibited.
- C) Except as provided in the plan of development no trailer of any type, no boats, motor homes 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 the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D) Residential uses of any kind, except for a caretaker for a permitted use.
- E) Except as specifically permitted in Section 18.02(B) the approved development plan, no manufactured or mobile home or mobile office structure shall be placed or occupied in this district.
- F) NAICS code # 711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities

**Section 18.05 – 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 to PID.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Any and all meetings, discussions, walkabouts, or other gatherings of the Zoning Commission and/or DCRPC, formal or informal, where a quorum of the members of either the Zoning Commission or DCRPC are present, shall be properly noticed and held in compliance with Ohio Revised Code Section 121.22 (Ohio Open Meetings Law.)

**Section 18.06 – REQUIRED PID DESIGN FEATURES:** The development plan shall incorporate the following standards:

- A) Access- Requires frontage on and direct access to, one (1) or more dedicated and improved public roads. Provision for future connections to other public roads as required by the Township, the County Engineer and/or the Regional Planning Commission.
- B) Minimum tract size- 10 acres, or as approved per plan.
- C) Maximum impervious surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): fifty percent (50%) of net developable area.
  - 1) Permitted Density - Not applicable.
  - 2) Minimum Industrial Floor Space Requirements - As approved per development plan.
  - 3) 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. 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. See Sections 21.05 and 21.06 and County Engineer's Drainage Standards.
  - 4) Minimum Lot Width at the Building Line - None, per plan.
  - 5) 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.
  - 6) 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.
  - 7) Perimeter Area - No building or parking shall be constructed within one hundred (100) feet of the perimeter property line of the overall tract, or as approved per plan.
  - 8) Walkways and Street Trees - The Township may require walkways to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of

landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5-foot green strip if permitted by the county engineer and/or Township.

- 9) Buffering - Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.
- 10) Preservation areas Areas - Wetlands, steep (over twenty percent [20%]) slopes, forests, one hundred (100)-year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.
- 11) Utilities - Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health 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.
- 12) Building Design - 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.
- 13) Building Height Limits – thirty-five feet (35'), or as approved per plan.
- 14) Landscaping - All yards, front, side and rear, shall be landscaped. All organized open spaces shall be landscaped. All landscaping shall meet the requirements 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.
- 15) 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 parking provisions of this Resolution shall be incorporated, or a divergence requested.
- 16) Signs - Signs shall conform to provisions of this Resolution, or request a divergence and be as approved per plan.
- 17) Exterior Lighting - All exterior lighting shall be as specifically approved as part of the final development plan. See Section 21.18.
- 18) 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; improvements and maintenance of open space areas; and other development characteristics.

**Section 18.07 – REQUIRED FINDINGS FOR PID APPROVAL:** The Zoning Commission and Trustees may approve an application requesting that property be included in the PID 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 Zoning Resolution.

- B) That the proposed development reflects the recommendations of the Comprehensive Plan 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 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 surrounding land uses.
- G) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

**Section 18.08 – PROCESS FOR AMENDMENT:** Applications for amendment to rezone property to the PID Zoning District may be approved according to one (1) of the following procedures:

- A) The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID. 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 PID. (This is a legislative act and is subject to referendum.) A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum). This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.
- B) The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID 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. (This is a legislative act and is subject to referendum).
- C) In addition to the procedures set forth in this Zoning Resolution, all applications for amendment to rezone property to the PID district shall comply with the procedures outlined in Ohio Revised Code Section 519.12. Following the filing of an application for a PID, 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. If a majority (quorum) of the Zoning Commission is present, the meeting must be advertised in accordance with the Ohio open meetings (Sunshine) law, the meeting must be open to attendance by any member of the public, and minutes must be kept.

**Section 18.09 – EFFECT OF PROPERTY OWNER INITIATED PID ZONING AMENDMENT:** Upon approval of an application for a zoning amendment to rezone property to the PID district, all previous regulations shall no longer be in effect, and the regulations set forth in this Article for the PID designation, as approved, shall prevail.

#### **Section 18.10 – DEVELOPMENT PLANS**

- A) Preliminary Development Application – Upon application for a PID 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.



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 five feet (5') intervals, wooded areas, wetlands, adjacent (within two hundred feet [200']) structures, one hundred (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. 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, 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.
  - 7) Proposed location of all structures and uses.
  - 8) Preliminary Traffic Impact Analysis based upon new trip generation.
  - 9) All required design features.
  - 10) Emergency service provisions (letter from Fire and Police departments).
  - 11) Phasing plans, if any.
  - 12) Calculation of net developable acreage and proposed project density.
  - 13) Proposed permitted and accessory uses.
- B) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed 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. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID district.

- C) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PID district, 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 and not subject to referendum. If the final development plan is simultaneously submitted with application for the zoning district change then this is a legislative act and is subject to referendum.

When there is a 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 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 and 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, lighting, 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 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. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.
  - c) 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.
  - d) Building heights and dimensions.
  - e) Off-street parking.
  - f) Signs (See Article XXII).
  - g) Exterior Lighting: All exterior lighting fixtures shall be downcast whenever necessary to avoid casting direct light upon any adjoining property (See Section 21.17).

ARTICLE XVIII  
PLANNED INDUSTRIAL DISTRICT (PID)

- h) The proposed 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 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.
- 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 in 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 an exact 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 development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the State of Ohio.
- r) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the Planned Industrial District.
- s) The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:
  - i) 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.

- ii) 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.
  - iii) 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 whereon the use is conducted.
  - iv) 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.
  - v) 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.
  - vi) 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.
  - vii) 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 Township 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.
- D) 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 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 plan has been filed with and approved by the Township. A 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 Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID District.

- E) Phasing- 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.
- F) Failure to Maintain- If the organization established to own and maintain the open space 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 the zoning 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 the zoning resolution.
- G) 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 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.
  - 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.
- H) Extension of Time / Modification: 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 without public hearing provided the 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.

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 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:

- 1) A change in the use or character of the development;
  - 2) An increase in overall lot coverage of structures and off-street parking;
  - 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;
  - 9) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.
- E) 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.
- F) 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 XIX – ADULT ENTERTAINMENT

### Section 19.01 – BACKGROUND AND PURPOSE:

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

- A) Zoning Authority: Troy Township, Delaware County, Ohio, pursuant to Ohio Revised Code Section 519.02 and for the purposes specified hereunder, may and does regulate and has local zoning control over land use in Troy Township. Adult entertainment establishments are a type of land use.
- B) Studies of Sexually Oriented Businesses: Troy 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 Troy Township. Troy Township believes that the detailed findings of these studies are indicative of the kinds of problems that can occur when adult entertainment establishments locate within a community like Troy Township. The studies which were selected for relevance and appropriateness to Troy 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 (1) 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, "on average, in the three (3) study areas, property crimes were 43 percent higher, violent crimes were four (4) 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:
    - i) "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 204.17 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).
    - ii) "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).
    - iii) "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).
    - iv) "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).

- v) "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 (1) 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 citywide average. In contrast, sex related crimes in the Study Areas are 177%-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:
  - i) 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).
  - ii) Drug related crimes were 10.7% of all reported offenses in the study area vs. 4.5% citywide.
  - iii) Robberies were highest in Adult Theater study areas, at 9.1% of all crimes versus 2.7% citywide.
  - iv) 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.
  - v) 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).
  - vi) 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).
  - vii) The concentration of two (2) or more adult businesses in one (1) 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 (1) building is also problematic and should not be allowed.

**Section 19.02 – INCORPORATION OF STUDIES:**

Troy Township incorporates the detailed findings of the adverse secondary effects of adult 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 Troy Township at such time when adult entertainment establishments choose to locate there. Troy Township intends to use its zoning powers over local land use authorized by Ohio Revised Code 519.02 to regulate adult entertainment establishments, and therefore to mitigate the anticipated adverse secondary impacts of such establishments.

**Section 19.03 – ZONING ISSUES REGARDING ADULT ENTERTAINMENT ESTABLISHMENTS:**

At the time of adoption of this amendment there were no sexually oriented businesses in Troy Township, however there is the possibility that adult entertainment businesses will someday want to locate within the Township. Troy Township is a rural residential community with a 2005 population of approximately twenty eight hundred (2,800). Renton, Washington, a suburb of Seattle enacted one thousand (1000)-foot separation standards between adult entertainment establishments and certain other land uses; those standards were upheld by the United States Supreme Court. Troy Township wishes to use zoning powers to establish appropriate locations for adult entertainment establishments so as to minimize the adverse secondary effects of such establishments. Troy Township has chosen to emulate the Renton standards in Section 19.04(B)(1).

At the time of the adoption of this amendment to the zoning resolution, Troy Township has identified an area of approximately 70 +/- acres on the comprehensive map as potential Planned Industrial Development. The PID district would be the most appropriate location for adult entertainment establishments provided they can meet the nine hundred (900) foot separation requirement in Section 19.04(B)(1).

**Section 19.04 – ADULT ENTERTAINMENT REGULATIONS**

- A) Mainstream media shops or stores that have a maximum of ten percent (10%) 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 IV.
  - 2) Separation shall be by a solid opaque-walled enclosure at least eight (8) 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 (1) designated area for sexually oriented merchandise per store.
  - 8) There shall be no exterior signs that advertise hard core or XXX media.

