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# BERLIN TOWNSHIP ZONING RESOLUTION

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*Delaware County, Ohio*

*With amendments approved **XX-XX-XX***

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# BERLIN TOWNSHIP, DELAWARE COUNTY, OHIO

## ZONING RESOLUTION

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## **ARTICLE 1 TITLE**

### **SECTION I**

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

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## **ARTICLE 2 PURPOSE**

### **SECTION 2.01**

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

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## **ARTICLE 3 INTERPRETATIONS OF STANDARDS**

### **SECTION 3.01:**

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

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## ARTICLE 4 DEFINITIONS

### SECTION 4.01

All words used in this Zoning Resolution shall, unless otherwise defined below, be given the precise meaning as stated in Webster's Unabridged Dictionary, most recent published edition.

**Interpretation of Terms or Words:** For the purpose of this resolution, certain terms or words used shall be interpreted as follows:

**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.

**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 located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, 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:

1. Anything of a subordinate nature attached to or detached from a principal structure or use;
2. Fences, walls, sheds, and garages;
3. Parking places, decks, poles, poster panels, swimming pools, and pergolas.

**A-Frame Signs:** see Sandwich Sign.

**Address Signs:** Address signs are numbers or placards comprising less than one and one half square feet of advertising area typically located on a mailbox, post, or house front.

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

**Adult Book Store:** Adult book store means an establishment deriving a majority of its gross income from the sale or rental of, or having a majority of its stock in trade in, books, magazines or other periodicals, films, or mechanical or non-mechanical devices, which constitute adult materials.

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

A facility operated by a hospice care program licensed under [ORC§3712.04](#) that is used exclusively for care of hospice patients.

A nursing home or home for the aging as defined in [ORC§3721.01](#).

A community alternative home as defined in [ORC§2317.422](#).

An alcohol and drug addiction program as defined in [ORC§5119.37](#).

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

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

which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

**Adult Motion Picture Theater:** An enclosed motion picture theater or motion picture drive-in theater used for presenting, and deriving a majority of its gross income from adult material for observation by patrons therein.

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

**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. The necessary supports or uprights are excluded from the graphic area.

**Agriculture:** As used in section [ORC§519.02](#) to [ORC§519.25](#) of the Revised Code, “agriculture” includes farming; ranching; algaculture meaning the farming of algae; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

**Agritourism:** an agriculturally-related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.

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

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

**Animated Sign:** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene.

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

**Awning:** A hood or cover that projects from the wall of a building against the face of the supporting building.

**Banner:** A non-rigid cloth, plastic or canvas sign typically related to a special event or promotion. National flags, state or municipal flags shall not be considered banners. The official flag of any institution or business shall be considered a banner.

**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 percent chance of being equaled or exceeded in any given year in a century. Sometimes referred to as Regional Flood or 100-Year Flood.

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

**Bench Sign:** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.

**Billboard:** A billboard shall be defined as an off premise, outdoor display exceeding 64 square feet in advertising area 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 off premise 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, Delaware County building permit requirements, and State of Ohio regulations for outdoor advertising.

**Boarding Kennel:** Any lot or premise where dogs and/or cats over four months of age are boarded, groomed, trained, or offered veterinary treatment for compensation.

**Borrow Pit:** Site where dirt, sand, or gravel are excavated and removed from the location for a period of less than a year.

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

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

**Building Envelope:** Existing location of foundation and structure envelope with reference to all property lines, setbacks, building lines and easements. Structure envelope to include location of all eaves, cantilevers, decks, fireplaces and other protrusions.

**Building, Height:** The vertical distance measured from the elevation of the threshold plate at the front door of the building to the highest point of the roof.

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

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

**Bus Shelter Sign:** Any sign painted on or affixed to any bus shelter.

**Canopy:** A projection from a building made from any material, which is cantilevered, suspended, or supported on columns intended only for shelter or ornamentation

**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.

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

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

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

**Channel Letters:** The outline of a letter, border, or similar object with a vertical side wall to confine the lighting on the face either to restrict vision at an angle or to prevent light spillage over adjacent areas.

**Clear Sight Triangle:** The triangular area formed by a diagonal line connecting two points, located on intersecting lines of street and driveway, one being on the street right-of-way, the other point being on the easement of access, or pavement edge of an access drive, each point being 20 feet from the intersecting lines and extending vertically from a height of three (3) feet above grade to ten (10) feet above grade. See Figures 1 and 2.

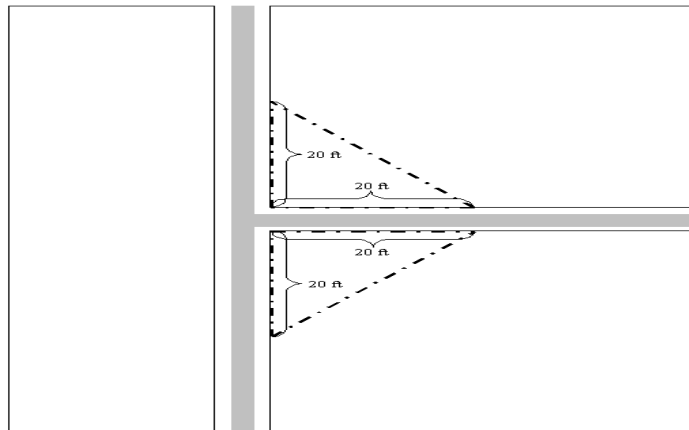


Figure 1: Clear Sight Triangle

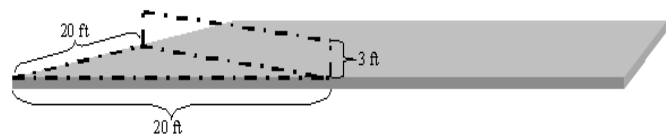


Figure 2: Clear Sight Triangle

**Childcare:** 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 hour day in a place of residence other than the child's own home.

**Common Wall Housing:** Two or more dwelling units that share a common wall.

**Community National Flood Insurance Program (NFIP) Administrator:** The person, persons, agency, or other local government entity responsible for the administration and enforcement of the National Flood Insurance

Program in compliance with Federal Law 44 CFR Parts 59 and 60. For Unincorporated Berlin Township the Delaware County Building Department is the Community NFIP Administrator.

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

**Conditional Use Permit:** A permit issued by the zoning administrator 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.

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

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

**Day:** Whenever the term “day(s)” is utilized it shall mean calendar days. If a time frame results in the last calendar day falling on a weekend or legally recognized holiday, then it shall be moved to the next business day.

**DCRPC:** The Delaware County Regional Planning Commission.

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

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

**Density Credit:** An increase in the number of allowable dwelling units per acre granted for some specific reason, such as the provisions of park areas, as provided for in the zoning regulations.

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

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

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

**Development Sign:** A temporary sign indicating such things as the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the development, structure, or project. This includes both private and public projects.

**Direct Lighting:** Externally lit from an outside light source.

**Directional Sign:** A temporary or permanent sign that provides information regarding location, instructions for use, or functional/directional data.

**Display Area of Sign Surfaces:** The area refers to the message portion whether in writing, logo, graphic, or other descriptive form. If sign structure in any way delivers a message by shape or form, then this would be interpreted to be part of the display area.

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

**Divergence:** In a Planned Unit Development, a divergence is a slight deviation from these regulations to allow a better development design, approved by the Zoning Commission or Trustees at the time of the development plan review.

**Dwelling:** Any permanent building or structure which is wholly or partly used or intended to be used for living by human occupants.

**Dwelling Unit:** Permanent space, 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 (1) family and its household employees.

**Dwelling, Single Family:** A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

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

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

**Dwelling, Multi-Family:** A residential building arranged or designed for four (4) or more dwelling units as separate and complete housekeeping units.

**Dwelling, 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, 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 persons where no cooking or dining facilities are provided in the individual rooms.

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

**Entry Feature Sign:** An on-premises ground-mounted sign that graphically identifies a residential subdivision and/or multi-family development. For commercial properties, see **Joint Identification Sign**.

**Essential Services:** The erection, construction, alteration, or maintenance by public 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 utility or municipal or other governmental agency or for the public health or safety or general welfare, but not including buildings.

**Established Grade Line:** The average approved finish grade for that area of the site where the sign is to be located, provided however that the height of the sign shall not be artificially increased by the use of mounding. All references to sign height are from the established grade line unless otherwise noted.

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

A topographic map as published by the Delaware County Auditor's DALIS office;

The location of steep slopes (over 20%), wetlands, watercourses, intermittent streams and 100-year floodplains, and all existing rights-of-way and easements;

Soil boundaries as shown on USDA Natural Resources Conservation Service medium-intensity maps; and

The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails, and any sites listed on the ODNR Natural Diversity Inventory.

**Extension:** A wall or other structure which is connected to and extended from a building.

**Family:** Two (2) or more persons related by blood, marriage, adoption, or living together as a single housekeeping unit; or a group of not more than six (6) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

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

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

**Flag:** 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 entity.

**Flashing:** A sign or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change by a conspicuous and intermittent variation in light.

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

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

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

**Floodplain:** That land subject to inundation by the regional flood.

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

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

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

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

**Floor Area:** The square foot area of a building using the outside dimensions to compute the square footage, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and unfinished basements.

**For Sale/For Lease Sign:** A sign indicating the sale, rental, or lease of a structure or property.

**Freestanding Sign:** A sign intended to be erected and used permanently whose support structure is imbedded in the ground, and not part of any building.

**Garages, Private:** An accessory building or portion of a principal building for the parking or temporary storage of personal use vehicles of the occupants of the premises and wherein:

No more than two (2) commercial vehicles per dwelling unit is parked or stored; and

The commercial vehicle permitted does not exceed two (2) tons capacity.

**Gas-Inflatable Sign/Device:** Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.

**Governmental Sign:** A sign erected and maintained pursuant to and in discharge of any government functions or required by law, ordinance, or other governmental regulations.

**Granny Flat/Handicapped Accessible Suite:** A separate dwelling unit for an over-age-55 or handicapped family relative located in a structure that is an accessory to a single-family dwelling.

**Ground Sign:** A freestanding sign with the advertising area is mounted directly to a base, pole, pylon, or monument that is mounted on the ground. The bottom of the advertising area shall be less than 3 feet above the approved established grade, and the maximum height is no more than 15 feet above approved established grade.

**Home Occupation:** An accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby that is clearly incidental and subordinate to the principal use of the premises as a dwelling in residential districts and is conducted entirely within the dwelling unit (or elsewhere on the premises if granted a conditional use permit) without any significant adverse effect upon the surrounding neighborhood. [See treatment of Home Occupations in Sections 24.15 and 24.16].



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

**Hotel or Motel or Apartment Hotel:** A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation.

**Identification Sign:** A sign used to identify the name of the individual, family, organization, or enterprise occupying the premises; the profession of the occupant; the name of the building on which the sign is displayed.

**Illuminated Sign:** Any sign lighted by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**Improvements:** Any building, structure change of real property, or any part of such change.

**IND:** Abbreviation for Industrial.

**Indirect Lighting:** Internally lit, as in the case of an internally lit cabinet sign.

**Informational Window Sign:** Window signage with a total area of two square feet or less and bearing only information about entry and exit, business hours, authorized service representative information and/or discount and credit systems accepted in that establishment.

**Industrialized or Manufactured Structures (modulars, trailers, mobile homes, or offices):** For the purpose of this resolution, a modular home, modular office or modular industrial unit shall be defined as a manufactured or industrialized unit which has been inspected and certified to be in compliance with the Ohio building code. All such units shall be approved for their appropriate zoning district, the same as a site built structure. All local, state, and federal requirements and permits shall be required. All other manufactured or industrialized units shall be considered a temporary structure, trailer, or mobile home, mobile office or mobile industrial unit and shall be limited in placement by this resolution.

**Joint Identification Sign:** Sign intended to provide the identity or name, whether through logo, type, graphics or other symbols, for two or more uses within one building or on one property or the name of the building or its address for property occupied by two or more businesses, or for a shopping center, office park, industrial park, or other building complex.

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

**Logo:** See Primary Images and Secondary Images.

**Lot:** For the purposes of this resolution, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein

required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

A single lot of record;

A combination of complete lots of record, or of complete lots of record and portions of lots of record.

**Lot Coverage:** The ratio of enclosed ground floor area of all buildings on a lot to the total area of the 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 Net Area Of:** The area of a lot is computed exclusive of any right-of-ways.

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

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

**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. Corner lot shall meet the setback requirements for all roads, streets, or alleys that abut.

**Interior Lot:** A lot with frontage only on one (1) street.

**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.

**Reversed Frontage Lot:** A lot on which frontage is at right angles to the general pattern in the area. A reversed frontage lot may also be a corner lot.

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

**Major Thoroughfare Plan:** The portion of 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 Mobile Home Park:** Any site, or tract of land under single ownership, upon which two (2) or more manufactured 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.

**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 Secretary of Housing and Urban development (HUD) pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974, 88 Stat. 700, 42 U.S.C.A 5401, 5403 and that has a permanent label or tag permanently affixed to it as specified in 42 U.S.C.A 5415, certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the number of square feet in a structure’s exterior dimensions are measured at the largest horizontal projections when erected on site. These dimensions include all windows. ([ORC§4501.01](#)) For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connection to utilities and the like.

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

**Marquee:** A canopy that provides additional loading for graphics.

**Menu Board:** A permanently mounted sign displaying the bill of fare for a restaurant, drive-in or drive-through restaurant, or instructions or services for other drive-through establishments.

**MU:** Abbreviation for Mixed Use.

**Mixed Use Building:** A building that contains multiple uses as defined within this resolution including the “MU” designation, usually containing multiple floors where professional office, research, office and/or commercial uses may be on the ground floor and residential uses may be on the upper floors. Uses within the building and all development standards are defined within this resolution.

**Model Home:** A temporary showroom or display model that is used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued or whichever comes first. **However, the model home usage may continue if it is a permitted use within a commercial zoning district.** Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.

**Monument Sign:** A permanent, free-standing rectangular ground sign placed where the base of the rectangle of the sign that is closest to the ground is at least twice the height of the main body of the sign. The main face of a monument sign may either be flush with the ground or flush against a finished stone or brick base, or affixed to poles less than 3 feet in length so that the clearance from the underside of the sign to the base is less than three feet. (Also see **Ground Sign**).

**Moving Sign:** Any sign, all or any parts of which physically moves up or down or sideways, revolves or is animated so as to give the appearance of movement.

**NFIP:** National Flood Insurance Program

**Net Developable Area (acreage):** A land area measured in acres determined by deducting 15% of the subdivision's gross acreage for streets and utilities plus all otherwise unbuildable areas, as follows:

Jurisdictional wetlands, as defined US Army Corps of Engineers' Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss. Jurisdictional wetlands as regulated by Section 404 of the Clean Water Act consist of: a.) hydric soils, b.) hydrophytic vegetation, and c.) wetland hydrology (this generally means they support more than 50% wetland vegetation, and are poorly drained soils which are periodically inundated or saturated ).

Floodplains: Areas that lie within a FEMA 100-year floodplain, either with in elevations determined by FEMA or mapped by FEMA.

Slopes greater than 20%, including ravines shown to be critical resource areas on the Delaware County Regional Planning Commission Comprehensive Land Use Plan.

Utilities rights-of-way and easements for above-ground and currently existing utility structures such as above ground pipelines, and overhead electric transmission (not local service) wires that exist prior to the PRD application.

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 or its amendments which do not conform to the regulations of the district or zone in which they are situated, and are therefore incompatible.

**Non-Conforming Sign:** A pre-existing legal or illegal sign that does not conform to the standards set forth in this code.

**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 digits designate the entire sector, and the subsequent digits define more specifically the types of industry or establishment, with definitions NAICS.

**Nude (nudity):** The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) 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.

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

**Off Premise Sign:** A sign not located on the same parcel of property as the business or thing being advertised.

**Open Spaces:** An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts,

any other recreational facilities that the zoning commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.

**Open Space (within a Planned Residential District [PRD]):** Land within the development that shall not be built upon and may be classified as either “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 either be owned by the homeowner’s association, 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 the homeowner’s association of the PRD.

**Common Area:** open space set aside for passive or active recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses. If deemed appropriate by the zoning commission, common area may incorporate land for on-site wastewater disposal.

**Natural Area:** Land set aside in its natural condition for the benefit of the residents of the PRD. Typical natural conditions might be, but are not limited to ravines, wetlands, floodplains, woods, scenic views, or appropriate agriculture.

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

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

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

**Peninsula MU Area:** Abbreviation for Peninsula Mixed Use Area.

**Pennant:** A triangular shaped banner.

**Performance Bond or Irrevocable Letter of Credit:** 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.

**Permanent Residential Subdivision Identification Signage:** Those signage features specifically relating to the denotation of a major entrance or entrances to a residential subdivision.

**Permanent Sign:** Sign intended to be erected and used or in fact which is used for a time period in excess of one year.

**Permitted Density:** The permitted density is the number of dwelling units in the development. Such number shall be determined by dividing the net developable area by the conventional lot size for the zoning district being overlaid. If the proposed open space development is located in more than one zoning district, then the

total number of dwelling units allowed within the tract shall be the sum of those allowed for the portion of land lying within each zoning district.

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

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

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

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

**Portable Sign:** Sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

**Primary Images:** Any and all text, graphics, or images displayed on a sign pertaining to the name of the use and/or business.

**PRO:** Abbreviation for Professional, Research, and Office.

**PROC:** Abbreviation for Professional, Research, Office, and Commercial.

**Product Sign:** A sign typically located in a window, advertising a product or service offered by a business.

**Projected Image:** An image projected onto a building, structure, or sign.

**Projecting Nameplate:** Sign indicating only the name and/or address of an occupant that extends outward perpendicular to the building face.

**Projecting Signs:** A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.

**Promotional Sign:** A temporary sign that provides information regarding time, place, and the like of a special event, community activity, or similar activity.

**Public Service Facility:** The erection, construction, alteration, operation, or maintenance of buildings, power plants, or substations, water treatment plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a public or other governmental agency, including the furnishing of electrical, gas, rail transport, communication, public water and sewage services.

**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.

**Raceway:** An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

**Refacing:** Any alteration to the face of a sign involving the replacement of materials or parts. Refacing does not refer to replacing the entire sign structure or the removal of the sign.

**Residential Facility:** As defined under [ORC§5123.19](#) means a home or facility in which an individual with a developmental disability resides.

**Road Frontage:** The edge of a parcel, tract, or lot which adjoins a county approved road or street. When a parcel, tract, or lot adjoins more than one county approved road or street, either frontage may be considered the front of the parcel. The parcel, tract, or lot shall meet the setback requirements for all adjoining roads and streets as established by Article 24 of this resolution.

**Recreational Vehicle Park:** A plot of ground upon which two (2) or more recreational vehicle campsites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation, education, or camping.

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

**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.

**Roof Line:** The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable, or rake of a sloped roof structure.

**Roof Sign:** A sign erected upon the roof of a building, any portion of which is above the roof line of the building.

**Sandwich Board Sign:** A sign with two hinged boards which can be placed on the ground.

**School Building:** A building designed and constructed for classrooms, and where the primary use of said building is the instruction of students at the kindergarten through twelfth grade levels.

**School Parcel:** Any parcel that is owned by the local school district and is being utilized or intended to be utilized for a School Building as defined herein or other school use.

**School Pride Signs:** Are considered to be for the purpose of supporting or encouraging students regarding their school activities and education. Such signs may vary in size. Their construction and content is generally governed by the respective school or school district. The signs reference only the student(s) who reside at the residence where the sign is displayed.

**Secondary Images:** Any and all text, graphics, or images displayed on a sign in addition to the name of the use and/or business, including but not limited to pictorial representations, tag lines, products, and phone numbers.

**Setback Line:** A line established by the zoning resolution and/or approved development plan, generally parallel with and measured from the lot line, which defines the area of a yard in which the primary building or structure may be located.

**Sewers, Central or Group:** A sewage disposal system approved by the Delaware county sanitary engineer and the Ohio Environmental Protection Agency (OEPA), which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

**Sewers, On-Site:** A septic tank or similar installation approved by the Delaware County Health Department 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 the Delaware County Health Department.

**Sexual Activity:** Sexual activity means 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, is sufficient to complete vaginal or anal intercourse.

**Sexual Contact:** Sexual contact means 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 Excitement:** Sexual excitement means the condition of human male or female genitals, when in a state of sexual stimulation or arousal.

**Sign:** Any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.

A sign shall further 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. The word "sign" as used throughout this section means signs that are externally visible from adjacent properties or streets. Signage that is placed internally within a building that is not externally visible shall be excluded from sign regulations.

**Sign, Cabinet:** A sign cabinet is the mechanical portion of an internally lit sign. The sign cabinet typically consists of a metal frame, with a lighted background face. Sign cabinets typically mount either to a wall, or to a pedestal or monument. A sign cabinet may be either one sided (wall mount) or two sided (monument sign).

**Sign Face:** The surface intended for the display of information on the sign.

**Sign Height:** 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.



**Single Family Dwellings:** Detached, individual dwelling units, which accommodate one family related by blood or marriage or up to five unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform either to the Council of American Building Officials (CABO) One and Two family dwelling code, be classified as an Industrialized unit under the Ohio Basic Building Code, or conform to the Ohio 122nd Legislative Assembly S.B. 122 definition of permanently sited manufactured housing.

**Streamer:** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, string or cord, usually in series, designed to move in the wind. A streamer may have pennants and /or banners attached.

**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, and billboards.

**Swimming Pool:** Any artificially constructed receptacle for water which contains or is intended to contain a depth of water at least two (2) feet at any point used or intended to be used for swimming or bathing and maintained by an owner or manager, and cannot be seasonably removed, and includes any accessory recreational structures.

**Private:** Exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, or a community, the members and guest of a club, or the patrons of a motel or hotel: an accessory use.

**Public:** Operated with a charge for admission; a primary use.

All Swimming Pools must follow the Delaware County Code of Compliance with specific regard to fencing.

**Telecommunications Antenna:** Refers to any structure 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:** Means a public utility engaged in the provision of telecommunication services.

**Telecommunications Tower:** Means any free standing structure, or any structure to be attached to a building or other structure that meets all of the following criteria:

The free standing or attached structure is proposed to be constructed on or after October 31, 1996;

The free standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunication services.

The free-standing or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use.

The free-standing structure is proposed to top at a height that is greater than either the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a free-standing structure as set forth in any

applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.

**Temporary Sign:** A sign used for a time period of six months or less.

**Thoroughfare, Street, or Road:** 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:

**Alley:** A minor street used primarily for vehicular service access to the back or side of properties abutting on another street.

**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.

**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.

**Cul-de-Sac:** A local street with one (1) end open to traffic and the other end terminating in a vehicular turnaround.

**Dead-end Street:** A street having only one (1) outlet for vehicular traffic.

**Local Street:** A street primarily for providing access to residential or other abutting property.

**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 1000 feet from said arterial or collector street, nor normally more than six hundred 600 feet from each other.

**Marginal Access Street:** A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called Frontage Street).

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

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

**Variance:** A variance is 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.

**Vehicular Use Area (VUA):** any open or unenclosed area used by any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas.

**Wall Sign:** A sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs include painted murals, messages, graphics and other designs painted along with any letters or numerals mounted on buildings and any extensions thereon.

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

**Window Sign:** A sign, graphic, poster, symbol or other identification or information about the use or premises which is physically affixed to or painted on the glass or other structural component of the window or a sign, graphic, poster, symbols, or other identification or information about the use or premises erected on the inside of the building within two feet of the window and intended to be viewed through the window from the exterior of the premises.

**Yard:** An 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; provided, accessories, ornaments, and furniture may be permitted in any yard, subject to height installations and requirements limiting obstruction of visibility.

**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.

**Yard, Rear:** A yard extending between side lot lines across the rear of a lot and from the rear line of the principal building.

**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 Lot Line Development:** An arrangement of housing on adjoining lots in which the required side yard is reduced on one (1) side and increased on the other so that the sum of the offsets on any lot is no less than the sum of the required offsets. No building or structure shall be closer to a line than five (5) feet unless it abuts the lot line and is provided with an access easement of five (5) feet on the adjoining lot or abuts a building or structure on the adjoining lot. The offset adjacent to property not included in the zero lot line development or a street shall not be less than that required in the zoning district.

**Zoning Inspector (Officer):** The zoning inspector (officer) is the person designated by the board of township trustees to administer and enforce zoning regulations and related resolutions.

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

## Definitions

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## ARTICLE 5 DISTRICTS AND BOUNDARIES

### SECTION 5.01: ZONING DISTRICTS

Establishment of Districts. In order to carry out the purposes and provisions of this Resolution, the unincorporated areas of Berlin Township are hereby divided into the following zoning districts:

	District	Article Number
FR-1	Farm Residential District	7
R-1.25/PRD	Low Density Residential PRD Standards	8
R-1.50/PRD	Medium Density Residential PRD Standards	9
R-1.85/PRD	High Density Residential PRD Standards	10
PRD	Planned Residential District	11
NCD	Neighborhood Commercial District	12
TPUD	Transitional Planned Unit Development	13
PARRD	Planned Age-Restricted Residential District	14
BCO	Berlin Commercial Overlay	15
POD	Planned Office District	16
PCD	Planned Commercial and Office District	17
OCPUD	Old Cheshire Planned Unit Development District	18
BIO	Berlin Industrial Overlay	19
ID	Industrial District	20
PID	Planned Industrial District	21
A-1	Agricultural Conservation District	22
FPRD	Floodplain Regulatory District	23

The regulations shall be uniform for each class or kind of building or other structure or use throughout each district or zone except for Planned Unit Developments (PRD, OCPUD, POD, PCD and PID), but the regulations in one district or zone shall differ from those in other districts or zones, as hereinafter set forth.

### SECTION 5.02: OFFICIAL ZONING DISTRICT MAP

The zoning districts and their boundaries are shown on the Official Zoning District Map of Berlin Township.

The Official Zoning District Map, as legally amended from time to time by Resolution of the Berlin 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 (Officer) shall cause the Official Zoning District Map to be updated to reflect the change.

Prior to the change, a copy of the Official Zoning District Map shall be made and shall be dated and permanently filed and remain in custody of the Zoning Inspector (Officer). 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 Zoning Inspector (Officer) shall maintain the Official Zoning District Map at the Township Hall. A copy of said map will be on file at the Delaware County Recorder's Office.

### **SECTION 5.03: NEW TERRITORY**

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

### **SECTION 5.04: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

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

Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-ways lines, such center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries.

Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning District Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning District Map.

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 line.

Where the boundary of a district follows a stream, or other body of water, the center line of the body of water, at the time of zoning change, shall be deemed to be the boundary of the zoning district unless otherwise indicated.

Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning of any territory, said metes and bounds description shall control over all of the foregoing.

Questions concerning the exact location of district boundary lines shall be determined by the Zoning Inspector (Officer), subject to the owners' right of appeal to the Board of Zoning Appeals as provided herein.

### **SECTION 5.05: THE NATURE OF THE ZONING DISTRICTS**

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

#### **SECTION 5.051: FARM RESIDENTIAL DISTRICT (FR-1) – ARTICLE 7**

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

The principal permitted uses are:

Agriculture;

Detached single family dwellings. Minimum lot size is one acre.

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.

#### **SECTION 5.052: LOW DENSITY RESIDENTIAL DISTRICT (R-1.25) – ARTICLE 8**

The R-1.25 district is provided for sections of the township with moderately low-density single family residential development, and access to centralized water and sewer systems. The Density is 1.25 units per net developable acre.

#### **SECTION 5.053: MEDIUM DENSITY RESIDENTIAL DISTRICT (R-1.50) – ARTICLE 9**

The R-1.5 district is provided in appropriate areas of the township for single family dwellings, and conditionally, multi-family residential development, where there is access to centralized water and sewer systems. The density is 1.5 units per net developable acre. Access to a major collector or arterial street is required.

#### **SECTION 5.054: HIGH DENSITY FAMILY RESIDENTIAL DISTRICT (R-1.85) – ARTICLE 10**

The R-1.85 district is provided in appropriate areas of the township for single family dwellings, and conditionally, multi-family residential development, where there is access to centralized water and sewer systems. The Density is 1.85 units per net developable acre. Access to a major collector or arterial street is required.

#### **SECTION 5.055: PLANNED RESIDENTIAL DISTRICT (PRD) – ARTICLE 11**

The Planned Residential District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 519.21(A). It is intended to be used in conjunction with the R-1.25, R-1.5, and R-1.85 standards. The PRD is intended to provide flexibility in the arrangement, design, lot size, and setbacks of primarily single family dwellings in designated suburban areas based on a unified development plan. PRDs are intended for those areas of the township with centralized water and sewer. Natural features such as topography, woodlands, and wetlands, bodies of water, floodplains, and drainage ways should be maintained in a natural state as much as possible to maintain a rural character. Open space is a major component of such a unified development plan.

#### **SECTION 5.056: NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) – ARTICLE 12**

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

#### **SECTION 5.057: TRANSITIONAL PLANNED UNIT DEVELOPMENT (TPUD) – ARTICLE 13**

The Transitional Planned Unit District is a planned unit development district (PUD) adopted pursuant to [ORC§519.021\(A\)](#). It is intended to provide for unified residential areas usually under single ownership and control. It is intended to promote a variety and flexibility of land development for multi-family residential purposes that are necessary to take into account unique natural features, historic preservation, contemporary

land use concepts and a balanced residential environment, while still preserving and maintaining the public health and safety of the inhabitants of the Township. It is also intended to be used as a transitional use, physically compatible and complimentary both to commercial uses and lower-density residential uses.

#### **SECTION 5.059: PLANNED AGE-RESTRICTED RESIDENTIAL DISTRICT (PARRD) – ARTICLE 14**

The Planned Age-Restricted Residential District is a planned unit development district (PUD) adopted pursuant to [ORC§519.021\(A\)](#). It is intended to provide for a range of residential opportunities specifically planned and developed for persons 55 years of age or older in order to afford these persons the benefits of independent living, assisted living, and skilled care at one integrated location within a campus setting. No provisions of this Article shall be interpreted to prohibit independent living, assisted living and skilled care facilities located within a PARCC from providing care to any individual in need of skilled care, regardless of age.

#### **SECTION 5.060: BERLIN COMMERCIAL OVERLAY (BCO) – ARTICLE 15**

The Berlin Commercial Overlay (the “BCO”) is created pursuant to [ORC§519.021\(C\)](#) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, and commercial development.

#### **SECTION 5.061: PLANNED OFFICE DISTRICT (POD) – ARTICLE 16**

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

#### **SECTION 5.062: PLANNED COMMERCIAL & OFFICE DISTRICT (PCD) – ARTICLE 17**

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

#### **SECTION 5.063: OLD CHESHIRE PLANNED UNIT DEVELOPMENT (OCPUD) – ARTICLE 18**

The Old Cheshire Planned Unit Development District is a planned unit development district (PUD) adopted pursuant to [ORC§519.021\(C\)](#). It is intended to encourage the efficient use of land and resources, promoting



greater efficiency in providing public and utility services, and encouraging innovation in the planning and building of all types of development. The OCPUD is intended to provide flexibility in the arrangement, design, lot size, and setbacks of mixed land uses, including but not limited to single family dwellings, multi-family dwellings, local commercial uses, offices, light manufacturing, and open space as approved per development plan. The OCPUD offers landowners alternatives to standard tract development of their land, thereby establishing a less sprawling, more efficient use of land, streets and utilities; preserving natural topography and wooded areas; creating usable and accessible open space, recreational areas, and green corridors for wildlife, walking trails and/or bike paths; and encouraging creativity in design through a controlled process of review and approval of the development plan and related documents.

The OCPUD is designated to overlay those zoning districts that are currently in place in the unincorporated village of Cheshire, Berlin Township. The OCPUD district is designated on the official zoning map originally adopted on June 28, 2004, and is indicated on the Official Zoning District Map. The benefits and regulations for an OCPUD are available to any landowner within this designated area, but only after the submission by the landowner, and approval by the Berlin Township Zoning Commission, of a development plan in accordance with Article 28.

The zoning districts and regulations that existed at the time of adoption of the original OCPUD district or later amended continue to apply unless and until the Berlin Township Zoning Commission approves an application of an owner of property to subject the owner's property to the provisions of the OCPUD.

Such an application shall be made in accordance with the provisions of Article 28 of the Berlin Township Zoning Resolution and shall include a development plan in compliance with the provisions of said Section. If the Zoning Commission determines that the application and development plan comply with the provisions of Article 28 and approves the application, the Zoning Commission shall cause the Official Zoning Map to be changed so that the underlying zoning no longer applies to such property, with the property being thenceforth located in the OCPUD District and subject to the regulations there under. The approval of the application and development plan and the removal of the prior Zoning District within the designated OCPUD from the zoning map is a ministerial act and shall not be considered to be an amendment to the Berlin Township Zoning Resolution.

#### **SECTION 5.064: BERLIN INDUSTRIAL OVERLAY (BIO) – ARTICLE 19**

The Berlin Industrial Overlay (the "BIO") is created pursuant to [ORC§519.021\(C\)](#) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, commercial, and industrial development.

#### **SECTION 5.065: INDUSTRIAL DISTRICT (I) – ARTICLE 20**

The Industrial district was intended to permit small scale individual industrial establishments of less than 5,000 square feet that do not need to be grouped in an industrial park setting. The Industrial District is a standard district, not a Planned Unit Development.

#### **SECTION 5.066: PLANNED INDUSTRIAL DISTRICT (PID) – ARTICLE 21**

The Planned Industrial District is a planned unit development district (PUD) adopted pursuant to [ORC§519.021\(A\)](#). It is intended to provide for many industrial establishments that seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. Because these industrial areas are generally stable and offer unified internal arrangement and development, potentially detrimental effects can be better controlled. For this

reason, the Planned Industrial District is allowed greater development flexibility in return for the predetermined knowledge of the use and layout of future development.

Buildings within this district are to be architecturally attractive and well landscaped. Parking, storage, loading and processing operations are to be screened. Those uses that may pose a threat to the public health and safety of the township are regulated or prohibited.

#### **SECTION 5.067: AGRICULTURAL CONSERVATION DISTRICT (A1) – ARTICLE 22**

The Agricultural Conservation District (A1) is provided for landowners that wish to voluntarily place their land in an exclusively agricultural zoning district.

#### **SECTION 5.068: FLOODPLAIN REGULATORY DISTRICT – ARTICLE 23**

The Regulatory Floodplain District shall exist as an overlay to all zoning districts and shall apply concurrently with other zoning district classifications. Land uses and development allowed under Article 23 must also meet all other applicable sections of this Resolution.

## ARTICLE 6 APPLICATION OF RESOLUTION

### SECTION 6.01: CONFORMANCE REQUIRED

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

### SECTION 6.02: AGRICULTURE

Nothing contained in this Resolution shall prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incidental to the use for agricultural purposes of the land on which such buildings or structures are located. A zoning certificate shall be required for any such use, building, or structure.