- B) Permitted Adult Entertainment Establishments - Adult Entertainment Establishments, with the exception of "touching businesses", are a conditional use as outlined in Section 18.03 in the Planned Industrial District provided:
- 1) Adult entertainment establishments shall not be permitted within nine hundred (900) feet (measured from the closest property line of each use) of:
    - a) A religious institution
    - b) A kindergarten -12th grade school
    - c) A park or playground
    - d) A residence within a residential zoning district
    - e) A library
    - f) A day care center, including but not limited to preschools
    - g) Another adult entertainment establishment
  - 2) Only one (1) 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 co-location of adult entertainment establishments is permitted within one (1) 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 IV.
  - 4) No adult entertainment establishment shall be open for business prior to 10:00 a.m. or later than 11:00 p.m.
  - 5) Viewing booths shall not be used in conjunction with any "touching business" that results in the touching of clients by employees or employees by clients.
  - 6) 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 19.04(A)(1-7)
- C) Prohibited Adult Entertainment Establishments - "Touching businesses" such as non-therapeutic massage, lap dancing, and nude modeling that involves employee-client touching are not permitted in Troy Township.

## ARTICLE XX – (RESERVED FOR FUTURE USE)



## ARTICLE XXI – GENERAL DEVELOPMENT STANDARDS

### Section 21.00 – GENERAL:

It is the purpose of these development standards to establish certain general rules to be adhered to regardless of the type or classification of development. They are designed to ensure that the general welfare of citizens of Troy 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 as a rectangle and shall be served by aiseways of sufficient width to permit easy and smooth access to all parking spaces.
- B) Paving - Except in the Farm Residential Zoning District (FR-1) all common parking areas and adjacent aisles or driveways shall be paved with asphalt material or cement.
- C) Driveways - All parking lots for five (5) or more vehicles shall be served by a driveway not less than twenty (20) feet in width but adequate in width to permit easy access to parking spaces. No driveway shall be located so that it enters a public road within one hundred (100) feet of the intersection of any two (2) public roads unless there are two (2) driveways serving the lot, one (1) 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.
- D) Parking Area Location – No driveway, as defined in 21.01(C), parking lot or parking areas shall be located nearer than six (6) feet to the side or rear line of a tract on which a structure is located. Parking in front of the main structure may be permitted only if not more than forty (40%) percent of the front setback 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. The parking lot shall be situated so that no vehicle will be required to back on to a public street or road.
- E) Required Off-Street Parking Spaces - The user of any tract shall provide off-street parking for all employees, customers, visitors and invitees. 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. The following table shall specify the minimum parking areas to be provided.

USE	REQUIRED PARKING SPACES
1) (FR-1) Single Family Residential	4 per dwelling unit (garages and driveways count)
2) All other residential	3 per dwelling unit (garages and driveways count)
3) Hotels, motels, lodges, (without public meeting facilities)	1 per rental unit plus 1 per employee on largest shift plus 1 for each four (4) seats in the dining room or restaurant area.

4) Hotels, motels, lodges exhibition halls and public assembly areas (except churches)	1 per rental unit plus 1 per employee on the largest shift plus 1 for each seventy-five (75) s.f. of floor area used for exhibition/assembly purposes plus 1 per four (4) seats in any restaurant therein.
5) Churches or places of worship	1 for each three (3) seats of public assembly or 1 for each forty-five (45) sq. ft. of assembly area, whichever is greater.
6) Hospitals	1½ for each bed plus 1 for each employee on the largest shift.
7) Nursing Homes	1 for each 2 beds plus 1 for each employee on the largest shift.
8) Museums, libraries, etc.	1 for each four hundred 400 sq. ft. of area open to public plus 1 for each employee on the largest shift.
9) Primary or elementary schools	4 for each classroom
10) Secondary schools, colleges, trade schools, etc.	4 for each classroom plus 1 for each four (4) students.
11) Restaurants	1 for each two (2) seats plus 1 for each employee on the largest shift. Not less than 25 parking spaces shall be provided.
12) Offices	1 for each three hundred (300) sq. ft. of floor area
13) Funeral Homes	1 for each 25 sq. ft. of public area.
14) Retail Stores	5 per 1000 sq. ft. of gross public floor area.
15) All industrial, warehousing	20 plus 1 for each two (2) employees plus 1 for each vehicle maintained on the premises.
16) Industrial manufacturing	1 space for every two (2) employees on the largest shift plus 1 per 10,000 square feet.

#### **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, wind turbines (as regulated in Section 21.19), aerials, antenna or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract.

#### **Section 21.03 – STRUCTURE SEPARATION:**

No principal structure shall be located closer than twenty-five (25) feet to another principal structure unless the adjacent walls of both structures are fire resistant masonry free of any opening and capable of stopping the spread of any fire in which event said principal structures shall be no closer than fifteen (15) feet.

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

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

#### **Section 21.05 – WATER IMPOUNDMENT:**

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



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

**Section 21.06 – DRAINAGE:**

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

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

**Section 21.07 – FLOOD PLAIN REGULATIONS:**

Certain limited areas of the township lie within the flood plain of the Olentangy River and its tributaries. Prior to construction of structures, mining, dredging, filling, grading, paving, excavating or drilling operations within the floodplain of the Olentangy River and its tributaries, the Delaware County Floodplain Administrator must be consulted. Documentation indicating compliance with the Delaware County Flood Damage Prevention & Control regulations or other applicable regulations must be presented to the Troy Township Zoning Inspector prior to any work being completed.

**Section 21.08 – OLENTANGY SCENIC RIVER:**

The section of the Olentangy River which flows through the unincorporated area of Troy Township has been designated a State Scenic River. The township recognizes the need to protect the river and to preserve it for future generations. The township encourages that a natural buffer of one hundred twenty (120) feet in width from low water be maintained. No structure shall be constructed within the one hundred twenty (120) foot buffer zone without permission of the Board of Zoning Appeals pursuant to the provisions of Article XXVIII of this Resolution. The Board of Zoning Appeals shall ensure that no undue damage or encroachment is made upon the river.

**Section 21.09 – SETBACK REQUIREMENTS:**

No building or use (except parking areas) shall be located closer to the center line of adjoining streets, roads, highways or approved private roadways than the distances set forth in the table or chart set forth hereinafter. For purposes of this chart or table and for all other purposes of the Zoning Resolution streets, roads, highways and approved private roadways shall be classified in one (1) of the three (3) following classes:

- A) CLASS A - Any public street or road with a right of way width of one hundred (100) feet or wider is designated as a Class A road. The following roads are designated as Class A, to-wit: U.S. 23, Hills Miller Road and any other roads as later designated by the Trustees of the Township
- B) CLASS B - Any public street or road or portion thereof with a right-of-way that is not designated under Section 21.09(A) or Section 21.09(C).

- C) CLASS C - Any (1) public street or road or portion thereof which contains only one way of access (i.e. that which terminates with a dead-end or cul-de-sac) or (2) any private roadway.

#### MINIMUM SETBACK DISTANCES

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

USE CLASSIFICATION	ROAD CLASSIFICATION		
	CLASS A	CLASS B	CLASS C
FR-1 - Farm Residential	150	130	100
R-2 - Low Density Residence	150	130	100
PRD - Planned Residential *	150	130	100
PCD - Planned Commercial and Office *	150	130	100
PID - Planned Industrial *	150	130	100

\* Or as approved per development plan

#### **Section 21.10 – DRIVEWAY REGULATIONS:**

It being considered important that 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 are required for such driveways:

- A) All driveways (any use): The following specifications are required for all driveways, regardless of the use served thereby:
- 1) Driveway shall not have a grade, up or down, from the public road pavement level exceeding eight (8%) percent for a minimum of twenty-five (25) feet.
  - 2) Driveway shall not contain a grade exceeding ten (10%) percent at any point over its entire length.
  - 3) At the point the driveway intersects the public road, the same shall have such radii and drainpipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway. Drainage pipes shall be a minimum of twelve (12) inches in diameter and should be sized to handle a five-year storm.
  - 4) If the driveway leaves the public road on an up-grade the design and construction shall include a vertical curve or saddle to prevent the flow of surface drainage from said driveway onto the traveled portion of the public road.
  - 5) If any driveway crosses a drainage swale, stream or ditch the same should be bridged by pipe or such structure as required to permit the unobstructed passage of all surface water generated by a five-year storm. All pipes shall be a minimum of thirty (30) feet long and 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 should be designed with HS 15 loading by a Professional Engineer. No bridge should be less than twelve(12) feet in width. If the driveway serves a commercial or industrial use, the bridge should be not less than eighteen (18) feet in width.

- 6) If a fill is placed over any drainage structure or placed to alter the grade of any driveway, the vertical slopes on said fill shall be no steeper than a two-to-one slope. All fill areas shall be scalped of vegetation and excavated to load-bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and should be compacted to a density of ninety-five (95%) percent proctor. The fill shall be of sufficient width to include a compacted berm beside the graveled or paved area of reasonable width to facilitate safe passage of vehicles. Guardrails or barriers shall be installed when necessary to create safe conditions.
  - 7) Drainage ditches shall be constructed as necessary parallel to said driveway; such ditches should be graded to a good and sufficient outlet. Siltation control should be placed in any ditch, and such siltation should not flow to roadside ditches along public roads.
  - 8) All curves in the driveway shall be of sufficient radius (not less than 50 feet) to permit unhindered passage of public safety vehicles including fire vehicles and all other vehicles reasonably expected to utilize the same.
  - 9) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.
  - 10) Obstructions on the prevailing windward side of the driveway which contribute to drifting snow shall be removed when possible.
  - 11) An adequate turn around shall be provided at the terminus of any driveway exceeding three hundred (300) feet to allow emergency and fire vehicles to turn around. The turn around area shall be constructed of an aggregate base of reasonable depth.
  - 12) The first phase of any construction project shall be the construction of a driveway of aggregate to provide off street parking for construction vehicles and to prevent tracking dirt onto the public roadway.
- B) Residential driveways: In addition to the conditions in Section 21.10(A), the following standards are required for driveways serving residential structures or uses:
- 1) Driveways serving individual residential structures shall not be less than ten (10) feet in width and shall be constructed over an aggregate base of reasonable depth.
  - 2) If the driveway serves two (2) or more residences, the driveway shall be twelve (12) feet in width and shall be constructed over an aggregate base of reasonable depth.
  - 3) If any residential driveway is over five hundred (500) feet in length, widened passing areas at least fifteen (15) feet in width shall be provided at reasonable intervals, not more than three hundred (300) feet distance from each other, to permit the free passage to traffic.
  - 4) Dust control shall be provided on an "as needed" basis.
- C) Commercial, industrial, public facility and apartment complex driveways: In addition to the conditions in Section 21.10(A) the following standards are required for driveways serving all commercial and industrial uses and apartment complexes containing ten (10) or more units and served by a common parking area:
- 1) Driveways shall be not less than twenty (20) feet in width.