A.) The following statement is from section [ORC§519.21](#) of the Ohio Revised Code:

The township zoning resolution, or an amendment to such resolution, may regulate agriculture in any platted subdivision approved under [ORC§711.05](#), [ORC§711.09](#), or [ORC§711.10](#), or in any area consisting of fifteen (15) or more lots approved under [ORC§711.131](#) that 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 regulate:

- 1.) Agriculture on lots of one (1) acre or less,
- 2.) Buildings or structures incidental to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres by: setback, building lines; height; and size,
- 3.) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five percent (35%) of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under section 4503.06 of the Ohio Revised Code. After thirty-five percent (35%) of the lots are so developed, dairying and animal and poultry husbandry shall be considered non-conforming use of land and buildings or structures pursuant to section 519.19 of the Ohio Revised Code.

B.) Farm markets that derive at least fifty percent of their gross income from produce raised on farms owned or operated by the market owner in a normal crop year are permitted in any agricultural zone, subject to the following regulations.

- 1.) Buildings less than 144 square feet must be placed at least 15 feet outside the road right of way so as to safely allow for adequate customer off street parking. Seasonal farm markets may use grassed areas for parking. Permanent farm markets must have paved or graveled parking.
- 2.) For buildings larger than 144 square feet, off street parking must be provided at the ratio of one space for each 400 square feet of farm market. Seasonal parking may be grassed areas, but permanent parking must be graveled or paved and provide ingress and egress in

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

### SECTION 6.03: TOWNSHIP ZONING NOT TO AFFECT PUBLIC UTILITIES, RAILROADS, OR OIL AND GAS PRODUCTION

A.) Except as otherwise provided in this Section of the Berlin 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.

B.) Public Utilities Engaged in Certain Kinds of Trucking, Busing, and Taxis:

The Board of Township Trustees has the power by [ORC§519.211\(C\)](#) 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 and/or property, or both or providing or furnishing such transportation service over any public street, road or highway in the state of Ohio. For the purposes of this Resolution, all such uses shall be considered non-residential uses and shall be located in PCD, NCD, PID or I 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 and/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 these regulations of this resolution.

### SECTION 6.04: TELECOMMUNICATIONS TOWERS:

A.) **Towers proposed within commercial, industrial, or exclusively agricultural areas:** 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: Planned Residential Development (PRD), Farm Residential (FR-1), Low Density Residential District (R-1.25), Medium Density Residential District (R-1.5), and High Density Residential District (R-1.85).

- 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 Berlin 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 for a proposed telecommunications tower in a residential zoning district then the telecommunications towers may only be permitted as a conditional use by the Board of Zoning Appeals, provided all of the following conditions of this section are met.
- 1.) **Conditional Use: Application and Requirements** – Consistent with the procedures set forth in Section 32.07 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:
      - 1.) The location of all the applicant’s existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
      - 2.) The general location of planned future facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
      - 3.) 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:

The type and size of tower at each location;

The type of equipment located or proposed on each tower;

The space available on the tower for additional equipment; and

A site plan showing the parcel on which any existing or proposed tower, antenna or equipment is located.
    - b.) A scaled and dimensioned site plan for the facility that is being proposed, containing the following:
      - 1.) the location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
      - 2.) the location of existing and proposed buildings and structures, access drives, circulation and parking areas;
      - 3.) detailed drawings of the landscape screening plan and related design standards;
      - 4.) on-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;

- 5.) setbacks from property lines and dwellings within 600 feet of the proposed tower;
  - 6.) legal description of the lot on which the tower is to be sited; and
  - 7.) any other information necessary to assess compliance with this section.
- c.) A written certification from a Professional Engineer stipulating:
- 1.) that the tower's design is structurally sound and in compliance with all applicable federal, state and local building codes;
  - 2.) that the equipment placed on the tower and at the site complies with all current FCC regulations.
  - 3.) that the tower will, to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location.
- 2.) **Conditional Use Procedure by Board of Zoning appeals on Receipt of Application:** Consistent with the procedures set forth in Sections 32.07 and 32.08 of this Resolution, the Board of Zoning Appeals shall provide notice of, conduct a public hearing and render a decision on the conditional use requested in the application filed pursuant to Section 6.04(C)(1) of this Resolution.
- 3.) **General Requirements for all Telecommunications Towers in Residential Zones:**
- a.) The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is essential to service the applicant's service area and that there are no alternative sites in commercial, industrial, or exclusively agricultural areas. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, electric transmission towers, existing antenna support structures or other telecommunications towers, utility buildings and structures over 48 feet in height.
  - b.) 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 in a residential area shall be 100 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers in a residential area shall be as follows:
  - 1.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 115 feet;
  - 2.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 130 feet; and
  - 3.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 145 feet. The additional height shall be approved concurrent with the need to co-locate additional telecommunications antennae.
- 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 plus 25% of the proposed tower. Any stabilization structures or guys shall be located no closer to any lot line than 50 feet.
- f.) The tower base shall be located no closer to a street right-of-way than permitted in Article 24 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 Township.
- 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 small identification sign not to exceed three 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 at the top as a pine tree.
  - 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.
  - p.) A letter of credit must be posted in favor of the Township to assure that the project will be completed.
  - q.) The applicant shall complete the telecommunications tower or structure within one year of construction commencement.
- 5.) **Towers on Township Property:** With the prior consent of the Berlin Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township-owned property not zoned for residential use pursuant to Section 6.04(B). Additionally, with the prior consent of the Berlin Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on township-owned property zoned for residential use, but only after obtaining a conditional use permit pursuant to Sections 6.04(C)(1&2) and all requirements of Section 6.04(C)(3&4) 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: 6.04(C)(3&4). A substantial change in height shall mean the addition of more than 40 feet to the existing tower or structure.

#### **SECTION 6.05: 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.

#### **SECTION 6.06: 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 started 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 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 6.07: ISSUED ZONING CERTIFICATES**

Any new proposed construction for which a zoning certificate is issued shall have been started within one (1) year of issuance of said permit, and the ground story framework, including structural parts of a second floor, shall have been completed within one (1) year after the issuance of the zoning certificate; provided, however, that any project or building originally contemplated to be constructed in phases or for a period longer than one (1) year may be completed in phases or during such extended time if in accordance with a timetable placed on file with the Township and with the original request for the certificate. In no case shall the timetable for phased construction be more than two (2) years.

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

Residential permits may be extended once for a period of 6 months at the discretion of the Zoning Inspector with the applicant demonstrating acceptable progress to fulfilling the above requirements. Application for the extension must be applied for prior to the expiration of the original permit.

Commercial permits may be extended once for a period of 12 months at the discretion of the Board of Trustees with the applicant demonstrating acceptable progress to fulfilling the above requirements. Application for the extension must be applied for prior to the expiration of the original permit.

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## **ARTICLE 7 FARM RESIDENTIAL DISTRICT (FR-1)**

### **SECTION 7.01: PURPOSE: SEE SECTION 5.051**

### **SECTION 7.02: APPLICATION**

All lands in Berlin Township not otherwise zoned shall be controlled by the provisions of this Article of the Zoning Resolution.

All lots or town lots which are located within the limits of Berlin Township and which were duly recorded upon the plat thereof in the Plat Records of the Recorder's Office, Delaware County, Ohio, at the effective date of this amendment to the Zoning Resolution shall be considered legal residential lots and nothing in this Resolution shall be construed to prohibit the use thereof for residential purposes.

### **SECTION 7.03: PERMITTED USES**

Within the Farm Residential District (FR-1) the following uses, developed in accordance with all other provisions of this Resolution shall be permitted:

- A.) Single-family dwellings as defined in Article 4. (Limited to one (1) single family dwelling per one (1) acre parcel, tract, or lot.)
- B.) Accessory buildings and accessory uses including private garages and a permanent dwelling for full time domestic help employed on the premises or full time farm labor employed upon the premises and limited to one (1) full-time employee.
- C.) Projects specifically designed for watershed protection, conservation of soil, or water for flood control.
- D.) Agricultural purposes, beekeeping, dairying, floriculture, grazing, and raising of livestock, orchards, plant nurseries, poultry raising, raising of grains, sod farming, truck farming, equestrian trails, forest and game management, greenhouses, nature trails, and stables, subject to the provisions in [ORC §519.21](#) and as restated in Section 6.02 of this Resolution, and also the following restrictions:
  - 1.) Farm markets shall be permitted in this district, provided however, that at least fifty percent (50%) of the gross income from the market is derived from sale of products which are produced on lands farmed by the proprietor in a normal crop year of said sales stand, and adequate area exists outside of the right-of-way, adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares. Permanent buildings or structures will require a conditional use permit. (See Section 7.04.)
  - 2.) Facilities for the storage, sorting, preliminary processing, or sale of agricultural products, shall be permitted if such products are used in the production of other farm products, and if said storage, processing, sorting, or sales is carried on incidental to other farming operations by the owner/proprietor.
- E.) Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premise or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for total combined period of time under all issues permits not exceeding eighteen (18) months. 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 deemed 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.

- F.) 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 sales and parking area shall be outside of the right-of-way and shall not interfere with traffic on adjacent thoroughfares. Any signage must be consistent with Article 25.
- G.) Limited home occupation, as prescribed in Section 24.15 of this resolution.
- H.) Religious Land Uses: Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, lighting, signage, and landscaping conform to Article 24, 25, and 26.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site, or the religious land use shall connect to centralized water and centralized sanitary sewer.
  - 3.) All aspects of public health, safety, and welfare are provided for (meets building code, life safety code, electrical code, etc.)
  - 4.) All structures shall conform to the area setbacks and frontage from Section 7.06.
- I.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment. Such uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, wastewater treatment and pumping facilities.
- J.) Residential Facility, as defined in Article 4.
- K.) Child Day Care provided in home for six (6) or fewer children who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as the provider's residence and further provided that such day care qualifies as a Type B family day care home as defined in [ORC§5104.01](#).
- L.) Common Access Driveway Subdivision as defined by the Delaware County Subdivision Regulations.

#### **SECTION 7.04: 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded home occupations as provided in Section 24.16 of this resolution.
- B.) Private Schools or Colleges provided that the institution occupies a minimum of twenty (20) acres. Instructional areas whether improved with buildings or not, shall provide adequate parking areas for faculty, staff, and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Board of Zoning Appeals and shall provide screening adjacent to residential areas.
- C.) Kindergarten or Child Care Facilities, provided the facility occupies a minimum of three (3) net acres. The building shall be architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- D.) Playgrounds, play-fields, picnic areas, and summer camps with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
- E.) Cemetery, provided:
  - 1.) Internment shall not be within 300' of a dwelling house, unless the owner of such dwelling house gives his consent, or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in [ORC§1721.03](#).
  - 2.) A mausoleum shall not be within three hundred feet of any property line.
  - 3.) A Crematory or other structure shall not be within one thousand (1000) feet of any property line.
  - 4.) Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with [ORC§1721.09](#).
- F.) Borrow Pits provided the excavation is completed within one (1) year and the contractor posts such bond as required by the Board of Township Trustees, Board of County Commissioners, and/or the County Engineer to ensure compliance with the restrictions and conditions imposed to ensure regrading, reseeding, and general restoration of the area including haul roads. All applications or plans submitted incidental thereto shall be reviewed by the Delaware County Engineer, and his 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.
- G.) Boarding kennels, boarding/riding stables and animal shelters subject to the following conditions:
  - 1.) No building or structure used for the purpose of a boarding kennel, boarding/riding stable or animal shelter shall be located closer than two-hundred (200) feet from the lot line of any residence, church, school or any institution of human care.
  - 2.) Full compliance with the Delaware General Health District shall be satisfied.
  - 3.) Suitable fencing and/or screening shall be provided as approved by the Berlin 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.
- H.) Residential Facilities as defined in Article 4. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition the following conditions must be met by the applicant:
- 1.) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) No group home should be located within one (1) mile radius of another such facility, measured from the property line of one facility to the property line of another facility.
- I.) Private landing fields and hangers for aircraft, ultra-lights, and helicopters for use by the owner of the property and his guests provided that no commercial activities take place on the property.
- J.) Model homes in subdivisions, the same being defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.) in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:
- 1.) Lighting: All exterior lighting 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 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 a minimum of 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 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 model home lot. Trash receptacles shall be provided around the model home for use by the public.
  - 4.) Termination Of Use: A temporary showroom or display model that is used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued or whichever comes first. However, the model home usage may continue if it is a permitted use within a commercial zoning district. Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.
  - 5.) No building equipment or materials may be stored at the model home.

- 6.) Model Home Signs: Allowed as approved by the Board of Zoning Appeals and not to exceed sixteen (16) square feet per side with thirty-two (32) square feet maximum total display and an overall height of four (4) feet above grade.
- K.) Bed and Breakfast Home provided that:
  - 1.) A maximum of eight (8) short-term guests may be housed at any one time.
  - 2.) **Lighting:** All exterior lighting must be down-lighting, so that no light shall be cast onto adjoining residential properties.
  - 3.) **Parking:** All bed and 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 additional number of required parking spaces shall be one (1) space per bedroom.
  - 4.) **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 homes for use by guests.
- L.) One (1) mobile home to be occupied by full time farm labor only, and provided that said mobile home is installed in compliance with rules and regulations established by the Delaware General Health District. Not more than one mobile home shall be located on any farm within this township.
- M.) Conversion or alteration of any existing residence to permit occupancy by two (2) families.
- N.) Public or private hunt clubs, sportsmen's clubs, fishing lakes, campgrounds, or similar recreational uses with buildings and club houses incidental thereto including a restaurant, to serve members and/or users of the facility. All buildings are to be clearly defined by the conditional use.
- O.) Granny flat/handicapped accessible suite, provided it conforms to the following conditions:
  - 1.) The property owner must live on-site, and the granny flat must be subservient to the principal use of the property as a dwelling.
  - 2.) Size of granny flat or handicapped accessible suite: 600 square feet minimum, 816 square feet maximum.
  - 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.
  - 4.) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal to serve both the principal residence and the granny flat.
  - 5.) Off-street parking on a hard all-weather surface must be provided, 2 spaces for the principal residence and one space for the granny flat, 9' x 18' per space. No one space shall block another. Garages count as parking spaces.
  - 6.) Maximum Height of the accessory structure is 24 feet at the peak. A granny flat may be located on the first or second floor.

- 7.) Maximum lot coverage by all residential structures - 25%.
- 8.) All structures must meet the standards of the current edition of the CABO (Council of American Building Officials) one-, two- and three-family building regulations and the Delaware County Plumbing Code.

P. Telecommunication Towers as provided in Section 6.04.

#### **SECTION 7.05: PROHIBITED USES**

- A.) No use not specifically authorized by the express terms of this Article of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- D.) No motor home, mobile home or camper of any type may be occupied by guests of the resident/owner for more than fourteen (14) days per calendar year and only one (1) occupied motor home or camper is permitted at any time.
- E.) Except as specifically permitted in Section 7.03 (E) and 7.04 (L) herein no manufactured mobile home shall be placed or occupied in this district. This provision does not apply to permanently-sited manufactured homes.
- F.) In subdivided areas which meet the requirements of [ORC§711.131](#) the keeping of livestock and poultry is prohibited, except for the keeping of animals for youth club activities such as 4-H, FFA, or similar groups, which shall be a permitted use in the FR-1 District.
- G.) Sanitary Landfills and Solid Waste Transfer Stations.
- H.) No trailer of any type, no boats, no motor homes, and no equipment of any type shall be parked in front of the front setback line on any parcel within this district for a period exceeding twenty-four (24) hours. If a dwelling is located behind the minimum setback on said lot the setback line shall be considered to be the front wall of the dwelling.

#### **SECTION 7.06: DEVELOPMENT STANDARDS**

All land and uses within the Farm Residential District (FR-1) shall be developed in strict compliance with the following standards:

- A.) **Lot Area:** No parcel of land in this district shall be used for residential purpose which has an area of less than one (1) net acre (43,560 square feet), excluding all road right-of-ways. All other uses in this district shall have such lot area prescribed by the Article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B.) **Lot Frontage:** All lots or parcels within this zoning district shall have the following minimum continuous frontage on a county approved road:



Lot Size	Minimum Frontage
Less than 2 acres	150 feet
2 acres but less than 3 acres	175 feet
3 acres but less than 4 acres	200 feet
4 acres but less than 5 acres	250 feet
5 plus acres	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 street, must have a lot width, fifty (50) feet forward of the front building line, which is equal to that minimum lot frontage requirement. In no case shall the parcel or lot frontage at the right-of-way line be less than sixty (60) continuous feet, and width of sixty (60) feet shall not be less than sixty (60) feet wide at any point forward of the front building line of the principal residence located on the premises. If an irregularly shaped lot (i.e., 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, the requirement for extra setback is required to conform to setback lines for principal structures on adjoining lots.

- C.) **Building Height Limits:** No buildings or structures in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts may be erected to any safe height, but not to exceed one hundred (100) feet in height. No windmills, antenna, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- D.) **Building Dimensions:** (Living area requirements): Each single family dwelling erected in this district shall have a ground floor living area of not less than one-thousand (1000) square feet or a ground floor area of eight-hundred (800) square feet if the residence is multi-story. All such living areas shall be exclusive of porches or garages.
- E.) **Building Setback:** No buildings or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.05.
- F.) **Side Yard Setback:** Except as modified by the Board of Zoning Appeals no building or structures 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 eighty (80) feet to the rear line of any lot, and no accessory building shall be located closer than fifteen (15) feet to the 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 percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) 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 Article 24 of this Resolution.
- J.) **Signs:** Except as provided under the provisions of this Article for home occupations or as controlled by Article 25 of this Resolution or except as permitted by the Board of Zoning Appeals incidental to

Conditional Uses, no signs shall be permitted in this district except “For Sale” or “For Rent or Lease” sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

- K.) The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one (1) sign not exceeding thirty-two (32) square feet in area per one (1) side, advertising said subdivision, development, or tract for sale.
- L.) **Exterior Lighting:** All exterior lighting shall meet the requirements of Article 24 of this Zoning Resolution.
- M.) **Landscaping Standards:** All yards, front, side, and rear shall be landscaped, and shall meet the requirements of Article 26 of this Zoning Resolution.

## **ARTICLE 8 LOW DENSITY RESIDENTIAL STANDARDS (R-1.25)**

### **SECTION 8.01: PURPOSE**

The R-1.25 standards are intended to provide for a variety of housing types at a density of 1.25 units per net developable acre when used with a PRD in accordance with Article 11. See also Section 5.052.

### **SECTION 8.02: APPLICATION**

The R-1.25 standards are intended to be applied to lands recommended on the adopted Berlin Township Comprehensive Plan for densities of a maximum of 1.25 units per net developable acre. Such R-1.25 designation requires a rezoning to PRD, which is a legislative act subject to referendum. Centralized water and sanitary sewer service are requirements of a PRD.

### **SECTION 8.03: PERMITTED USES**

Within any Low Density Residential PRD (R-1.25/PRD) the following uses, developed in accordance with all other provisions of this Resolution, shall be permitted:

- A.) Single-family residential structures. (Limited to one (1) single family dwelling per parcel, tract, or lot.)
- B.) Accessory buildings and accessory uses including private garages.
- C.) Projects specifically designed for watershed protection, conservation of soil or water, or for flood control.
- D.) Limited home occupation as provided in Article 24.15.
- E.) Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premise or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for total combined period of time under all issues permits not exceeding eighteen (18) months. 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 deemed 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.
- F.) Conducting 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.
- G.) Religious Land Uses: Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, lighting, signage, and landscaping conform to Article 24, 25, and 26.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site, or the religious land use shall connect to centralized water and centralized sanitary sewer.

- 3.) All aspects of public health, safety, and welfare are provided for (meets building code, life safety code, electrical code, etc.)
- 4.) All structures shall conform to the area, setbacks and frontage from Section 8.06, Development Standards.
- H.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment. Such uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, wastewater treatment and pumping facilities.
- I.) Residential Facility, as defined in Article 4.
- J.) Child Day care provided in home for six (6) or fewer children who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as the provider's residence and further provided that such day care qualifies as a Type B family day care home as defined in [ORC§5104.01](#).
- K.) Common Access Driveway Subdivision as defined by the Delaware County Subdivision Regulations.

#### **SECTION 8.04: CONDITIONAL USES**

When R-1.25 standards are used, 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded home occupations as provided in Section 24.16 of this resolution.
- B.) Residential Facilities as defined in Article 4. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions must be met by the applicant:
  - 1.) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) No group home shall be located within one (1) mile radius of another such facility, measured from the property line of one facility to the property line of another facility.
- C.) Model homes in subdivisions, the same being defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering,

etc.) in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:

- 1.) **Lighting:** All exterior lighting 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 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 a minimum of 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 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 model home lot. Trash receptacles shall be provided around the model home for use by the public.
  - 4.) **Termination Of Use:** A temporary showroom or display model that is used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued or whichever comes first. However, the model home usage may continue if it is a permitted use within a commercial zoning district. Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.
  - 5.) No building equipment or materials may be stored at the model home.
  - 6.) **Model Home Signs:** allowed as approved by the Board of Zoning Appeals and not to exceed sixteen (16) square feet per side with thirty-two (32) square feet maximum total display and an overall height of four (4) feet above grade.
- D.) **Bed and Breakfast Home Provided that:**
- 1.) A maximum of eight (8) short-term guests may be housed at any one time.
  - 2.) **Lighting:** All exterior lighting must be down-lighting, so that no light shall be cast onto adjoining residential properties.
  - 3.) **Parking:** All bed and 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 additional required parking spaces shall be one (1) space per bedroom.
  - 4.) **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 homes for use by guests.
- E.) Playgrounds, play-fields, picnic areas, and summer camps with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.

- F.) Telecommunication towers pursuant to Section 6.04(B).

### SECTION 8.05: PROHIBITED USES

- A.) No use not specifically authorized by the express terms of this Article of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- D.) No motor home, mobile home or camper of any type may be occupied by guests of the resident/owner for more than fourteen (14) days per calendar year and only one (1) occupied motor home or camper is permitted at any time.
- E.) Except as specifically permitted in Section 8.03 (E) and 8.04 (C) and herein no manufactured mobile home shall be placed or occupied in a PRD with these standards. This provision does not apply to permanently-sited manufactured homes.
- F.) In subdivided areas which meet the requirements of [ORC§711.131](#) the keeping of livestock and poultry is prohibited, except for the keeping of animals for youth club activities such as 4-H, FFA, or similar groups, which shall be a permitted use in the R-1.25/PRD District.
- G.) Sanitary Landfills and Solid Waste Transfer Stations.
- H.) No trailer of any type, no boats, no motor homes, and no equipment of any type shall be parked in front of the front setback line on any parcel within a PRD for a period exceeding twenty-four (24) hours. If a dwelling is located behind the minimum setback on said lot the setback line shall be considered to be the front wall of the dwelling.

### SECTION 8.06: DEVELOPMENT STANDARDS

All land and uses within the Low Density Residence PRD (R-1.25/PRD) shall be developed in strict compliance with the following standards:

- A.) **Lot Area:** Residential lots which are served with an approved central water and sewer system serving all lots may be developed for such use if they have a lot net area of not less than twenty nine-thousand six hundred (29,600) square feet, excluding all road easements. All other parcels, not so serviced, shall contain the lot areas prescribed by the provisions of Article 7 of this Zoning Resolution. When utilized with a PRD overlay including the required open space, lot size may be reduced to a minimum of 21,780 square feet (.5-acre).
- B.) **Lot Frontage:** All lots or parcels developed within a PRD with these standards having an area of less than one (1) acre shall have a minimum continuous lot frontage of one-hundred (100) feet on an adjoining county approved street, alley, or road.
- C.) **Building Height Limits:** No buildings in a PRD with these standards shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts may be erected to any safe height, but not to exceed one-hundred (100) feet in height. No

windmill, antenna, or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.

- D.) **Building Dimensions:** (Living area requirements): Each single family dwelling erected in a PRD with these standards shall have a ground floor living area of not less than one-thousand (1000) square feet or a ground floor area of eight-hundred (800) square feet if the residence is multi-story. All such living areas shall be exclusive of basements, breezeways, porches, or garages.
- E.) **Building Setback:** No buildings or use shall be located closer to the right-of-way line or centerline of the adjacent public or private road than permitted in Section 24.05.
- F.) **Side Yard Setback:** Except as modified by the Board of Zoning Appeals no building or structures shall be located closer than twenty (20) 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 shall be located closer than fifteen (15) feet to the rear lot line.
- H.) **Maximum Lot Coverage:** On no lot or parcel in a PRD with these standards shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) 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 24 of this Resolution.
- J.) **Signs:** Except as provided under the provisions of this Article for home occupations or as controlled by Article 25 of this Resolution and except as permitted by the Board of Zoning Appeals incidental to Conditional Uses, no signs shall be permitted in a PRD with these standards except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one (1) sign not exceeding thirty-two (32) square feet in area per side, advertising said subdivision, development, or tract for sale.

- K.) **Manufactured Home Development Standards:** In the event permanently sited manufactured homes or manufactured homes are included as a type of residence within a PRD with these standards, construction of foundations or slabs shall be in conformity with industry standards and/or the Delaware County Building Code, or any state or federal standards established on said subject.
- L.) **Exterior Lighting:** All exterior lighting shall meet the requirements of Article 24 of the zoning resolution.
- M.) **Landscaping Standards:** All yards, front, side, and rear shall be landscaped, and shall meet the requirements of Article 26 of this zoning resolution.

Low Density Residential (R-1.25)

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## **ARTICLE 9 MEDIUM DENSITY RESIDENTIAL STANDARDS (R-1.5)**

### **SECTION 9.01: PURPOSE**

The R-1.5 standards are intended to provide for a variety of housing types at a density of 1.5 units per net developable acre when used with a PRD in accordance with Article 11. See also Section 5.053.

### **SECTION 9.02: APPLICATION**

The R-1.5 standards are intended to be applied to lands recommended on the adopted Berlin Township Comprehensive Plan for densities of a maximum of 1.5 units per net developable area. Such R-1.5 designation requires rezoning to PRD, which is a legislative act subject to referendum. Centralized water and sanitary sewer service are a requirement of a PRD with these standards.

### **SECTION 9.03: PERMITTED USES**

Within the Medium Density Residential PRD (R-1.5/PRD), the following permitted uses exist:

- A.) Single-family residential structures limited to one (1) single-family dwelling per parcel, tract, or lot. A minimum net lot size of twenty-five thousand (25,000) square feet per dwelling unit shall be required.
- B.) Accessory buildings and accessory uses including private garages.
- C.) Projects specifically designed for watershed protection, conservation of soil, water or for flood control.
- D.) Limited home occupation as provided in Article 24.15.
- E.) Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premise or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. 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 deemed 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.
- F.) 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 sales area shall be outside of the right-of-way and parking shall not interfere with traffic on adjacent thoroughfares.
- G.) Religious Land Uses: Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, lighting, signage, and landscaping conform to Article 24, 25, and 26.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site, or the religious land use shall connect to public centralized water and sanitary sewer.

- 3.) All aspects of public health, safety, and welfare are provided for (meets building code, life safety code, electrical code, etc.)
- 4.) All structures shall conform to the area, setbacks and frontage from Section 8.06, Development Standards.
- H.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment. Such uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, wastewater treatment and pumping facilities.
- I.) Residential Facility, as defined in Article 4.
- J.) Child Day care provided in home for six (6) or fewer children who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as the provider's residence and further provided that such day care qualifies as a Type B family day care home as defined in [ORC§5104.01](#).
- K.) Common Access Driveway Subdivision as defined by the Delaware County Subdivision Regulations.

#### **SECTION 9.04: CONDITIONAL USES**

When R-1.5 standards are used, 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded home occupations as provided in Section 24.16 of this resolution.
- B.) Group homes or residential care facilities in which not more than eight (8) persons are provided with room, board, specialized care, rehabilitative services, and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions shall be imposed by the Board of Zoning Appeals.
  - 1.) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) No group home shall be located within one (1) mile radius of another such facility measured from the property line of one facility to the property line of another facility.
- C.) Model homes in subdivisions, the same being defined as residential-type structures that may be used for marketing purposes by a commercial home builder/developer during the sales period of a new residential development and to display the builder's/developer's product. The same may be furnished

within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:

- 1.) Lighting: All exterior lighting 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 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 a minimum of 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 shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by visitors to the home.
  - 4.) Termination of Use: A temporary showroom or display model that may be used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued, whichever comes first. However, the model home usage may continue if it is a permitted use within a commercial zoning district. Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.
  - 5.) No building equipment or materials may be stored at the model home.
  - 6.) Model Home Signs: Allowed as approved by the Board of Zoning Appeals and not to exceed sixteen (16) square feet per side with thirty-two (32) square feet maximum total display and an overall height of four (4) feet above grade.
- D.) Private schools or colleges provided that the institution occupies a minimum of twenty (20) acres. Instructional areas, whether improved with buildings or not, shall provide adequate parking areas for faculty, staff, and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Board of Zoning Appeals and shall provide screening adjacent to residential areas.
- E.) Kindergarten or Child Care Facilities provided the facility occupies a minimum of one (1) net acre. The building shall be architecturally compatible with the neighborhood and provisions shall be made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- F.) Bed and Breakfast Home provided that:
- 1.) A maximum of eight (8) guests may be housed at any one time.
  - 2.) Lighting: All exterior lighting must be down lighting, so that no light shall be cast onto adjoining residential properties.

- 3.) **Parking:** All bed and 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 one (1) per bedroom.
- 4.) **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 homes for use by guests.
- G.) **Playgrounds, play-fields, picnic areas, and summer camps** with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.

### SECTION 9.05: 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, unused, or unlicensed vehicles or trailers, for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- D.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident/owner for more than fourteen (14) days and only one (1) occupied motor home or camper is permitted at any time.
- E.) Except as specifically permitted in Section 9.03(E) and 9.04(C) herein no manufactured mobile home shall be placed or occupied in a PRD with these standards. This provision does not apply to permanently-sited manufactured homes.
- F.) In subdivided areas which meet the requirements of [ORC§711.131](#) the keeping of livestock and poultry is prohibited, except for the keeping of animals for youth club activities such as 4-H, FFA, or similar groups, which shall be a permitted use in the R-1.5/PRD.
- G.) **Sanitary Landfills and Solid Waste Transfer Stations.**
- H.) No trailers of any type, no boats, no motor homes, and no equipment of any type shall be parked in front of the front building line on any parcel within a PRD with these standards for a period exceeding twenty-four (24) hours. If a dwelling is located behind the minimum setback on said lot the setback line shall be considered to be the front wall of the dwelling.

### SECTION 9.06: DEVELOPMENT STANDARDS

All land and uses within the Medium Density Residence PRD (R-1.5/PRD) shall be developed in strict compliance with the following standards:

- A.) **Lot Area:** A minimum of twenty-five thousand (25,000) net square feet, excluding all road right-of-ways, per dwelling unit shall be required. All other uses in a PRD with these standards shall have such lot area prescribed by the Article or Section permitting the use or as prescribed by the Board of Zoning

Appeals as a condition of said use. When utilized with a PRD overlay including the required open space, lot size may be reduced to a minimum of 14,520 square feet (.33-acre).

- B.) **Lot Frontage:** All residential lots developed within a PRD with these standards shall have a minimum continuous lot frontage of ninety (90) feet on an adjoining county approved street, alley or road.
- C.) **Building Height Limits:** No buildings in a PRD with these standards shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from any height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height.
- D.) **Building Dimensions:** (Floor space requirements) - Each single family dwelling hereafter erected in a PRD with these standards shall have a ground floor living area of not less than one-thousand (1000) square feet or a ground floor area of eight-hundred (800) square feet if the residence is multi-story. All such living areas shall be exclusive of basements, porches, or garages.

All apartments or other multi-family structures constructed within a PRD with these standards shall contain the following minimum living:

One (1) bedroom unit	800 Sq. Ft.
Two (2) bedroom unit	900 Sq. Ft.
Three or more bedroom unit	1000 Sq. Ft.

- E.) **Building Setback:** No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.05.
- F.) **Side Yard Setback:** Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing, no building or structures shall be located closer than fifteen (15) feet to any side lot line.
- G.) **Rear Yard Requirements:** No principal dwelling shall be located closer than forty (40) feet to the rear line of any lot, and no accessory building shall be located closer than fifteen (15) feet to the rear lot line.
- H.) **Maximum Lot Coverage:** On no lot or parcel in a PRD with these standards shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) 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 24 of this Resolution.
- J.) **Signs:** See Article 25 and Section 24.15 and 24.16. "For Sale" or a "For Rent or Lease" signs are permitted advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one (1) sign not exceeding thirty-two (32) square feet in area per side, advertising said subdivision, development, or tract for sale.

- K.) **Manufactured Home Development Standards:** In the event permanently sited manufactured homes, or manufactured homes are included as a type of residence within a PRD with these standards, construction of foundations or slabs shall be in conformity with industry standards and/or the Delaware County Building Code, or any state or federal standards established on said subject.
- L.) **Exterior Lighting:** All exterior lighting shall meet the requirements of Article 24 of the zoning resolution.
- M.) **Landscaping Standards:** All yards, front, side, and rear shall be landscaped, and shall meet the requirements of Article 26 of this Zoning Resolution.
- N.) **Additional conditions:** 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. This includes development, improvement, and maintenance of common open space; landscaping; and any other pertinent development characteristics.

## **ARTICLE 10 HIGH DENSITY RESIDENTIAL STANDARDS (R-1.85)**

### **SECTION 10.01: PURPOSE**

The R-1.85 standards are intended to provide for a variety of housing types at a density of 1.85 units per net developable acre when used with a PRD in accordance with Article 11. See also Section 5.054.

### **SECTION 10.02: APPLICATION**

The R-1.85 standards are intended to be applied to lands recommended on the adopted Berlin Township Comprehensive Plan for densities of a maximum of 1.85 units per net developable acre. Such R-1.85 designation requires rezoning to PRD, which is a legislative act subject to referendum. Centralized water and sanitary sewer service are requirements of a PRD with these standards.

### **SECTION 10.03: PERMITTED USES**

Within the High Density Residential PRD (R-1.85/PRD), the following permitted uses exist:

- A.) Single-Family residential structures limited to one (1) single-family dwelling per parcel, tract, or lot. A minimum net lot size of twenty thousand (20,000) square feet per dwelling unit shall be required.
- B.) Accessory buildings and accessory uses including private garages.
- C.) Projects specifically designed for watershed protection, conservation of soil or water, or for flood control.
- D.) Limited home occupation as provided in Article 24.15.
- E.) Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premise or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for total combined period of time under all issues permits not exceeding eighteen (18) months. 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 deemed 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.
- F.) 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 sales area shall be outside of the right-of-way and parking shall not interfere with traffic on adjacent thoroughfares.
- G.) Religious Land Uses - Church, place of worship, place of religious assembly, religious institution, and parsonage provided:
  - 1.) Parking, lighting, signage, and landscaping conform to Article 24, 25, and 26.
  - 2.) There is adequate area for water supply and wastewater disposal if located on site, or the religious land use shall connect to centralized water and centralized sanitary sewer.

- 3.) All aspects of public health, safety, and welfare are provided for (meets building code, life safety code, electrical code, etc.)
- 4.) All structures shall conform to the area, setbacks and frontage from Section 10.06, Development Standards.
- H.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment. Such uses include but are not limited to parks, playgrounds, libraries, schools, fire stations, community centers, water treatment, pumping and storage facilities, wastewater treatment and pumping facilities.
- I.) Residential Facility, as defined in Article 4.
- J.) Child Day care provided in home for six (6) or fewer children who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as the provider's residence and further provided that such day care qualifies as a Type B family day care home as defined in [ORC§5104.01](#).
- K.) Common Access Driveway Subdivision as defined by the Delaware County Subdivision Regulations.

#### **SECTION 10.04: CONDITIONAL USES**

When R-1.85 standards are used, 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded home occupations as provided in Section 24.16 of this resolution.
- B.) Group homes or residential care facilities as defined in Article 4 (Adult Group Homes). All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions shall be imposed by the Board of Zoning Appeals.
  - 1.) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) No group home shall be located within one (1) mile radius of another such facility, measured from the property line of one facility to the property line of another facility.
- C.) Model homes in subdivisions, the same being defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering,



etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:

- 1.) **Lighting:** All exterior lighting 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 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 a minimum of six (6) per model home.
  - 3.) **Screening and Trash Receptacles:** Landscape drawing shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by visitors to the home.
  - 4.) **Termination of Use:** A temporary showroom or display model that is used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued or whichever comes first. However, the model home usage may continue if it is a permitted use within a commercial zoning district. Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.
  - 5.) No building equipment or materials may be stored at the model home.
  - 6.) **Model Home Signs:** allowed as approved by the Board of Zoning Appeals and not to exceed sixteen (16) square feet per side with thirty-two (32) square feet maximum total display and an overall height of four (4) feet above grade.
- D.) Kindergarten or Child Care Facilities provided the facility occupies a minimum of one (1) net acre. The building shall be architecturally compatible with the neighborhood and provisions shall be made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- E.) Bed and Breakfast Home provided that:
- 1.) A maximum of eight (8) guests may be housed.
  - 2.) **Lighting:** All exterior lighting must be down lighting, so that no light shall be cast onto adjoining residential properties.
  - 3.) **Parking:** All bed and 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 one (1) per bedroom.
  - 4.) **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 homes for use by guests.

- F.) Playgrounds, play-fields, picnic areas, and summer camps with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
- G.) Telecommunication towers pursuant to Section 6.04.

#### SECTION 10.05: PROHIBITED USES

- A.) No use not specifically authorized by the express terms of this Article of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- D.) No motor home, mobile home or camper of any type may be occupied by guests of the resident/owner for more than fourteen (14) days per calendar year and only one (1) occupied motor home or camper is permitted at any time.
- E.) Except as specifically permitted in Section 9.03(E) and 9.04(C) herein no manufactured mobile home shall be placed or occupied in a PRD with these standards. This provision does not apply to permanently-sited manufactured homes.
- F.) In subdivided areas which meet the requirements of [ORC§711.131](#) the keeping of livestock and poultry is prohibited, except for the keeping of animals for youth club activities such as 4-H, FFA, or similar groups, which shall be a permitted use in the R-1.85/PRD.
- G.) Sanitary Landfills and Solid Waste Transfer Stations.
- H.) No trailer of any type, no boats, no motor homes, and no equipment of any type shall be parked in front of the front setback line on any parcel within a PRD with these standards for a period exceeding twenty-four (24) hours. If a dwelling is located behind the minimum setback on said lot the setback line shall be considered to be the front wall of the dwelling.

#### SECTION 10.06: DEVELOPMENT STANDARDS

All land and uses within the High Density Residence PRD (R-1.85/PRD) shall be developed in strict compliance with the following standards:

- A.) **Lot Area:** A minimum of twenty-thousand (20,000) net square feet, excluding all road right-of-ways, per dwelling unit shall be required. All other uses in a PRD with these standards shall have such lot area prescribed by the Article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use. When utilized with a PRD overlay including the required open space, lot size may be reduced to a minimum of 10,890 square feet (.25-acre).
- B.) **Lot Frontage:** Lot Frontage - all residential lots developed within a PRD with these standards shall have a minimum continuous lot frontage of eighty (80) feet on an adjoining county approved street, alley, or road.

- C.) **Building Height Limits:** No buildings in a PRD with these standards shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from any height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antenna, or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- D.) **Building Dimensions:** (Floor space requirements) - Each single family dwelling hereafter erected in a PRD with these standards shall have a ground floor living area of not less than one-thousand (1000) square feet or a ground floor area of eight-hundred (800) square feet if the residence is multi-story. All such living areas shall be exclusive of basements, porches, or garages.

All apartments or other multi-family structures constructed within a PRD with these standards shall contain the following minimum living:

One (1) bedroom unit	800 Sq. Ft.
Two (2) bedroom unit	900 Sq. Ft.
Three or more bedroom unit	1000 Sq. Ft.

- E.) **Building Set-Back:** No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.09.
- F.) **Side Yard Setback:** Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing, no building or structures shall be located closer than twelve and one-half feet (12.5) to any side lot line.
- G.) **Rear Yard Requirements:** No principal dwelling shall be located closer than twenty-five (25) feet to the rear line of any lot, and no accessory building shall be located closer than ten (10) feet to the rear lot line.
- H.) **Maximum Lot Coverage:** On no lot or parcel in a PRD with these standards shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) 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 24 of this Resolution.
- J.) **Signs:** Except as provided under the provisions of this Article for home occupations or as controlled by Article 25 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in a PRD with these standards except for a "For Sale" or a "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one (1) sign not exceeding thirty-two (32) square feet in area per side, advertising said subdivision, development, or tract for sale.

- K.) **Manufactured Home Development Standards:** In the event permanently-sited manufactured homes or manufactured homes are included as a type of residence within a PRD with these standards, construction of foundations or slabs shall be in conformity with industry standards and/or the Delaware County Building Code, or any state or federal standards established on said subject.
- L.) **Exterior Lighting:** All exterior lighting shall meet the requirements of Article 24 of the zoning resolution.
- M.) **Landscaping Standards:** All yards, front, side, and rear shall be landscaped, and shall meet the requirements of Article 26 of this Zoning Resolution.
- N.) **Additional conditions:** The Township Zoning Commission may impose special conditions relating to the development with regard to type and extent of public improvements to be installed. This includes development, improvement, and maintenance of common open space; landscaping; and any other pertinent development characteristics.

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

### **SECTION 11.01: PURPOSE: SEE SECTION 5.055**

### **SECTION 11.02: INITIAL DISCUSSIONS**

The applicant is encouraged to engage in informal consultations with the Zoning Inspector any other township staff as determined by the Board of Township Trustees at each year's organizational meeting, and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

No statement by officials of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission under 11.10 shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws ([ORC§121.22](#)) and may be required to be held in an open public meeting.

In addition to any other procedures set out in this Resolution, all applications for amendments to the zoning map to rezone lands to this PRD district shall follow the procedures set forth in Article 11 herein.

### **SECTION 11.03: LOCATION OF PLANNED RESIDENTIAL (OPEN SPACE) DEVELOPMENTS**

Planned Residential Development zoning will be utilized with the standards in the FR-1, R-1.25, R-1.5, R-1.85, and TPUD zones pursuant to a zoning map amendment approved by the township. The net density of the underlying zoning shall be used to determine the number of units allowed. All other standards shall be as defined in Article 11.

### **SECTION 11.04: PERMITTED USES**

- A.) Single Family detached residential dwelling units in FR-1 and R-1.25, R-1.5, R-1.85, and PRDs;
- B.) Single family dwellings in R-1.25, R-1.5, R-1.85, and PRDs, or multi-family buildings (including condominiums separated by vertical firewalls) in TPUD PRDs.
- C.) Common Area: upon approval of the final development plan by the township, the following uses and improvements may be permitted in the common area:
  - 1.) Outdoor sports (active recreation) and recreational activities.
  - 2.) Accessory service buildings and structures incidental and pertinent to the uses set forth in Section 11.04(C)(1) above, where said accessory service buildings and structures are necessary to the pursuit of a permitted recreational use on the premise.
- D.) Natural Area: restricted to passive recreational uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area. Agriculture may also be used as natural open space, provided it does not permit hog operations, poultry barn, and fur bearing farms or feed lots. Accessory buildings should be discouraged in the natural area.

### **SECTION 11.05: ACCESSORY USES**

- A.) Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the Planned Residential District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to major thoroughfares as to permit access without burdening residential streets.

- B.) Schools, if they occupy a lot of not less than 1 acre, with adequate area for indoor and outdoor recreation, and additional setbacks as may be necessary to avoid disruption to adjacent residences.
- C.) Licensed Family Homes as provided for in [ORC§5119.34\(A\)\(9\)\(b\)\(i and ii\)](#) and [ORC§5123.19\(O\)](#). All such facilities shall possess all approvals and/or licenses as required by state or local agencies.
- D.) Child Day Care provided in the provider's permanent residence for six or fewer children, who are not members of the immediate resident family, provided the day care is accessory to the use of the dwelling as a residence.
- E.) Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. 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.
- F.) 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 outside of the right-of-way and shall not interfere with traffic on adjacent thoroughfares. Any signage must be consistent with Article 22.
- G.) Limited home occupation, as prescribed in Section 24.15 of this resolution.

#### SECTION 11.06: CONDITIONAL USES

- A.) Model Homes in Subdivisions, the same being defined as residential type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyer the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor coverings, etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:
  - 1.) **Lighting:** All exterior lighting, except for security lighting, must be 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 for use by visitors to the home.

- 4.) **Termination of Use:** The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate after five (5) years from its opening date, or when building permits have been issued for ninety percent (90%) of the lots, whichever comes first.
- 5.) **Model Home Signs:** Model home signs may be approved by the Board of Zoning Appeals provided the following conditions are met:
  - a.) the sign shall not exceed 16 (sixteen) square feet per side with 32 (thirty two) square feet maximum total display area;
  - b.) the overall height of the sign shall be no more than four (4) feet above grade.
  - c.) model home sign shall be located on the same lot as the model home.
- 6.) If sign information is not presented at the time the development is submitted and approved, the applicant will apply for a conditional use permit to the Board of Zoning Appeals, which will rule on additional sign conditions.

#### SECTION 11.07: PROHIBITED USES

- A.) Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall not be permitted.
- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers, for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trailer of any type, no boats, no motor homes, 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 for more than fourteen (14) days per calendar year and only one (1) occupied motor home or camper is permitted at any time.
- E.) Except as specifically permitted in Section 11.01(G) or approved in the approved development plan, no manufactured/mobile home shall be placed or occupied in this district. This provision does not apply to permanently-sited manufactured homes.
- F.) No trash, debris, unused property, or discarded materials which create an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or portion thereof.
- G.) In subdivided areas that meet the requirements of [ORC§711.131](#), the keeping of livestock and poultry is prohibited.
- H.) Boat or vehicle storage yards or facilities within common open space areas are prohibited.

## **SECTION 11.08: DESIGN FEATURES REQUIRED OF A PRD**

The development plan shall incorporate the following standards:

- A.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses;
- B.) No building shall be constructed within 50 feet of the perimeter property line of the overall PRD tract;
- C.) The zoning commission may require walkways to connect all dwelling areas with open space and to interconnect the open spaces;
- D.) Moderate to thick coverage by trees and natural undergrowth is desirable to most intended functions of the open space. Where such foliage exists naturally, it should be retained where practicable. Where adequate foliage does not exist, the Zoning Commission may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses;
- E.) Scenic areas and views shall be preserved to the maximum extent practicable, including views from the adjacent road;
- F.) Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding of the proposed or existing houses;
- G.) Minimum overall tract size for a PRD is 20 acres, unless adjacent to a neighborhood of comparable density or design, in which case the Zoning Commission may permit the tract size to be reduced to 10 acres;
- H.) Improvements within the PRD shall conform to the subdivision standards for Delaware County Ohio;
- I.) Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat are to be preserved to the greatest extent possible;
- J.) The permitted density shall not be exceeded.
- K.) The required percent of open space shall be provided. The percent of open space required varies according to the unique regulations applied to the PRD;
  - 1.) FR-1: 40% (of gross tract area) open space
  - 2.) R-1.25, R-1.5, and R-1.85: 20% (of gross tract area) open space

In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. Unbuildable areas, (defined as jurisdictional wetlands, floodplains, slopes greater than 20%, utility rights-of-way and existing bodies of water) may count for up to 50% of the required open space. That portion of land dedicated to public purpose that remains either open and unbuilt upon by any structure (including parking) or which houses a recreational facility approved by the Zoning Commission on the Development Plan may count toward the open space requirement.
- L.) No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.



- M.) In FR-1 zones, water supply and sanitary sewage disposal shall be as approved by the Delaware County Board of Health and/or the Ohio EPA. Feasibility shall be indicated by the appropriate agency at the time of the preliminary plan. In the R-1.25, R-1.5 and/or R-1.85 zones, centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health, and/or Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.
- N.) The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site. All residential roofs must be a minimum of 5:12 pitch, or as approved by plan. Permanently sited manufactured housing must have a minimum pitch of 3:12.
- O.) Residential lots shall be fenced for safety if they abut agriculture.
- P.) Sidewalks or paths shall be provided. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Deciduous, broad leaf street trees (i.e., maple, oak, sycamore, chestnut, and sweet gum) shall be planted (or saved) at the rate of one per 60 feet of frontage on both sides of the street. Trees must be at least a 2.5 inch caliper at planting. Trees may not be placed in the 5' green strip between the street and sidewalk. Trees shall be placed in the front lawn of the residences.
- Q.) Setbacks, front, side and rear: as defined in the underlying zoning district.
- R.) Minimum lot size: as defined in the underlying zoning district.
- S.) Minimum lot width: as defined in the underlying zoning district.
- T.) Detached garages with one-hour fire rated construction may be constructed within ten (10) feet of the lot line provided the garage is located to the rear of the house, and that the garage does not abut an adjacent residence.
- U.) Street layouts should relate to natural topography, and be designed to provide open space views to as many homes as possible.
- V.) Attached garages shall be setback at least 12 feet from the front building line of the house, if on street parking is not provided.
- W.) Porches: A covered porch or portico across some portion of the front of the house is a recommended structural design element.
- X.) Street lighting, if provided, must be of white light, with light standards of traditional or Victorian design (no modern gooseneck lamps or yellow lighting). Maximum height of standards is 16 feet.
- Y.) Building Height Limits: No buildings in this district shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antennas, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one hundred (100) feet in height.

- Z.) Building Dimensions: (Floor space requirements): Each detached single family dwelling hereafter erected in this district shall have a living area not less than one-thousand (1000) square feet or eight-hundred (800) square feet of ground floor living area, if the residence is multi-story. All such living areas shall be exclusive of basements, porches, or garages.

All attached single-family structures constructed within this district shall contain the following minimum living area:

- 1.) One (1) bedroom unit: 800 square feet
  - 2.) Two (2) bedroom unit: 900 square feet
  - 3.) Three or more bedroom units: 1000 square feet
- AA.) 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 26, 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.
- BB.) 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 24 of this Resolution, when appropriate, shall be incorporated.
- CC.) Signs: Except as provided under the provisions of this Article for home occupations or as controlled by Article 25 (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 in area on each side.
- DD.) 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 in area per side advertising said subdivision, development or tract for sale.
- EE.) Exterior Lighting: All exterior lighting shall meet the lighting requirements of Article 24 of this zoning resolution, unless a variation from these standards is specifically approved as part of the final development plan.
- FF.) Other required provisions as stated in this ordinance. The Berlin 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: DEVELOPMENT PLAN PROCESS**

- A.) Consistent with [ORC§519.021\(A\)](#), all Applications for Amendments to the Zoning Map to rezone lands to the PRD shall follow this process:

The applicant, being the owner of the subject real estate (or his/her representative or assignee) may apply for designation of the land as a PRD. Simultaneous with the application for PRD, it is recommended that the applicant schedule a walkabout or informal review with the Zoning Inspector

and other county agencies to familiarize all parties with the lay of the land and the general design intent of the applicant. The Sketch Plan process as defined by the DCRPC can suffice for this informal step.

A Development Plan which complies with the requirements of Section 11.09(A) must be submitted with the application. Unless utilizing the FR-1 District in conjunction with the PRD, a rezoning to another district shall be submitted simultaneously with a PRD overlay application. For example, if a PRD/R-1.25 were desired for land zoned FR-1, a rezoning to PRD/1.25 would be filed. If the application is approved, then the zoning map is amended to the appropriate PRD standards.

The change in the zoning map is considered a legislative amendment, and is subject to referendum.

- B.) **Development Plan Application:** Upon application for a PRD District, the owner(s) of lots or land within the Township shall simultaneously submit a Development Plan. The Development Plan shall show the intended layout of the site in accordance with PRD standards.

Sixteen (16) copies of the Development Plan and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the PRD application along with a list of addresses for notification as defined in Section 31.01 herein. The plan shall be provided in text and map form, the following. Exhibits shall be provided on 22" x 34" sheets at a scale of 1" = 100' or such scale necessary to show sufficient detail:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Planned Residential District.
- 2.) Environmental features including wetlands, topographic contours of at least 5' intervals, indication of slopes 20% or greater, wooded areas, wetlands, adjacent structures (within 200'), and 100-year floodplains.
- 3.) Location of schools, parks and other public facility sites, within or adjacent to the site.
- 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.) The proposed uses of the site, including the proposed location of all buildings and structures, proposed streets and roadways, parking areas, and all required design features. The general development character of the tract shall include limitations or controls to be placed on all uses, with proposed lot sizes and minimum setback requirements.
- 6.) 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, 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.
- 7.) Architectural design criteria including materials, colors and exact renderings for all structures and proposed signs, with control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall be considered a Major Deviation in accordance with Section 11.12(A)(2). Materials and colors shall be submitted for approval.

- 8.) 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. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented. Letters from relevant agencies shall be included.
  - 9.) A design of the open space and proposed description of its use and maintenance.
  - 10.) A traffic impact analysis by a professional engineer who is skilled at traffic surveys, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 11.) The responsibility and maintenance of any proposed or existing on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
  - 12.) All required design features from Section 11.08.
  - 13.) Emergency service provisions (letters from local agencies).
  - 14.) The proposed time schedule for development of the site including streets, common use structures, utilities, and other facilities.
  - 15.) 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.
  - 16.) Specific statements of divergence from the development standards in this Article, as well as Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be in compliance.
  - 17.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 18.) 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.
  - 19.) In the preparation of the development plan, or the individual drawings used to make up the development plan the respective architect, landscape architect, professional engineer, or surveyor licensed to practice in the state of Ohio shall place his or her seal on his or her own drawings.
- C.) **Effect of Development Plan Approval:** Consistent with [ORC§519.021\(A\)](#), the recommendation of the Zoning Commission shall proceed to the Board of Trustees for their consideration and decision.
- D.) **Development Plan Approval Period:** The approval of a development plan shall be effective for a period of five (5) 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 development was granted. If the required final subdivision plat has not been approved and recorded, and construction of any building has not been commenced within the established approval period, then the development plan shall expire unless the Board of Trustees 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 development plan 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 development plan approval. In the event the five (5) year time line expires, any new 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 PRD District.

E.) **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.

F.) **Ownership and Maintenance of Open Space:**

1.) **Ownership of Open Space:** Different ownership and management options apply to the permanently protected common open space created through the development process. The common open space shall remain undivided and may be owned and managed by a homeowners' association, the township, or a recognized land trust or conservation district (conservancy). A public land dedication, not exceeding ten percent (10%) of the total parcel size, may be required by the Township to facilitate trail or pathway connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

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

a.) **Offer of Dedication:** The Township shall have the first offer of undivided common open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Township may, but is not required to accept undivided common open space provided: 1) such land is accessible to all the residents of the Township; 2) there is not cost of acquisition other than incidental costs related to the transfer of ownership; 3) the Township agrees to maintain such lands. Where the Township accepts dedication of common open space that contains improvements, the Township may require the posting of financial security to ensure structural integrity of improvements for a term not to exceed eighteen (18) months.

b.) **Homeowners' Association:** The undivided common open space and associated facilities may be held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:

- 1.) The developer shall provide a description of the association, including its bylaws and methods for maintaining the common open space.
- 2.) The association shall be organized by the developer and shall be operated by the developer, before the sale of any lots within the development.

- 3.) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
- 4.) The association shall be responsible for maintenance of insurance and taxes on the undivided common open space, enforceable by liens placed by the Township on the association. The association may establish rules to ensure proper maintenance of property, including monetary liens on the homes and home sites of its members who fail to pay their association dues in a timely manner. Such liens may impose a penalty of interest charges.
- 5.) The members of the association shall share equitably the costs of maintaining and developing, where appropriate, such undivided common open space. Shares shall be defined within the association bylaws.
- 6.) In the event of transfer, within the methods here permitted, of undivided common open space land by the homeowners association, or the assumption of maintenance of undivided common open space land by the Township, notice of such pending action shall be given to all property owners within the development.
- 7.) The association shall provide for adequate staff to administer common facilities and property and continually maintain the undivided common open space.
- 8.) The homeowners' association may lease common open lands to any other qualified person, or corporation, for operation and maintenance of common open space lands, but such lease agreement shall provide:
  - a.) that the residents of the development shall at all times have access to the common open space lands contained therein (except croplands during the growing season);
  - b.) that the undivided common open space shall be maintained for purposes set forth in the Section;
  - c.) that the operation of common open space may be for the benefit of the residents only, or may be open to all residents of the township, at the election of the developer and/or homeowners association. In cases where public trails or paths are provided as linkage between developments or as a continuous link of common open space within the township, all residents of the township shall be access to such identified paths/walkways; and,
  - d.) the lease shall be subject to the approval of the homeowners' association board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements shall be recorded with the Delaware County Recorder's office and notification shall be provided to the Township Trustees within 30 days of action by the Board.

- e.) Condominiums. The undivided common open space and associated facilities may be controlled through the use of condominium agreements, approved by the Township. Such agreements shall be in conformance with all applicable laws and regulations. All undivided common open space land shall be held as a common element.
  - f.) Dedication of Easements. The Township may, but shall not be required to accept easements for public use of any portion or portions of undivided common open space land, title of which is to remain in ownership by condominium or homeowners association, provided:
    - i.) Such land is accessible to township residents;
    - ii.) There is no cost of acquisition other than incidental transfer of ownership costs;
    - iii.) A satisfactory maintenance agreement is reached between the developer, association and the Township.
  - g.) Transfer of Easements to a Private Conservation Organization. With the permission of the Township, and owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources; provided that:
    - 9.) The organization is acceptable to the Township, and is a bona fide conservation organization with perpetual existence;
    - 10.) The conveyance contains appropriate provisions for the Township Trustees is entered into by the developer and the organization.
- 2.) Maintenance of Open Space:
- a.) The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The owner shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
  - b.) In the event that the organization established to own and maintain common open space shall at any time after establishment of the planned development fail to maintain the common open space in reasonable order and condition in accordance with the Final Development Plan, the Township Trustees may serve written notice upon such organization or upon the residents of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing the Township Trustees may modify the terms of the original notice and to the deficiencies and may give an extension of time within which they shall be cured.

If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said (30) days or any extension thereof, the Township Trustees may pursue the enforcement as a zoning violation.

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

#### **SECTION 11.10: REQUIRED FINDINGS FOR APPROVAL OF A PLANNED RESIDENTIAL DEVELOPMENT**

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

- A.) That the proposed development is consistent in all aspects with the intent, and general standards of this zoning resolution.
- B.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
- C.) That the proposed development advances the general welfare of the township and the immediate vicinity.
- D.) That the proposed plan meets all of the design features required in this resolution.
- E.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.



- F.) That the proposed development will be compatible in appearance with the remainder of the district; and
- G.) That the minimum open space as required herein has been provided.

### **SECTION 11.11: EFFECT OF PROPERTY OWNER INITIATED PRD ZONING ON THE PREVIOUS ZONE**

Upon approval of the PRD district, the regulations for the PRD and its related development standards shall prevail.

### **SECTION 11.12: ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all subdivision plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure compliance with the Development Plan as approved. Any change to an approved Development Plan shall require that a proposed Application for Development Plan Amendment be submitted to the Zoning Commission.

- A.) **Deviations/Amendments:** Upon submittal of a written Application requesting approval for changes to an approved Development Plan, the Zoning Commission shall designate whether such changes represent Minor or Major Deviations to the plan. This may occur at any public meeting.
  - 1.) Minor Deviations include, but are not limited to, changes in the location of buildings, structures, streets or parking areas. The Zoning Commission may choose to impose conditions, safeguards, or other restrictions to carry out the intent of this District. The decision of the Zoning Commission shall represent final approval or denial of such deviation.
  - 2.) Major Deviations shall be considered at a public hearing by the Zoning Commission. Major deviations include but are not limited to:
    - 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 change in traffic circulation or usage of 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 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.) For Major Deviations, the recommendation of the Zoning Commission shall be forwarded to the Board of Trustees for a final public hearing.

- B.) **Default:** If construction of any site improvement has not been commenced within five (5) years after approval of the initial Development Plan, approval of the Plan shall expire, unless an extension of the time limit has been approved by the Township Trustees.
- C.) **Extension of Time:** An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or increasing the approval period for a Development Plan may be granted by the Township Trustees at any public meeting provided the Board finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation 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.

## ARTICLE 12 NEIGHBORHOOD COMMERCIAL DISTRICT (NCD)

### SECTION 12.01: PURPOSE: SEE SECTION 5.056

### SECTION 12.02: PERMITTED USES

Within the Neighborhood Commercial District (NCD), the following commercial uses, according to their NAICS code number, developed in strict compliance with the approved development plan and standards, shall be permitted. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

NAICS CODE #	PERMITTED USES
111411	Mushroom Production
111419	Other Food Crops Grown Under Cover
111421	Nursery and Tree Production
111422	Floriculture Production
311811	Retail Bakeries
449110	Furniture Retailers
449129	All Other Home Furnishings Retailers
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers
424350	Clothing and Clothing Accessories Merchant Wholesalers
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)
445131	Convenience Retailers
445132	Vending Machine Operators
445230	Fruit and Vegetable Retailers
445240	Meat Retailers
445250	Fish and Seafood Retailers
445291	Baked Goods Retailers
445292	Confectionery and Nut Retailers
455110	Department Stores (except Adult-Related Entertainment establishments, and 459930 Manufactured Home Dealers)
456199	All Other Health and Personal Care Retailers
458110	Clothing and Clothing Accessories Retailers
459110	Sporting Goods Retailers
491110	Postal Service
517121	Telecommunications Resellers
517810	All Other Telecommunications
518210	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services
524210	Insurance Agencies and Brokerages
524114	Direct Health and Medical Insurance Carriers
531210	Offices of Real Estate Agents and Brokers
532289	All Other Consumer Goods Rental
54 (all uses that begin with 54)	Professional, Scientific and Technical Services (includes Lawyers, Notaries, Legal Services, Accountants, Payroll, Architectural,

	Engineering, Mapping, Interior Design Medical, Veterinarians, Computer and Related Hardware and Research and Development etc.)
541990	All Other Professional, Scientific, and Technical Services
722310	Food Service Contractors
722320	Caterers
722330	Mobile Food Services
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722514	Cafeterias, Grill Buffets, and Buffets
722515	Snack and Nonalcoholic Beverage Bars
811121	Automotive Body, Paint, and Interior Repair and Maintenance
811122	Automotive Glass Replacement Shops
811191	Automotive Oil Change and Lubrication Shops
811210	Electronic and Precision Equipment Repair and Maintenance
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
811411	Home and Garden Equipment Repair and Maintenance
811412	Appliance Repair and Maintenance
811420	Re-upholstery and Furniture Repair
811430	Footwear and Leather Goods Repair
811490	Other Personal and Household Goods Repair and Maintenance
812111	Barber Shops
812112	Beauty Salons
812113	Nail Salons
812191	Diet and Weight Reducing Centers
812199	Other Personal Care Services
812210	Funeral Homes and Funeral Services
812220	Cemeteries and Crematories
812310	Coin-Operated Laundries and Dry-cleaners
812320	Dry-cleaning and Laundry Services (except Coin-Operated)
812910	Pet Care (except Veterinary) Services
812990	All Other Personal Services

Other Permitted Uses that do not have an NAICS number:

Temporary structures such as manufactured or mobile homes, or mobile offices, and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. 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 deemed necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

### SECTION 12.03: CONDITIONAL USES

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Offices of veterinarians provided that there are no outside runs.
- B.) Apartments in areas over or adjacent to the commercial store-room or office facility, provided that apartments constructed within this district shall contain the following minimum living area, exclusive of porches, basements, or garages:

One (1) bedroom unit	800 square feet
Two (2) bedroom unit	900 square feet
Three (3) or more bedroom unit	1000 square feet

- C.) Outside display of products for sale, not including automobiles, trucks, boats, recreational vehicles, farm equipment, mobile or manufactured homes, building materials, or storage buildings.
- D.) Outdoor storage of goods related to the primary business, not including automobiles, trucks, boats, recreational vehicles, farm equipment, mobile or manufactured homes, building materials, or storage buildings.
- E.) Kindergarten or child care facilities provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking, and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc., or adjacent yards.
- F.) Permitted as a Conditional Use, drive-in or drive-through facilities for restaurants, financial institutions, and similar type businesses.

### SECTION 12.04: PROHIBITED USES

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers, or trailers detached from semi-tractors, for a period exceeding fourteen 14 days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) Unless specifically permitted by the Board of Zoning Appeals as incidental and necessary to a permitted or conditional use in this district, no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front setback line on any parcel within this district for a period exceeding twenty-four (24) hours. If a dwelling is located behind the minimum setback on said lot the setback line shall be considered to be the front wall of the dwelling.

- D.) Except as specifically permitted in Section 12.03(C) no manufactured/mobile home or manufactured/mobile office structure shall be placed or occupied in this district.
- E.) Except as permitted as a conditional use, the sale, display or storage of automobiles, trucks, trailers, campers, boats, motor homes, mobile homes/offices, or manufactured homes/offices.
- F.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard or nuisance to the neighborhood or general public.
- G.) Adult entertainment and adult entertainment facilities are prohibited.

### SECTION 12.05: PROCEDURE

In addition to any other procedures set out in this resolution, all applications for amendments to the zoning map to rezone lands to this Neighborhood Commercial District shall follow the procedures set forth:

- A.) **Application:** The owner(s) of lots or land within the Township may request that the zoning map be amended to include such tracts in the Neighborhood Commercial District in accordance with the provisions of this Resolution.

The applicant is encouraged to engage in informal consultations with the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting as well as the Regional Planning Commission prior to requesting an amendment of the zoning map. No statement by officials of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission under 12.05 shall be binding. Any and/or all such informal consultations will be subject to Ohio's open meeting laws ([ORC§121.22](#)) and may be required to be held in an open public meeting.

### SECTION 12.06: DEVELOPMENT STANDARDS

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

- A.) **Lot Size:** A minimum lot of one (1) net acre (exclusive of road right-of-way) shall be required; however, the lot size shall be adequate to provide the required yard spaces and off-street parking as herein required.
- B.) **Lot Width:** A minimum continuous lot width of one-hundred fifty (150) feet shall be required on a County or township approved road or street; the tract shall have access to approved streets and shall be of sufficient width to provide required yard spaces and off-street parking.
- C.) **Building Height Limits:** No building in this district shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, spires, domes, flag poles, and elevator shafts are exempted from the height regulations and may be erected to any safe height, but not to exceed one-hundred (100) feet in height, no windmills, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- D.) **Building Setback:** No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.05.

- E.) **Side Yards:** There shall be a yard on each side of the main building constructed in this district of not less than twenty-five (25) feet. No accessory building or outdoor storage area shall encroach in said side yard.
- F.) **Rear Yards:** No building shall be located closer than thirty (30) feet to the rear line of any lot.
- G.) **Maximum Lot Coverage:** On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) of the lot or parcel.
- H.) **Building Size and Leasable Area:** Permitted structures in this district shall contain no more than three thousand (3,000) square feet gross lease-able area. Second floor apartments when included as part of a Neighborhood Commercial structure are exempted from the maximum square footage measurement. The maximum gross leasable area of any individual permitted use in a building shall not exceed three thousand (3,000) square feet.
- I.) **Landscaping:** All yards, front, side, and rear shall be landscaped, and all organized open spaces or areas shall be landscaped as required in Article 26 of this Resolution.
- J.) **Parking:** Off-street parking shall be provided within this district in strict compliance with the provisions of Article 24 of this Resolution.
- K.) **Signs:** Except as controlled by Article 25 of this resolution and except as permitted by the Board of Zoning Appeals incidental to conditional uses, no signs shall be permitted in this district except a “for sale” or “for rent or lease” sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.  
  
The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Zoning Appeals, erect one sign not exceeding thirty-two (32) square feet in area per side advertising said subdivision, development, or tract for sale.
- L.) **Lighting:** Exterior lighting shall meet the lighting requirements of the general development section in Article 24.
- M.) **Freight Loading Areas:** When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- N.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
- O.) A traffic impact report may be required if deemed necessary by the Berlin Township Zoning Commission.

Neighborhood Commercial (NCD)

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## **ARTICLE 13 TRANSITIONAL PLANNED UNIT DEVELOPMENT (TPUD)**

### **SECTION 13.01: PURPOSE: SEE SECTION 5.057**

### **SECTION 13.02: PERMITTED USES**

Within the Transitional Planned Unit Development (TPUD) the following uses, when approved by the development plan process and developed in strict compliance with the approved development plan and standards shall be permitted:

- A.) Multi-family residential structures of any type, attached or detached units, including but not limited to attached, modular, patio, common wall or any reasonable variation on the same theme.
- B.) Accessory buildings and accessory uses incidental to the principal building or use.
- C.) Multi-family cluster housing. For purposes of this section, “cluster housing” shall mean a residential development wherein the overall density is consistent with the TPUD standards but modifications are permitted in lot size and shape to concentrate residential development in a portion of the overall tract, thereby retaining the remainder of the tract as permanent, common open space.
- D.) Non-residential uses of a religious, cultural, education or recreational nature or character to the extent that they are designed and intended to serve the residents of the Transitional Planned Unit Development. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- E.) Temporary structures such as manufactured/mobile offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use. This permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal, and water supply, as he/she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

### **SECTION 13.03: CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Model homes in subdivisions, the same being defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder's/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.), in the environment of a completed home. Model homes may be staffed by the builder's/developer's sales force. Model homes shall be subject to the following restrictions:
- 1.) Lighting: All exterior lighting 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 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 a minimum of 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 shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by visitors to the home.
  - 4.) Termination of Use: A temporary showroom or display model that is used for marketing purposes by a commercial homebuilder during the sales period of a new residential development. For the purposes of this resolution, a model home loses its status as a marketing tool after five (5) years from its opening date, or when 90% of total zoning permits within the development are issued or whichever comes first. However, the model home usage may continue if it is a permitted use within a commercial zoning district. Model homes may be converted to permanent residences at the end of their use as a marketing location, provided they meet all zoning and building codes for occupancy.
  - 5.) No building equipment or materials may be stored at the model home.
  - 6.) Model Home Signs: Allowed as approved by the Board of Zoning Appeals and not to exceed sixteen (16) square feet per side with thirty-two (32) square feet maximum total display and an overall height of four (4) feet above grade.
- B.) Rental Complex Offices: One (1) rental office shall be allowed within a rental complex. The office may be the rental manager's dwelling. Rental complex offices shall be subject to the following restrictions:
- 1.) Hours of operation: All rental complex offices shall close prior to 9:00 p.m. during the spring, summer and fall seasons, and prior to 8:00 p.m. during the winter season. No rental complex office shall be open on Sunday before 12:00 noon.
  - 2.) Lighting: All exterior lighting must be "down-lighting", so that absolutely 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 rental complex office, except that which is in character with those found on surrounding homes.
  - 3.) Parking: All rental complex offices shall provide off-street paved parking for the public. An area contiguous to the structure within which the rental complex office is located shall be utilized

for the off-street paved parking lot for public use. The number of required parking spaces shall be six (6) per rental complex office. Such parking spaces shall be in addition to those otherwise required in Article 24.