- 2) Driveway base and surface shall be designed by a professional engineer to a 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.

**Section 21.11 – RESERVED.**

**Section 21.12 – STRUCTURES IN THE RIGHT-OF-WAY:**

No structures shall be permitted to be placed in the right-of-way except traffic directional signs or mail boxes which shall be designed to be "break-away" to prevent traffic hazards.

**Section 21.13 – CONSTRUCTION DEBRIS AND REFUSE:**

Upon the initiation of a construction site, provisions shall be provided for containment and the regular disposal of construction debris and refuse.

**Section 21.14 – RESERVED**

**Section 21.15 – RESERVED**

**Section 21.16 – TELECOMMUNICATIONS TOWERS**

- A) **Towers Permitted: Limitations-** Public utilities or other functionally equivalent telecommunications providers may site a telecommunications tower as a permitted use in any zoning district except those expressly 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), and Planned Residential (PRD).
  - 1) Local zoning authority shall not extend to the regulation of maintenance or use of such a tower or to any change or alteration that would not substantially increase the tower's height.
  - 2) The local zoning authority over proposed telecommunications towers shall apply only to a particular tower, only upon provision of a notice of objection to that particular tower. No blanket zoning authority exists over telecommunications towers in residential districts unless and until a written notice of objection has been timely filed.
- B) **Towers proposed within areas zoned for residential use** - Telecommunications towers may be regulated in areas zoned for residential use upon receipt of an objection pursuant to the regulations of ORC 519.211(B)(2). The provisions of this Resolution concerning telecommunications towers are not intended to replace or modify ORC 519.211, but instead are intended only to incorporate ORC 519.211 and its terms into this Resolution.
  - 1) **Notice** - Notice shall comply with ORC 519.211 (B)(3).
  - 2) **Procedure if Objections are filed:** Upon the timely receipt by the Troy Township Board of Trustees of an objection to a proposed telecommunications tower, the board of Trustees shall proceed as provided in ORC 519.211 (B)(4)(a).
  - 3) **Procedure if No Objections are Filed-**Telecommunications towers shall be permitted as a use exempt from any local zoning authority in residential zoned areas if no objections are timely filed as provided in Section ORC 519.211 (B)(4)(b).

- C) **Local Zoning Authority** - If objections are timely filed consistent with ORC 519.211 (B) for a proposed telecommunications tower in a district zoned for residential use then the telecommunications towers shall only be permitted as a conditional use by the Board of Zoning Appeals, provided that all of the following conditions of this section are met.
- 1) **Conditional Use- Application and Requirements** – Consistent with the procedures set forth in Section 28.07 of this Resolution, an application for conditional uses shall be filed with the Board of Zoning Appeals. The application shall include:
- a) A locator map which shall contain the following:
    - i) The location of all the applicant's existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
    - ii) The general location of planned future facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
    - iii) For each location of the applicant's existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower, there shall be listed: (a) the type and size of tower at each location, (b) the type of equipment located or proposed on each tower, (c) the space available on the tower for additional equipment, and (d) a site plan depicting any parcels on which any existing or proposed tower(s), antenna(s) or equipment is currently or is proposed to be located.
  - b) A scaled and dimensioned site plan for the facility that is being proposed, containing the following:
    - i) The location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
    - ii) the location of existing and proposed buildings and structures, access drives, circulation and parking areas;
    - iii) detailed drawings of the landscape screening plan and related design standards;
    - iv) on-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
    - v) setbacks from property lines and dwellings within 600 feet of the proposed tower;
    - vi) legal description of the lot on which the tower is to be sited; and
    - vii) any other information necessary to assess compliance with this section.
  - c) A written certification from a Professional Engineer stipulating:
    - i) that the tower's design is structurally sound and in compliance with all applicable federal, state and local building codes;

- ii) that the equipment placed on the tower and at the site complies with all current FCC regulations.
  - iii) that the tower will, to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location.
- 2) **Conditional Use Procedure by Board of Zoning appeals on Receipt of Application** - Consistent with the procedures set forth in Sections 28.07 and 28.08 of this Resolution, the Board of Zoning Appeals shall provide notice of, conduct a public hearing and render a decision.
- 3) General Requirements for all Telecommunications Towers in Residential Zones
  - a) The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is essential to service the applicant's service area and that there are no alternative sites in commercial, industrial or exclusively agricultural areas. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, electric transmission towers, existing antenna support structures or other telecommunications towers, utility buildings and structures over 48 feet in height.
  - b) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued.
- 4) Development Standards for all Telecommunications Towers in Residential Districts.
  - a) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.
  - b) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be one hundred (100) feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
    - i) Towers proposed for and designed to support the co-location of a total of two (2) antenna facilities – 115 feet;
    - ii) Towers proposed for and designed to support the co-location of a total of three (3) antenna facilities – one hundred and thirty (130) feet; and
    - iii) Towers proposed for and designed to support the co-location of four (4) or more antenna facilities – 145 feet.

- c) 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.
- d) The tower base shall not be placed closer than the sum of height of the tower plus forty feet from any existing residential dwelling unit located on a lot contiguous to or directly across the street from the lot on which the tower is proposed to be constructed.
- e) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than fifty (50) feet.
- f) The tower base shall be located no closer to a street right-of-way than permitted in Article XXI herein.
- g) 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 location of the tower.
- h) Security fencing shall be provided to prevent uncontrolled access to the tower site. The tower shall be screened by an eight (8) foot high fence or barrier. A continuous evergreen hedge, trees or similar landscape materials of a size, type, area and design deemed appropriate by the Board of Zoning Appeals shall be placed outside of and along the fence or barrier. Any solid fence or barrier shall contain no advertising, but may contain one (1) small identification sign not to exceed three (3) square feet in size. The storage of any equipment must be contained inside the screened area.
- i) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower shall not contain, or be illuminated by artificial lights, beacons or strobes, unless otherwise required by the Federal Aviation Administrations (FAA) or the Federal Communications Commission (FCC). Any required illumination shall be fully disclosed on the site plan.
- j) Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a monopole design, disguised to blend with the surrounding environment.
- k) No advertising is permitted anywhere on the tower.
- l) 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.
- m) The applicant shall provide a signed statement indicating that he or she agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity.

- n) A telecommunications antenna may be attached to a nonresidential building or structure that is permitted in the district, provided that the tower's height does not exceed twenty (20) feet above the existing building or structure to which the tower is attached.
  - o) 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.
- 5) **Towers On Township Property**- With the prior consent of the Troy Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township owned property not zoned for residential use pursuant to Section 21.16(C)(1). Additionally, with the prior consent of the Troy Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township owned property zoned for residential use, but only after obtaining a conditional use permit pursuant to Sections 21.16(C)(2) and (3) and all requirements of Section 21.16(C) have been fully met.
- 6) **Co-location on an Existing Tower or Concealed Inside an Existing Structure** - If a telecommunications carrier desires to co-locate a telecommunications antenna on an existing telecommunications tower or concealed inside an existing structure in an area zoned residential and such a co-location will result in a substantial change in the height of the tower, a Certificate of Zoning Compliance may be obtained provided that the requirements found in the following provisions are met: 21.16(A)(3) and (C). A substantial change in height shall mean the addition of more than 40 feet to the existing tower or structure.

#### **Section 21.17 – REGULATION OF PUBLIC UTILITIES ENGAGED IN CERTAIN TYPES OF TRUCKING, BUSES, AND TAXIS:**

Pursuant to ORC 519.211 (C), ORC Sections 519.02 to 519.25 confer power on a Board of Township Trustees to regulate the location, erection, construction, reconstruction, change, alteration maintenance, removal, use or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road or highway in the state of Ohio, and with respect to the use of land by any such public utility for the operation of its business to the extent that any exercise of such power is reasonable and not inconsistent with chapters 4901, 4903, 4904, 4921, and 4923 of the Ohio Revised Code. For the purposes of this Resolution, all such uses shall be considered commercial uses and shall be located in commercial or industrial districts if approved by the Board of Township Trustees. The Board of Trustees has no power with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants.

Any company engaged in the transport of persons or property that is lawfully established at the time of the adoption of this amendment shall be permitted to continue, but any expansion of such existing use shall conform to the regulations of this resolution.

#### **Section 21.18 – LIGHTING REGULATIONS:**

- A) **GENERAL REQUIREMENTS** – All exterior lighting must be shaded and 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 shall be accomplished are:
  - 1) Using light fixtures by which the light source is directed and fully shielded or covered;



- 2) Directing light fixtures downward rather than upward;
- 3) Shielding the light in such a way that the light emitting portion of the fixture cannot be seen at a reasonable distance;
- 4) 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.