- 4.) Trash Receptacles: Trash receptacles shall be provided around the rental complex office for use by the public.
- C.) Telecommunication towers pursuant to Section 6.04.

#### **SECTION 13.04: PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.
- B.) Outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen consecutive (14) days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- C.) Except as provided in the development plan no trailer of any type; no boats, no motor homes and no equipment of any type shall be parked in front of the established 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 setback 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 permanently placed or occupied in this district. This does not apply to permanently-sited manufactured homes.
- E.) No trash, debris, unused property, or discarded materials which create an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or parcel.
- F.) No commercial or business activity shall be conducted in a unit designed for residential use except for Limited Home Occupations as provided in Section 24.15.
- G.) 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 32 of this Resolution.

#### **SECTION 13.05: INITIAL DISCUSSIONS**

The applicant is encouraged to engage in informal consultations with the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting as well as the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to TPUD.

No statement by officials of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission under 13.09 shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws ([ORC§121.22](#)) and may be required to be held in an open public meeting.

## SECTION 13.06: TPUD DESIGN STANDARDS

A development plan shall be submitted that meets all the standards and requirements of this Article, 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 a tree lawn adjacent to the street with trees located behind the sidewalk. The development plan shall incorporate the following standards:

- A.) **Density:** Maximum of four (4) dwelling units per net developable acre.
- B.) **Common Open Space:** Not less than 10% of the total tract 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. Open spaces may be used for the retention, detention and disposal of storm water drainage. Features which are likely to cause erosion or flooding shall not be permitted.
- C.) **Minimum Tract Size:** 10 acres or as approved on the final development plan.
- D.) **Arrangement of Structures:**
  - 1.) **Setbacks:** The physical relationships of dwelling units, non-dwelling structures and their minimum yard spaces shall be developed in strict compliance with the approved plan or the provisions of Article 24 unless a variance is approved.
  - 2.) **Building Height Limits:** No buildings in this district shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antennas, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one hundred (100) feet in height.
- E.) **Building Dimensions:** All structures constructed within this district shall contain the following minimum living area:
  - 1.) One (1) bedroom unit: 800 square feet
  - 2.) Two (2) bedroom unit: 900 square feet
  - 3.) Three or more bedroom units: 1000 square feet
- F.) **Landscaping:** All yards, front, side and rear, shall be landscaped in accordance with Article 26. All open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, shall be submitted and is subject to approval as a part of the final development plan. Natural foliage shall be retained as buffers where practicable. The Township may require establishment of such tree cover and /or other foliage to buffer adjacent uses.

- G.) **Environmentally Sensitive Areas:** Jurisdictional wetlands, slopes greater than 20% and 100-year floodplains shall be preserved to the greatest extent possible. No structures shall be constructed within the 100-year floodplain of any stream or river. To the maximum extent possible, all natural drainage courses, vegetation and contours in excess of 6% shall be maintained.
- H.) **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 Section 24.01 of this Resolution shall be incorporated, or a divergence requested.
- I.) **Signs:** Signs shall conform to Article 25 of this resolution, or a divergence requested and approved as part of the final development plan.
- J.) **Supplemental Conditions and Safeguards:** The Zoning Commission and/or Board of Trustees may require additional conditions be met 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.
- K.) **Rental units:** No more than 20% of multi-family units may be either designated as rental units or held back by the developer for lease; all other dwelling units must be for sale to individual owners. Assurance of compliance with this requirement shall be shown on the development plan or plat or through deed restriction.
- L.) **Materials:** All exterior sides of all units shall be sheathed in brick, stucco, stucco-stone, stone, wood, or cementitious lap siding.
- M.) **Roof Pitch:** All residential roofs shall be a minimum of 6/12 pitch, or as otherwise approved by plan.
- N.) **Walkways and Street Trees:** The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Where sidewalks or bike paths are required, they shall be separated from the paved street or parking lot surface by at least five feet (5') of landscaped or grassed tree lawn with trees planted behind the sidewalk.
- O.) **Pavement Width Standards for Intra Development Streets, Drives and Parking Lots:** All private streets, roads and driveways shall be constructed to a pavement width and cross section that meets the average daily traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual, or shall have a design life of 20 years. 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 50 feet of the edge of the public paved road.
- P.) **Underground Utilities:** All utility lines constructed to service the proposed commercial uses shall be located underground.
- Q.) **Architectural Details are Desirable:** examples are wide corner boards or quoins, lintels, columns, window boxes, shutters, round louvers, etc.
- R.) **Water and Sewer:** Centralized water and sewer service shall be provided unless otherwise approved per 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.

- S.) **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.
- T.) **Exterior Lighting:** All exterior lighting shall be as specifically approved as part of the final development plan in accordance with Article 24, Section 24.13 of this resolution.
- U.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
- V.) The Township Zoning Commission may recommend and the 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 13.07: DEVELOPMENT PLAN PROCESS

- A.) Consistent with [ORC§519.021\(A\)](#), and in addition to any other procedures set forth in this Code, all Applications for Amendments to the Zoning Map to rezone lands to the TPUD shall follow this process:

- 1.) The applicant, being the owner of the subject real estate (or his/her assignee) may apply for designation of the land to the TPUD designation. Simultaneous with the application, it is recommended that the applicant schedule a walkabout or informal review with the Zoning Inspector and other county agencies to familiarize all parties with the lay of the land and the general design intent of the applicant. The Sketch Plan process as defined by the DCRPC can suffice for this informal step.

A Development Plan which complies with the requirements of Section 13.07(B) must be submitted with the application. Consideration and approval of the Preliminary Development Plan is a legislative amendment and is subject to referendum by the citizens of the township.

- B.) **Development Plan Application** – With the filing of any application to rezone property to the TPUD, the owner(s) or lessees of the subject lots or land to be rezoned within the Township shall simultaneously submit a Development Plan. The Development Plan shall show the intended layout of the site.

Sixteen (16) copies of the Development Plan and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the TPUD application along with a list of addresses for notification as defined in Section 31.01 herein. The plan shall include in text and map form, the following. Exhibits shall be provided on 22" x 34" sheets at a scale of 1" = 100' or such scale necessary to show sufficient detail:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Transitional Planned Unit District.
- 2.) Environmental features including wetlands, topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.
- 3.) Location of schools, parks and other public facility sites, within or adjacent to the site.
- 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.

- 4.) The proposed uses of the site, including the proposed location of all buildings and structures, proposed streets and roadways, parking areas, and all required design features. The general development character of the tract shall include limitations or controls to be placed on all uses, with proposed lot sizes, minimum setback requirements.
- 5.) 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, 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.
- 6.) Architectural design criteria including materials, colors and exact renderings for all structures and proposed signs, with control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall be considered a Major Deviation in accordance with Section 13.11(A)(2). Materials and colors shall be submitted for approval.
- 7.) 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. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented. Letters from relevant agencies shall be included.
- 8.) A design of the open space and proposed description of its use, ownership, and maintenance.
- 9.) A traffic impact analysis by a professional engineer who is skilled at traffic surveys, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- 10.) The responsibility and maintenance of any proposed or existing on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
- 11.) All required design standards in Section 13.06.
- 12.) Emergency service provisions (letters from local agencies).
- 13.) The proposed time schedule for development of the site including streets, common use structures, utilities, and other facilities.
- 14.) 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.
- 15.) Specific statements of divergence from the development standards in this Article, as well as Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be in compliance.
- 16.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

- 17.) 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.
  - 18.) In the preparation of the development plan, or the individual drawings used to make up the development plan the respective architect, landscape architect, professional engineer, or surveyor licensed to practice in the state of Ohio shall place his or her seal on his or her own drawings.
- C.) **Effect of Development Plan Approval:** Consistent with [ORC§519.021\(A\)](#), the recommendation of the Zoning Commission shall proceed to the Board of Trustees for their consideration and decision.
- D.) **Development Plan Approval Period:** The approval of a Development Plan shall be effective for a period of five (5) 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 Development Plan was granted. If the required final subdivision plat has not been approved and recorded, and construction of any building has not been commenced within the established approval period, then the Development Plan shall expire unless the Board of Trustees 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 Development Plan 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 Development Plan approval. In the event the five (5) year time line expires, any new 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 TPUD District.
- E.) **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.
- F.) **Failure to Maintain:** If the organization established to own and maintain the open space, or the owners of dwelling units within the TPUD 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 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 five (5) years after the approval of the development plan or within such other period as approved per plan.
- H.) **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 development plan submittal.

### **SECTION 13.09: REQUIRED FINDINGS FOR TPUD APPROVAL**

The Zoning Commission may recommend and Trustees may approve an application requesting that property be included in the TPUD 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 meets all applicable requirements of this Article and Zoning Resolution.
- C.) That the proposed development is in conformity with the comprehensive plan as adopted or concurrently amended or portion thereof as it may apply.
- D.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.
- E.) That the proposed plan meets all of the design features required in this Resolution.
- F.) That the proposed development will be compatible in appearance with surrounding existing or proposed land uses.
- G.) 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 13.10: EFFECT OF PROPERTY OWNER INITIATED TPUD ZONING AMENDMENT**

Upon approval of an application for a zoning amendment to rezone property to the TPUD, all previous regulations shall no longer be in effect, and the regulations set forth in this Article for the TPUD designation, as approved, shall prevail.

### SECTION 13.11: ADMINISTRATION OF THE DEVELOPMENT PLAN

After Development Plan approval, all subdivision plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure compliance with the Development Plan as approved. Any change to an approved Development Plan shall require that a proposed Application for Development Plan Amendment be submitted to the Zoning Commission.

A.) **Deviations:** Upon submittal of a written Application requesting approval for changes to an approved Development Plan, the Zoning Commission shall designate whether such changes represent Minor or Major Deviations to the plan. This may occur at any public meeting.

- 1.) Minor Deviations: A request for changes not deemed substantial to the final development plan may be approved by the Zoning Commission at a public hearing without being subject to the same procedures as the original application.
- 2.) Major Deviations: In the case of a request for a modification or amendment to the approved 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 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.

B.) **Default:** If construction of any site improvement has not been commenced within five (5) years after approval of the initial Development Plan, approval of the Plan shall expire, unless an extension of the time limit has been approved by the Board of Trustees.

C.) **Extension of Time:** 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 Township Trustees at a public hearing provided the Township Trustees 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/or the

completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.



## **ARTICLE 14 PLANNED AGE-RESTRICTED RESIDENTIAL DISTRICT (PARRD)**

### **SECTION 14.01: PURPOSE**

There is hereby created within Berlin Township a Planned Age-Restricted Residential Community District (PARRD) to provide for a range of residential opportunities specifically planned and developed for persons 55 years of age or older in order to afford these persons the benefits of independent living, assisted living, and skilled care at one integrated location within a campus setting. No provisions of this Article shall be interpreted to prohibit independent living, assisted living and skilled care facilities located within a PARRD from providing care to any individual in need of skilled care, regardless of age.

All lands designated on the Official Berlin Township Zoning Map as PARRD District shall be governed by the provision of this article.

#### **General Criteria for the PARRD:**

- A.) The Independent and Assisted Living housing accommodations to be provided shall be developed, operated and maintained in compliance with the provisions of the Federal Fair Housing Act pertaining to housing intended and operated for occupancy by persons 55 years of age or older (42 U.S.C. 3607), as amended, which include, at the time of this writing, the following criteria:
  - 1.) Accommodations must be intended and operated for occupancy by persons 55 years of age or older;
  - 2.) At least 80% of the occupied units must be occupied by at least one person who is 55 years of age or older;
  - 3.) Policies must be adopted, published and adhered to concerning these occupancy requirements; and
  - 4.) Verification procedures must be in place to verify the 80% occupancy requirement.
- B.) All Independent and Assisted Living housing accommodations shall comply with the Restrictions on Occupancy set forth in Section 14.01.A of this Article.
- C.) Independent Living facilities may only be incorporated with state-approved and licensed Assisted Living and/or Skilled Care facilities.
- D.) The ratio of Independent Living, Assisted Living and Skilled Care shall be stated in the Development Plan.
- E.) The owner or operator of the housing accommodations shall be responsible for ensuring and maintaining compliance with all criteria.

### **SECTION 14.02: PERMITTED USES**

The following uses shall be permitted within a PARRD, provided that each such use is specifically set forth in the development plan and approved as an appropriate permitted use by the Township. The *North American Industrialized Classification System Code (NAICS)* – is to be used to describe all proposed uses as applicable.

- A.) Independent dwelling units, for occupancy by persons meeting the General Criteria listed in this Article, when incorporated with state-approved and licensed assisted living and/or skilled care facilities.

- B.) Such dwelling units may be located in single-family buildings, multi-family buildings, or institutional buildings for lease or rent.
- C.) Permitted Home Occupations: The following professional or business activities shall be considered “Permitted Home Occupations,” provided that such activities are carried on solely within the confines of the dwelling, do not occupy more than 20% of the dwelling, maintain no non-residential employees (whether paid or voluntary), generate no greater traffic, parking or deliveries than would normally be expected in a residential neighborhood, do not create a nuisance to the neighborhood or general public, and are imperceptible from the exterior of the dwelling:
- 1.) Home offices used for traditional office related tasks including, but not limited to, maintaining records and accounts, making and receiving telephone calls, faxes and emails, conducting research, and generating papers, reports or similar work product, but not including the reception of patients, clients, or any other licensees or invitees;
  - 2.) Teaching, tutoring, and conducting musical, dance, or similar lessons to no more than three students at any one time.
- D.) The following NAICS-coded uses:

623311	Continuing Care Retirement Communities
623312	Assisted Living Facilities for the Elderly

- E.) Licensed Residential Facilities in accordance with [ORC§5119.34\(A\)\(9\)\(b\)\(i and ii\)](#) and [ORC§5123.19\(O\)](#).
- F.) Temporary offices including mobile offices and storage for contractors, incidental to construction projects may be permitted. The permit shall not be valid for more than eighteen (18) months, but may be renewed for six-month extensions if construction is substantially underway. Such uses shall be removed immediately upon completion of the construction project, or upon expiration of the Zoning Permit, whichever occurs sooner.

### SECTION 14.03: ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory Uses as defined in Article 4 of this Zoning Code may be permitted only when incidental or subordinate to and in association with a principal permitted use, and further provided that such accessory uses are specifically set forth in the Development Plan and approved as accessory uses by the Township.

- A.) Signs to identify the community by name, address and telephone number, only one at each entrance to the community.
- B.) Recreational areas for use only by the residents and their guests, and by employees of the community.
- C.) Residences occupied by custodians or guards or resident care providers.
- D.) Other accessory uses incidental and specifically related to the convenience and care of the community, as approved per the development plan.
- F.) Parking and loading areas.
- G.) Accessory buildings as defined in Article 4 of this code “Building, Accessory.”
- H.) Accessory structures as defined by Article 4 of this code “Building Structures.”

I.) The following NAICS-coded uses:

624120	Services for the Elderly and Persons with Disabilities
722514	Cafeterias serving the community
722515	Snack and Non-alcoholic Beverage Bars serving the community
722310	Food Service Contractors serving the community
813110	Religious Organizations to serve persons living and/or working within the PARRD
814110	Private Households - independent living residents employing workers primarily concerned with the operation of the household such as cooks, maids, gardeners, caretakers and other maintenance workers

#### SECTION 14.04: 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 24 of this Resolution. No Conditional Use shall be implemented until a Certificate of Compliance is issued by the Zoning Inspector.

- A.) Telecommunications Towers as defined in Section 6.04.
- B.) Licensed Residential Facilities in accordance with [ORC§5119.34\(A\)\(9\)\(b\)\(iii\)](#) and [ORC§5123.19\(N\)](#).

#### SECTION 14.05: PROHIBITED USES

Uses not specifically authorized by the express terms of this Article of the Zoning Code shall be prohibited.

- A.) Junkyards.
- B.) No trailer of any type, no boats, no campers, and no equipment of any type shall be parked in front of the principal structure line on any parcel within this district for more than eight (8) hours in a 24-hour period.
- C.) No mobile home, motor home, camper, or manufactured home of any type shall be placed or occupied in the district.
- D.) Storage or accumulation of inoperable, or unused, or unlicensed vehicles, equipment or machinery of any type, equipment or machinery parts and other similar items unless entirely enclosed within a permitted structure so as to not be visible from any adjoining property or road.
- E.) The storage of trash, debris, unused property or discarded materials (including, without limitation, discarded household goods, discarded commercial product, discarded building materials, discarded industrial by-products, discarded brush and other vegetation, and similar materials) shall be deemed a nuisance to the neighborhood and general public per se, and shall be prohibited on any parcel or lot or portion thereof, or on any public or private streets, or common access driveway (as defined by the Delaware County Subdivision Regulations). This excludes trash, garbage, refuse and debris that is completely enclosed within an appropriate container and placed at an assigned location not more than 24 hours before its regularly-scheduled pick-up.
- F.) Landing fields for aircraft, hot air balloons, ultra-light aircraft and other mechanical flying equipment on any parcel in this District.
- G.) Commercial Kennels and Catteries

- H.) Harboring wild, dangerous or undomesticated animals on lots less than five (5) acres in area, subject to the limitations contained in Ohio Revised Code Section 519.21. For the purposes of this provision, a “wild, dangerous or undomesticated animal” shall be defined as follows:
- 1.) An animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm;
  - 2.) A poisonous or venomous animal, insect or arachnid;
  - 3.) An unrestrained animal (excluding farm animals) which, by reason of its size, strength or appetite, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping or personal property;
  - 4.) An animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal;
  - 5.) An animal which is defined as “vicious” or “dangerous” pursuant to the provisions of Ohio Revised Code Chapter 955, as the same may be amended from time to time, or prohibited by any federal, state, or local law, regulation, or ordinance.
- I.) No land or building shall be occupied or used in any manner which creates or contributes to the existence of conditions which are dangerous, injurious, harmful, noxious or objectionable, or which otherwise adversely affect surrounding areas or adjoining premises.

#### SECTION 14.06: DESIGN STANDARDS

The Development Plan shall incorporate the following standards:

- A.) **Access:** Requires frontage on and direct access to, one 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 Delaware County Regional Planning Commission.
- B.) **Density:**
- 1.) Permitted (net) density: Maximum density of 5 dwelling units per acre of net developable area.
  - 2.) Maximum ground coverage by buildings and parking areas (total impervious surfaces): 50% of net developable area.
  - 3.) Maximum capacity:
    - a.) Independent Living: Any two individuals, whether related or not, living together as a family unit, and one caregiver, or as approved per plan;
    - b.) Assisted Living: As approved per plan;
    - c.) Skilled Care: As approved per plan;
  - 4.) Minimum Floor Area Requirements:
    - a.) Independent Living: Each single-story dwelling unit in this district shall have a ground floor living area of not less than eleven hundred (1,100) square feet or as approved per plan. Any other dwelling unit constructed in this district shall have a ground floor



living area of not less than nine hundred (900) square feet or as approved per plan. All such living areas shall be exclusive of basements, porches, sunrooms, decks and garages.

- b.) Assisted Living: Every room occupied for sleeping purposes within the building shall contain a minimum of eighty (80) square feet of habitable floor area for each occupant, or the minimum number of square feet as required by licensing requirements or law, whichever is greater.
  - c.) Skilled Care: Every room occupied for sleeping purposes within the building shall contain a minimum of eighty (80) square feet of habitable floor area for each occupant, or the minimum number of square feet as required by licensing requirements or law, whichever is greater.
- C.) **Setback Requirements:** No building or parking shall be constructed within 100 feet of the perimeter property line of the overall PARRD tract.
  - 1.) Side Setback: 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.
  - 2.) Rear Setback: 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.
  - 3.) Parking Setback: no parking area shall be constructed within 35 feet of the lot line in the PARRD.
- D.) **Building size limits:** Retail or mixed use buildings, containing retail uses, shall contain no more than 65,000 gross square feet of floor area under one roof.
- E.) **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. All residential roofs must be a minimum of 6/12 pitch, or as approved by plan.
- F.) **Building Height Limits:** No building in this district shall exceed thirty-five (35) feet in height. All other freestanding structures including, but not limited to, flagpoles shall not exceed forty-eight (48) feet in height. All attached structures including, but not limited to, chimneys and church spires shall not top at a height that is eight (8) feet greater than either the height of the building or other structure to which it is attached.
- G.) **Common Open Space:** Common 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 use. Open spaces may be used for the natural disposal of storm water drainage.
- H.) **Walkways:** Walkways shall be required to connect all dwelling areas and may be required to connect to and throughout the Open Spaces. Walkways shall be separated from the paved street surface by at least ten (10) feet of landscaped or grassed areas.

- I.) **Street Trees** are required and shall conform to adopted Townships standards.
- J.) **Bikeways/Bike Paths:** Bikeways shall be provided in accordance with the Township's adopted Bikeways Plan.
- K.) **Landscaping:** All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped. 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.
- L.) **Screening:** All trash collection and service areas adjacent to residential areas shall be screened from view with shrubbery or fence. Shrubby shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- M.) **Buffering:** Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of a buffer sufficient to screen Development from adjacent uses.
- N.) **Preservation areas:** Wetlands, steep (over 20%) slopes, and ravines shall be preserved to the greatest extent possible and shall be delineated on the Development Plan. No building or structure shall be placed or constructed in any Preservation Area.
- O.) **Floodplain:** No residential dwelling structures shall be constructed within the 100-Year Floodplain of any stream or river.
- P.) **Power Lines:** 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.
- Q.) **Utilities:** All utilities constructed to service the proposed use shall be located underground. 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.
- R.) **Parking:** Off-street parking shall be provided at the time of construction of the main structure or building. Permanent parking shall be provided outside any road right-of-way as follows:
  - 1.) Independent living, including residences for guards, security personnel, care providers: 2 spaces per dwelling unit, in the form of an appropriately sized individual driveway, in addition to any garage space. See Section 14.02.F.
  - 2.) Assisted living: see Section 24.01.
  - 3.) Skilled care: see Section 24.01.
- S.) **Signs:** Signs shall conform to Article 25, or as approved per Development plan.
- T.) **Exterior Lighting:** All exterior lighting shall comply with the lighting requirements of Article 24 of this Zoning Code.
- U.) **Freight Loading Area:** When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area, as provided,

shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.

- V.) **Continued Compliance:** The owner or operator of the housing accommodations shall maintain compliance with the general criteria set forth in Section 14.02. The Development Plan shall specify the person to be responsible for maintaining such compliance if the application is approved. If the person responsible for maintaining compliance is changed, such person shall notify the Zoning Inspector of such change within thirty (30) days thereof. Such person shall annually file a Statement of Compliance with the Zoning Inspector that states that these accommodations are in compliance with these criteria.
- W.) **Construction and Maintenance of Improvements Within Right-of-Way:** The construction and maintenance of all improvements behind the curb line or the edge of pavement including, but not limited to, drainage improvements, landscaping improvements, sidewalks and/or driveway approaches shall be the responsibility of the abutting property owner.
- X.) **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.
- Y.) **Restrictions on Occupancy:** The owner or operator of the housing accommodations shall maintain compliance with the following restrictions on the occupancy of the independent dwelling units:
  - 1.) Each occupied dwelling unit for independent living shall at all times have as a permanent occupant therein at least one person who is 55 years of age or older (the “Qualifying Occupant”); provided, in the event of the death of a person who was the sole Qualifying Occupant of a Unit, the spouse of such Qualifying Occupant may continue to occupy the Unit as long as the provisions of the Fair Housing Amendments Act and the regulations adopted thereunder are not violated by such occupancy. For such purposes of this Subsection, an occupant shall not be considered a “permanent occupant” unless such occupant considers the Unit to be his or her legal residence and actually resides in the Unit for at least six months during every calendar year.
  - 2.) The development plan shall specify the manner and method to be used in order to maintain compliance with the general criteria set forth in Section 14.01. This includes providing copies of any and all rules and regulations proposed to be enforced with respect to the independent housing accommodations contained within the development plan.

## SECTION 14.07: DEVELOPMENT PLAN PROCESS

In the PARRD, no use shall be established or changed and no structure shall be constructed or altered until the required Subdivision Plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and compliance with the provisions of the Berlin Township Zoning Code.

- A.) Consistent with [ORC§519.021\(A\)](#), and in addition to any other procedures set forth in this Code, all Applications for Amendments to the Zoning Map to rezone lands to the PARRD shall follow this process:
  - 1.) The applicant, being the owner of the subject real estate (or his/her assignee) may apply for designation of the property to the PARRD designation. Simultaneous with the application, it is recommended that the applicant schedule a walkabout or informal review with the Zoning

Inspector and other county agencies to familiarize all parties with the lay of the land and the general design intent of the applicant.

A Development Plan which complies with the requirements of Section 14.07(B) must be submitted with the application. Consideration and approval of the Development Plan is a legislative amendment and is subject to referendum by the citizens of the township.

- B.) **Development Plan Application:** Upon application for a PARRD District, the owner(s) of lots or land within the Township shall simultaneously submit a Development Plan. The Development Plan shall show the intended layout of the site in accordance with PRD standards.

Sixteen (16) copies of the Development Plan and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the PARRD application along with a list of addresses for notification as defined in Section 31.01 herein. The plan shall be provided in text and map form, the following. Exhibits shall be provided on 22" x 34" sheets at a scale of 1" = 100" or such scale necessary to show sufficient detail:

- 1.) Survey plat and legal description of the plat signed by a registered surveyor showing the size and location of the proposed project.
- 2.) Environmental features including wetlands, topographic contours of at least 5' intervals, indication of slopes 20% or greater, wooded areas, wetlands, adjacent structures (within 200'), and 100-year floodplains.
- 4.) The relationship of the proposed development to the existing uses including easements, setbacks, and right-of-way areas.
- 5.) The proposed uses of the site, including the proposed location of all buildings and structures, proposed streets and roadways, parking areas, and all required design features. The general development character of the tract shall include limitations or controls to be placed on all uses, with proposed lot sizes, minimum setback requirements.
- 6.) 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, 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.
- 7.) Architectural design criteria including materials, colors and exact renderings for all structures and proposed signs, with control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall be considered a Major Deviation in accordance with Section 14.11(A)(2). Materials and colors shall be submitted for approval.
- 8.) 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. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented. Letters from relevant agencies shall be included.
- 9.) Design of the open space and proposed description of its use, ownership and plan for maintenance.

- 10.) A traffic impact analysis by a professional engineer who is skilled at traffic surveys, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 11.) The responsibility and maintenance of any proposed or existing on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
  - 12.) All required design features from Section 14.06.
  - 13.) Emergency service provisions (letters from local agencies).
  - 14.) The proposed time schedule for development of the site including streets, common use structures, utilities, and other facilities.
  - 15.) 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.
  - 16.) Specific statements of divergence, if any, from the Standards of Design and Development in this Article, as well as Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be in compliance.
  - 17.) The ability of the applicant to carry forth its development plan by control of the land and the engineering feasibility of the development plan.
  - 18.) 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.
  - 19.) In the preparation of the development plan, or the individual drawings used to make up the development plan the respective architect, landscape architect, professional engineer, or surveyor licensed to practice in the state of Ohio shall place his or her seal on his or her own drawings.
- C.) **Effect of Development Plan Approval:** Consistent with [ORC§519.021\(A\)](#), the recommendation of the Zoning Commission shall proceed to the Board of Trustees for their consideration and decision.
- D.) **Development Plan Approval Period:** The approval of a final development plan shall be effective for a period of five (5) 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 plat has not been approved and recorded, and construction of any building has not been commenced within the established approval period, then the final development plan shall expire unless the Board of Trustees 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. In the event the five (5) year time line expires, any new final 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 PRD District.

- E.) **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.
- F.) **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.
- G.) **Administrative Review:** All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved.
- H.) The Township Zoning Commission may recommend and the Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

#### **SECTION 14.08: CRITERIA FOR APPROVAL**

Approving an Application for a PARRD, the reviewing authorities shall consider:

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

- B.) If the proposed development is in conformity with the Comprehensive Plan or portion thereof as it may apply.
- C.) If the proposed development advances the health, safety, and general welfare of the Township and the immediate vicinity.
- D.) That the proposed development will be compatible in appearance and use with surrounding existing or proposed land uses.
- E.) That the development promotes the efficient use of land and resources, promotes greater efficiency in providing public utility services and encourages innovation in the planning and building of all types of development.

#### **SECTION 14.09: ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all subdivision plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure compliance with the Development Plan as approved. Any change to an approved Preliminary or Final Development Plan shall require that a proposed Application for Development Plan Amendment be submitted to the Zoning Commission.

- A.) **Deviations:** Upon submittal of a written Application requesting approval for changes to an approved Development Plan, the Zoning Commission shall designate whether such changes represent Minor or Major Deviations to the plan. This may occur at any public meeting.
  - 1.) Minor Deviations include, but are not limited to, changes in the location of buildings, structures, streets or parking areas. The Zoning Commission may choose to impose conditions, safeguards, or other restrictions to carry out the intent of this District. The decision of the Zoning Commission shall represent final approval or denial of such deviation.
  - 2.) Major Deviations shall be considered at a public hearing by the Zoning Commission. Major deviations include but are not limited to:
    - 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 change in traffic circulation or usage of 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 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.) For Major Deviations, the recommendation of the Zoning Commission shall be forwarded to the Board of Trustees for a final public hearing.
- B.) **Default:** If construction of any site improvement has not been commenced within five (5) years after approval of the initial Development Plan, approval of the Plan shall expire, unless an extension of the time limit has been approved by the Township Trustees.
- C.) **Extension of Time:** An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or increasing the approval period for either a preliminary or final Development Plan may be granted by the Township Trustees at any public meeting provided the Township Trustees find 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.



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## ARTICLE 15 BERLIN COMMERCIAL OVERLAY (BCO)

### SECTION 15.01: PURPOSE

The Berlin Commercial Overlay (the “BCO”) is created pursuant to [ORC§519.021\(C\)](#) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, and commercial development. The overlay encourages flexibility of design to promote and accommodate environmentally sensitive and efficient use of the land, thereby allowing for a unified development that:

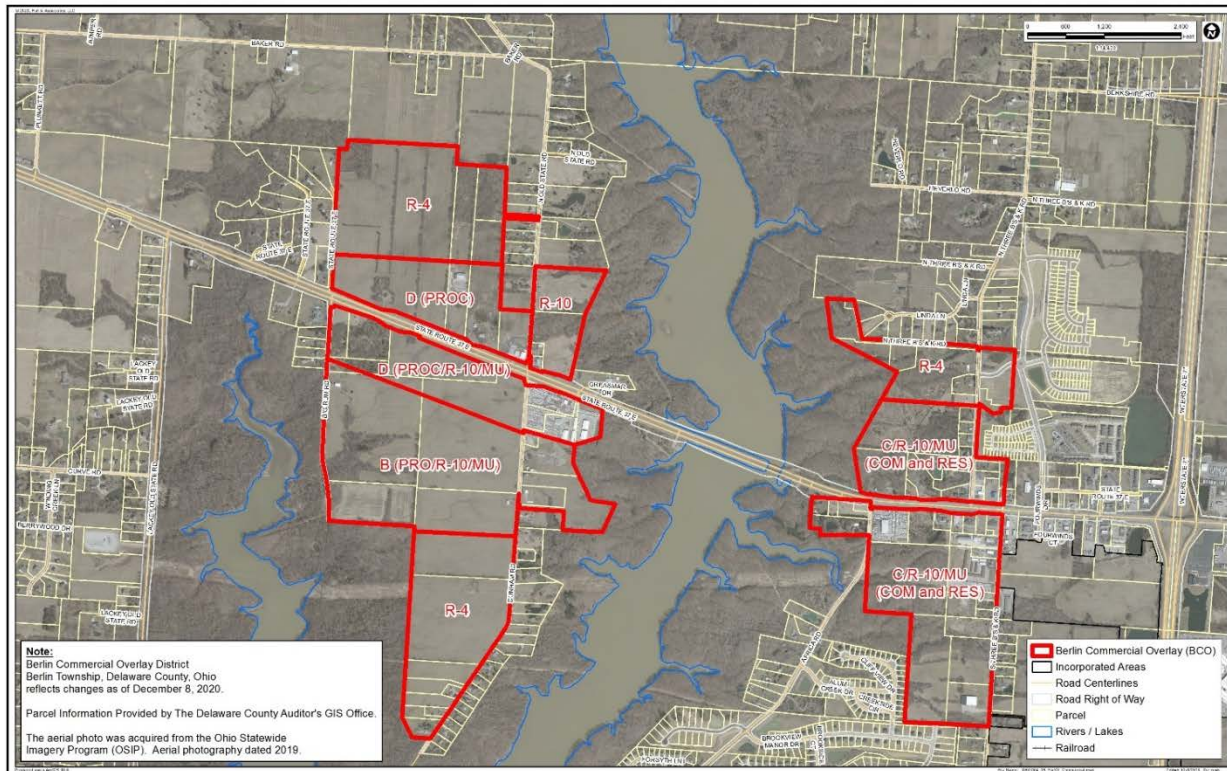
- Preserves unique or sensitive natural resources and integrates Open Space within developments.
- Plans the appropriate amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance.
- Provides an opportunity for an appropriate mix of uses.
- Enables an extensive review of design characteristics to ensure that projects are properly integrated into surroundings and are compatible with adjacent development.
- Assures compatibility between proposed land uses through appropriate development controls.
- Enhances the welfare and economy of the Township by making available a variety of employment opportunities, providers of goods and services as well as providing a variety of housing options for the Township residents.
- Encourages unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district, yet are imaginative in architectural design and are consistent with applicable public plans for the area and are compatible with surrounding land uses.

### SECTION 15.02: OVERLAY AREA ESTABLISHED

The BCO encompasses, includes, overlays, and rezones the area shown on the Berlin Commercial Overlay Zoning District Map, which is incorporated herein and is hereby adopted as the official Zoning District Map for the BCO. The zoning regulations and districts in existence at the time of the effective date of the BCO rezoning shall continue to apply to all property within the BCO, unless the Berlin Township Board of Trustees (the “Trustees”), in accordance with Section 15.06, approve an application submitted by a property owner and/or their agent (the “Applicant”), to subject their property to the provisions of the BCO. Such an application shall be made in accordance with the provisions of this Article 15 and all other applicable Articles of the Berlin Township Zoning Resolution (the “Zoning Resolution”).

For purposes of this BCO, the area designated as PROC/R-10/MU and PRO/R-10/MU located to the south of State Route 37 shall be referred to as the “Peninsula MU Area”.

## BERLIN COMMERCIAL OVERLAY ZONING DISTRICT MAP



Parcels determined by the Delaware County Auditor's Office to be in existence as of September 9, 2020.

### SECTION 15.03: PERMITTED USES

- A.) Within the individual Subareas of the Berlin Commercial Overlay (BCO) the following uses, as described by the North American Industrial Classification System (NAICS), shall be permitted within the subarea noted with an "X" when developed in strict compliance with the approved Development Plan and the standards of this Resolution.

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

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
423410	Photographic Equipment and Supplies Merchant Wholesalers	X	X		
423420	Office Equipment Merchant Wholesalers	X	X		
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	X	X		
423440	Other Commercial Equipment Merchant Wholesalers	X	X		
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	X	X		
423460	Ophthalmic Goods Merchant Wholesalers	X	X		
423490	Other Professional Equipment and Supplies Merchant Wholesalers	X	X		
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	X	X		
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers	X	X		
423690	Other Electronic Parts and Equipment Merchant Wholesalers	X	X		
423710	Hardware Merchant Wholesalers	X	X		
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	X	X		
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	X	X		
423740	Refrigeration Equipment and Supplies Merchant Wholesalers	X	X		
<b>Wholesalers</b>					
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers	X	X		
423920	Toy and Hobby Goods and Supplies Merchant Wholesalers	X	X		
423940	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers	X	X		
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	X	X		
424110	Printing and Writing Paper Merchant Wholesalers	X	X		
424120	Stationery and Office Supplies Merchant Wholesalers	X	X		
424130	Industrial and Personal Service Paper Merchant Wholesalers	X	X		
424210	Drugs and Druggists' Sundries Merchant Wholesalers	X	X		
424310	Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers	X	X		
424320	Men's and Boys' Clothing and Furnishings Merchant Wholesalers	X	X		
424330	Women's, Children's, and Infants' Clothing and Accessories Merchant Wholesalers	X	X		
424340	Footwear Merchant Wholesalers	X	X		
424810	Beer and Ale Merchant Wholesalers	X	X		
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers	X	X		
425110	Business to Business Electronic Markets	X	X		
425120	Wholesale Trade Agents and Brokers	X	X		
<b>Retail Trade</b>					
442110	Furniture Stores	X		X	
442210	Floor Covering Stores	X		X	
442291	Window Treatment Stores	X		X	
442299	All Other Home Furnishings Stores	X		X	
443141	Household Appliance Stores	X		X	
443142	Electronics Stores	X		X	
444110	Home Centers	X		X	
444120	Paint and Wallpaper Stores	X		X	
444130	Hardware Stores	X		X	
444190	Other Building Material Dealers	X		X	
444210	Outdoor Power Equipment Stores	X		X	
444220	Nursery, Garden Center, and Farm Supply Stores	X		X	
445110	Supermarkets and Other Grocery (except Convenience) Stores	X		X	
445120	Convenience Stores	X		X	

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
445220	Fish and Seafood Markets	X		X	
445230	Fruit and Vegetable Markets	X		X	
445291	Baked Goods Stores	X		X	
445292	Confectionery and Nut Stores	X		X	
445299	All Other Specialty Food Stores	X		X	
445310	Beer, Wine, and Liquor Stores	X		X	
446110	Pharmacies and Drug Stores	X		X	
446120	Cosmetics, Beauty Supplies, and Perfume Stores	X		X	
446130	Optical Goods Stores	X		X	
446191	Food (Health) Supplement Stores	X		X	
446199	All Other Health and Personal Care Stores	X		X	
448110	Men's Clothing Stores	X		X	
448120	Women's Clothing Stores	X		X	
448130	Children's and Infants' Clothing Stores	X		X	
448140	Family Clothing Stores	X		X	
448150	Clothing Accessories Stores	X		X	
448190	Other Clothing Stores	X		X	
448210	Shoe Stores	X		X	
448310	Jewelry Stores	X		X	
448320	Luggage and Leather Goods Stores	X		X	
<b>Retail Trade</b>					
451110	Sporting Goods Stores	X		X	
451120	Hobby, Toy, and Game Stores	X		X	
451130	Sewing, Needlework, and Piece Goods Stores	X		X	
451140	Musical Instrument and Supplies Stores	X		X	
451211	Book Stores	X		X	
451212	News Dealers and Newsstands	X		X	
453110	Florists	X		X	
453210	Office Supplies and Stationery Stores	X		X	
453220	Gift, Novelty, and Souvenir Stores	X		X	
453310	Used Merchandise Stores	X		X	
453910	Pet and Pet Supplies Stores	X		X	
453920	Art Dealers	X		X	
454110	Electronic Shopping and Mail-Order Houses	X	X	X	
<b>Information (except those including adult entertainment)</b>					
511110	Newspaper Publishers	X	X		
511120	Periodical Publishers	X	X		
511130	Book Publishers	X	X		
511140	Directory and Mailing List Publishers	X	X		
511191	Greeting Card Publishers	X	X		
511199	All Other Publishers	X	X		
518210	Data Processing, Hosting, and Related Services	X	X		
519110	News Syndicates	X	X		
519120	Libraries and Archives	X	X		
519130	Internet Publishing and Broadcasting and Web Search Portals	X	X		
519190	All Other Information Services	X	X		
<b>Finance and Insurance</b>					

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>D</b>	<b>B</b>	<b>C</b>	<b>R</b>
521110	Monetary Authorities-Central Bank	X	X	X	
522110	Commercial Banking	X	X	X	
522120	Savings Institutions	X	X	X	
522130	Credit Unions	X	X	X	
522190	Other Depository Credit Intermediation	X	X	X	
522210	Credit Card Issuing	X	X	X	
522220	Sales Financing	X	X	X	
522291	Consumer Lending	X	X	X	
522292	Real Estate Credit	X	X	X	
522293	International Trade Financing	X	X	X	
522294	Secondary Market Financing	X	X	X	
522298	All Other Nondepository Credit Intermediation	X	X	X	
522310	Mortgage and Nonmortgage Loan Brokers	X	X	X	
522320	Financial Transactions Processing, Reserve, and Clearinghouse Activities	X	X	X	
522390	Other Activities Related to Credit Intermediation	X	X	X	
523110	Investment Banking and Securities Dealing	X	X	X	
523120	Securities Brokerage	X	X	X	
523130	Commodity Contracts Dealing	X	X	X	
523140	Commodity Contracts Brokerage	X	X	X	
523210	Securities and Commodity Exchanges	X	X	X	
523910	Miscellaneous Intermediation	X	X	X	
523920	Portfolio Management	X	X	X	
523930	Investment Advice	X	X	X	
523991	Trust, Fiduciary, and Custody Activities	X	X	X	
523999	Miscellaneous Financial Investment Activities	X	X	X	
524113	Direct Life Insurance Carriers	X	X	X	
524114	Direct Health and Medical Insurance Carriers	X	X	X	
524126	Direct Property and Casualty Insurance Carriers	X	X	X	
524127	Direct Title Insurance Carriers	X	X	X	
524128	Other Direct Insurance (except Life, Health, and Medical) Carriers	X	X	X	
524130	Reinsurance Carriers	X	X	X	
524210	Insurance Agencies and Brokerages	X	X	X	
524291	Claims Adjusting	X	X	X	
524292	Third Party Administration of Insurance and Pension Funds	X	X	X	
524298	All Other Insurance Related Activities	X	X	X	
525110	Pension Funds	X	X	X	
525120	Health and Welfare Funds	X	X	X	
525190	Other Insurance Funds	X	X	X	
525910	Open-End Investment Funds	X	X	X	
525920	Trusts, Estates, and Agency Accounts	X	X	X	
525990	Other Financial Vehicles	X	X	X	
	<b>Real Estate Rental and Leasing</b>				
531110	Lessors of Residential Buildings and Dwellings	X	X	X	
531120	Lessors of Nonresidential Buildings (except Mini-warehouses)	X	X	X	
531130	Lessors of Mini-warehouses and Self-Storage Units	X	X	X	
531190	Lessors of Other Real Estate Property	X	X	X	
531210	Offices of Real Estate Agents and Brokers	X	X	X	
531311	Residential Property Managers	X	X	X	
531312	Nonresidential Property Managers	X	X	X	
531320	Offices of Real Estate Appraisers	X	X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
531390	Other Activities Related to Real Estate	X	X	X	
532111	Passenger Car Rental	X	X	X	
532112	Passenger Car Leasing	X	X	X	
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	X	X	X	
532210	Consumer Electronics and Appliances Rental	X	X	X	
532281	Formal Wear and Costume Rental	X	X	X	
532282	Video Tape and Disc Rental	X	X	X	
532283	Home Health Equipment Rental	X	X	X	
532284	Recreational Goods Rental	X	X	X	
532289	All Other Consumer Goods Rental	X	X	X	
532310	General Rental Centers	X	X	X	
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	X	X	X	
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	X	X	X	
532420	Office Machinery and Equipment Rental and Leasing	X	X	X	
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	X	X	X	
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	X	X	X	
	<b>Professional, Scientific, and Technical Services</b>				
541110	Offices of Lawyers	X	X	X	
541120	Offices of Notaries	X	X	X	
541191	Title Abstract and Settlement Offices	X	X	X	
541199	All Other Legal Services	X	X	X	
541211	Offices of Certified Public Accountants	X	X	X	
541213	Tax Preparation Services	X	X	X	
541214	Payroll Services	X	X	X	
541219	Other Accounting Services	X	X	X	
541310	Architectural Services	X	X	X	
541320	Landscape Architectural Services	X	X	X	
541330	Engineering Services	X	X	X	
541340	Drafting Services	X	X	X	
541350	Building Inspection Services	X	X	X	
541360	Geophysical Surveying and Mapping Services	X	X	X	
541370	Surveying and Mapping (except Geophysical) Services	X	X	X	
541380	Testing Laboratories	X	X	X	
541410	Interior Design Services	X	X	X	
541420	Industrial Design Services	X	X	X	
541430	Graphic Design Services	X	X	X	
541490	Other Specialized Design Services	X	X	X	
541511	Custom Computer Programming Services	X	X	X	
541512	Computer Systems Design Services	X	X	X	
541513	Computer Facilities Management Services	X	X	X	
541519	Other Computer Related Services	X	X	X	
541611	Administrative Management and General Management Consulting Services	X	X	X	
541612	Human Resources Consulting Services	X	X	X	
541613	Marketing Consulting Services	X	X	X	
541614	Process, Physical Distribution, and Logistics Consulting Services	X	X	X	
541618	Other Management Consulting Services	X	X	X	
541620	Environmental Consulting Services	X	X	X	
541690	Other Scientific and Technical Consulting Services	X	X	X	



2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>D</b>	<b>B</b>	<b>C</b>	<b>R</b>
541810	Advertising Agencies	X	X	X	
541820	Public Relations Agencies	X	X	X	
541830	Media Buying Agencies	X	X	X	
541840	Media Representatives	X	X	X	
541850	Outdoor Advertising	X	X	X	
541860	Direct Mail Advertising	X	X	X	
541870	Advertising Material Distribution Services	X	X	X	
541890	Other Services Related to Advertising	X	X	X	
541910	Marketing Research and Public Opinion Polling	X	X	X	
541921	Photography Studios, Portrait	X	X	X	
541922	Commercial Photography	X	X	X	
541930	Translation and Interpretation Services	X	X	X	
541940	Veterinary Services	X	X	X	
541990	All Other Professional, Scientific, and Technical Services	X	X	X	
	<b>Management of Companies and Enterprises</b>				
551111	Offices of Bank Holding Companies	X	X	X	
551112	Offices of Other Holding Companies	X	X	X	
551114	Corporate, Subsidiary, and Regional Managing Offices	X	X	X	
	<b>Administrative and Support Services</b>				
561110	Office Administrative Services	X	X	X	
561210	Facilities Support Services	X	X	X	
561311	Employment Placement Agencies	X	X	X	
561312	Executive Search Services	X	X	X	
561320	Temporary Help Services	X	X	X	
561330	Professional Employer Organizations	X	X	X	
561410	Document Preparation Services	X	X	X	
561421	Telephone Answering Services	X	X	X	
561422	Telemarketing Bureaus and Other Contact Centers	X	X	X	
561431	Private Mail Centers	X	X	X	
561439	Other Business Service Centers (including Copy Shops)	X	X	X	
561440	Collection Agencies	X	X	X	
561450	Credit Bureaus	X	X	X	
561491	Repossession Services	X	X	X	
561492	Court Reporting and Stenotype Services	X	X	X	
561499	All Other Business Support Services	X	X	X	
561510	Travel Agencies	X	X	X	
561520	Tour Operators	X	X	X	
561591	Convention and Visitors Bureaus	X	X	X	
561599	All Other Travel Arrangement and Reservation Services	X	X	X	
561611	Investigation Services	X	X	X	
561612	Security Guards and Patrol Services	X	X	X	
561613	Armored Car Services	X	X	X	
561621	Security Systems Services (except Locksmiths)	X	X	X	
561622	Locksmiths	X	X	X	
561910	Packaging and Labeling Services	X	X	X	
561920	Convention and Trade Show Organizers	X	X	X	
561990	All Other Support Services	X	X	X	
	<b>Educational Services</b>				

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
611110	Elementary and Secondary Schools	X	X	X	
611210	Junior Colleges	X	X	X	
611310	Colleges, Universities, and Professional Schools	X	X	X	
611410	Business and Secretarial Schools	X	X	X	
611420	Computer Training	X	X	X	
611430	Professional and Management Development Training	X	X	X	
611511	Cosmetology and Barber Schools	X	X	X	
611512	Flight Training	X	X	X	
611513	Apprenticeship Training	X	X	X	
611519	Other Technical and Trade Schools	X	X	X	
611610	Fine Arts Schools	X	X	X	
611620	Sports and Recreation Instruction	X	X	X	
611630	Language Schools	X	X	X	
611691	Exam Preparation and Tutoring	X	X	X	
611692	Automobile Driving Schools	X	X	X	
611699	All Other Miscellaneous Schools and Instruction	X	X	X	
611710	Educational Support Services	X	X	X	
	<b>Health Care and Social Assistance</b>				
621111	Offices of Physicians (except Mental Health Specialists)	X	X	X	
621112	Offices of Physicians, Mental Health Specialists	X	X	X	
621210	Offices of Dentists	X	X	X	
621310	Offices of Chiropractors	X	X	X	
621320	Offices of Optometrists	X	X	X	
621330	Offices of Mental Health Practitioners (except Physicians)	X	X	X	
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	X	X	X	
621391	Offices of Podiatrists	X	X	X	
621399	Offices of All Other Miscellaneous Health Practitioners	X	X	X	
621410	Family Planning Centers	X	X	X	
621420	Outpatient Mental Health and Substance Abuse Centers	X	X	X	
621491	HMO Medical Centers	X	X	X	
621492	Kidney Dialysis Centers	X	X	X	
621493	Freestanding Ambulatory Surgical and Emergency Centers	X	X	X	
621498	All Other Outpatient Care Centers				
621511	Medical Laboratories	X	X	X	
621512	Diagnostic Imaging Centers	X	X	X	
621610	Home Health Care Services	X	X	X	
621910	Ambulance Services	X	X	X	
621991	Blood and Organ Banks	X	X	X	
621999	All Other Miscellaneous Ambulatory Health Care Services	X	X	X	
622110	General Medical and Surgical Hospitals	X	X	X	
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	X	X	X	
623110	Nursing Care Facilities (Skilled Nursing Facilities)	X	X	X	
623311	Continuing Care Retirement Communities	X	X	X	
623312	Assisted Living Facilities for the Elderly	X	X	X	
623990	Other Residential Care Facilities	X	X	X	
624110	Child and Youth Services		X	X	
624120	Services for the Elderly and Persons with Disabilities		X		
624190	Other Individual and Family Services		X		
624310	Vocational Rehabilitation Services		X		

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
624410	Child Day Care Services	X		X	
	<b>Arts, Entertainment, and Recreation</b>				
712110	Museums	X		X	
712120	Historical Sites	X		X	
712130	Zoos and Botanical Gardens	X		X	
712190	Nature Parks and Other Similar Institutions	X		X	
713910	Golf Courses and Country Clubs	X		X	
713920	Skiing Facilities	X		X	
713930	Marinas	X		X	
713940	Fitness and Recreational Sports Centers	X		X	
713950	Bowling Centers	X		X	
713990	All Other Amusement and Recreation Industries	X		X	
	<b>Accommodation and Food Services</b>				
721110	Hotels (except Casino Hotels) and Motels	X		X	
721191	Bed-and-Breakfast Inns	X		X	
721199	All Other Traveler Accommodation	X		X	
722310	Food Service Contractors	X		X	
722320	Caterers	X		X	
722330	Mobile Food Services	X		X	
722511	Full-Service Restaurants	X		X	
722513	Limited-Service Restaurants	X		X	
722514	Cafeterias, Grill Buffets, and Buffets	X		X	
722515	Snack and Nonalcoholic Beverage Bars	X		X	
	<b>Other Services (except Public Administration)</b>				
81211	Barber Shop	X		X	
812112	Beauty Salons	X		X	
812113	Nail Salons	X		X	
812191	Diet and Weight Reducing Centers	X		X	
812199	Other Personal Care Services	X		X	
812210	Funeral Homes and Funeral Services	X		X	
812220	Cemeteries and Crematories	X		X	
812310	Coin-Operated Laundries and Dry-cleaners	X		X	
812320	Dry-cleaning and Laundry Services (except Coin-Operated)	X		X	
812331	Linen Supply	X		X	
812332	Industrial Launderers	X		X	
812910	Pet Care (except Veterinary) Services	X		X	
812921	Photofinishing Laboratories (except One-Hour)	X		X	
812922	One-Hour Photofinishing	X		X	
812930	Parking Lots and Garages	X		X	
812990	All Other Personal Services	X		X	
813110	Religious Organizations	X		X	
813211	Grantmaking Foundations	X		X	
813212	Voluntary Health Organizations	X		X	
813219	Other Grantmaking and Giving Services	X		X	
813311	Human Rights Organizations	X		X	
813312	Environment, Conservation and Wildlife Organizations	X		X	
813319	Other Social Advocacy Organizations	X		X	

2017 U.S. NAICS CODE #	PERMITTED USES	PR OC	PR O	CO M	RES
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	D	B	C	R
813410	Civic and Social Organizations	X		X	
813910	Business Associations	X		X	
813920	Professional Organizations	X		X	
813930	Labor Unions and Similar Labor Organizations	X		X	
813940	Political Organizations	X		X	
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)	X		X	
	<b>Public Administration</b>				
921110	Executive Offices	X	X	X	
921120	Legislative Bodies	X	X	X	
921130	Public Finance Activities	X	X	X	
921140	Executive and Legislative Offices, Combined	X	X	X	
921150	American Indian and Alaska Native Tribal Governments	X	X	X	
921190	Other General Government Support	X	X	X	
923110	Administration of Education Programs	X	X	X	
923120	Administration of Public Health Programs	X	X	X	
923130	Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs)	X	X	X	
923140	Administration of Veterans' Affairs	X	X	X	
924110	Administration of Air and Water Resource and Solid Waste Management Programs	X	X	X	
924120	Administration of Conservation Programs	X	X	X	
925110	Administration of Housing Programs	X	X	X	
925120	Administration of Urban Planning and Community and Rural Development	X	X	X	
926110	Administration of General Economic Programs	X	X	X	
926120	Regulation and Administration of Transportation Programs	X	X	X	
926130	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	X	X	X	
926140	Regulation of Agricultural Marketing and Commodities	X	X	X	
926150	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	X	X	X	
927110	Space Research and Technology	X	X	X	
928110	National Security	X	X	X	
928120	International Affairs	X	X	X	
N/A	Residential Uses in accordance with the limitations and regulations defined in <b>15.03(C) and 15.05(B).</b>				X

- 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 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 twice for a total combined period of time under all issued permits not exceeding twenty-four (24) months. 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 shall 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.

- C.) **Commercial Residential:** Within the areas labeled “R-4” or “R-10” on the BCO Overlay Map, the following uses shall be permitted when developed in strict compliance with the approved Development Plan, including the development standards set forth in Section 15.05, and all other applicable Articles of the Zoning Resolution. Map and Text references to “R-4” within this Article only refer to the BCO and do not refer in any way to other Articles within this Resolution.
- D.) **Non-residential uses** of a religious, cultural, education or recreational nature or character to the extent that they are designed and intended to serve the residents of the surrounding area. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- E.) **Mixed Use Buildings:** Mixed Use Buildings, as defined in Section 15.07, may be permitted in any subarea that includes a “MU” designation. These buildings are permitted to include any PROC use on the ground floor and residential uses on the upper floors, in accordance with the regulations provided in this Article, including the density defined in Section 15.05 (A)(9). If a building does not comply with the definition of a Mixed Use Building, then said building is limited to only those uses designated as a permitted use for said subarea in Section 15.03 (A) Permitted Use Table.

#### SECTION 15.04: PROHIBITED USES

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution are prohibited. Such uses, if included in another District(s) in the Berlin Township Zoning Resolution, shall only be approved as a part of a rezoning procedure as permitted by the Zoning Resolution. The granting of a conditional use permit on one parcel shall not be construed to automatically permit that conditional use on any other parcel.
- B.) The outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen consecutive (14) days is prohibited.
- C.) No trailer of any type; no boats, no motor homes and no equipment of any type shall be parked in front of the established front building line on any lot within this district. If a structure is located on said lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum setback line established by this resolution, the restrictions in the plat or deed or the development plan.
- D.) Except as specifically permitted in Section 15.03(B), no mobile home or mobile office structure shall be placed or occupied in this district.
- E.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public, as determined by the Board of Township Trustees. The Board of Township Trustees shall also retain any and all statutory authority that it may be afforded regarding nuisances, including but not limited to the authorities provided in Section 505 of the Ohio Revised Code.
- F.) No commercial or business activity shall be conducted in a unit designed for residential use except for Home Occupations as provided in Section 24.15 and 24.16.

- G.) No outside storage of any kind shall be permitted. All permitted uses shall be conducted completely within an enclosed building.

## SECTION 15.05: DEVELOPMENT AND DESIGN STANDARDS

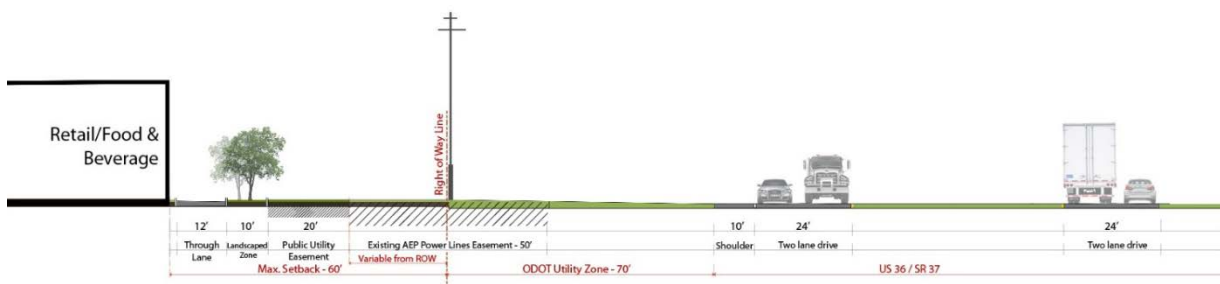
The development plan shall incorporate the following standards for all uses:

A.) **Professional, Research, Office, and Commercial Uses and Mixed Use Buildings:**

- 1.) **Minimum Tract Size per application:** five (5) acres.
- 2.) **Minimum Lot Width:** Shall equal at least one-half (1/2) the lot depth.
- 3.) **Right-of-Way Setbacks:** This overlay establishes maximum building setbacks from the right-of-way in an effort to create a sense of place, strengthen the image of the area and enhance the overall streetscape. The maximum building setback requirements from established or proposed public rights-of-way shall be determined by the street classification for said right-of-way as designated by the Delaware County Thoroughfare Plan. Unless otherwise noted, parking, loading spaces, and services docks are prohibited within the Right-of-Way setback. The setback may include any required utility easements and any required landscape zone.
  - a.) **Commercial/Office Uses:** The following maximum building setbacks shall apply to all commercial and office uses in the BCO. These setbacks also apply in such cases where mixed-use buildings are permitted.

i.) **US 36/SR 37: Maximum 60 feet**

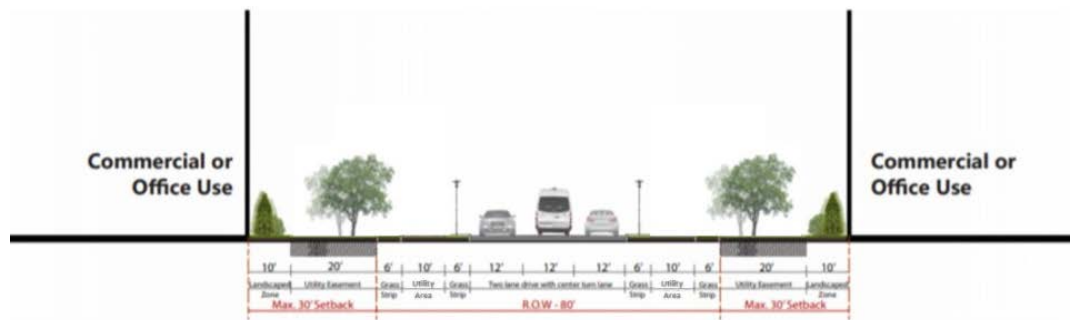
- A 10-foot right-of-way landscape zone that complies with the requirements of Section 15.05(C)(4)(g) shall be provided within this setback.
- One twenty-four (24) foot wide drive aisle is permitted within this setback, provided it is located between the building and required right-of-way landscape zone.
- Example Cross Section:



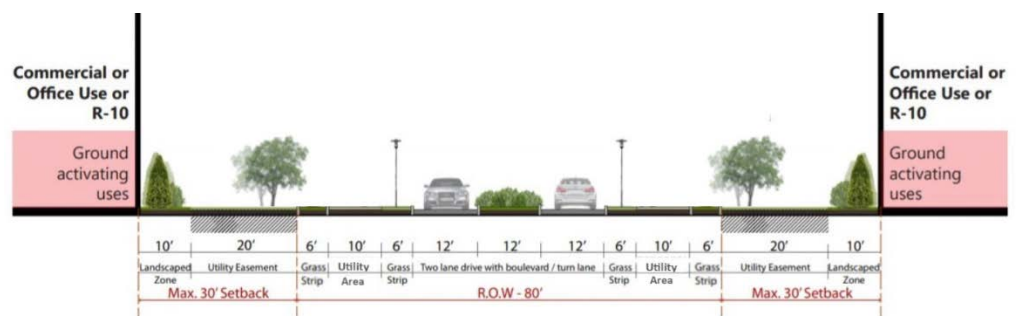
ii.) **Collector and Local Roads: Maximum 30 feet**

- A 10-foot building landscape zone that complies with the requirements in Section 15.05 (C)(4)(g) of these Design Standards shall be provided within this setback.

- Example Cross Sections:



iii. **Mixed Use Buildings adjacent to a collector or local road:**

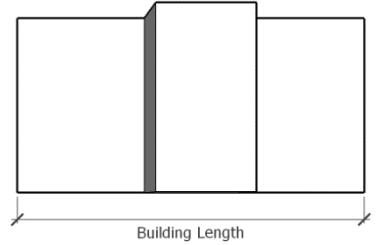


4.) **Minimum Side and Rear Yards:**

- a.) The minimum side and rear yard setbacks shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case, per Section 15.05(C)(8), shall a building or parking be constructed within two hundred and fifty feet of a lot line of an existing parcel utilized for residential purposes at the time of adoption of this overlay and as identified and defined by the list in Appendix A of this Resolution.
- b.) Any Mixed-Use Building that includes a roof top customer activity and is located adjacent to an existing parcel utilized for residential purposes at the time of adoption of this overlay as identified and defined by the list in Appendix A of this Resolution, shall be set back a minimum of 550 feet from the parcel line abutting the existing residential use.

5.) **Building Height Limits:** The maximum building height shall be as follows:

- a.) Any building or structure constructed within the R-10, PRO/R-10/MU, or PROC/R-10/MU and adjacent to an existing parcel used for residential purposes at the time of the adoption of this Resolution as defined in Section 15.05(C)(8) shall be subject to the following height requirements. All distances shall be measured from the property line adjacent to the parcel with the existing residential use:
  - i.) Within two-hundred and fifty (250) feet – no buildings permitted per 15.05(C)(8).

- ii.) More than two-hundred and fifty (250) feet but less than three hundred and fifty (350) feet – maximum building height shall be twenty-five (25) feet and no more than one story.
  - iii.) Between three hundred and fifty (350) feet and four hundred and fifty (450) feet – maximum building height shall be thirty-five (35) feet and no more than two stories.
- b.) All other buildings within the PRO/R-10/MU; PROC/R-10/MU, and C/R-10/MU subareas shall not exceed forty-five (45) feet in height, except however, the height of these buildings may extend up to 47 feet for a maximum of 10 percent of the building length to allow for architectural variations, features, and designs. In no such case shall a building exceed three stories. The building length shall be measured from the furthest edges of each elevation regardless of varying recesses and projections (see example). If a development plan is phased, each building within each phase must still meet the requirement of having no more than ten percent (10%) of its building length at a maximum height of forty-seven (47) feet. The remaining ninety percent (90%) of each building's length shall have a maximum height of forty-five (45) feet. The phasing plan required in Section 15.06(C)(13) must clearly reflect the timing of construction to ensure these percentages are met.
- 
- c.) The height of a building shall be measured from the front door threshold to the highest point on the roof.
- 6.) **Rooftop Mechanical Units:** Rooftop mechanical units, antennas and other similar apparatuses, are permitted provided they:
- a.) Do not exceed eight (8) feet in height; and
  - b.) Are clustered in the center of the roof in an area that does not exceed twenty five percent of the total rooftop area.
    - i.) Upon the recommendation of the Zoning Commission, the Board of Township Trustees may approve a height and location of the mechanical units that differs from the requirements of 15.05(A)(6)(a) and (b), if it is determined that these requirements cannot be met due to engineering and/or fire department purposes. In no such case, shall the sum of the building height and mechanical unit height exceed fifty-three (53) feet. All mechanical units shall comply with the height and location requirements approved by the Board of Trustees and as shown on the approved development plan.
  - c.) Said mechanical units shall be screened on all sides by a wall, parapet or other similar architectural feature that does not extend more than ten (10) feet above the building height. Such screening shall be limited to the permitted area for said mechanical units,



antennas or other similar apparatuses and shall not extend the entire length and/or width of the building.

- 7.) **Building Size Limits:** Uses permitted as defined in Section 15.03 (A) shall contain no more than 65,000 square feet under one roof for any individual use.
- 8.) **Exception to Retail and Office Building Size Limits:** Retail and office uses permitted within the BCO and not listed above with an individual commercial or office use that exceeds 65,000 square feet under one roof for any individual use may be approved at the discretion of the township provided they have direct access to U.S. 36/S.R. 37 or access to an existing or proposed commercial frontage road located parallel to and within 500 feet of U.S 36/SR 37. Large commercial buildings shall not be separated from the road with excessive parking and pavement. (See 15.05(C)(7)(b))
- 9.) **Mixed Use Buildings:**
  - a.) The overall residential density for the development plan shall not exceed ten (10) dwelling units per net developable acre and shall not cause the maximum number of units per Section 15.05(A)(9)(b) to be exceeded.
  - b.) **Maximum Number of Dwelling Units in Mixed Use Areas:** There shall be a maximum of 500 dwelling units across the Peninsula MU Area as defined in Section 15.02. The unit limitation shall apply to all residential unit types permitted by this overlay.
  - c.) Mixed-Use Buildings within the Peninsula MU Area may also include roof top restaurants, gardens, and other common use areas provided the overall height of the use does not exceed the requirements in Section 15.05(A)(5) and such uses are not operated between the hours of 10 p.m. and 8 a.m. For purposes of this height calculation, a dashed line, representing maximum allowable building height per section 15.05(A)(5), shall be drawn on the development plan required in Section 15.06(B). All rooftop uses and appurtenances shall be located below this dashed line.

**B.) Residential uses**

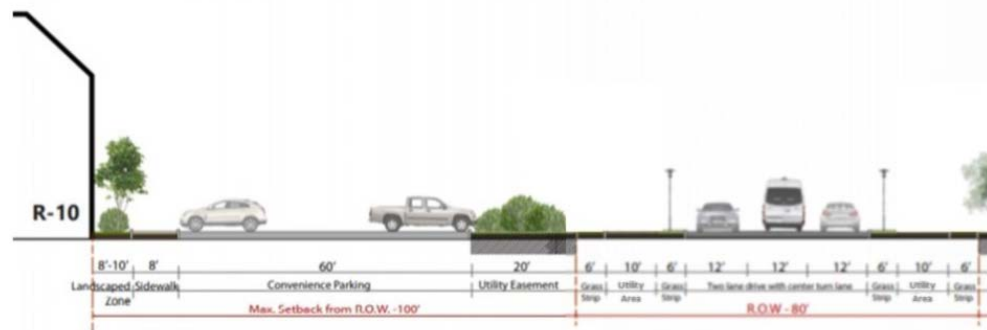
- 1.) **Minimum Tract Size:** 10 acres
- 2.) **Building Type and Density:** “R-4” and “R-10” residential uses shall be permitted in areas defined by the Overlay map established in Section 15.02, provided they include multi-family residential structures that qualify as “commercial residential” by having at least four dwelling units. These types of commercial residential units include but are not limited to attached, modular, townhouse, patio or common wall units.
  - a.) Areas designated as “R-10” may include buildings with more than four (4) dwelling units per building, provided the overall density of the development does not exceed ten (10) dwelling units per net developable acre, as defined by Article 4 of the Berlin Township Zoning Resolution.
  - b.) Areas designated as “R-4” are limited to multi-family residential structures that contain no more than four dwelling units per building and the density shall not exceed four (4) dwelling units per net developable acre, as defined by Article 4 of the Berlin Township Zoning Resolution.

### 3.) Arrangement of Structures:

- a.) **Right-of-Way Setbacks:** This overlay establishes **maximum** building setbacks from the right-of-way in effort to create a sense of place, strengthen the image of the area and enhance the overall streetscape. The maximum building setback requirements from established or proposed public rights-of-way shall be determined by the street classification for said right-of-way as designated by the Delaware County Thoroughfare Plan. Unless otherwise noted, parking, loading spaces, and services docks are prohibited within the Right-of-Way setback. The setback may include any required utility easements and any required landscape zone.