B) SPECIFIC REQUIREMENTS

- 1) All outdoor light pole fixtures shall not exceed a maximum height of thirty (30) feet measured from the established finished grade.
- 2) Only shielded style exterior fixtures shall be used.
- 3) Lighting must be shaded so as to not shine onto a roadway where it causes visibility interference to any vehicle or onto any neighboring property.
- 4) All exterior light fixtures installed and maintained upon private property for decorative effect or recreational facilities, such as for building, landscaping or playing field illumination shall be turned off between 11:00 p.m. and sunrise, to minimize light pollution, EXCEPT where used for security/safety purposes or to illuminate walkways, driveways, equipment, building and parking areas.
- 5) All forms of exterior flashing, rotating, moving or digital lighting shall be prohibited.

C) SPECIFIC REQUIREMENTS unique to PCD, PID, and HSD:

- 1) All illuminated signs for commercial/office or industry purposes shall be turned off between 11:00 p.m. and sunrise. Exception: signs may be illuminated while the business facility is open to the public.

EXEMPTIONS:

- a) All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the lighting requirements.
- b) All low voltage lighting and temporary holiday lighting in use for 60 days or less, shall be exempt from the requirements of this section.
- c) Illumination of flagpoles flying the American Flag are exempted from this section.

**Section 21.19 – WIND TURBINES:** No wind turbine shall be erected, altered or re-erected without a permit from the Zoning Inspector demonstrating compliance with Section 21.19 herein, except wind projects of 5MW or more. Such exempt projects 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 less than 5MW and used solely for Agriculture will be exempt from these zoning regulations as an Agricultural Use.

- A) **Turbines mounted on the ground:** Any proposed construction, erection, or siting of a small wind project less than 5MW including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use exclusively in the FR-1 Troy Township Zoning District.
- 1) **Height:** The maximum height of any turbine shall be 125 ft. For purposes of this Resolution, maximum height shall be considered the total height of the turbine system including the tower, and the maximum vertical height of the turbine's blades. Maximum height therefore shall be calculated by measuring the length of a prop at maximum vertical rotation to the top surface of natural/undisturbed grade of ground at the tower foundation.
  - 2) **Setbacks:** Any turbine erected on a parcel of land shall be setback 1.5 times the height of the tower, or established "clear fall zone", from all road right-of-way lines and neighboring property lines. 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.
- B) **Turbines mounted on a structure:** Any proposed construction, erection, or siting of a small wind project less than 5MW including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use exclusively in the FR-1 Troy Township Zoning Districts. The maximum height of any such turbine shall not exceed the permitted height of the structure, plus 15 feet.
- C) **Maintenance:** Wind turbines must be maintained in good working order. The owner shall within 30 days of permanently ceasing operation of a wind turbine, provide written notice of abandonment to the Zoning Inspector. An unused wind turbine or small wind project may stand no longer than 12 months following abandonment. All costs associated with the demolition of the wind turbine and associated equipment shall be borne by the owner. A wind turbine is considered abandoned when it ceases transmission of electricity for 30 consecutive days. Wind turbines that become inoperable for more than 12 months must be removed by the owner within thirty (30) days of issuance of zoning violation. Removal includes removal of all apparatuses, supports, and or other hardware associated with the existing wind turbine.
- D) **Decibel Levels:** Decibel levels shall not exceed 70 decibels, as presented in the manufacturer specifications.
- E) **Wiring and electrical apparatuses:** All wires and electrical apparatuses associated with the operation of a wind turbine unit shall be located underground and meet all applicable local, state, and federal codes including the County Building Regulations and Residential Building Code of Ohio.
- F) **Signs:** No signs shall be permitted on turbines except that required by FAA, ODOT or other regulatory agencies.
- G) **Lighting:** No lighting shall be permitted on turbines except that required by FAA, ODOT or other regulatory agencies.
- H) **Permits:** All Small Wind Projects and parts thereof shall obtain all applicable permits, including a Zoning Permit and those permits required from the State of Ohio and Delaware County Building Regulations.
- 1) A permit shall be required before construction can commence on an individual wind turbine project.
  - 2) As part of the permit process, the applicant shall inquire with the County Building Regulations as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports or runways.

- 3) Applicant shall then provide the Township Zoning Inspector with the following items and or information, in addition to appropriate application form and fee, when applying for a permit:
- a) Location of all public and private airports and runways in relation to the location of the wind turbine.
  - b) A report demonstrating the total size and height of the unit, the construction details of any structural foundation, a list and or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring & anchors, data specifying the kilowatt size and generating capacity in kilowatts of the particular unit, the maximum decibel level of the particular unit and a containment and disposal plan for any known hazardous materials.
  - 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, as well as soil and bedrock data.
  - d) Evidence of established setbacks and "clear fall zone."
  - e) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled shall be required as part of the permit.



## ARTICLE XXII – SIGN & BILLBOARD REGULATIONS

### Section 22.01 – PURPOSE:

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

### Section 22.02 – PERMITTED SIGNS - NO PERMIT REQUIRED:

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

- A) Signs for Sale, Lease or Rent of the premises on which the sign is located. Not more than two (2) signs shall be displayed on any lot or parcel. Such sign shall not be illuminated and shall not exceed four (4) square feet of area per side with not more than two (2) sides, or signs of the same size identifying the builder or contractor. All such signs shall be removed within thirty (30) days after occupancy.
- B) Vehicular Signs - Directional or other incidental signs pertaining to vehicular or pedestrian control on private property shall be permitted, provided that said signs are located outside the right-of-way of any public street or road, do not exceed two (2) square feet of area per side, and do not interfere or obstruct visibility when entering or leaving said property.
- C) Political Signs - The erection of political signs shall be permitted in any district of the township provided that said signs:
  - 1) do not interfere with visibility of vehicular traffic entering or leaving the highway.
  - 2) may be posted and removed without destruction of public or private property.
  - 3) designate the name and address of the person charged with removal of the sign.
  - 4) shall be placed outside the road right-of-way.
- D) Promotional/Temporary Signs - announcing special public or institutional events. 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. Not more than two (2) temporary signs shall be displayed on any lot or parcel.
- E) Signs Approved in Planned Residential District - provided that the approved signs are constructed in strict compliance with the approved guidelines.
- F) 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 (1) 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 four (4) square feet per side.

- G) Signs for Home Occupations - One (1) sign per lot 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.
- H) Signs Approved as Part of Conditional Use Permit in residential zoning districts, provided such signs are constructed in strict compliance with the imposed conditions.

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

The following shall be permitted as delineated herein subject to the following regulations.

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

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

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

No part of any sign shall be less than eight (8) feet above the sidewalk or ground level, if such projects forward of the wall on which it is mounted to such an extent as to constitute a hazard or inconvenience to pedestrian or vehicular traffic. No part of any sign shall be closer to either end of the building face, including any wall extension, on which it is erected, than eighteen (18) inches. Where more than one (1) sign is erected on the same face of a building, there shall be a distance of at least three (3) feet between signs. Letters, numerals or other graphics attached directly to the building wall shall be considered a wall sign. Unlighted letters, 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 (1) inch thick, or the color contrasts with that of the building.

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

The display area of any one (1) surface does not exceed fifty (50) square feet.

- B) 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 feet (3') in height so there is a maximum of 3' 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 road pavement 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 advertising area of one (1) 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 advertising area will be permitted up to a maximum of fifty (50) square feet of advertising area for each face of the sign.
  - 3) No part of such sign will be closer to the 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 non-residential portion of a residential district the following signs may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article XXVIII of this Resolution. Conditionally permitted signs shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of BZA approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owners or their 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 - Freestanding pole signs heretofore lawfully erected and maintained and now in place may be maintained until such sign is destroyed, dismantled or removed.

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

- 1) The filing of a written application for such sign, together with a scale drawing of the proposed sign showing its design, color, materials, and the location of the proposed sign.
- 2) A determination by the Board of Zoning Appeals that a freestanding 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 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.

- 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 setback from the street right-of-way, an additional one (1) foot in height will be permitted up to a maximum of fifteen (15) feet high.
    - b) The advertising area of all surfaces does not exceed fifteen (15) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional one (1) foot setback from the street right-of-way line, an additional three (3) square feet of advertising area will be permitted up to a maximum of fifty (50) square feet.
    - c) The advertising area of any one (1) surface does not exceed twenty-five (25) square feet.
    - d) No part of such sign will be closer to any 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.
    - e) The function of such sign is in keeping with the uses in the surrounding area.
    - f) Such sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists.
  - 4) In making its determination, the Board of Zoning Appeals shall take into consideration all pertinent factors relating to the compatibility of such sign with the surrounding neighborhood, including, but not limited to its size, shape, color, brightness, design and its general appearance.
  - 5) Not more than one (1) free standing pole sign may be authorized for any one (1) business establishment, Where more than one (1) 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 pole sign, except in the case of a shopping center which is contiguous to two (2) streets which do not intersect each other at a point adjacent to such shopping center, in which case one (1) freestanding pole sign, fronting on each street, may be authorized.
- B) 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, including HSD, and/or lands used for agricultural purposes subject to regulations set forth herein.
- 1) No billboard shall exceed three hundred (300) square feet of advertising area per side nor have more than two (2) sides.



- 2) No billboard shall exceed fifteen (15) feet in height above the average grade of the site nor have a length in excess of four (4) 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 local, state and federal regulations controlling the same. Billboards shall be licensed or permitted as may be required by local, state or federal agencies.
- 5) All billboards shall be located behind the building setback lines established for the district in which the sign is located and shall be at least one thousand (1000) feet from any residence.
- 6) No billboard or outdoor advertising sign shall be located nearer than twenty-five (25) feet to any side lot line.
- 7) Spacing Requirements- Each billboard site location shall be separated from every other billboard site location in accordance with the following:
  - a) 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.
  - b) Spacing requirements shall be measured from existing billboards regardless of the political jurisdiction within which any other billboard may be located.
  - c) 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.
  - d) Billboards shall be located at least 1250 feet from other billboards.

**Section 22.05 – PROHIBITED SIGNS:**

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

- A) All signs not specifically permitted by the express terms of the Troy Township Zoning Resolution.
- B) Portable signs or billboards, pennants, streamers, flashing lights, string of lights or airactivated attraction devices.
- C) Signs or advertising erected and maintained in trees or painted or drawn upon rocks or other natural features.
- D) Except for identification signs on agricultural buildings, no sign or billboard shall be painted directly upon the wall or roof of any building or structure.
- E) No sign shall be attached to any fence within the right-of-way of any road. No sign shall be attached to any fence regardless of location without the permission of the owner of the fence.
- F) Signs mounted upon the roof of any building or structure.

- G) Signs or advertising devices which attempt, or 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:**

Except as otherwise provided in this Resolution, the following regulations and restrictions shall apply to all signs located and erected within Troy Township, regardless of type, style, location, design or other classification.

- A) Location - No sign shall be located within the right-of-way of any public or private road within the township. Except as noted in Section 22.02 (E), 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.
- B) Lighting -
- 1) No sign shall be illuminated to a level, which causes unnaturally high light levels on adjacent property.
  - 2) No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent thoroughfares thereby creating a hazard to vehicular traffic,
  - 3) No flashing, rotating or moving light source shall be permitted on any sign within this township.
- C) Height - No signs within Troy Township shall be erected to a height greater than fifteen (15) feet.
- D) Sight Interference - No sign shall be permitted in Troy Township which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on thoroughfares.
- E) Stability - Display signs shall be constructed to withstand a wind pressure of at least thirty (30) pounds per square foot of surface, and shall be fastened, suspended or supported so that they will not be a menace to persons or property.
- F) Maintenance - All signs or billboards constructed or erected within Troy Township shall be maintained as follows:
- All sign surfaces, supports, braces, guys and anchors shall be kept in repair and in a proper state of preservation by painting or otherwise.
- G) Traffic Safety - Colors, etc. - Display signs shall not closely resemble or approximate the shape, form and color of official traffic signs, signals and devices.
- H) Sign Area - The aggregate sign area or display surface or advertising of all exterior signs of every nature shall not exceed three (3) square feet for each lineal foot of the street frontage of such building, if a one-story building, or four (4) square feet per foot, if more than one (1) story in height. Street frontage is defined as the total width of that side of the building, which faces the street, excluding any extension of a building wall beyond the building itself. In the case of a corner lot or other situation where the building site abuts more than one (1) 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 (1/2) there of for each lineal foot of other street frontage. The total sign area on any one (1) side of a building shall not exceed the allowable area for such side computed in accordance with the foregoing rules. In the case of a building which does not front on a public street, as in shopping centers, the drives, and parking areas adjacent to such building shall be

considered as public streets for the purpose of this Section, provided that where any such drive or parking area abuts a Residential District, the frontage of the building on such drive or Parking area shall not be considered as frontage for such purpose if the distance from such building to the nearest private property in said Residential District is less than one hundred fifty (150) feet.

- I) Color - All signs shall be limited to a maximum of three (3) different colors. Black and white shall be considered colors.

**Section 22.07 – ABANDONED SIGNS:**

If any sign or billboard shall become abandoned, in the manner defined herein, such a sign or billboard is declared to be a public nuisance by reason that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any one (1) of the following criteria:

- A) Any sign or billboard associated with an abandoned nonconforming use.
- B) Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least one hundred and eighty (180) consecutive days. Seasonal businesses are exempted from this determination.
- C) Any sign or billboard that is not maintained in accordance with this Resolution.
- D) When the Zoning Inspector finds, upon investigation, that a sign or billboard has been abandoned, as defined herein, he/she shall notify the owner of said sign and the owner of the land on which the sign is located, by certified mail or by personal delivery, of his/her findings. Such notice shall advise sign has been declared abandoned and must be removed within thirty (30) days of said notice. The sign owner may appeal such decision to the Board of Zoning Appeals as provided in Article XXVIII of this Resolution.
- E) 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/her findings for submission to the Board of Zoning Appeals upon request.
- F) If the sign is not removed, as ordered, the township may take all necessary action to have the sign removed and the cost for doing so certified to the Delaware County Auditor for collection as a special assessment against the property on which sign is located.

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

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

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

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

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

- A) The size and structural shape shall not be changed or altered.

- B) The copy may be changed, provided that the change applies to the original nonconforming 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 nonconforming; the copy area shall not be enlarged. Any subsequent owner or user shall bring the sign or billboard into compliance.
- C) In the case where damage occurs to the sign or billboard to the extent of fifty (50%) percent or more of either the structure or the replacement value of the sign or billboard the sign or billboard shall be brought into compliance. Where the damage to the sign or billboard is less than fifty (50%) percent of the structure or its replacement value, the sign or billboard shall be repaired within thirty (30) days, after notification of the sign owner by certified mail.

**Section 22.09 – PERMITS:**

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 Troy Township Trustees. Such fees shall be prescribed annually, or more often, by the 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 Zoning Resolution or any amendment thereto.

## ARTICLE XXIII – 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 – This article applies to any planned district or the Highway Service District. Farm Residential is exempt from this article. 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 or construction has been approved as required by the provisions of this article.
- B) Existing Sites - No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping required by the provisions of this Article is provided to the property to the extent of its alteration or expansion and not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:
  - 1) In the case of a building or structure expansion which does not involve additional land, the square footage of the alteration or expansion exceeds twenty-five percent (25%) of the square footage of the existing building exclusive of the alteration or expansion, and
  - 2) In the case of an alteration or expansion involving both an existing building or structure and additional land, and, if applicable, additional structures or buildings, the area or square footage of the expanded or altered land or structure or building, respectively, exceeds twenty-five percent (25%) of the area or square footage of the existing land or structure or building respectively, exclusive of alteration or expansion.
  - 3) "Land" as used herein, includes land used for space, parking or building purposes.

### Section 23.03 – MINIMUM LANDSCAPING REQUIREMENTS:

This section describes the minimum requirements that shall be met for 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 (1) foot above finished grade level to the top of the required planting, hedge, fence, wall or earth mound within four (4) years after installation. The required landscaping shall be provided either in easements in certain zones or adjacent to vehicular use area.

## B) Property perimeter requirements

	When the following...	..adjoins the following or vice versa...	The minimum landscaping within a buffer zone of this average width (see 23.03(B)(3))...	Will contain this material to achieve opacity required
1	Any Residential Zone	Mobile Home Park	Ten (10) feet, adjacent to all common boundaries, including street frontage	One (1) tree/ 40 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
2	Any Residential Zone	Any Office use	Six (6) feet adjacent to all common boundaries, including street frontage	One (1) tree/ 40 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
3	Any Residential Zone	Any Commercial use	Ten (10) feet, adjacent to all common boundaries, including street frontage	One (1) tree/ 40 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
4	Any Residential Zone	Any Industrial use	Fifteen (15) feet, adjacent to all common boundaries, including street frontage	One (1) tree/ 40 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
5	Any Office or Commercial Use	Any Industrial use	Fifteen (15) feet, adjacent to all common boundaries, including street frontage	One (1) tree/ 40 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
6	Any zone (unless the property within zone is used for vehicular sales or service) except agricultural zone	A freeway or arterial street	Twenty (20) feet for residential zones and ten (10) feet for all other zones adjacent to freeway or arterial street	One (1) tree/ 30 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
7	Any zone except agricultural and industrial zones	Railroad (except spur tracks)	Twenty (20) feet for residential zones and ten (10) feet for all other zones adjacent to freeway or arterial street	One (1) tree/ 30 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
8	Any property boundary, including road and street right-of-ways	Utility sub-station, junkyards, landfills, sewage plants or similar areas	Fifteen (15) ft, adjacent to all boundaries except only five (5) ft. for utility substations measured adjacent to the enclosures	One (1) tree/ 30 ft. of lineal boundary, or fraction thereof PLUS continuous six ft. high planting, hedge, fence, wall or earth mound. see 23.03(B)(2)
9	Any property used for vehicular sales or service	A freeway or arterial street	Ten (10) ft. adjacent to freeway or arterial street	One (1) tree/50 ft., plus one low shrub/ten (10) ft. or fraction thereof (opacity requirements do not apply) for the first 300 linear ft. of easement for property. If property exceeds 300 ft. in length, the remaining easement shall contain one (1) tree/30 ft. or fraction thereof

- 1) Grass or ground cover shall be planted on all portions of the easements not occupied by other landscape material.
- 2) Trees do not have to be equally spaced, but may be grouped.
- 3) Six (6) feet shall be the least dimension for any commercial or industrial zone with three (3) feet as the least dimension for any other district.