#### i.) **R-10 Uses – All Roads:** 100 feet

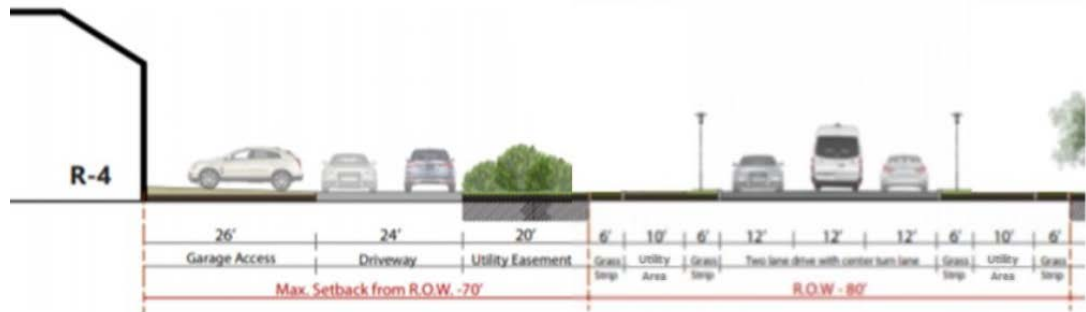
- A drive aisle with one row of parking on each side (for a total 60 foot width of pavement) may be permitted within this setback to provide convenience parking to the proposed use(s). If such parking is provided, an eight (8) foot sidewalk must be constructed parallel to the building and connected to said parking area. An eight (8) foot building landscape zone, which complies with the requirements in Section 15.05(C)(4)(h) must be located between the required sidewalk and the building.
- A right-of-way landscape zone that complies with the requirements in Section 15.05 (C)(4)(g) of these Design Regulations shall be provided.
- Example Cross Section:



#### ii.) **R-4 Uses - All Roads:** 70 feet

- Private access roads parallel to the public right-of-way and any connecting private driveways may be permitted within this setback.
- Low shrubby landscaping is encouraged between any private, parallel access road and the public right-of-way.

- Example Cross Section:



- b.) **Minimum Side and Rear Setbacks:** Shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case, per Section 15.05(C)(8), shall a building or parking be constructed within two hundred and fifty feet of a lot line of an existing parcel that is used for residential purposes at the time of the adoption of this overlay.
- c.) **Building Height Limits:** The following height limits shall apply as follows:
- R-10 Subareas: Unless otherwise limited by section 15.05 (A)(5)(a), no buildings within the R-10 subareas shall exceed forty-five (45) feet, or three stories, in height.
  - R-4 Subareas: No buildings developed for residential uses within sub-areas labeled R-4 shall exceed twenty-five (25) feet, or one story, in height.
  - For purposes of this section, height is measured from the threshold plate at the front door to the highest point of the roof.
- d.) **Rooftop Mechanical Units:** Rooftop mechanical units, antennas and other similar apparatuses, are permitted for the R-10 Uses provided they:
- Do not exceed eight (8) feet in height; and
  - Are clustered in the center of the roof in an area that does not exceed twenty five percent of the total rooftop area.

Upon the recommendation of the Zoning Commission, the Board of Township Trustees may approve a height and location of the mechanical units that differs from the requirements of 15.05(B)(3)(d)(i) and (ii), if it is determined that these requirements cannot be met due to engineering and/or fire department purposes. In no such case, shall the sum of the building height and mechanical unit height exceed fifty-three (53) feet. All mechanical units shall comply with the height and location requirements approved by Board of Trustees and as shown on the approved development plan.

- Said mechanical units shall be screened on all sides by a wall, parapet or other similar architectural feature that does not extend more than ten (10) feet above the building height. Such screening shall be limited to the permitted

area for said mechanical units, antennas or other similar apparatuses and shall not extend the entire length and/or width of the building.

- iv.) Details above shall be provided with a visual exhibit with the Development Plan.

- 4.) **Living Area Dimensions:** All structures constructed within this district shall contain the following minimum living area:

- a.) One (1) bedroom unit: 800 square feet
- b.) Two (2) bedroom unit: 900 square feet
- c.) Three or more bedroom units: 1000 square feet

- C.) **General Design Standards:** The purpose of the design standards is to create a unified development and design approach to the Berlin Commercial Overlay area. Due to the unique nature of the overlay, these standards (and submission requirements defined in 15.06(C)), unless otherwise noted, will supersede any general design standards including but not limited to lighting, landscaping, and sign standards found within the Berlin Zoning Resolution. The following standards shall apply to all uses and developments within the BCO.

- 1.) **Architectural Requirements.** Unless otherwise noted, the following requirements apply to all uses:

- a.) **Site Design:** The bulk, height, and surface materials of buildings within the proposed development shall be compatible with the surrounding area. Buildings, structures, and parking areas shall be designed and located within the development in ways that conserve environmentally sensitive or unique natural, historic, or cultural features and minimize environmental impacts.
  - i.) An elevation of a building that fronts on US 36/SR 37 shall be designed to appear as the front façade of the building.
  - ii.) Any building located in the C/R-10/MU area south of US 36/SR 37 and immediately adjacent to the existing Ravines at Alum Creek subdivision shall have any and all elevations facing said subdivision designed to appear as the front façade of the building. No trash receptacles shall be placed between said elevation and an abutting lot line with the Ravines at Alum Creek subdivision. Furthermore, no decks, patios, balconies of said buildings shall face toward a parcel within said subdivision.
- b.) **Building Design:** The intent of the Building Design Requirements is to create an Artisan Design theme that is unique to the Berlin Business Park by focusing on materials and colors that transcends design fads while simultaneously allowing a unique design approach for individual projects through the review and guidance from the Architectural Review Board. Buildings and structures shall be designed to enhance both areas within and surrounding the development, giving due regard to building footprints, building orientation, massing, roof shape, pitch, and exterior materials.

The following material and design element requirements have been established to achieve the Artisan Design theme.

- i.) **Building Materials and Design Elements:** Buildings for all uses shall be designed to be seen from three hundred sixty degrees (360°) and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing principal structure. Additionally, the following standards shall apply to the specific uses:

1.) **Commercial, Office, and Mixed-Use Buildings:**



Example Cupola – media.myworshiptimes22.com



Example Covered Porch – ruralbuilding.com/au

- a.) **Building Materials:** All exterior elevations shall be comprised of eighty (80) percent of wood, fiber cement, EFIS, Hardie Plank, and native or cultured stone. Foundations must be clad with the same natural material utilized on the building to blend with the overall architecture of the structure. Exposed cement block or split face block foundations shall be prohibited. Brick or natural materials may be utilized as an accent material provided it does not exceed twenty (20) percent of the gross exterior building wall square footage. Vinyl and/or aluminum shall be prohibited except when used for trim details such as downspouts, soffits, gutters and shutters. The use of black, gold, green, silver, opaque or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to review and recommendation of the Architectural Review Board with final approval of the Board of Trustees.

- b.) **Building Colors:** Building colors shall consist of earth tones limited to browns, tans, and grays. Leaf greens, gray sky blues, and whites may be utilized as an accent and shall not be the predominant building color.

- c.) **Design Elements:** Blank walls shall not be permitted. Where expanses of solid walls are necessary, they may not exceed twenty (20) feet in length. There shall be a minimum of three (3) unique design elements for every one hundred (100) feet of elevation facing a public right-of-way and a minimum of two (2) unique design elements for every one hundred (100) feet of each side and rear elevation that does not front on a public right-of-way. Design elements shall be consistent with Artisan Design theme and shall include:



Example Portico/Covered Entry with Wood Columns - Kennedytimber.com/au



Example Wood Column -  
Kennedytimber.com/au



Example Trellis with Plants -  
decorfortheoutdoors.com



Example Balcony - dowmet.com



Example landscape feature  
- landscapingnetwork.com



Example patio - thejunkmap.com/au

- Wood columns of sufficient width as determined by the ARB;
- A door at least twenty (20) square feet in area with portico/covered entry;
- A window of at least six (6) square feet in area. Windows closer than ten (10) square feet shall be considered one (1) element;
- A cupola;
- Masonry water table;
- Trellis containing plants;
- Patio, deck or other similar features;
- Balconies that project no more than two feet into the minimum setback and have a minimum clearance of ten (10) feet from grade;
- Works of art, fountains and pools, street furniture, landscaping and garden areas that are properly integrated into the streetscape and other similar significant permanent architectural features consistent with the Artisan Design theme may be permitted, subject to a recommendation by the Architectural Review Board and approved by the Board of Township Trustees.

Side and rear elevations of an in-line retail development may be exempt from these design elements standards, if such elevations are not visible to customer traffic, a public right-of-way, or if a future phase of the in-line retail development is forthcoming adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and screened by the landscaping, mounding, fencing, or combination thereof, as deemed appropriate by the Architectural Review Board and approved by the Board of Township Trustees.

- d.) **Roofing:** For any building with a sloped roof, the roof shall have a minimum of 6:12 pitch. Pitched roofs must be constructed of dimensional shingles, standing seam metal, slate or simulated slate. Upon the recommendation of the Zoning Commission, the Board of Township Trustees may approve flat roofs when it is determined said roofs will blend with the overall architectural style.
- e.) **Drive Thrus:** For commercial buildings only (not applicable to mixed use buildings): A drive thru, if deemed appropriate for the site, shall be designed as an integral part of the structure it serves. Features incorporated with a drive thru including,

but not limited to, canopies, awning and support posts shall match the material and color scheme within this Artisan Design theme. Drive thru features shall not have any pickup window, ordering areas, signage or other related items located on the front elevation of a building or located between the building and a street right-of-way.

## 2.) R-4 and R-10 Uses



Example R-10 Design – aberfence.com/au



Example – R-4 Design – Houseplans.pro

a.) **Building Materials:** The exterior cladding material for all R-4 and R-10 uses shall be comprised of eighty (80) percent of wood, fiber cement, EFIS, Hardie Plank, and native or cultured stone to keep consistent with the Artisan Design theme of the Berlin Business Park. Brick may be utilized as an accent but not as a predominant material. Vinyl and aluminum shall be prohibited except for downspouts, soffits, gutters, shutters. Exposed foundation material shall be stone, stamped concrete, or a textured concrete block compatible with the structure. Exposed chimneys shall have a brick or stone appearance and shall extend from the ground elevation to elevation above the roof line of the location of the chimney.

b.) **Design Elements:** Each elevation of a Multi-Family Building (i.e. R-10 use) must include design elements per Section 15.05(C)(1)(b)(i)(1)(c) For all townhome or common wall units (i.e. R-4 uses), there shall be a minimum of three (3) different design elements for every forty (40) feet of elevation width for an elevation facing a public right-of-way. Each side or rear elevation that does not front on a public right-of-way must contain at least two (2) different design elements for every forty (40) feet. Typical design elements are listed below, but this is not an all-inclusive list:

- A door of at least twenty (20) square feet in area
- A window of at least six (6) square feet in area. Windows with a horizontal separation of less than ten (10) feet shall be considered as one (1) design element. Sets of adjacent windows shall be considered as one (1) design element.
- A chimney
- A Portico
- Dormer
- A gable vent of at least four (4) square feet in area
- Porches, decks or similar structures
- Balconies (may project up to two (2) feet into the minimum setback and must have a minimum clearance of ten (10) feet from grade.
- A similar significant permanent architectural feature



consistent with the style of the building may be permitted, subject to a recommendation by the Architectural Review Board and approved by the Board of Township Trustees.

- c.) **Garages:** Rear garages are encouraged. If front garages are provided, they shall not comprise more than thirty percent (30%) of the front elevation of the building, measured from the ground level to the lower edge of the roof. All front facing garages must not extend beyond the front plane of the building. For the purposes of this section, the front plane shall include a covered porch and a garage may be flush with the covered porch. All other off-street parking, including other garages or unenclosed parking spaces must be located behind the building's front façade.

2.) **Ground Coverage:**

No more than seventy five percent (75%) of the total tract coverage of a development, exclusive of the public street rights-of-way, shall be covered by impervious surfaces. Land underneath the overhead high voltage electric transmission lines may be utilized as open space, landscaping, parking, and roads with permission from the electric company.

3.) **Open Space:**

- a.) **Commercial, Office, and Mixed-Use Buildings:** Not less than ten percent (10%) of the total tract acreage must be set aside as useable common open space. Additional open space may be used for retention, detention, and disposal of storm water drainage. Features which are likely to cause erosion or flooding shall not be permitted.
- b.) **R-4 and R-10 Uses:** Not less than twenty-five percent (25%) of the total tract acreage must be set aside as useable common open space. Open spaces may be used for retention, detention, and disposal of storm water drainage. Features which are likely to cause erosion or flooding shall not be permitted. The total tract acreage of open space shall be broken down as follows:

i.) **Central Green Space:**

- 1.) A minimum of fifteen percent (15%) of the total tract acreage shall be devoted to a Central Green Space that shall serve as usable green space and shall not include detention, retention or other stormwater purposes. Decorative and usable ponds are permitted and encouraged within the Central Green Space, in accordance with Section 24.08. The Central Green Space shall be easily and conveniently accessible by a paved minimum five (5) foot walkway or minimum eight (8) foot bikeway from all dwelling units within the tract.
- 2.) When streets abut the Central Green Space, the front façade of the buildings on the opposite side of the street shall face the Central



Green Space rather than the rear building elevations, stormwater basins or parking lots.

- ii.) Other Open Spaces: The remaining ten percent (10%) of required open space may be distributed throughout the tract and may be utilized for retention, detention or other stormwater purposes.
- iii.) All Open Spaces: Open spaces for all uses shall be permanently deed restricted and platted as open space parcel to prevent future subdivision and development.

Example of Central Green Space:



4.) **Landscaping:**

- a.) **Landscaping Material:** All landscaping required by the Overlay Design Standards shall meet the following requirements:
  - i.) Minimum tree sizes at the time of planting: Tree Type Minimum Size at the time of planting.

Deciduous Trees:

Canopy - minimum eight (8) feet in height, and two-inch caliper, or more, at planting. Understory – minimum four (4) feet in height or more, and one-and-one-half inch caliper or more, at planting.

Evergreen Trees: minimum five (5) feet in height.

Shrubs: minimum 3 gallon, 18" spread. Decorative Grasses may be proposed as substitute for shrubs, but must meet screening purposes and be approved as part of the Development Plan.

Unless otherwise provided, landscaping material shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one foot above finished grade level to the top of

- the required planting or hedge within four years after installation, unless the opacity requirement is met with a fence, wall, or earth mound.
- ii.) All plants and trees listed on the Berlin Township Prohibited/Overused Plant and Tree List shall not be utilized. Preference will be given to plants and trees on the Berlin Township Native Plant and Tree List.
  - iii.) All plants shall meet or exceed American Standards for nursery stock as set forth by the American Association of Nurserymen.
  - iv.) All trees and landscaping shall be well maintained. Dead trees, shrubs and other landscaping material shall be promptly removed and, when required, shall be replaced within three (3) months. Developer shall warranty any landscape material for a minimum of one (1) year.
  - v.) 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 such material meets the requirements and achieves the objectives of these Design Standards as recommended by the Architectural Review Board and approved by the Board of Township Trustees.
- b.) **Vehicular Overhang:** Parked vehicles may hang over any required landscaping area no more than two and one-half (2-1/2) feet as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.
- c.) **Landscaping at Driveway and Street Intersections:** To ensure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, neither landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as, except during the early growth stages, only the tree trunk is visible between the ground and eight (8) feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.
- i.) **Driveway Intersection Triangle:** At intersections 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 (10) feet along the driveway to a point and a distance of twenty (20) feet along the street curb to a point connecting these points.
  - ii.) **Street Intersection Sight Triangle:** At the street intersections, the sight triangle shall be formed by measuring at least fifty (50) feet along curb lines or edge of pavement and connecting these points.
- d.) **Street Trees:** Deciduous street trees shall be provided outside of and immediately adjacent to all public rights-of-way and shall be spaced at a maximum of thirty (30) feet on center.

- e.) **Screening Between Uses:** A fifteen (15) foot deep buffer with a continuous hedge and tree planting to provide screening between non-residential and an abutting residential use shall be installed. The required planting hedge and tree combination shall follow the minimum plant and tree size requirements as provided in Section 15.05(C)(4)(a)(i). Mounding may be used to achieve the required height and fencing may be incorporated to provide additional screening.

For purposes of this section, Mixed Use Buildings are considered non-residential uses. Uses separated by a public right-of-way shall not be considered abutting.

- f.) **Perimeter Area Buffer:** When a perimeter area buffer is required per Section 15.05(C)(7), it shall be landscaped with five (5) deciduous trees, five (5) evergreen trees, and twenty-five (25) shrubs per one hundred (100) lineal feet.
- g.) **Right-of-Way Landscape Zone:** Whenever a right-of-way landscape zone is required, it shall be a minimum of ten (10) feet deep and contain three (3) deciduous trees and five (5) shrubs for every 100 linear feet of right-of-way frontage.
- h.) **Building Landscape Zone:** Whenever a building landscape zone is required, it shall be a minimum of eight (8) feet in depth located immediately adjacent to the building and shall contain one (1) shrub planted every five (5) linear feet.
- i.) **Screening of Vehicular Use Areas:** All Vehicular Use Areas (VUA) regardless of size shall be screened with a three (3) foot average height continuous planting, hedge, fence, wall or earth mound located within a minimum four (4) foot deep area around all sides of the VUA.



- j.) **Vehicular Use Area Island Landscaping:** Landscaped islands shall be provided in accordance with Section 15.05(C)(7)(c). Each landscape island shall have a minimum of one shade tree with a minimum of 2" in caliper and include a minimum of fifty (50) square feet of other plant material. The remaining area of the island shall be covered with a weed mat of 3"-4" river rock. The use of mulch shall be prohibited within the landscaped islands.
- k.) **Landscaping for Service Structures:** Any service structure, or accessory use structure, shall be screened whenever located in any residential zone, commercial zone, or when located on property abutting any residential zone, freeway or arterial street prohibiting driveway access. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures.

- i.) **Location of Screening:** A continuous (having ninety percent (90%) opacity year-round) planting, hedge, fence, wall of earth, which would enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed ten (10) 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.
- ii.) **Curbs to Protect Screening Material:** Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one (1) foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.

**l.) Tree Preservation:**

- i.) 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 utility easements or a temporary construction easement approved by the County Engineer.
  - 2.) Trees within the ground coverage of proposed structures or within twelve (12) feet of the perimeter of such structure.
  - 3.) Trees that in the judgment of the township authority are damaged, disease, over mature, which interfere with utility lines or are an inappropriate or undesirable species for that specific location. It is encouraged that exempted trees subject to destruction be preserved by relocating and replanting of such trees.
- ii.) **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.

**5.) Access and Connectivity:**

- a.) **Access:** All lots shall have direct access to a public road or to a proposed access road that runs parallel to a public road. Access to US36/SR 37 shall be limited to those locations approved by ODOT. All other access points shall be approved by the applicable permitting authority. Driveways shall also comply with Section 24.09 of the Berlin Zoning Resolution.
  - b.) **Vehicular Connectivity (Access Roads and/or Parking Lot Connections):** The overall design within the Development Plan must provide for vehicular connectivity between properties within the Development Plan as well as future connections to adjacent properties outside of the Development Plan boundaries. This requirement could be achieved through access roads and/or through the use of cross access easements between parking lots. This requirement has been established to reduce traffic movements on mainline roads to improve the public health and safety of those utilizing the public rights-of-way. The township may rely upon recommendations from the Delaware County Engineer or other consulting engineers to determine that the proposed method for providing connectivity is the most suitable in each particular development.
  - c.) If access roads are utilized to comply with this connectivity requirement, there shall be a minimum distance of 200 feet between intersections. A greater distance may be required upon recommendation by the Delaware County Engineer or a consulting engineer to avoid safety concerns.
- 6.) **Pavement Standards:** All private streets, roads and driveways shall be constructed to a pavement width and cross section that meets the Average Daily Traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual, or shall have a design life of 20 years. Parking lot pavement with heavy truck use, as determined by the Board of Township Trustees, shall have a minimum pavement depth that includes eight (8) inches of aggregate base with two (2) inches of pavement. For all other uses, parking lot drive aisles that connect to the public streets shall be constructed to public street cross sectional and design life standards within 50 feet of the edge of the public paved road.
- 7.) **Parking:** Parking lot areas shall be designed and constructed to minimize the visual impact of the parking area, minimize production of excess heat and prohibit any adverse effects on drainage. Appropriately sized landscaped areas shall be provided within each parking lot area allowing for a variety of shade trees to be planted. (See 15.05(C)(4)(j) for plant materials.) In order to accomplish these goals, all off-street parking lot areas shall be designed and constructed using the "Parking Bay" concept, which consists of parking spaces grouped together, with each Parking Bay separated by landscaped tree islands as further defined in the following sections.
- a.) **Vehicular Use Area Location:** All Vehicular Use Areas shall be located behind or to the side of the principal building and shall not encroach into the minimum Right-of-Way Setback requirements, except as otherwise noted in Section 15.05(A) and (B). Driveways running perpendicular to a public or private street, which are used to connect the parking lot to the public or private street, are exempt from this requirement.

Vehicular Use Areas may encroach into a required internal side or rear setback but in no case shall the parking be closer than five (5) feet to internal lot lines, except in cases where the Board of Township Trustees, upon recommendation of the Architectural Review Board determines that parking lots need to straddle internal lot lines in order to comply with the connectivity requirements of Section 15.05 (C)(5) of these Design Standards. In such cases, appropriate cross access easements must be established.


- b.) **Vehicular Use Area Size:** No VUA shall contain more than twenty-four (24) parking spaces, with a maximum of twelve (12) spaces in a single row for all uses, except industrial. For industrial uses, no parking bay shall contain more than forty-eight (48) parking spaces, with a maximum of twenty-four (24) spaces in a single row. Unless a divergence is requested and granted, no parking or pavement area shall be more than 275' in depth.
- c.) **Vehicular Use Area Islands:** Each landscape island in a single loaded parking stall design shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. Each landscape island in a double loaded parking stall design shall have a minimum of three hundred twenty-four (324) square feet with a minimum width of nine (9) feet. See 15.05(C)(4)(j) for plant materials.
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- d.) **Vehicular Use Area Screening:** All VUA shall be screened in accordance with Section 15.05 (C)(4)(i).
- e.) **Number of Parking Spaces:** Every Development Plan within the BCO shall include a detailed Parking and Loading Space Plan, which shall comply with these Design Standards. Due to the unique nature of the US36/SR 37 Corridor, parking requirements for all development within the BCO are being established to encourage efficient use of parking areas by establishing a maximum number of spaces required and permitting sensible shared parking to reduce Impervious Surfaces and increase green space. The Total Number of Required Parking Spaces shall be calculated for each separate use within the proposed Development Plan. In no case shall the total number of parking spaces for a particular use be less than the Minimum nor more than the Maximum Number of Required Parking Spaces for said use based upon the below chart. When calculating the required number of spaces, fractional numbers shall be increased to the next whole number.

Table 1

Use	Minimum Number of Required Parking Spaces	Maximum Number of Required Parking Spaces
<b>Residential</b>	1 space per dwelling unit	3 spaces per dwelling unit
<b>Hotels/Motels</b>	1 space per room	2 spaces per room
<b>All Other Uses</b>	1 space per 600 gross square feet	1 space per 365 gross square feet
*utilize gross square footage whenever there is a reference to square feet		

- f.) **Handicap accessible parking spaces** shall be provided in accordance with the Americans with Disabilities Act requirements.
- g.) All parking spaces shall be a minimum of 9 feet in width and 20 feet in length measured rectangularly and shall be served by aisleways of a minimum of 24 feet in width to permit easy and smooth access to all spaces.
- h.) **All VUAs and adjacent driveways** shall be paved with asphalt material or cement and parking spaces shall be striped.
- i.) **Mixed Use Development Parking:** When a mix of uses creates staggered peak periods of parking (see Table 2), the total parking requirements for the uses in a Development Plan may be reduced up to fifteen (15) percent below the Total Minimum Parking Requirements for all uses, provided a shared Parking Plan is approved by the Board of Trustees during Development Plan approval. The shared parking plan must be based upon the number of originally required spaces for differed uses or facilities sharing the same parking area and documentation that the required parking needed for different uses at different days and times generally based upon Table 2. Parking spaces included in the shared parking plan must be distributed in a manner that provides parking spaces within a reasonable distance from all proposed uses as determined by the Board of Trustees during Development Plan approval. Shared parking must remain under common ownership providing access to all users of the shared parking. If common ownership is not proposed, the Board of Trustees may require documentation of shared access agreements to be provided.

Table 2

Weekday Peaks	Evening Peaks	Weekend Peaks
Banks	Bars	Retails Uses
Professional Offices	Ice Cream Shops	Movie Theaters
Medical Offices	Restaurants	
Library	Movie Theaters	
Daycare		
Coffee Shops		

- j.) **Loading Spaces:**

- i.) All loading spaces must be located to the side or rear of the principal structure and are prohibited within any Right-of-Way Setback. Furthermore, buildings must be designed so that loading spaces are oriented away from areas designated for single family uses. In all cases, loading spaces must be screened in accordance with Section 15.05(C)(4)(i).
- ii.) A loading space shall consist of a rectangular area adequate for loading and unloading and be accessible from a maneuvering area.
- iii.) All loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.
- iv.) A required loading space shall have a clearance height of not less than 15 feet and shall have minimum dimensions of not less than 12 feet in width and 55 feet in length, exclusive of any driveway, aisle, or other circulation area.
- v.) The number of off-street loading spaces required for various types of uses shall be no less than as set forth in the following:
  - 1. **Commercial – Office subarea:** Each use in this subarea shall provide loading spaces based on gross floor area as follows:

Less than 250,000 square feet = two spaces

Over 250,000 square feet = two spaces for each 250,000 square feet or portion thereof.
- k.) **Cluster Mailbox Units:** When Cluster Mailbox Units (CBUs) are utilized, an appropriate amount of off-street parking spaces shall be provided to ensure proper traffic circulation throughout the development. Final unit and parking locations and number of off-street parking spaces shall be determined and controlled by the development plan approved by the Board of Township Trustees, upon recommendations from the ARB and Zoning Commission.

8.) **Perimeter Area:**

- a.) No buildings or parking shall be constructed within two hundred and fifty feet (250') of the lot line of an existing parcel utilized for residential purposes at the time of adoption of this overlay and as identified and defined by the list in Appendix A of this Article. See Section 15.05(A)(5)(a) for additional building height versus distances to lot lines. This buffer shall include a minimum eight (8) foot tall mound running parallel to the lot line abutting the existing residential use and shall be landscaped in accordance with Section 15.05(C)(4)(f). The slope of each side of the mound shall be a maximum of 3:1, and the mound shall have a minimum ten (10) foot wide crest. Existing trees, streams, and other significant natural resources shall be preserved and taken into consideration when determining mound placement. The center of the mound crest should generally be within fifty (50) feet from the lot line abutting the existing residential use with the final mound location being determined and controlled by the



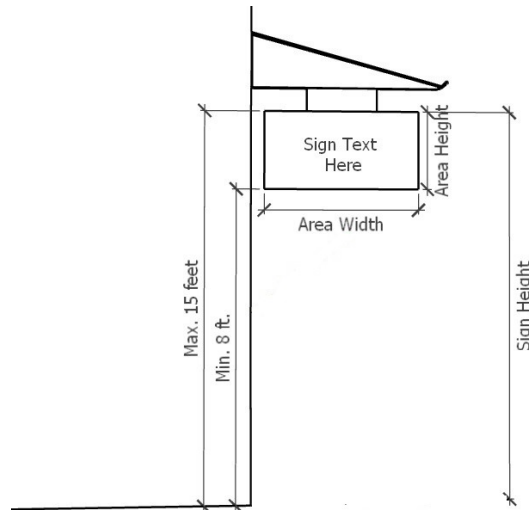
development plan approved by the Board of Township Trustees, upon review and recommendations by the ARB and Zoning Commission.

- b.) Any new parcel, created after the adoption of this overlay from a parcel subject to the mounding requirements in Section 15.05(C)(8)(a) at the time of adoption of this overlay, shall be required to construct a mound that complies with the requirements of 15.05(C)(8)(a). Said mound shall run parallel to the existing parcel utilized for residential purposes as defined herein. Upon the recommendation of the Zoning Commission, the Township Trustees may waive or modify this mound requirement for newly created parcels, if it is determined that the intent of the mound requirements in Section 15.05(C)(8)(a) have been met.

- 9.) **Signs:** Signs shall be permitted and developed in accordance with Article 25 of the Berlin Township Zoning Resolution. Except, however, in addition to any signs permitted in Article 25, Mixed Use Buildings permitted in the BCO may also have projecting signs provided said signs comply with the following requirements:

- i.) For Mixed Use Buildings Only: One (1) projecting (“blade”) sign per non-residential tenant may protrude perpendicularly from a building façade over the front walkway of a building. Such Sign shall not exceed six (6) square feet in sign area per sign face and shall have a maximum Sign Height of 15 feet. The lowest portion of the sign shall be a minimum of eight (8) above grade level to ensure the safety of pedestrians. Such Signs should be scaled with the building design and should blend with the architectural design of the building to which it is attached.

Example:



- 10.) **Lighting:**

- a.) All Exterior Lighting shall comply with these standards unless specifically exempted.
- b.) Exemptions:

- i.) All exterior lighting fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps are exempt from the requirements of this section.
- ii.) Federal holiday lighting shall be exempt from the requirements of this section.
- iii.) All temporary emergency lighting needed by the police, fire department, other emergency service vehicles, and public service vehicles, as well as all vehicular luminaries, shall be exempt from the requirements of this section including flashing or blinking lights.
- iv.) Street lights shall be exempt from the provisions of this section.
- c.) **Prohibited Lighting:**
  - i.) Search lights, beacons, laser source lights, or any similar high-intensity or flashing lights are prohibited, except in emergencies by police and/or fire department personnel.
- d.) **Types of Fixtures:** All light fixtures shall be full cut-off type fixtures except for decorative light fixtures.
- e.) **Fixture Height:**
  - i.) The fixture height in parking lots for R-4 and R-10 uses shall not exceed twelve (12) feet in height.
  - ii.) The fixture height for in parking lots for all other uses shall not exceed twenty (20) feet.
  - iii.) In no case shall the Fixture Height exceed the height of the proposed building.
  - iv.) Lighting located under canopies shall be flush mounted or recessed within the canopy.
  - v.) Fixture Height shall be measured from the finished grade adjacent to the base of the light fixture to the top most point of the fixture.
- f.) **Brightness:** Exterior lighting shall use not greater than 250 watt metal-halide lamps or equivalent (32 watt) LED fixtures. Lighting shall be designed and located to have the following maximum illumination levels. The levels shall be measured at the finished grade at the Lot Line as demonstrated by a lighting plan:
  - i.) The maximum illumination at a Lot Line that abuts a lot zoned or used for R-4 or R-10 purposes shall be 0.3 foot-candles.
  - ii.) The maximum illumination at a Lot Line that abuts any other use shall be 1.0 foot-candles.
  - iii.) The maximum illumination at a Lot Line for properties used for outdoor sports and recreation shall be reviewed for compliance with regard to the intent of

these guidelines to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.

- iv.) The illumination across any property shall be designed so as to not create excessively dark spots that may create safety issues.
- g.) All lighting shall be directed toward the ground and the interior of the parcel. Uplighting shall be prohibited.
- h.) All non-essential outdoor lighting fixtures for non-residential uses, including lighting for parking areas, Signs, displays and aesthetic lighting, shall be turned off after business hours. Only lighting needed for safety or security may remain lit after close of business, in which case the lighting shall be reduced to the minimum level necessary. Automatic shut-off fixtures, auto-dimming to adjust lighting based on ambient lighting and the use of as little lighting as necessary without creating safety issues is encouraged.

#### 11.) **Sidewalks and Multi-Use Paths**

- a.) **Multi-Use Path (MUP) and Sidewalks:** All Arterial and Collector Roads in all subareas including residential shall have a 10-foot multi use path along one side of the road and a minimum five (5)-foot sidewalk on the other side of the road. All local roads shall have a minimum five (5)-foot sidewalk on both sides of the road. All sidewalks, curb ramps and crosswalks shall be installed per the then local, state and federal regulations, including but not limited to the Americans with Disabilities Act requirements. MUPs and sidewalks shall be placed outside of the right-of-way and within an easement designated for such public use. MUPs and sidewalks shall be privately maintained by the property owner. Street trees shall be planted in accordance with Section 15.05(C)(4)(d) of these design regulations.
- b.) Sidewalks shall connect to the building entrances and to existing sidewalks on adjacent abutting Tracts and to nearby pedestrian destination points including any transit stops.

- 12.) **Environmentally Sensitive Areas:** Jurisdictional wetlands, slopes greater than 20% and 100-year floodplains shall be preserved to the greatest extent possible. No structures shall be constructed within the 100-year floodplain of any stream or river. To the maximum extent possible, all-natural drainage courses, vegetation and contours in excess of 6% shall be maintained.

#### 13.) **Utilities:**

- a.) All utility lines constructed to service the proposed uses shall be located underground.
- b.) All developments shall be served by central water and sewer systems. Applicant shall indicate feasibility of water supply and wastewater disposal systems from the appropriate state and/or county agencies with jurisdiction at the time of the Development Plan review.
- c.) Dry detention basins are prohibited in all subareas. All stormwater basins shall be wet basins and aeration devices may be required. Bioretention basins, or rain gardens, may be used only when approved by Berlin Township. All stormwater requirements must

also comply with the Ohio Department of Natural Resources Rainwater and Land Development Handbook and any applicable requirements of the Delaware County Engineer.

- 14.) **Noise:** There shall be quiet hours between the hours of 10:00 p.m. and 6 a.m. every day of the week in accordance with all parameters of Resolution 17-05-02 and any amendment or supplement of that Resolution.
- 15.) **Mailboxes:** When cluster mailbox units (CBUs) are required by the U.S.P.S., said units shall be located outside the public right-of-way and appropriately distributed throughout the development. All CBUs and associated off-street parking areas shall be privately maintained.
- 16.) **Supplemental Conditions and Safeguards:** The Zoning Commission and Board of Trustees may require additional conditions be met 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 15.06: PROCESS FOR PLAN APPROVAL IN THE BERLIN COMMERCIAL OVERLAY (BCO)**

- A.) **Pre-Application Meeting:** The Applicant shall engage in informal consultations with the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting. Such consultations may also include the Delaware County Regional Planning Commission, the Delaware County Engineer, ODOT, and other township departments prior to submission of an application for approval of a Development Plan. No statement or action by Township or County officials in the course of these informal consultations shall be construed to be a waiver of any legal obligation of the Applicant or of any procedure or formal approval required by Township or County statutes or rules. Ohio's Open Meetings Law (Section 121.22 of the Ohio Revised Code) is required to be observed at all meetings involving a quorum of members of the Zoning Commission or Board of Trustees. The application should provide a conceptual layout of the proposed development to allow discussion of the existing features of the site, environmental limitations of the site, and any utility and transportation- related issues.

At the conclusion of the pre-application meeting, the applicant may submit three copies of a "draft" application for the Zoning Inspector to review for completeness. Once the application is determined by the Zoning Inspector to be complete, then the applicant may move forward with a formal application per 15.06(B) below.