C) Vehicular Use Area, Perimeter Requirements:

	When the following...	...adjoins the following or vice versa...	The minimum landscape easement of this width is required...	...which will contain this material (23.03b2) to achieve opacity required
1	Any property in zone, except FR-1	Any vehicular use areas (23.03(B)(2) on any adjacent property	Four (4) ft. minimum to all trees from edge of paving where vehicles overhang for other areas, adjacent to portion of vehicular use area that faces building on adjacent property	One (1) tree/ 40 ft. or fraction thereof, of boundary of vehicular area (23.03d), plus a three (3) ft. average height continuous planting, hedge, fence, wall or earth mound
2	Any public or private street right-of-way or service road, except freeways	Any vehicular use (except vehicular sales or service facility) in any zone	Four (4) ft. minimum to all trees from edge of paving where vehicles overhang for other areas, adjacent to portion of vehicular use area that faces a public or private street or road	One (1) tree/ 40 ft. or fraction thereof, plus a three (3) ft. average height continuous planting, hedge, fence, wall or earth mound
3	Any public or private street right-of-way or service road, except freeways	Any vehicular sales or service area	Four (4) ft. minimum to all trees from edge of paving where vehicles overhang for other areas, adjacent to portion of vehicular use area that faces a public or private street or road	One (1) tree/50 ft. or fraction thereof, plus one (1) shrub/10 ft. or fraction thereof (opacity requirements do not apply)

- 1) A vehicular use area (VUA) is any open or unenclosed area containing more than 1,800 square feet of area and/or used by six (6) or more of any type of vehicle, whether moving or at rest, including, but not limited to: parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or roads or other vehicular use elements described previously in this paragraph, and where intervening curbs, sidewalks, landscape strips, etc. do not eliminate adjacency.
  - 2) Grass or ground cover shall be planted on all portions of easements not occupied by other landscape material.
- D) Landscape buffer zone: The landscape buffer zone and material required adjacent to any street under this Article shall be provided by the property owner-adjointing 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 shall be placed on the subject parcel being processed.
- E) Requirement conflicts: Whenever a parcel falls under two (2) or more of the categories listed in the tables the most stringent requirements shall be enforced.
- F) Landscape buffer zone conflicts: The required landscape buffer zone may be combined with a utility or other easement as long as all of the landscape requirements can be provided in addition to, and separate from, any other easement. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer zone more than two and one-half (2 ½) feet, and wheel stops or curbs shall be required.
- G) 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 zoning commission and trustees, such material meets the requirements and achieves the objectives of this Article.
- H) Landscaping and driveway and street intersections: To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, no landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as,

except during the early growth stages, only the tree trunk is visible between the ground and eight (8) feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.

- 1) Driveway intersection triangle: 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.
  - 2) Street intersection sight triangle: 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.
- I) Interior Landscaping for Vehicular Use Areas: Any open vehicular use area, excluding loading, and unloading and storage areas in an industrial zone or Planned Commercial District or Highway Service District, containing more than 6000 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.
- J) Landscape area: For each one hundred (100) square feet or fraction thereof, of vehicular use area, a minimum total of five (5) square feet of landscaped area shall be provided.
- 1) Minimum area - The minimum landscape area permitted shall be 64 square feet with a four (4)-foot minimum dimension to all trees from edge of pavement where vehicles overhang
  - 2) Maximum 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 fifteen hundred (1,500) square feet in vehicular use areas over thirty thousand (30,000) square feet. In both cases, the least dimension of any required area shall be four (4) 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.
- K) Minimum Trees: The following minimums are required, based upon total ground coverage of structures and vehicular use areas:
- 1) Up to 20,000 square feet: A minimum of one (1) tree per five thousand (5000) square feet of ground coverage,
  - 2) Between 20,000 and 50,000 square feet: A minimum of one (1) tree for every five thousand (5000) square feet of ground coverage.
  - 3) Over 50,000 square feet: A minimum of one (1) tree for every five thousand (5000) square feet of ground coverage,
  - 4) Trees shall have a clear trunk of at least five (5) feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two (2) feet in height.
- L) Vehicular overhang: Parked vehicles may hang over the interior landscaping area no more than two and one-half (2½) feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.



- M) Landscaping for Service Structures - Any service structure or accessory use shall be screened whenever located in any Planned Industrial District, Planned Commercial District, Highway Service District or Planned Residential District, 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.
- 1) 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 (1) side is required. The average height of the screening material shall be one (1) 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.
  - 2) Curbs to protect screening material: Whenever screening material is placed around any trash disposal unit or waste collection unit, which is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one (1) foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.
- N) Interior Landscaping for All New Developments: All new developments and all expansions to existing developments shall provide landscaping in addition to the required perimeter landscaping. Interior landscaping shall consist primarily of new tree planting or the preservation of hedges within the development site.
- O) Preservation of existing landscaping materials: All trees having a trunk diameter of six (6) inches or greater as measured twenty-four (24) inches from ground level shall be preserved unless such trees are exempted as follows:
- 1) Trees within public right-of-way or utility easements or a temporary construction easement approved by the County Engineer.
  - 2) Trees within the ground coverage of proposed structures or within twelve feet of the perimeter of such structures.
  - 3) Trees within the driveway access to parking or service areas or proposed areas to service a single family-home.
  - 4) Trees that are damaged, diseased, over mature, which interfere with utility lines or are an inappropriate or undesirable species for that specific location.
  - 5) 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.

P) Tree planting requirements:

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

Use	Requirements
PRD Districts	There shall be tree plantings equal to one-half (1/2) inch in tree trunk size measured 24" from ground level for every 150 square feet in ground coverage by a single-family structure. Such plantings shall be required within the property lot lines of each structure
Business & Community Shopping Uses per Lot	In addition to the requirements of section 23.03 (B) hereof for vehicular use areas, the following shall apply: there shall be landscaped areas equal to 20 square feet for every one thousand (1000) square feet of building ground coverage or fraction thereof. Landscaping areas shall contain trees, planting beds, hedges, fences, walls, earth mound, benches or other material designed and located in a manner complimentary to the overall architecture of the surrounding buildings.
Office-Institutional Uses	In addition to the requirements of subsection (23.03(B) hereof for vehicular use areas, the following shall apply: there shall be tree plantings equal to one (1) inch in tree size for every 1500 square feet of building ground coverage, or fraction thereof.
Industrial Uses	In addition to the requirements of subsection (23.03(B) hereof for vehicular use areas, the following shall apply: there shall be tree plantings equal to one (1) inch in tree size for every 2000 square feet of building ground coverage, or fraction thereof.

2) Parking Lots: see Section 23.03(B) hereof

3) No new tree planting shall be required if existing trees and the aggregate trunk sizes of such trees meet, or exceed the requirements as set forth in this Article and providing that such trees are evenly distributed throughout the developed area and not confined either to out-of-the-way dense clusters or to the perimeter of the developed area. The minimum tree size for such tree plantings shall be no less than one and one-half (1½) inch in trunk diameter. 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 tree landscape plan is approved, the applicant or owner shall plant such trees as may be required within six (6) months or the next planting season after issuance of a zoning permit.

**Section 23.04 – PLAN SUBMISSION AND APPROVAL**

Whenever any property is affected by these regulations 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 plan. 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 (1) 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 quantities 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 a 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 (6) 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 (3) such one-month extensions may be granted. Foreclosure 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.



## ARTICLE XXIV – NON-CONFORMING USES

### **Section 24.01 – CONTINUANCE:**

The lawful use of any dwelling, building or structure and of any land or premises, as existing and lawful at the time of enactment of this Zoning Resolution or any amendments hereto, may be continued, although such use does not conform with this Zoning Resolution or amendments hereto, but if any such non-conforming use is voluntarily discontinued for two (2) years or more, any future use shall be in conformity with this Zoning Resolution and amendments hereto.

### **Section 24.02 – RESTORATION:**

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

### **Section 24.03 – ENLARGEMENT:**

No nonconforming 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 XXVIII and this section.

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

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

### **Section 24.04 – NON-CONFORMING LOTS:**

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record at the time of the enactment of this Resolution, which has an area and/or lot width less than that required for such structure or 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 XXVIII such non-conforming lots must be in separate ownership and not have continuous frontage with other land in the same ownership on the effective date of the applicable amendment to

the Zoning Resolution. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

## ARTICLE XXV – ZONING INSPECTOR, PERMITS, 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/her office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his/her 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. Duties of the Zoning Inspector shall include:

- A) Review all applications within the Township for zoning permits to insure they conform to all applicable provisions of this Resolution. The Zoning Inspector shall keep a record of all applications and appropriate support documentation.
- B) Conduct on-site inspections to insure the actual construction will conform to the zoning permit.
- C) Upon finding that any of the provisions of this Resolution are being violated, the Zoning Inspector shall notify, in writing, the person responsible for such violation and order the action necessary to correct such violation.
- D) Order discontinuance of illegal uses of land, buildings or structures.
- E) Order removal of illegal buildings or structure or illegal additions or structural alterations.
- F) Review all applicable subdivision plats and lot splits which are submitted to the Delaware County Regional Planning Commission in order to determine if the plat or lot split conforms to all applicable provisions of this Resolution.
- G) Identify and prepare a list of all commercial and industrial non-conforming lots, uses of land, and structures of record at the time of adoption or amendment of this Resolution. The list shall include the name, address, and telephone number of the owner, a description of the non-conformities of each lot, use, and/or structure and the date on which the lot, or use photographs shall also be taken and dated to help document conditions. Such photographs and the written description of the non-conformities shall be kept as permanent records as long as the non-conformity remains.
- H) Issue monthly reports to the Zoning Commission, Board of Zoning Appeals and Township Trustees regarding activities and inspections undertaken to meet the responsibilities outlined in Section 25.01(A) through Section 25.01(G) above.
- I) Remove signs or structures constructed within the road right-of-way in violation of any provision of the Troy Township Zoning Resolution.

- J) Post public notification signs in the front yard of properties subject to pending applications before the Troy Township Board of Zoning Appeals, Troy Township Zoning Commission or Board of Trustees of Troy Township in accordance with Articles XXVI and XXVIII.

**Section 25.02 – ZONING PERMIT REQUIRED:**

No structure shall hereafter be located, constructed, reconstructed, enlarged or structurally altered, nor shall any work be started upon the same, nor shall any use of land be commenced nor development begun until a zoning permit for the same has been issued by the Troy Township Zoning Inspector, which permit shall state that the proposed building, use and/or development comply with all the provisions of this Zoning Resolution or the approved Development Plan.

**Section 25.03 – PROCEDURES FOR OBTAINING ZONING PERMIT:**

No zoning permit shall be issued by the Township Zoning Inspector until the zoning permit 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 waste by means of public sewers, the application shall be accompanied by an approved permit from the Delaware General Health District of the proposed method of water supply disposal of sanitary wastes. No zoning permit shall be issued by the Township Zoning Inspector until the applicant for said zoning permit has submitted a plot plan of the area upon which the applicant's use or structure is proposed. Said plan shall show the type of proposed use, structural dimensions at the ground, lot dimensions, side, front and rear yard setbacks, compliance with all applicable development standards and a signed statement that said applicant will conform with all zoning regulations then in force for said area.

Fees for zoning permits shall be established by the Township Trustees. This fee shall be required generally for each application, and the amount shall be established annually by the Board of Township Trustees.

Failure to obtain a proper permit prior to commencing work or construction on a property where a permit is required will result in penalty fee of one hundred percent (100%) the permit cost. This will be assessed in addition to the permit fee cost prescribed annually by the Board of Trustees and must be collected prior to issuance of any zoning permit.

**Section 25.04 – CONDITIONS OF PERMIT:**

No zoning permit 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 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; such permit may be renewed twice at the discretion of the Zoning Inspector.

**Section 25.07 – ZONING PERMIT (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 except for agricultural purposes, without a zoning permit being issued by the Township Zoning Inspector. No zoning permit 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 conditional use permit has been granted by the Board of Zoning Appeals.



**Section 25.08 – NON-CONFORMING USE:**

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

**Section 25.09 – RECORDS:**

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

**Section 25.10 – COMPLAINTS:**

The Zoning Inspector shall investigate all complaints received from residents alleging illegal activity and shall report findings to the Township Trustees. The Inspector may require that all such complaints be submitted in writing, but may honor a complainant's request to remain anonymous.



## ARTICLE XXVI – ZONING COMMISSION

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

The Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the township, to be appointed by the Board, and the terms of the members shall be five (5) years and so arranged that the term of one (1) member will expire each year, each member shall serve until a successor is appointed and qualified. Members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the Board upon written charges being filed with the Board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his/her 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 ZONING COMMISSION:**

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

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

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

No Township Trustee shall be employed by the Township Zoning Commission.

The Zoning Commission shall make use of such information and counsel as is available from appropriate public officials, departments, and agencies, and such officials, departments, and agencies having information, maps, and data pertinent to township zoning shall make them available for the use of the Zoning Commission.

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

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

To assist in the administration of this Zoning Resolution, the Township Trustees may appoint a Zoning Secretary whose duty it shall be to maintain township zoning records, confirm information in applications, process all notices required under this Zoning Resolution, record the minutes of the Zoning Commission and the Board of Zoning Appeals, assist the Zoning Inspector, and perform such other duties relating to this Zoning Resolution as the Township Trustees may from time to time direct. The Zoning Secretary shall be compensated at rates set from time to time by the Township Trustees. The Township Fiscal Officer may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

**Section 26.05 – MEETINGS AND AGENDA OF THE 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 Trustees may appoint up to two (2) alternate members to the Zoning Commission 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.

## ARTICLE XXVII – AMENDMENTS (ZONING CHANGES)

### 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 Troy Township. Any amendments to Section 519.12 adopted by the Ohio Legislature shall be considered adopted herein.

Amendments to the Zoning Resolution may be initiated by motion of the Township Zoning Commission, by the passage of a resolution therefore by the Board of Township Trustees or by filing of an application therefore by one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment with the Township Zoning Commission. The Board of Township Trustees may require that the owner or lessee of the property filing an application to amend the Zoning Resolution to pay a fee therefore to defray the cost of advertising, mailing, and other expenses. If the Township Trustees require such a fee, it shall be required generally, for each application. The Board of Township Trustees shall, upon the passage of such resolution, certify it to the Township Zoning Commission.

Upon the adoption of such motion, or the certification of such resolution or the filing of such application, the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than twenty (20) nor more than forty (40) days from the date of the certification of such resolution, or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the Township Zoning Commission by one (1) publication in one (1) or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing. The published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, listed on the tax duplicate, written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within, contiguous to, directly across the street from and within five hundred (500) feet of the perimeter boundaries of the area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment. The published and mailed notices shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

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

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

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

The 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 of

Township Trustees by one (1) publication in one (1) or more newspapers of general circulation in the Township, at least ten (10) days before the date of such hearing.

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

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

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

No amendment 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.

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

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

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

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

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

#### **Section 27.03 – RECORD:**

On any application for an amendment to the Zoning Resolution of which the applicant desires a record to be made, the applicant shall give a notice to the Secretary of the Zoning Commission or the Fiscal Officer of the Township, 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/her request cash in the amount established by the Trustees to be used to defray the expenses incurred in making the record. All expenses of transcribing the record shall be borne by the person requesting the preparation of the transcript. In all hearings wherein no timely request has been made for a record, or where a party does not request and pay for an official stenographic transcript, the notes of the Zoning Secretary of the Township Zoning Commission or of the Fiscal Officer of the Township, 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 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 Township Trustees.





## ARTICLE XXVIII – BOARD OF ZONING APPEALS

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

A Township Board of Zoning Appeals is hereby created by this resolution with its membership to be appointed by the Troy Township Board of Trustees.

- A) Members: Said Board of Zoning Appeals shall be composed of five (5) members and up to two (2) alternate members.
- 1) Board Members: Each member shall be appointed by the Board of Township Trustees and shall be a resident of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The term of each member shall be five (5) years and so arranged that the term of one (1) member will expire each year. Each member of the Board of Zoning Appeals shall serve until his/her successor is appointed and qualified and shall otherwise serve at the pleasure of a majority of the Board of Township Trustees. Vacancies on the Board of Zoning Appeals shall be filled by a majority vote of the Board of Township Trustees and shall be for the unexpired term of said vacancy. Each member shall be vested with all rights and maintain complete authorization to raise issues, discuss and vote upon all matters before the Board.
  - 2) Alternate Board Members: A maximum of two (2) additional members of the Board of Zoning Appeals may be appointed by the Board of Township Trustees and shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The term of the alternate members of the Board shall be determined by a majority vote of the Board of Trustees. The alternate member may raise issues and participate in discussion of matters before the Board. The alternate members may not vote on any issue before the Board at any time when all five (5) members of the Board of Zoning Appeals are present. At any meeting of the Board of Zoning Appeals when a member is absent or otherwise unable to participate in a matter before the Board, upon the approval of the Chair of the Board of Zoning Appeals, an alternate member shall act as a member of the Board of Zoning Appeals with all rights of said absent or unavailable member with complete authorization to raise issues, discuss and vote upon pending matters before the Board.

### **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/her 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 and shall be available for review upon request by the general public. Attendance of three (3) members shall constitute a quorum. The Board of Township Trustees, the Township Fiscal Officer and the Township Zoning Inspector shall be notified in advance of all meetings conducted by the Board of Zoning Appeals.

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

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

#### **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 Ohio Revised Code, or of any resolution adopted pursuant thereto.
- B) Authorize, upon approval, in specific cases, such variance 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.
- 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 a conditional zoning certificate granted for the extraction of minerals or an authorized variance, if any condition of the certificate or variance is violated.

The Board of Zoning Appeals shall notify the holder of the variance certificate by certified mail of its intent to revoke the variance or certificate under division (D) of this section and of the holder's right to a hearing before the Board, within thirty (30) days of the mailing of the notice, if the holder requests a hearing. If the holder requests a hearing, the Board shall set a time and place for the hearing and notify the holder of the certificate or variance. At the hearing, the holder may appear in person, be represented by an attorney or other representative, or may present his/her position in writing. The holder may present evidence and cross-examine witnesses appearing for or against him. If no hearing is requested, the Board of Zoning Appeals may revoke the variance or certificate without a hearing. This authority to revoke a variance or certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above mentioned powers, such Board may, in conformity with such sections of the Zoning Resolution, reverse and affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement decision, or determination with such authority as if it were the original Township Zoning Inspector from whom the appeal is taken.

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

Appeals of the Board of Zoning Appeals may be made by any person aggrieved or by any officer of Troy Township affected by any decision made by the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision has been made by filing specific objection to the decision with the Zoning Inspector against whom the appeal is being taken with a copy of said objection submitted to the Board of Zoning Appeals. Said appeal must clearly specify the grounds upon which the appellant is filing an appeal. The Zoning Inspector whose decision is being appealed, upon receiving the notice of appeal, shall immediately submit all documents comprising the entire record upon which the appeal is being taken to the Secretary of the Board of Zoning Appeals. Upon receipt of the record, the Chair of the Board of Zoning Appeals shall schedule a public hearing within a reasonable period at which the full Board shall review the appeal. The Secretary to the Board of Zoning Appeals shall schedule a time for the hearing of the appeal, provide at least ten (10) days written notice by ordinary mail, postage paid to all known parties with interest (including all property owners within 500 feet of the affected property), and give notice of said public hearing by publication in a newspaper of general circulation within Troy Township at least ten (10) days prior to the date of such hearing. Any known person with an interest in the appeal may appear in person or through a representative. The Board of Zoning Appeals shall issue a decision within a reasonable time after the hearing has been held and completed.

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

The Township Board of Zoning Appeals, appointed by the Troy Township Board of Trustees, may upon application, grant such variances from the provisions or requirements of this Zoning 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 dimensions of a specific piece of property, exceptional topographic conditions, extraordinary situations or conditions of such parcel of property, or the use of or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Zoning Resolution would involve practical difficulty or would cause unnecessary hardship, the Board of Zoning Appeals shall have power to authorize a variance from the terms of this Zoning Resolution.