- B.) **Application and Development Plan:** Applicant shall prepare and submit a formal application including a Development Plan, with sixteen (16) paper copies and one pdf digital copy along with the required fees, to the Zoning Inspector. Upon the submission of a completed application, the Zoning Inspector shall forward the application and Development Plan to the Architectural Review Board (ARB) who shall serve in an advisory capacity to the Zoning Commission and Board of Trustees. The application and development plan will be reviewed in accordance with the process identified in Section 15.06(D) below.

The Zoning Commission shall request the DCRPC and may request other entities as it deems necessary to review and provide comments regarding the proposed Development Plan.

The Development Plan shall include in text and map form the following:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
- 2.) A finished grading plan drawn at a scale of 1"=100' or other scale acceptable to the Zoning Inspector, showing all information pertaining to surface drainage.
- 3.) An exhibit demonstrating environmentally-sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20%.
- 4.) A Development Plan drawn to a scale of at least 1"=100' or other scale acceptable to the Zoning Inspector demonstrating the details listed herein.

C.) **Development Plan Contents:** The Development Plan shall include in text and map form the following proposed features:

- 1.) The general development character and all permitted uses, identified by NAICS code, 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 identifying the quantity and type and typical section of each.
- 2.) Architectural design criteria including materials, colors and elevations for all structures and criteria for proposed signs that comply with the architectural requirements of this resolution.
- 3.) Building heights and dimensions.
- 4.) Off-street parking.
- 5.) Landscape Plan identifying each plant, shrub, or tree by name, its size at planting, and rendering of how that area of the development would look in elevation.
- 6.) Signage plan, showing all proposed signage and dimensions.
- 7.) Exterior Lighting Plan to show how exterior lighting fixtures will be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- 8.) 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. A copy of letters from the County Engineer and Sanitary Engineer stating general feasibility road geometries, surface drainage, and the provision of sewer shall be included.
- 9.) A Traffic Impact Analysis by a competent traffic engineer, based upon new trip generation as estimated by the Delaware County Engineer's standards and showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise. An internal traffic flow diagram showing the vehicle movements and circulations internal to the site (including any private roads) shall also be submitted.

- 10.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - 11.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
  - 12.) The proposed time schedule for development of the site including streets, buildings, utilities, and other facilities.
  - 13.) 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. This schedule shall include a detailed list of all items to be constructed in each phase of the development, including but not limited to any amenities such as fountains, tot lots, etc. This information must also include a set of documents for establishing any proposed Homeowners' Association including the proposed time frames for turning said association over to the residents. The phasing plan must also include information to clearly indicate that the requirements of Section 15.05(A)(5)(b) are being met.
  - 14.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 15.) 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.
  - 16.) All drawings that are a part of the Development Plan shall respectively bear the seals of the preparing architect, landscape architect, and/or professional engineer. The respective professional attaching his or her seal to the drawings must be licensed to practice in the state of Ohio.
  - 17.) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the BCO district.
  - 18.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
  - 19.) The proposed locations of any proposed cluster mailbox units (CBUs), associated off-street parking spaces, and proposed methods for maintaining said units and parking spaces.
  - 20.) The Township Zoning Commission and Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed. This includes but is not limited to landscaping, development, improvement, and maintenance of common open space as well as any other pertinent development characteristics.
- D.) **ARB, Zoning Commission and Trustee Action:** After receipt of a completed Application and Development Plan from the Zoning Inspector the ARB shall schedule and hold a public hearing within

the thirty (30) days and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the ARB hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the ARB. The ARB shall render a recommendation to the Zoning Commission at the conclusion of the ARB hearing and shall forward the recommendation to the Zoning Commission.

The Zoning Commission shall schedule and hold a public hearing within thirty (30) days of the conclusion of the ARB meeting and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice of the hearing at least ten (10) days before the date of the Zoning Commission hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the Application. The Zoning Commission shall render a recommendation to the Board of Trustees on the Application and Development Plan at the conclusion of the hearing and shall forward the recommendation to the Berlin Township Board of Trustees.

The Berlin Township Board of Trustees shall, upon receipt of such application and recommendation, set a time for a meeting to consider approval of the application and Development Plan, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Zoning Commission and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice of the hearing at least ten (10) days before the date of the hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the then County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Board of Trustees may take on the Application. The Board of Trustees shall render a decision on the Application and Development Plan at the conclusion of the hearing, unless the applicant requests a delay of action (tabling) for a specific period of time.

E.) **Basis of Approval:** In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

- 1.) That the proposed development is consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution.
- 2.) That the proposed development meets all applicable requirements of this Article and Zoning Resolution.
- 3.) That the proposed development is in conformity with the comprehensive plan as adopted or concurrently amended or portion thereof as it may apply.
- 4.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.
- 5.) That the proposed plan meets all of the design features required in this Resolution.
- 6.) That the proposed development will be compatible in appearance with surrounding existing or proposed land uses.

- 7.) 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.
- 8.) That the proposed development is in the interest of public health, safety, welfare and morals of the township.

F.) **Effect of Approval:**

- 1.) The Trustee determination shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code. If the Board of Trustees make a final determination that the Development Plan included in the Application complies with this Article, or if the Board of Trustees' final determination is one of noncompliance, then if a court of competent jurisdiction makes a final non-appealable order finding compliance, the Board of Trustees shall approve the Application and upon approval shall cause the Zoning Map to be changed so that any other zoning district that applied to the property that is the subject of the Application no longer applies to that property. The removal of the prior zoning district from the Zoning Map is a ministerial act and shall not be considered to be an amendment to the Township Zoning Resolution for the purposes of Section 519.12 of the Revised Code and may not be appealed pursuant to Chapter 2506 of the Revised Code.
- 2.) **Approval Period:** The approval of the Development Plan shall be effective for a period of five (5) years (or for such other time period as may be approved as part of the Development Plan) in order to allow for the preparation and recording of a subdivision plat (if required under applicable law) and the commencement of construction following the issuance of a zoning permit(s). If no plat has been recorded within this approval period (or, if platting is not required, if construction has not commenced) and unless the Board of Trustees approve an extension of this time limit, the Development Plan shall expire. Upon the expiration of the Development Plan, the subject parcel(s) shall remain zoned Berlin Commercial Overlay (BCO), but no use shall be established or changed and no building, structure or improvement shall be constructed until a new Application accompanied by a new Development Plan have been filed with and approved by the Zoning Commission and Board of Trustees using the procedures and approval process for an initial Development Plan.
- 3.) **Plat Required:** The Development Plan as approved by the Board of Trustees 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 Plan. 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 Zoning Resolution. The subdivision plan and plat shall be in accordance with the approved Development Plan.
- 4.) **Zoning Certificate:** No zoning certificate shall be issued for any structure in any portion of the Berlin Commercial Overlay (BCO) for which a plat is required by the Delaware County Regional Planning Commission unless the subdivision plat for that portion has been approved by the



applicable platting authorities and recorded with the Delaware County Recorder in accordance with the approved Development Plan and with the Subdivision Regulations of Delaware County, Ohio.

- 5.) **Changes in Approved Development Plan:** If any changes to the approved Development Plan are required and/or desired for any reason, said changes must be approved in accordance with Section 15.06(F)(7). These reasons include but are not limited to unforeseen site conditions, meeting the requirements of other review agencies, including but not limited to the Delaware County Regional Planning Commission, Delaware County Engineer's office, ODOT or other regulatory agency, and other similar reasons.
- 6.) **Extension:** An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Board of Trustees upon Application of the owner(s), provided the Board of Trustees determines 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 recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted and at the discretion of the Board of Trustees. A request for extension shall be filed prior to the expiration of the established approval period.
- 7.) **Modifications:** Upon submittal of a written application specifically detailing the changes requested to an Approved Development Plan and the justification(s) for the modification request, the Zoning Inspector shall refer the application to the Township Zoning Commission.

Within thirty (30) days of receiving an application, the Zoning Commission shall schedule and conduct a public meeting to consider whether the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is not in conflict with the intent and purpose of the Berlin Commercial Overlay (BCO). The Zoning Commission shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Zoning Commission hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the Zoning Commission.

The Zoning Commission shall render a recommendation to the Board of Trustees for the approval, modification, or the denial of the application at the conclusion of its meeting.

Within thirty (30) days of receiving the Zoning Commission's recommendation, the Board of Trustees shall schedule and conduct a public meeting to consider the request, along with the recommendations of the Zoning Commission. The Board of Trustees shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Board of Trustees hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the Board of Trustees. The Board of Trustees shall render a decision at the conclusion of its meeting.

- G.) **Fees:** A fee in an amount established by the Board of Trustees shall accompany an Application requesting approval of the Development Plan, as well as any request for extension or modification. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Berlin Township in using professional consulting services to review the Development Plan. These expenses may include, without limitation, costs for professional consultants such as attorneys, architects, landscape architects, planners and engineers utilized by the Township in connection with reviewing the Development Plan and related Application materials. As soon as reasonably practicable following the submission of an Application for approval of a Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist it in reviewing the application. If the Zoning Commission decides it needs professional consulting services, it shall, in its sole discretion, designate the person(s) to be consulted and make an initial estimate of the expenses anticipated to be incurred in reviewing the Application materials. The Zoning Commission shall provide the applicant with notice of its initial estimate of such expenses.

This initial estimate will be reviewed, and may be revised, from time to time during the review process, and, if such review results in an increase in the estimated professional consulting fees and charges which will be incurred in the Township's review of the Application materials, the Zoning Commission shall send the applicant written notice of the revised estimate of fees and charges. Within fourteen (14) days of the date of the notice of the initial estimate of fees and charges (and, if applicable, within fourteen (14) days of the date of the notice of any revised estimate), the applicant shall deposit in the office of the Township Fiscal Officer or the Fiscal Officer's designee, an amount equal to the estimated cost of the Township's expenses. In making the estimate of the professional consulting fees and charges anticipated to be incurred, the Zoning Commission shall consider the reasonable commercial rates of qualified professionals. Upon request, the Township shall provide the Applicant with an itemized copy of any consultant(s) bill paid for in accordance with this Section. Notwithstanding the foregoing, bills for legal services shall only disclose the costs incurred and narrative descriptions shall not be disclosed, in that these are privileged communications and protected from disclosure under attorney-client privilege.

- H.) **Failure to Maintain:** If the approved Development Plan is not adhered to, or the open space is not properly maintained, the Township Zoning Inspector may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance with the plan as a zoning violation which will be dealt with under Penalties for Violation within this Zoning Resolution.
- I.) **Administrative Review:** All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, Zoning Commission, and/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.

## APPENDIX A: LIST OF EXISTING PARCELS UTILIZED FOR RESIDENTIAL PURPOSES

The following map indicates parcels that are considered to be existing parcels utilized for residential purposes at the time of the adoption of this Overlay.

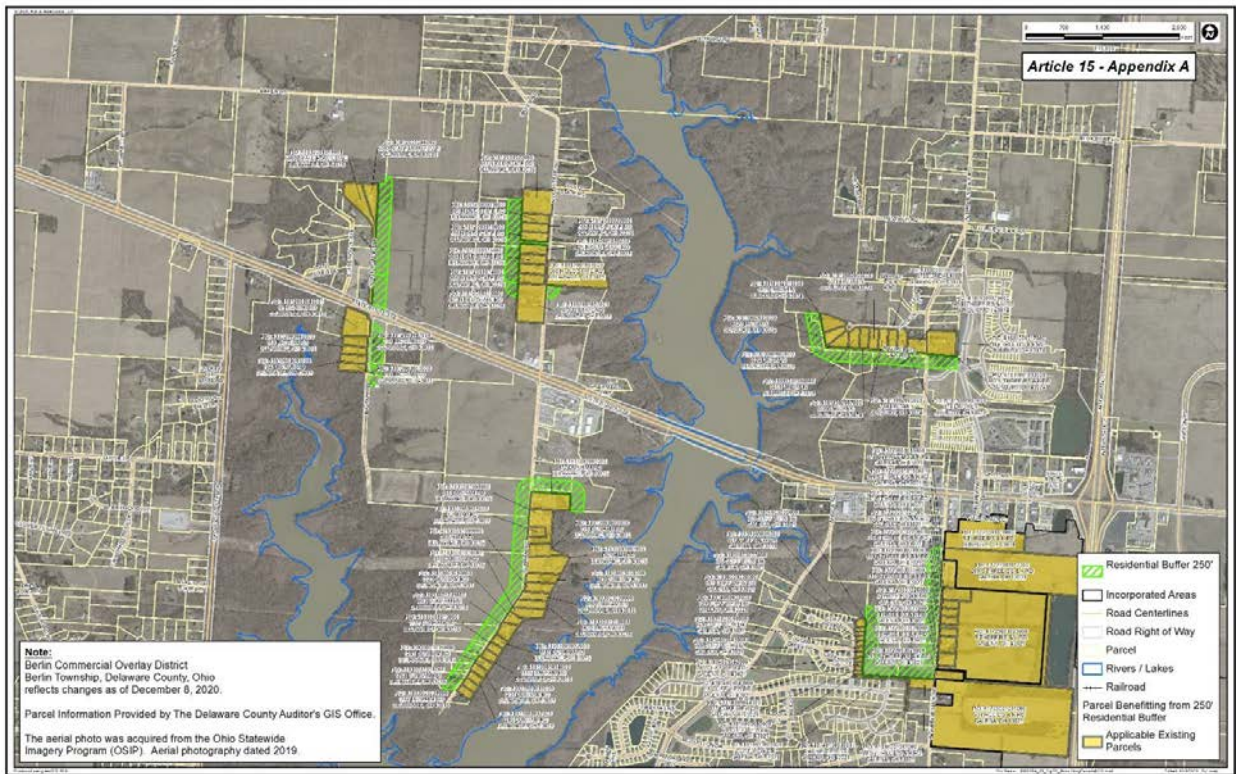


Photo Credit: Unless otherwise noted, all pictures within this Article are from Google Maps.



## ARTICLE 16 PLANNED OFFICE DISTRICT (POD)

### SECTION 16.01: PURPOSE: SEE SECTION 5.058

### SECTION 16.02: PERMITTED USES

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

#### A.) NAICS Listed Uses

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

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

NAICS CODE #	PERMITTED USES
491110	Postal Service
513120	Periodical Publishers
513130	Book Publishers
513199	All Other Publishers
517111	Wired Telecommunications Carriers
517112	Wireless Telecommunications Carriers (except Satellite)
517810	All Other Telecommunications
518210	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services
<b>Finance and Insurance</b>	
531210	Offices of Real Estate Agents and Brokers
531311	Residential Property Managers
531312	Nonresidential Property Managers
531320	Offices of Real Estate Appraisers
531390	Other Activities Related to Real Estate
54 (category)	Professional, Scientific and Technical Services (includes Lawyers, Notaries, Legal Services, Accountants, Payroll, Architectural, Engineering, Mapping, Interior Design Medical, Veterinarians, Computer and Related Hardware and Research and Development etc.)
<b>Management of Companies and Enterprises</b>	
561110	Office Administrative Support Services
561431	Private Mail Centers
561439	Other business service centers (including copy shops)
561510	Travel agencies
<b>Educational Services</b>	
621111	Offices of Physicians
621112	Offices of Physicians, Mental Health Specialists
621210	Offices of Dentists
621310	Offices of Chiropractors

621320	Offices of Optometrists
621330	Offices of Mental health practitioners (except Physicians)
621340	Offices of Physical, occupational, and speech therapists and audiologists
621391	Offices of Podiatrists
621399	Offices of All Other Miscellaneous health practitioners
621491	HMO Medical Centers
621492	Kidney dialysis centers
621493	Freestanding Ambulatory surgical and emergency centers
621511	Medical laboratories
621512	Diagnostic imaging centers
621610	Home health care services
621910	Ambulance services
622110	General Medical and Surgical Hospitals
622210	Psychiatric and Substance Abuse Hospitals
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals
623110	Nursing care facilities
623311	Continuing care retirement communities, including independent living and assisted living arrangements
623312	Assisted Living Facilities for the Elderly
624410	Child care services
813 (all uses that begin with 813)	Religious, Grant making, Civil, Professional, and Similar Organizations
921 (all uses that begin with 921)	Executive Offices, Legislative Bodies, Public Finance Activities, Executive and Legislative Offices, Combined, Other General Government Support
922 (all uses that begin with 922)	Courts, Police Protection, Legal Counsel and Prosecution, Correctional Institutions, Parole Offices and Probation Offices, Fire Protection, Other Justice, Public Order, and Safety Activities
923 (all uses that begin with 923)	Administration of Education Programs, Administration of Public Health Programs, Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs), Administration of Veterans' Affairs

B.) Other permitted uses that do not have a listed NAICS Number.

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, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of

said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with provisions of Article 32 of this resolution.

### SECTION 16.03: 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, unlicensed, or unused vehicles or trailers, including trailers detached from semi-tractors, for a period exceeding fourteen (14) days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) Except as provided in the development plan no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this Code, the restrictions in the plat or deed or the development plan.
- D.) Except as specifically permitted in Section 16.02 or in the approved development plan no manufactured home or mobile office structure shall be placed or occupied in this district.
- E.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

### SECTION 16.04: DEVELOPMENT PLAN PROCESS

Consistent with [ORC§519.021\(A\)](#), all Applications for Amendments to the Zoning Map to rezone lands to the POD shall follow this process:

- A.) **Application:** The owner(s), applicant or his/her designee of lots or land within the township may request that the zoning map be amended to include such tracts in the Planned Office District in accordance with the provisions of this Resolution.

The applicant is encouraged to engage in informal consultations with the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting, as well as the. Regional Planning Commission, prior to formal submission of a development plan and request for an amendment of the zoning map. No statement by officials of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission under 16.04(B) shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws ([ORC §121.22](#)) and may be required to be held in an open public meeting.

- B.) **Development Plan Application:** Upon application for a POD District, the owner(s) of lots or land within the Township shall simultaneously submit a Development Plan. The Development Plan shall show the intended layout of the site in accordance with POD standards.

Sixteen (16) copies of the development plan or revisions thereof and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the application along with a list of addresses for notification as defined in Section 31.01 herein, which shall include in text and map form the following:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Planned Office District.
- 2.) Environmental features including wetlands, topographic contours of at least 5' intervals, indication of slopes 20% or greater, wooded areas, wetlands, adjacent structures (within 200'), and 100-year floodplains.
- 3.) Location of schools, parks and other public facility sites, within or adjacent to the site.
- 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.) The proposed uses of the site, including the proposed location of all buildings and structures, proposed streets and roadways, parking areas, and all required design features. The general development character of the tract shall include limitations or controls to be placed on all uses, with proposed lot sizes, minimum setback requirements.
- 6.) 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, 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.
- 7.) Architectural design criteria including materials, colors and exact renderings for all structures and proposed signs, with control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall be considered a Major Deviation in accordance with Section 16.04(E). Materials and colors shall be submitted for approval.
- 8.) 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. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented. Letters from relevant agencies shall be included.
- 9.) A design of the open space and proposed description of its use and maintenance.
- 10.) A traffic impact analysis by a professional engineer who is skilled at traffic surveys, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- 11.) The responsibility and maintenance of any proposed or existing on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
- 12.) All required design features from Section 16.05.
- 13.) Emergency service provisions (letters from local agencies).
- 14.) The proposed time schedule for development of the site including streets, common use structures, utilities, and other facilities.



- 15.) 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.
  - 16.) Specific statements of divergence from the development standards in this Article, as well as Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be in compliance.
  - 17.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 18.) 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.
  - 19.) In the preparation of the development plan, or the individual drawings used to make up the development plan the respective architect, landscape architect, professional engineer, or surveyor licensed to practice in the state of Ohio shall place his or her seal on his or her own drawings.
- C.) **Criteria For Approval:** In approving an application for a Planned Office District the reviewing authorities shall determine:
- 1.) If the proposed development is consistent in all respects with the purpose, intent, and general standards of the Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of Berlin Township and the immediate vicinity.
- D.) **Effect of Approval:** The development plan as recommended by the Zoning Commission and approved by the Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of five (5) years to allow the preparation of plats required by the subdivision regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the approved development plan shall expire.
- E.) **Extension of Time or Modification:** An extension of the time limit or modification of the approved development plan may be approved by the Zoning Commission, based upon recommendations from a Zoning Commission hearing. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the Township Zoning Inspector not later than

ninety (90) days before the expiration of the three (3) year period as prescribed in Section 14.06 (D). Application for minor modification plan to be via an "Application for Revision to Plan". Minor revision status to be determined by "Administrative Review Process".

- F.) **Plat Required:** In the Planned Office District (POD), no use shall be established or changed and no structure shall be constructed or altered until the required plat and plan has been prepared and recorded in accordance with the regulations for Delaware County, Ohio, and these regulations. The plat shall be in accordance with the approved development plan and shall include:
- 1.) A certificate of compliance be issued for any building until such time as the facilities for the phase in which 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 recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one (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.
- G.) **Administrative Review:** All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission and the Township Trustees or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved, prior to the issuance of any zoning certificate.

## SECTION 16.05: DEVELOPMENT STANDARDS

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

- A.) **Setbacks:** The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 24 unless a variance is approved.
- B.) **Building Height Limits:** No building or structure in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point on the roof. Chimneys, spires, domes, flag poles, and elevator shafts, may be constructed to any safe height, but not to exceed one-hundred (100) feet in height, no windmill, aerial, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- C.) **Building Dimensions:** Buildings may contain such area of floor space as is approved in the development plan.

- D.) **Maximum Lot Coverage:** On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) of the lot or parcel.
- E.) **Landscaping:** All yards, front, side, and rear shall be landscaped as required in Article 26 of this Resolution.
- F.) **Lighting:** Exterior lighting fixtures shall meet the requirements of Article 24 of this Resolution.
- G.) **Site Development:** To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained.
- H.) **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 24 of this resolution shall, when appropriate, be incorporated.
- I.) **Signs:** Except as controlled by Article 25 of this Resolution and except as permitted by the Board of Zoning Appeals incidental to conditional uses, no signs shall be permitted in this district except a “for sale” or “for rent or lease” sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Zoning Commission, erect one sign not exceeding thirty-two (32) square feet in area per side advertising said subdivision, development or tract for sale.

- J.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
- K.) The Township Zoning Commission may recommend and the Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

Planned Office District (POD)

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## ARTICLE 17 PLANNED COMMERCIAL AND OFFICE DISTRICT (PCD)

### SECTION 17.01: PURPOSE: SEE SECTION 5.059

### SECTION 17.02: PERMITTED USES

#### A.) NAICS Listed Uses

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

The full text of the listings in the NAICS or subsequent edition 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 27.

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

NAICS CODE #	PERMITTED USES
111411	Mushroom Production
111419	Other Food Crops Grown Under Cover
111421	Nursery and Tree Production
111422	Floriculture Production
311811	Retail Bakeries
441210	Recreational Vehicle Dealers
441222	Boat Dealers
441227	Motorcycle, ATV, and All Other Motor Vehicle Dealers
441330	Automotive Parts and Accessories Retailers
441340	Tire Dealers
449129	All Other Home Furnishings Retailers
455110	Department Stores
337126	Household Furniture (except Wood and Upholstered) Manufacturing
449110	Furniture Retailers
423210	Furniture Merchant Wholesalers
449210	Electronics and Appliance Retailers
444110	Home Centers
444120	Paint and Wallpaper Retailers
444140	Hardware Retailers
444230	Outdoor Power Equipment Retailers
444240	Nursery, Garden Center, and Farm Supply Retailers
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)
445131	Convenience Retailers
445132	Vending Machine Operators
445230	Fruit and Vegetable Retailers
445240	Meat Retailer
445250	Fish and Seafood Retailers
445291	Baked Goods Retailers

445292	Confectionery and Nut Retailers
456199	All Other Health and Personal Care Retailers
457120	Other Gasoline Stations
457110	Gasoline Stations with Convenience Stores
458110	Clothing and Clothing Accessories Retailers
424350	Clothing and Clothing Accessories Merchant Wholesalers
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)
445131	Convenience Retailers
449110	Furniture Retailers
459110	Sporting Goods Retailers
455219	All Other General Merchandise Retailers
455110	Department Stores
456199	All Other Health and Personal Care Retailers
491110	Postal Service
513120	Periodical Publishers
513130	Book Publishers
513199	All Other Publishers
517111	Wired Telecommunications Carriers
517112	Wireless Telecommunications Carriers (except Satellite)
517810	All Other Telecommunications
531311	Residential Property Managers
531312	Nonresidential Property Managers
531320	Offices of Real Estate Appraisers
531390	Other Activities Related to Real Estate
531130	Lessors of Mini-Warehouses and Self-Storage Units
531210	Offices of Real Estate Agents and Brokers
531390	Other activities related to Real Estate
532111	Passenger Car Rental
532112	Passenger Car Leasing
532120	Truck and Utility Trailer, and RV Rental and Leasing
532289	All Other Consumer Goods Rental
532210	Consumer Electronics and Appliances Rental
532284	Recreational Goods Rental
54 (all uses that begin with 54)	Professional, Scientific and Technical Services (includes Lawyers, Notaries, Legal Services, Accountants, Payroll, Architectural, Engineering, Mapping, Interior Design Medical, Veterinarians, Computer and Related Hardware and Research and Development etc.)
561110	Office Administrative Support Services
561431	Private Mail Centers
561439	Other Business Service Centers (including Copy Shops)
561510	Travel Agencies
611710	Educational Support Services
621111	Offices of Physicians
621112	Offices of Physicians, Mental Health Specialists
621210	Offices of Dentists

621310	Offices of Chiropractor
621320	Offices of Optometrists
621330	Offices of Mental health practitioners (except Physicians)
621340	Offices of Physical, occupational, and speech therapists and audiologists
621391	Offices of Podiatrists
621399	Offices of All Other Miscellaneous health practitioners
621491	HMO Medical Centers
621492	Kidney Dialysis Centers
621493	Freestanding Ambulatory Surgical and Emergency Centers
621511	Medical Laboratories
621512	Diagnostic Imaging Centers
621610	Home Health Care Services
621910	Ambulance Services
622110	General Medical and Surgical Hospitals
622210	Psychiatric and Substance Abuse Hospitals
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals
623110	Nursing Care Facilities
623311	Continuing Care Retirement Communities
623312	Assisted Living Facilities for the Elderly
624410	Child Day Care Services
711110	Theater Companies and Dinner Theaters
711120	Dance Companies
711190	Other Performing Arts Companies (except Adult-Related Entertainment)
712110	Museums
713940	Fitness and Recreational Centers
721110	Hotels (except 72112 casino) and Motels
721191	Bed and Breakfast Inns
722310	Food Service Contractors
722320	Caterers
722330	Mobile Food Services
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722514	Cafeterias, Grill Buffets, and Buffets
722515	Snack and Nonalcoholic Beverage Bars
812	Personal and Laundry Services (except Adult-Related Entertainment)
812111	Barber Shops
812112	Beauty Salons
812113	Nail Salons
812191	Diet and Weight Reducing Centers
812199	Other Personal Care Services
812210	Funeral Homes and Funeral Services
812220	Cemeteries and Crematories
812310	Coin-Operated Laundries and Dry-cleaners
812320	Dry-cleaning and Laundry Services (except Coin-Operated)
812910	Pet Care (except Veterinary) Services
812990	All Other Personal Services

813 (all uses that begin with 813)	Religious, Grant making, Civil, Professional and Similar Organizations
921 (all uses that begin with 921)	Executive Offices, Legislative Bodies, Public Finance Activities, Executive and Legislative Offices, Combined, Other General Government Support
922 (all uses that begin with 922)	Courts, Police Protection, Legal Counsel and Prosecution, Correctional Institutions, Parole Offices and Probation Offices, Fire Protection, Other Justice, Public Order, and Safety Activities
923 (all uses that begin with 923)	Administration of Education Programs, Administration of Public Health Programs, Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs), Administration of Veterans' Affairs

B.) Other Permitted Uses that do not have a listed NAICS Number:

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 user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. 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.

C.) Adult-Related Uses in accordance with Article 27.

### SECTION 17.03: 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, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen consecutive (14) days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- C.) Except as provided in the development plan no trailer of any type; no boats, no motor homes and no equipment of any type shall be parked in front of the established 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 setback 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 permanently placed or occupied in this district.



- E.) No trash, debris, unused property, or discarded materials which create an eyesore, hazard, or nuisance to the neighborhood or general public shall be permitted to accumulate on any lot or parcel.
- F.) Uses pursuant to NAICS code #711310, Promoters of Performing Arts, Sports, and Similar Events with Outdoor Open Air Facilities are prohibited.
- G.) No commercial or business activity shall be conducted in a unit designed for residential use except for Home Occupations as provided in Section 24.15 and 24.16.
- H.) 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 32 of this Resolution.

#### SECTION 17.04: INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting as well as 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 County made prior to formal submission of a development plan and application to the Zoning Commission shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws ([ORC §121.22](#)) and may be required to be held in an open public meeting.

#### SECTION 17.05: REQUIRED PCD DESIGN STANDARDS

- A.) The development plan shall incorporate the following standards for all permitted uses:
  - 1.) **Access:** Requires frontage on or direct access to one or more dedicated and improved public arterial roads as shown on the Delaware County Thoroughfare Plan, or to an access road that runs parallel to an arterial road. Provision for future connections to other public roads may be required by the Township, the County Engineer, and/or the Regional Planning Commission.
  - 2.) **Minimum Tract Size:** 10 acres or as approved on the final development plan.
  - 3.) **Maximum Commercial Ground Coverage by Buildings and Parking (All Impervious Surfaces):** No more than 80% of the total tract acreage of a commercial development, exclusive of public street rights of way shall be covered by impervious surfaces, which includes all parking and commercial buildings (not multi-family dwellings). 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 Required Open Space for Commercial Developments:** Not less than 20% of the total tract acreage of a commercial development shall remain open space. Open spaces may be used for the retention, detention and disposal of storm water drainage. Features which are likely to cause erosion or flooding shall not be permitted. A 15-foot wide "green belt" shall be provided between the edge of any parking area and the adjacent public street right of way and shall be landscaped in accordance with Article 26.
  - 5.) **Minimum Lot Width:** At the building line shall be as approved per plan.
  - 6.) **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.

- 7.) **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.
- 8.) **Perimeter Area:** No parking shall be constructed within 25 feet of the lot line of an existing or proposed single family home, or a residentially zoned district.
- 9.) **Water and Sewer:** Centralized water and centralized sewer service shall be provided unless otherwise approved per 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.
- 10.) **Walkways and Street Trees:** The Township may require walkways to connect parking areas with buildings. Where sidewalks or bike paths are required, they shall be separated from the paved street or parking lot surface by at least five feet (5') of landscaped area with trees placed behind the sidewalk.
- 11.) **Pavement Width Standards for Interior Development Streets, Drives and Parking Lots:** All private streets, roads and driveways shall be constructed to a pavement width and cross section that meets the Average Daily Traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual, or shall have a design life of 20 years. Parking lot pavement does not have to meet street cross section 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 50 feet of the edge of the public paved road.
- 12.) **Underground Utilities:** All utility lines constructed to service the proposed commercial uses shall be located underground.
- 13.) **Environmentally Sensitive Areas:** Jurisdictional wetlands, slopes greater than 20%, and 100-year floodplains shall be preserved to the greatest extent possible. No commercial or office structures shall be constructed within the 100-year floodplain of any stream or river. To the maximum extent possible, all natural drainage courses, vegetation and contours in excess of 6% shall be maintained.
- 14.) **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.
- 15.) **Building Height Limits:** No building or structure in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point on the roof. Chimneys, spires, domes, flag poles, and elevator shafts may be constructed to any safe height, but shall not exceed one-hundred (100) feet in height. No windmill, aerial, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and shall not exceed one-hundred (100) feet in height.
- 16.) **Landscaping:** All yards, front, side and rear, shall be landscaped in accordance with Article 23. All open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all

material, shall be submitted and is subject to approval as a part of the final development plan. Natural foliage shall be retained as buffers where practicable. The Township may require establishment of such tree cover and/or other foliage to buffer adjacent uses.

- 17.) **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 24, Section 24.01 of this Resolution shall be incorporated, or a divergence requested.
- 18.) **Signs:** Signs shall conform to Article 25 of this resolution, or a divergence requested and approved as part of the final development plan.
- 19.) **Exterior Lighting:** All exterior lighting shall be as specifically approved as part of the final development plan in accordance with Article 24, Section 24.13 of this resolution.
- 20.) **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 under one roof for any individual use.
- 21.) **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 that exceeds 65,000 square feet under one roof for any individual use may be approved at the discretion of the township provided they have direct access to or access to a commercial frontage road located parallel to and within 500 feet of U.S. 23 or U.S. 36.
- 22.) **Supplemental Conditions and Safeguards:** The Zoning Commission and/or Board of Trustees may require additional conditions be met 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 17.06: DEVELOPMENT PLAN PROCESS

Consistent with [ORC§519.021\(A\)](#), all Applications for Amendments to the Zoning Map to rezone lands to the POD shall follow this process:

- A.) **Application:** The owner(s), applicant or his/her designee of lots or land within the township may request that the zoning map be amended to include such tracts in the Planned Commercial and Office District in accordance with the provisions of this Resolution.
- B.) **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 Development Plan. The development plan shall show the intended layout of the site.

Sixteen (16) copies of the development plan and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the PCD application along with a list of addresses for notification as defined in Section 31.01 herein. The plan shall include in text and map form, the following. Exhibits shall be provided on 22" x 34" sheets at a scale of 1" = 100' or such scale necessary to show sufficient detail:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Planned Commercial and Office District.
- 2.) Environmental features including wetlands, topographic contours of at least 5' intervals, indication of slopes 20% or greater, wooded areas, wetlands, adjacent structures (within 200'), and 100-year floodplains.
- 3.) Location of schools, parks and other public facility sites, within or adjacent to the site.
- 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.) The proposed permitted and accessory uses listed numerically and selected from the NAICS list in Section 17.02, including the proposed location of all buildings and structures, proposed streets and roadways, parking areas, and all required design features. The general development character of the tract shall include limitations or controls to be placed on all uses, with proposed lot sizes, minimum setback requirements. Calculations of net developable acreage and proposed lot coverage for commercial uses.
- 6.) 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, 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.
- 7.) Architectural design criteria including materials, colors and exact renderings for all structures and proposed signs, with control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall be considered a Major Deviation in accordance with Section 17.10(A)(2). Materials and colors shall be submitted for approval.
- 8.) 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. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented. Letters from relevant agencies shall be included.
- 9.) A design of the open space and proposed description of its use, ownership, and maintenance.
- 10.) A traffic impact analysis by a professional engineer who is skilled at traffic surveys, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- 11.) The responsibility and maintenance of any proposed or existing on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
- 12.) All required design standards in Section 17.05.
- 13.) Emergency service provisions (letters from local agencies).