- A) Form of Application – All applications and fees for Variances under this section shall be submitted on such forms as designated and approved by the Township Trustees. Written application and fee for a variance shall be submitted to the Township Zoning Inspector who shall transmit said application to the Secretary of the Board of Zoning Appeals. The application shall be forwarded to the Board of Zoning Appeals by the secretary and a public hearing shall be timely scheduled. No application will be considered unless the same is fully completed and accompanied by all required information and applicable fees listed on said application.

Payment of the application fee entitles the applicant to a meeting before the Board of Zoning Appeals and one tabling of the meeting which will allow for one subsequent meeting on the original application. If additional meetings on the original application are warranted, the applicant shall pay additional fees to cover expenses incurred up to the original cost of the application fee for each additional meeting. Withdrawal of an application after meeting date has been set and notices have been sent out, terminates the application and no refund of fees will be issued, and a new application must be initiated.

- B) Public Notice - The secretary for the Board of Zoning Appeals shall give written notice by United States mail, postage paid, 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. The secretary for the Board of Zoning Appeals shall advertise each application for a variance in a newspaper of general circulation within Troy Township at least once, ten (10) days in advance of the time set for the public hearing. The notice shall state the time, place and location of the public hearing along with a description of the subject property and the nature of the proposed variance.
- C) Hearing - At such hearing herein described, the applicant shall present a statement and adequate evidence, in such form as the Township Board of Zoning Appeals may require.
- D) Decision - 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.

The factors to be considered and weighed in determining whether practical difficulties have been encountered shall include, but are not limited to the following:

- 1) Whether the property 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 area would be substantially altered as a result of the variance;

- 4) Whether adjoining property owners would suffer a substantial detriment as a result of the variance;
  - 5) Whether the variance would adversely affect the delivery of essential services (E.g. water, sewer, septic, garbage) school transportation or emergency services (police, fire department, EMTs) from entering or leaving the property without impeding adjoining properties;
  - 6) Whether the property owner's predicament can be resolved by some other means other than a variance.
  - 7) The proposed use will be in the best interest of the public health, safety, and morals and;
  - 8) Whether the hardship conditions were created by the actions of the applicant.
- F) Revocation - The Board of Zoning Appeals may revoke an application for a Variance for the applicant's failure to comply with the conditions of the application. In addition, a cease and desist letter may be issued by the Zoning Inspector if the applicant fails to comply with the conditions of the application.

The Board shall notify the holder of the permit by certified mail of its intent to revoke the Permit and of the holder's right to a hearing before the Board, within thirty (30) days of receipt of said notice, if he/she so requests. In lieu of said certified mail service, service may be made personally by the Township Zoning Inspector in which case the hearing shall be requested within thirty (30) days after such service. 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/her attorney or other representative, or he/she may present his/her position in writing. He/she may present evidence and may examine witnesses appearing for or against him. If no hearing is requested, the Board may revoke the permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided by law.

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

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

- A) Form of Application - All applications and fees for An application for a Conditional Use permit shall be submitted on such forms as designated and/or approved by the Township Trustees. Written application and fee for a Conditional Use shall be submitted to the Township Zoning Inspector who shall transmit said application to the Secretary of the Board of Zoning Appeals. The application shall be forwarded to the Board of Zoning Appeals by the secretary and a public hearing shall be timely scheduled. No application shall be considered unless the same it is fully completed and accompanied by all required information on said application.
- B) Public Notice - The secretary for the Board of Zoning Appeals shall give written notice by United States mail, postage paid, to the applicant and all owners of land within five hundred (500) feet of the exterior boundaries of the land for which a Conditional Use is requested. The secretary for the Board of Zoning Appeals shall advertise each application for a variance in a newspaper of general circulation within Troy Township at least once, not less than ten (10) days prior to the date of the scheduled public hearing. The notice shall state the time, place and location of the public hearing along with a description of the subject property and the nature of the proposed Conditional Use.
- C) Hearing - At such hearing herein described, the applicant shall present a statement and adequate evidence, in such form as the Township Board of Zoning Appeals may require.
- D) Decision - The Board shall notify the applicant of its decision as to whether the Conditional Use Permit has been approved or rejected within a reasonable time after the hearing. In the event the Board approves the Conditional Use permit, it may impose such reasonable 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 specified for Conditional Uses elsewhere in this zoning resolution, the Board of Zoning Appeals shall review the particular facts and circumstances of each proposed Conditional Use in terms of the following standards and only approve such use if the Board of Zoning Appeals determines that such use of the proposed location is in compliance with such specific requirements and that:

- 1) The proposed use is a Conditional Use established in this zoning resolution;
  - 2) The proposed use is of such a nature, and designed to be constructed, operated and maintained in such a manner, so as to be harmonious and appropriate with the existing or intended character of the area and that such use will not change the essential character of the area;
  - 3) That the Conditional Use will not be hazardous or disturbing to existing or future neighboring uses;
  - 4) The conditional use would not adversely affect the delivery of essential services (e.g., water, sewer, septic, garbage) school transportation or emergency services (police, fire department, EMTs) from entering or leaving the property without impeding adjoining properties;
  - 5) That the Conditional Use will not involve uses, activities, processes, materials, equipment or 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 Conditional Use will be consistent with the objectives of this zoning resolution and Troy Township's Comprehensive Plan;
  - 7) The proposed use will be in the best interest of the public health, safety and morals;
  - 8) Whether the hardship conditions were created by the actions of the applicant.
- F) Revocation – The Board of Zoning Appeals may revoke a Conditional Use Permit for its holder's failure to comply with the conditions of that permit. In addition, a cease and desist letter may be issued by the Zoning Inspector if the applicant fails to comply with the conditions of that permit.

The Board shall notify the holder of the permit by certified mail of its intent to revoke the Permit and of the holder's right to a hearing before the Board, within thirty (30) days of receipt of said notice, if he/she so requests. In lieu of said certified mail service, service may be made personally by the Township Zoning Inspector in which case the hearing shall be requested within thirty (30) days after such service. 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/her attorney or other representative, or he/she may present his/her position in writing. He/she may present evidence and may examine witnesses appearing for or against him. If no hearing is requested, the Board may revoke the permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided by law.

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

The Board of Zoning Appeals shall provide its decision, in which three (3) members concur and every action shall be accompanied by a written finding of fact and conclusions, based on testimony and evidence and specifying the reason for a granting or denial of the request. A copy of the Board's decision accompanied by the Board's finding of facts and conclusions shall be mailed to the applicant by ordinary United States mail postage paid.

#### **Section 28.09 – PUBLIC INFORMATION**

All communications to members of the Board of Zoning Appeals, written or oral, which shall be reduced to writing pertaining to any matter before the Board shall be made a part of the record. The record of the Board's proceeding in any matter shall be kept on file in the township office at the Township Hall or at another appropriate location as approved by the Board of Zoning Appeals and the Board of Township Trustees, subject to the order of the Delaware County Common Pleas Court, and available for inspection by the public.

#### **Section 28.10 – 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/her request cash in the amount established by the Trustees to be used to defray the expenses of making a record. All expenses of transcribing the record shall be borne by the person requesting the preparation of the transcript. All expenses of transcribing the record shall be borne by the person requesting the preparation of the transcript. In all hearings wherein no request has been made for a record, the minutes of the Zoning Secretary of the Board of Zoning Appeals shall serve as the primary transcript of such hearing.

#### **Section 28.11 – FEES**

For all actions of the Board of Zoning Appeals, the Township Trustees shall establish fees to be submitted by the applicant with each application. Such fees shall be set annually and shall be required generally for each application to defray the costs of advertising, mailing and other expenses associated with said application.

## ARTICLE XXIX – 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 to such Resolution, adopted by the Township Board of Trustees pursuant to Chapter 519, Ohio Revised Code. Permits are required in accordance with Section 25.02. Each day's continuation of a violation of this section shall be deemed a separate offense irrespective of whether or not a separate notice of violation or affidavit charging a violation has been served upon the violator for each day the offense continues.

### **Section 29.02 – REMEDIES**

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of Chapter 519, Ohio Revised Code, or of this Zoning Resolution or amendments hereto adopted by the Board of Township Trustees under such Resolution, such Board, the Prosecuting Attorney of the county, the Township Zoning Inspector, or any adjacent or neighboring property owner who would be especially damaged 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 (\$500.00) dollars for each offense or the maximum fine or imprisonment as provided by law, whichever is greater.

### **Section 29.04 – FEES**

Any application under this Resolution shall be accompanied by such fee as shall be specified from time to time by resolution of the Board of Trustees. There shall be no fee, however, in the case of applications filed or requests by the Township Trustees or the Zoning Commission. The fees imposed by this Resolution are only intended to defer in part, the cost of zoning administration involved in such applications including technical reviews, publishing, and/or posting, and mailing the notices of the hearing or hearings. Additional fees may be required per hearing as approved by the Board of Trustees. All fees collected are not refundable regardless of the outcome of the application.





## ARTICLE XXX – SEVERABILITY AND REPEAL

### **Section 30.01 – SEVERABILITY**

If for any reason any one (1) 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 any one (1) or more instances shall not affect or prejudice in any way the validity of this Zoning Resolution in any other instance.

### **Section 30.02 – REPEAL**

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

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

The Township Zoning Resolution or parts thereof previously in effect in Troy Township, Delaware County, Ohio not otherwise adopted as part of this Amended Zoning Resolution, and in conflict with the Zoning Resolution as it was initially established, or established hereafter are hereby repealed. However, all civil legal proceedings and/or all prosecutions resulting from violation of any Zoning Resolution or part thereof heretofore in effect, which are now pending in any of the Courts of the State of Ohio or of the United States, shall not be abated or abandoned by reason of the adoption of any amendment to this Zoning Resolution but shall be prosecuted to their finality the same as if amendments to this Zoning Resolution had not been adopted; 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.