- 14.) The proposed time schedule for development of the site including streets, common use structures, utilities, and other facilities.
  - 15.) 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.
  - 16.) Specific statements of divergence, if any, from the development standards in this Article, as well as Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be in compliance.
  - 17.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 18.) 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.
  - 19.) In the preparation of the development plan, or the individual drawings used to make up the development plan the respective architect, landscape architect, professional engineer, or surveyor licensed to practice in the state of Ohio shall place his or her seal on his or her own drawings.
  - 20.) Performance Standards: No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
  - 21.) The Township Zoning Commission may recommend and Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed. This includes landscaping, development, improvement, and maintenance of common open space as well as any other pertinent development characteristics.
- C.) **Effect of Development Plan Approval:** Consistent with [ORC§519.021\(A\)](#), the recommendation of the Zoning Commission shall proceed to the Board of Trustees for their consideration and decision.
- D.) **Development Plan Approval Period:** The approval of a development plan shall be effective for a period of five (5) 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 plat has not been approved and recorded, and construction of any building has not been commenced within the established approval period, then the final development plan shall expire unless the Board of Trustees 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. In the event the five (5) year time line expires, any new final 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.

- E.) **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.
- F.) **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.
- 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 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.
- H.) **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.
- I.) **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.

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

#### **SECTION 17.07: REQUIRED FINDINGS FOR PCD APPROVAL**

The Zoning Commission may recommend 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:

- 1.) That the proposed development is consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution.
- 2.) That the proposed development meets all applicable requirements of this Article and Zoning Resolution.
- 3.) That the proposed development is in conformity with the comprehensive plan as adopted or concurrently amended or portion thereof as it may apply.
- 4.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.
- 5.) That the proposed plan meets all of the design features required in this Resolution.
- 6.) That the proposed development will be compatible in appearance with surrounding existing or proposed land uses.
- 7.) 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 17.08: 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 regulations shall no longer be in effect, and the regulations set forth in this Article for the PCD designation, as approved, shall prevail.

#### **SECTION 17.09: ADMINISTRATION OF THE DEVELOPMENT PLAN**

After Development Plan approval, all subdivision plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector for administrative review to ensure compliance with the Development Plan as approved. Any change to an approved Final Development Plan shall require that a proposed Application for Development Plan Amendment be submitted to the Zoning Commission.

- A.) **Deviations:** Upon submittal of a written Application requesting approval for changes to an approved Development Plan, the Zoning Commission shall designate whether such changes represent Minor or Major Deviations to the plan. This may occur at any public meeting.

- 1.) Minor Deviations include, but are not limited to, changes in the location of buildings, structures, streets or parking areas. The Zoning Commission may choose to impose conditions, safeguards, or other restrictions to carry out the intent of this District. The decision of the Zoning Commission shall represent final approval or denial of such deviation.
- 2.) Major Deviations shall be considered at a public hearing by the Zoning Commission. Major deviations include but are not limited to:
  - 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 change in traffic circulation or usage of 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 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.) For Major Deviations, the recommendation of the Zoning Commission shall be forwarded to the Board of Trustees for a final public hearing.
- B.) **Default:** If construction of any site improvement has not been commenced within three (3) years after approval of the initial Development Plan, approval of the Plan shall expire, unless an extension of the time limit has been approved by the Board of Trustees.
- C.) **Extension of Time:** An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or increasing the approval period for the Development Plan may be granted by the Board of Trustees at any public meeting provided the Board of Trustees 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.



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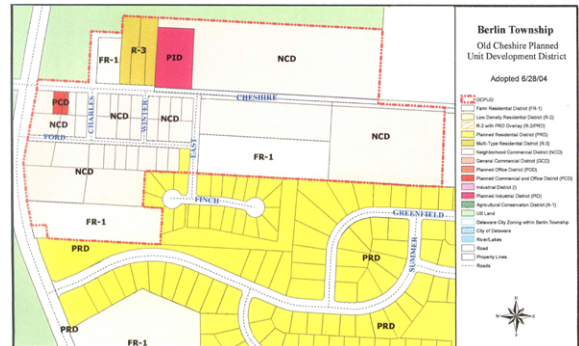
# ARTICLE 18 OLD CHESHIRE PLANNED UNIT DEVELOPMENT DISTRICT (OCPUD)

## SECTION 18.01: PURPOSE

See Section 5.060 (Note: The Old Cheshire Planned Unit District was adopted on 6/28/04 in accordance with [ORC§519.021\(C\)](#) as an overlay district defined by the boundaries attached herein.)

## SECTION 18.02: PERMITTED USES

Land and buildings in the OCPUD DISTRICT shall be used only for the following purposes:



- A.) **Residential Development:** Residential use in the form of single family detached dwellings, two family dwellings, and single family common wall attached dwellings, and multi-family dwellings developed in a unified manner in accordance with the approved Development Plan.

Multi-family dwelling units held back by the developer for lease shall not exceed 25% of the total number of multi-family dwelling units within the OCPUD development plan. All other units must be available for sale to individual owners. Multi-family developments zoned R-1.85 within the OCPUD designated area on the date of the adoption of this amendment may exceed the 25% rental amount and may add additional rental units if they have vacant land within their R-1.85 zoned area and can meet the standards of the OCPUD.

Maximum density is five units per net developable acre. All dwelling units constructed within this district shall contain the following minimum living area:

One (1) bedroom unit	600 square feet
Two (2) bedroom unit	700 square feet
Three or more bedroom units	1000 square feet

- B.) **Home Occupation:** Home occupation in association with a permitted dwelling and in accordance with the provisions of Sections 24.15 and 24.16.
- C.) **Accessory Use:** Accessory structures and uses in association with a permitted dwelling as defined in Article 4.
- D.) **Office Facilities:** For the management function, including property sales, necessary to the development and operation of the area included in the OCPUD Development Plan.
- E.) **Other Facilities or Amenities:** Including recreation facilities, provided for the use of the residents, provided they are an approved part of the Development Plan.
- F.) **Schools:** Public and private schools offering general educational courses and having no rooms regularly used for housing or sleeping of students.
- G.) **Parks, Playgrounds and Playfields:** Open to the public without fee.

- H.) **Religious Uses:** Church or other place of worship provided it occupies a lot adequate for all structures, required setbacks, water supply, sewage disposal, and off-street parking.
- I.) **Commercial Uses:** Within the OCPUD District the following commercial uses, according to their NAICS code number, developed in strict compliance with the approved development plan and standards, shall be permitted. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

NAICS CODE #	PERMITTED USE
111411	Mushroom Production
111419	Other Food Crops Grown Under Cover
111421	Nursery and Tree Production
111422	Floriculture Production
311811	Retail Bakeries
336612	Boat Building
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers
424350	Clothing and Clothing Accessories Merchant Wholesalers
449110	Furniture Retailers
449210	Electronics and Appliance Retailers
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)
445131	Convenience Retailers
445132	Vending Machine Operators
445230	Fruit and Vegetable Retailers
445240	Meat Retailer
445250	Fish and Seafood Retailers
445291	Baked Goods Retailers
445292	Confectionery and Nut Retailers
445110	Supermarkets and Other Grocery Retailers (except Convenience Retailers)
445131	Convenience Retailers
449110	Furniture Retailers
455219	All Other General Merchandise Retailers
455110	Department Stores
456199	All Other Health and Personal Care Retailers
457120	Other Gasoline Stations
457110	Gasoline Stations with Convenience Stores
458110	Clothing and Clothing Accessories Retailers
459110	Sporting Goods Retailers
484220	Specialized Freight (except Used Goods) Trucking, Local (includes Boat Hauling)
491110	Postal Service
513130	Book Publishers
512240	Sound Recording Studios
517810	All Other Telecommunications
518210	Computing Infrastructure Providers, Data Processing, Web Hosting, and Related Services
524114	Direct Health and Medical Insurance Carriers
524210	Insurance Agencies and Brokerages
531210	Offices of Real Estate Agents and Brokers

532284	Recreational Goods Rental
532289	All Other Consumer Goods Rental
54 (category)	Professional, Scientific and Technical Services (includes Lawyers, Notaries, Legal Services, Accountants, Payroll, Architectural, Engineering, Mapping, Interior Design Medical, Veterinarians, Computer and Related Hardware and Research and Development etc.)
561110	Office Administrative Support Services
561431	Private Mail Centers
561439	Other Business Service Centers (including Copy Shops)
561510	Travel Agencies
611710	Educational Support Services
621493	Freestanding Ambulatory Surgical and Emergency Centers
621610	Home Health Care Services
621999	All Other Miscellaneous Ambulatory Health Care Services
623110	Nursing Care Facilities
713940	Fitness and Recreational Centers
722310	Food Service Contractors
722320	Caterers
722330	Mobile Food Services
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722514	Cafeterias, Grill Buffets, and Buffets
722515	Snack and Nonalcoholic Beverage Bars
811490	Other Personal and Household Goods Repair and Maintenance
811210	Electronic and Precision Equipment Repair and Maintenance
811412	Appliance Repair and Maintenance
812111	Barber Shops
812112	Beauty Salons
812113	Nail Salons
812191	Diet and Weight Reducing Centers
812199	Other Personal Care Services
812210	Funeral Homes and Funeral Services
812220	Cemeteries and Crematories
812310	Coin-Operated Laundries and Dry-cleaners
812320	Dry-cleaning and Laundry Services (except Coin-Operated)
812910	Pet Care (except Veterinary) Services
812990	All Other Personal Services
813 (all uses that begin with 813)	Religious, Grant Making, Civil, Professional and Similar Organizations
921 (all uses that begin with 921)	Executive Offices, Legislative Bodies, Public Finance Activities, Executive and Legislative Offices, Combined, Other General Government Support

922 (all uses that begin with 922)	Courts, Police Protection, Legal Counsel and Prosecution, Correctional Institutions, Parole Offices and Probation Offices, Fire Protection, Other Justice, Public Order, and Safety Activities
923 (all uses that begin with 923)	Administration of Education Programs, Administration of Public Health Programs, Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs), Administration of Veterans' Affairs

### SECTION 18.03: PROCEDURE TO APPLY THE OCPUD

- A.) **Prepare an Existing Features (Site Analysis) Plan:** The applicant shall prepare an existing features (Site Analysis) plan and calculate the net developable acreage and yield as provided herein.
- B.) **Submit an Existing Features (Site Analysis) Plan without Fee:** The applicant shall submit to the Zoning Commission the existing features (site analysis) plan for a tract(s) of land to be considered under this section for the OCPUD.
- C.) **On-Site Walkabout:** At a jointly agreeable time, the applicant and the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting may walk the site. At the site walk or thereafter a very conceptual development plan should be quickly sketched on the site analysis map by the applicant or his consultant for impromptu comments from the Zoning Commission. No binding decisions or votes are made at the on-site walkabout. Based upon such comments, a formal development plan can be prepared for public hearing. The On-Site Walkabout is a public meeting pursuant to Ohio Sunshine law and must be properly noticed.
- D.) **Prepare Application and Development Plan:** Applicant shall prepare and submit a formal application and development plan, with sixteen (16) copies and fees, to the Zoning Commission. The Zoning Commission schedules a public hearing. Abutting landowners within 200 feet of the subject tract shall be notified. Zoning Commission may request the DCRPC to comment.

The Development Plan shall include in text and map form the following unless such individual requirement is waived by the Zoning Commission.

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
- 2.) A finished grading plan drawn at a scale of 1"=100', showing all information pertaining to surface drainage.
- 3.) A landscape plan drawn by a landscape architect to an overall scale of at least 1"=100', with larger scale elevations and cross sections.
- 4.) An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually preserve the required open space.
- 5.) The Development Plan shall be to a scale of at least 1"=100' and shall show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, including the following:

- a.) The general development character, the permitted and accessory uses, buildings and structures to be located on the tract including the limitations or controls to be placed on each, with proposed lot sizes, and minimum setback and spacing requirements. Other development features, shall be shown including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities and open space areas. All commonly owned structures shall be shown in detail that identifies the location, quantity, type and typical section of each. The Development Plan shall identify dwelling unit densities for any proposed residential development, dwelling unit types, the total number of dwelling units proposed for the site, and the method and manner used to calculate density.
- b.) No structure (other than approved drainage structures as shown on The Development Plan) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.
- c.) Locations of stream channels, watercourses, wooded areas and buffer areas shall be designated. Existing topography and drainage patterns shall also be shown. Primary and secondary conservation areas to be conserved and such areas to be impacted or altered shall be identified on the Plan. Primary conservation areas such as the 100-year floodplain, wetlands, and slopes greater than 20% shall be mapped.
- d.) 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 be considered a Major Deviation in accordance with Section 18.05(B). Materials and colors shall be submitted for approval.
- e.) The proposed provisions for water, fire hydrants, sewage disposal and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
- f.) A traffic impact analysis, if required by the Zoning Commission, prepared by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing streets and conditions.
- g.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- h.) Identification and location of all uses and structures proposed within the site and the location of schools, parks and other public facility sites within or adjacent to the site. This includes a showing of:
  - 1.) The exact location and dimension of private streets, common drives and public street rights-of-way;
  - 2.) The exact location of building footprints or envelopes within which dwelling units are to be constructed, and lot lines with dimensions for all residential units for which individual ownership is proposed;

- 3.) The dimensions of building/unit spacing;
  - 4.) The exact location of forested no cut/no disturb zones;
  - 5.) The designated open space areas and a description of proposed open space improvements; and
  - 6.) The exact location of all utility easements.
  - 7.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 8.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.
  - 9.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 10.) Except for density, the applicant may request a divergence from the other development standards set forth in Article 26. An applicant making such a request shall specifically and separately list each requested divergence and the justification thereof on the Development Plan, with a request that the proposed divergence be approved "per plan." Unless specifically supplemented by the standards contained in Article 26 or those standards approved in the Development Plan, the development shall comply with the General Development Standards applicable to all zoning districts, as set forth in Article 24.
  - 11.) Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land, the improvements thereon, including those areas which are to be commonly owned and maintained as well as the open space.
  - 12.) Other information, as may be required by the Zoning Commission in order to determine compliance with this Resolution.
- i.) The Development Plan shall bear the seal of a registered engineer or surveyor, plus an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.
- E.) **Public Hearing:** The Zoning Commission shall hold a public hearing on the request within a reasonable period of time after receipt of the application, final development plan and submission of fees.
- F.) **Action by Zoning Commission:** The Zoning Commission may approve the application and development plan for the OCPUD provided it finds that:
- 1.) The proposed use complies with all purposes, requirements and standards established in this zoning resolution and that any divergence is warranted by the design and amenities incorporated in the development plan;



- 2.) The design preserves and protects primary conservation areas, and adequately provides useable open space in residential areas;
  - 3.) The proposed use is in accord with applicable plans or policies for the area;
  - 4.) The proposed development will be adequately served by essential public facilities and services such as roads, walks, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; and
  - 5.) The proposed development is in keeping with the existing land use character and physical development potential of the area. In approving the application and Final Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions in order to carry out the purpose and intent of this district.
- G.) **Subdivision Plat:** No zoning certificate shall be issued for any structure in any portion of a planned unit development for which a plat is required by the Delaware County Subdivision Regulations unless and until:
- 1.) The final subdivision plat for that portion has been approved by the Delaware County Regional Planning Commission and the Delaware County Commissioners and been recorded.
  - 2.) A full size (typically 24" x 36") and an 11"x 17" copy of the recorded plat have been filed with the zoning inspector.
- No modification of the provisions of the Final Development Plan, or part thereof, as finally approved shall be made unless the provisions of Article 26 are followed. The applicant shall submit the subdivision plat to the Zoning Inspector for review in order to assure the notes and agreed conditions on the Final Development Plan are not compromised by final engineering.
- H.) **Zoning Certificate:**
- After the Final Development Plan is approved and any required final Subdivision Plat is recorded, the Zoning Inspector may issue a zoning permit upon payment of the required fees and submission of the detailed landscaping plan for each platted lot. The zoning permit for a planned development shall be for a period not to exceed five (5) years or that period approved in the final development plan. If no construction has begun within five (5) years after approval is granted the Final Development Plan approval shall be void.

#### SECTION 18.04: OCPUD DEVELOPMENT PLAN STANDARDS

- A.) **Minimum Tract Size for an OCPUD:** As approved per development plan.
- B.) **Open Space:** Dedication of land for public purposes approved with the development plan including trails, active recreation, spray irrigation fields, etc. may be encouraged by the Township. The decision whether to accept an applicant's offer to dedicate open space for public use shall be at the discretion of the Township Trustees. The development plan shall specify the purposes for which open space areas are proposed. Any recreational facilities proposed to be constructed within open space areas shall be clearly shown on the final development plan.
- 1.) In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included.

- 2.) Any area of natural open space that is proposed to be disturbed during construction or otherwise not preserved in its natural state shall be shown on the final development plan and shall be restored with vegetation that is compatible with the natural characteristics of the site. The method and timing of any restoration shall be set forth in the development plan.
- C.) **Sewage Disposal:** Connection to centralized sewer is required.
- D.) **Storm Water:** No features shall be designed which are likely to cause erosion or flooding.
- E.) **Subdivision Standards:** Street and drainage improvements shall conform to the subdivision standards for Delaware County, Ohio.
- F.) **Paths:** Sidewalks or walking paths may be required for residential areas of more than 15 dwellings. Sidewalks/paths shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed strip. The Zoning Commission and/or Township Trustees may require paved walkways to connect residential areas and open spaces.
- G.) **Street Trees:** Deciduous, broad leaf street trees with a minimum caliper of two inches (2") at planting shall be planted (or retained) at least every fifty (50) lineal feet along at least one side of the street and placed behind the sidewalk or walking paths.
- H.) **Minimum Front Setbacks:** Dwelling Units shall be set back thirty (30) feet from the street right of way. Front load garages shall be setback at least ten (10) feet behind the front building line of the dwelling unit, or may be flush with the dwelling unit front if the dwelling unit sets back at least fifty (40) feet from the street right of way. Side load garages shall be setback at least thirty (30) feet from the street right of way.
- I.) **Minimum Lot Size:** As approved per plan.
- J.) **Minimum Lot Width at the Building Line:** As approved per plan.
- K.) **Minimum Side Yard:** As approved per plan.
- L.) **Driveway Setbacks:** Two feet from side lot line. Side-load garages shall provide at least 24 feet of paved apron, exclusive of the 2-foot side lot line for single family detached dwellings on fee simple ownership lots. Attached units or detached condominiums as approved per the final development plan.
- M.) **Minimum Rear Yard:** 30 feet for single family detached dwellings on fee simple ownership lots and attached garages. Fifteen (15) feet for accessory buildings. Attached units or detached condominiums as approved per the final development plan.
- N.) **Building Height Requirement:** No principal building in this district shall exceed thirty-five (35) feet in height.
- O.) **Street Lighting:** If provided must be of white light, maximum height 16 feet, with downward cast lighting.
- P.) **Landscaping:** All yards, front, side and rear, shall be landscaped per Article 26. All improved common open space shall be landscaped per the approved development plan. A landscape plan for the common open space and streetscape within road right of way shall be prepared by a licensed landscape

architect showing the caliper, height, numbers, name and placement of all material, and shall be submitted with and approved as a part of the final development plan. 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.

- Q.) **Parking:** Off-street parking shall be provided at the time of construction of each principal structure or building, with adequate provisions for ingress and egress in accordance with the development plan. Off-street parking shall comply with the provisions of this resolution, or as approved per plan.
- R.) **Signs:** All signs shall be in accordance with Article 25.
- S.) **Supplemental Conditions and Safeguards:** The Berlin Township Zoning Commission and/or Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed, landscaping, development, improvement and maintenance of open space (whether improved common open space or natural open space), and any other pertinent development characteristics.
- T.) **Divergence:** the Zoning Commission and/or Township Trustees as a part of development plan approval, may grant divergences from any standard or requirement in this Section with the exception of density and the percentage of required open space. An applicant requesting a divergence shall specifically and separately list each requested divergence and the justification therefore on the development plan submittals with a request that the proposed divergence be approved “per plan”.

#### SECTION 18.05: EXTENSIONS AND MODIFICATIONS OF APPROVED DEVELOPMENT PLANS

- A.) **Extensions:** An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Board of Trustees upon Application of the owner(s), provided the Board of Trustees determines 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 recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted and at the discretion of the Board of Trustees. A request for extension shall be filed prior to the expiration of the established approval period.
- B.) **Modifications:** Upon submittal of a written application specifically detailing the changes requested to an Approved Development Plan and the justification(s) for the modification request, the Zoning Inspector shall refer the application to the Township Zoning Commission.

Within thirty (30) days of receiving an application, the Zoning Commission shall schedule and conduct a public meeting to consider whether the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is not in conflict with the intent and purpose of the Old Cheshire PUD (OCPUD). The Zoning Commission shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Zoning Commission hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor’s then current tax list. The failure of delivery of that notice shall not invalidate any action of the Zoning Commission.

The Zoning Commission shall render a recommendation to the Board of Trustees for the approval, modification, or the denial of the application at the conclusion of its meeting.

Within thirty (30) days of receiving the Zoning Commission's recommendation, the Board of Trustees shall schedule and conduct a public meeting to consider the request, along with the recommendations of the Zoning Commission. The Board of Trustees shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Board of Trustees hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the Board of Trustees. The Board of Trustees shall render a decision at the conclusion of its meeting.

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## **ARTICLE 19 BERLIN INDUSTRIAL OVERLAY (BIO)**

### **SECTION 19.01: PURPOSE**

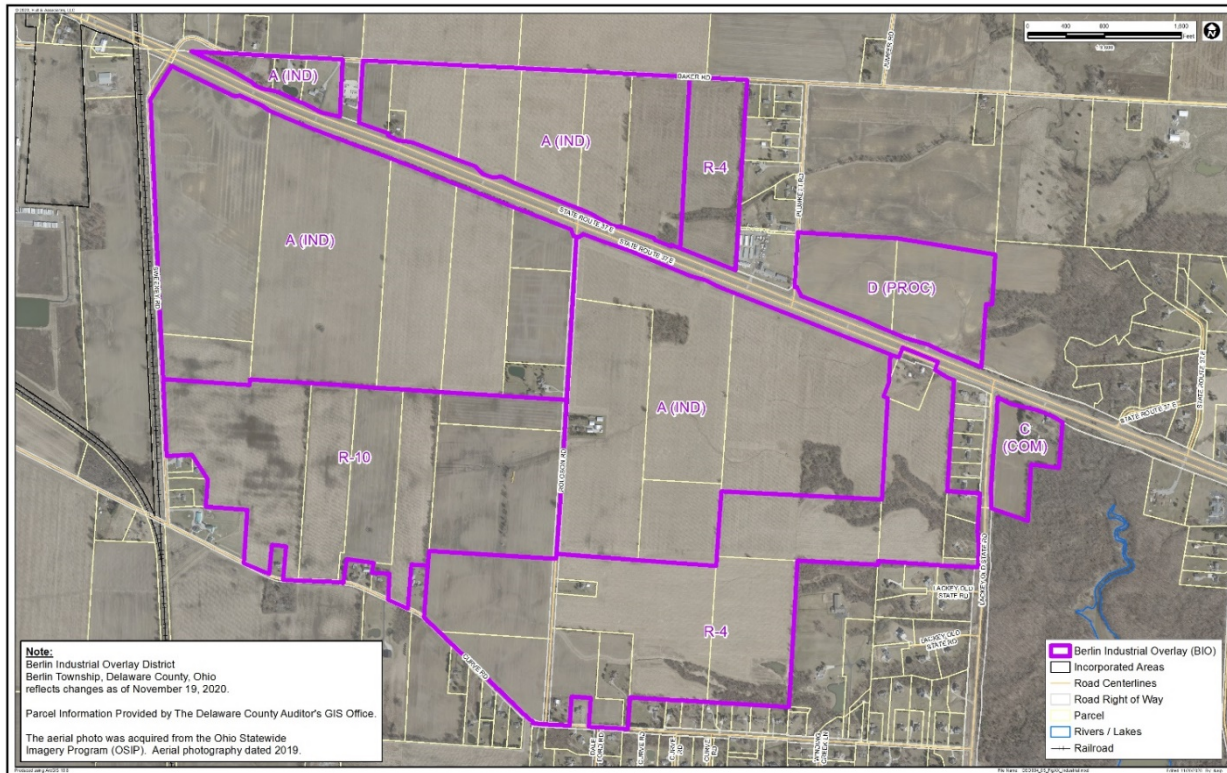
The Berlin Industrial Overlay (the “BIO”) is created pursuant to [ORC§519.021\(C\)](#) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, commercial, and industrial development. The overlay encourages flexibility of design to promote and accommodate environmentally sensitive and efficient use of the land, thereby allowing for a unified development that:

- Preserves unique or sensitive natural resources and integrates Open Space within developments.
- Plans the appropriate amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance.
- Provides an opportunity for an appropriate mix of uses.
- Enables an extensive review of design characteristics to ensure that projects are properly integrated into surroundings and are compatible with adjacent development.
- Assures compatibility between proposed land uses through appropriate development controls.
- Enhances the welfare and economy of the Township by making available a variety of employment opportunities, providers of goods and services as well as providing a variety of housing options for the Township residents.
- Encourages unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district, yet are imaginative in architectural design and are consistent with applicable public plans for the area and are compatible with surrounding land uses.

### **SECTION 19.02: OVERLAY AREA ESTABLISHED**

The BIO encompasses, includes, overlays, and rezones the area shown on the Berlin Industrial Overlay Zoning District Map, which is incorporated herein and is hereby adopted as the official Zoning District Map for the BIO. The zoning regulations and districts in existence at the time of the effective date of the BIO rezoning shall continue to apply to all property within the BIO, unless the Berlin Township Board of Trustees (the “Trustees”), in accordance with Section 19.06, approve an application submitted by a property owner and/or their agent (the “Applicant”), to subject their property to the provisions of the BIO. Such an application shall be made in accordance with the provisions of this Article 19 and all other applicable Articles of the Berlin Township Zoning Resolution (the “Zoning Resolution”).

## BERLIN INDUSTRIAL OVERLAY ZONING DISTRICT MAP



Parcels determined by the Delaware County Auditor's Office to be in existence as of September 9, 2020.

### SECTION 19.03: PERMITTED USES

- A.) Within the individual Subareas of the Berlin Industrial Overlay (BIO), the following uses, as described by the North American Industrial Classification System (NAICS), shall be permitted within the subarea noted with an "X" when developed in strict compliance with the approved Development Plan and the standards of this Resolution.

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

2017 U.S. NAICS CODE #	PERMITTED USES	<i>Use map reference</i>	<i>Subarea on zoning map</i>	<i>I N D A</i>	<i>P R O D</i>	<i>C O M C</i>	<i>R E S R</i>
<b>Construction</b>							
236115	New Single-Family Housing Construction (except For-Sale Builders)			X			
236116	New Multifamily Housing (except For-Sale Builders)			X			
236117	New Housing For-Sale Builders			X			
236118	Residential Remodelers			X			
236210	Industrial Building Construction			X			
236220	Commercial and Institutional Building Construction			X			
237110	Water and Sewer Line and Related Structures Construction			X			
237120	Oil and Gas Pipeline and Related Structures Construction			X			
237130	Power and Communication Line and Related Structures Construction			X			



2017 U.S. NAICS CODE #	PERMITTED USES	<i>I</i>	<i>P</i>	<i>C</i>	<i>R</i>
		<i>N</i>	<i>R</i>	<i>O</i>	<i>E</i>
		<i>D</i>	<i>OC</i>	<i>M</i>	<i>S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
237210	Land Subdivision	X			
237310	Highway, Street, and Bridge Construction	X			
238120	Structural Steel and Precast Concrete Contractors	X			
238130	Framing Contractors	X			
238140	Masonry Contractors	X			
238150	Glass and Glazing Contractors	X			
238160	Roofing Contractors	X			
238170	Siding Contractors	X			
238190	Other Foundation, Structure, and Building Exterior Contractors	X			
238210	Electrical Contractors and Other Wiring Installation Contractors	X			
238220	Plumbing, Heating, and Air-Conditioning Contractors	X			
238290	Other Building Equipment Contractors	X			
238310	Drywall and Insulation Contractors	X			
238320	Painting and Wall Covering Contractors	X			
238330	Flooring Contractors	X			
238340	Tile and Terrazzo Contractors	X			
238350	Finish Carpentry Contractors	X			
238390	Other Building Finishing Contractors	X			
238910	Site Preparation Contractors	X			
238990	All Other Specialty Trade Contractors	X			
323111	Commercial Printing (except Screen and Books)	X			
323113	Commercial Screen Printing	X			
323117	Books Printing	X			
323120	Support Activities for Printing	X			
<b>33 Manufacturing</b>					
334111	Electronic Computer Manufacturing	X			
334112	Computer Storage Device Manufacturing	X			
334118	Computer Terminal and Other Computer Peripheral Equipment Manufacturing	X			
334210	Telephone Apparatus Manufacturing	X			
334220	Radio and Television	X			
334290	Other Communications Equipment Manufacturing	X			
334310	Audio and Video Equipment Manufacturing	X			
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing	X			
334511	Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing	X			
334512	Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables	X			
334514	Totalizing Fluid Meter and Counting Device Manufacturing	X			
334515	Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals	X			
334516	Analytical laboratory Instrument Manufacturing	X			
334519	Other Measuring and Controlling Device Manufacturing	X			
334613	Blank Magnetic and Optical Recording Media Manufacturing	X			
334614	Software and Other Prerecorded Compact Disc, Tape, and Record Reproducing	X			
339112	Surgical and Medical Instrument Manufacturing	X			
339113	Surgical Appliance and Supplies Manufacturing	X			
339114	Dental Equipment and Supplies Manufacturing	X			
339115	Ophthalmic Goods Manufacturing	X			
339116	Dental Laboratories	X			
339910	Jewelry and Silverware Manufacturing	X			
339920	Sporting and Athletic Goods Manufacturing	X			

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I</i>	<i>P</i>	<i>C</i>	<i>R</i>
		<i>N</i>	<i>R</i>	<i>O</i>	<i>E</i>
		<i>D</i>	<i>OC</i>	<i>M</i>	<i>S</i>
	<i>Use map reference</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
339930	Doll, Toy, and Game Manufacturing	X			
339940	Office Supplies (except Paper) Manufacturing	X			
339950	Sign Manufacturing	X			
339991	Gasket, Packing, and Sealing Device Manufacturing	X			
339992	Musical Instrument Manufacturing	X			
339993	Fastener, Button, Needle, and Pin Manufacturing	X			
339994	Broom, Brush, and Mop Manufacturing	X			
339995	Burial Casket Manufacturing	X			
339999	All Other Miscellaneous Manufacturing	X			
423210	Furniture Merchant Wholesalers	X			
423220	Home Furnishing Merchant Wholesalers	X			
423310	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers	X			
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	X			
423330	Roofing, Siding, and Insulation Material Merchant Wholesalers	X			
423390	Other Construction Material Merchant Wholesalers	X			
423410	Photographic Equipment and Supplies Merchant Wholesalers	X	X		
423420	Office Equipment Merchant Wholesalers	X	X		
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	X	X		
423440	Other Commercial Equipment Merchant Wholesalers	X	X		
423450	Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers	X	X		
423460	Ophthalmic Goods Merchant Wholesalers	X	X		
423490	Other Professional Equipment and Supplies Merchant Wholesalers	X	X		
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	X	X		
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers	X	X		
423690	Other Electronic Parts and Equipment Merchant Wholesalers	X	X		
423710	Hardware Merchant Wholesalers	X	X		
423720	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	X	X		
423730	Warm Air Heating and Air-Conditioning Equipment and Supplies Merchant Wholesalers	X	X		
423740	Refrigeration Equipment and Supplies Merchant Wholesalers	X	X		
423810	Construction and Mining (except Oil Well) Machinery and Equipment Merchant Wholesalers	X			
423820	Farm and Garden Machinery and Equipment Merchant Wholesalers	X			
423830	Industrial Machinery and Equipment Merchant Wholesalers	X			
423840	Industrial Supplies Merchant Wholesalers	X			
423850	Service Establishment Equipment and Supplies Merchant Wholesalers	X			
423860	Transportation Equipment and Supplies (except Motor Vehicle) Merchant Wholesalers	X			
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers	X	X		
423920	Toy and Hobby Goods and Supplies Merchant Wholesalers	X	X		
423940	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers	X	X		
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	X	X		
424110	Printing and Writing Paper Merchant Wholesalers	X	X		
424120	Stationery and Office Supplies Merchant Wholesalers	X	X		
424130	Industrial and Personal Service Paper Merchant Wholesalers	X	X		
424210	Drugs and Druggists' Sundries Merchant Wholesalers	X	X		
424310	Piece Goods, Notions, and Other Dry Goods Merchant Wholesalers	X	X		
424320	Men's and Boys' Clothing and Furnishings Merchant Wholesalers	X	X		

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I N D</i>	<i>P R O C</i>	<i>C O M</i>	<i>R E S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
424330	Women's, Children's, and Infants' Clothing and Accessories Merchant Wholesalers	X	X		
424340	Footwear Merchant Wholesalers	X	X		
424810	Beer and Ale Merchant Wholesalers	X	X		
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers	X	X		
425110	Business to Business Electronic Markets	X	X		
425120	Wholesale Trade Agents and Brokers	X	X		
<b>Retail Trade</b>					
442110	Furniture Stores	X	X	X	
442210	Floor Covering Stores	X	X	X	
442291	Window Treatment Stores	X	X	X	
442299	All Other Home Furnishings Stores	X	X	X	
443141	Household Appliance Stores	X	X	X	
443142	Electronics Stores	X	X	X	
444110	Home Centers	X	X	X	
444120	Paint and Wallpaper Stores	X	X	X	
444130	Hardware Stores	X	X	X	
444190	Other Building Material Dealers	X	X	X	
444210	Outdoor Power Equipment Stores	X	X	X	
444220	Nursery, Garden Center, and Farm Supply Stores	X	X	X	
445110	Supermarkets and Other Grocery (except Convenience) Stores	X	X	X	
445120	Convenience Stores	X	X	X	
445220	Fish and Seafood Markets	X	X	X	
445230	Fruit and Vegetable Markets	X	X	X	
445291	Baked Goods Stores	X	X	X	
445292	Confectionery and Nut Stores	X	X	X	
445299	All Other Specialty Food Stores	X	X	X	
445310	Beer, Wine, and Liquor Stores	X	X	X	
446110	Pharmacies and Drug Stores	X	X	X	
446120	Cosmetics, Beauty Supplies, and Perfume Stores	X	X	X	
446130	Optical Goods Stores	X	X	X	
446191	Food (Health) Supplement Stores	X	X	X	
446199	All Other Health and Personal Care Stores	X	X	X	
448110	Men's Clothing Stores	X	X	X	
448120	Women's Clothing Stores	X	X	X	
448130	Children's and Infants' Clothing Stores	X	X	X	
448140	Family Clothing Stores	X	X	X	
448150	Clothing Accessories Stores	X	X	X	
448190	Other Clothing Stores	X	X	X	
448210	Shoe Stores	X	X	X	
448310	Jewelry Stores	X	X	X	
448320	Luggage and Leather Goods Stores	X	X	X	
451110	Sporting Goods Stores	X	X	X	
451120	Hobby, Toy, and Game Stores	X	X	X	
451130	Sewing, Needlework, and Piece Goods Stores	X	X	X	
451140	Musical Instrument and Supplies Stores	X	X	X	
451211	Book Stores	X	X	X	
451212	News Dealers and Newsstands	X	X	X	
452210	Department Stores	X			
452311	Warehouse Clubs and Supercenters	X			
452319	All Other General Merchandise Stores	X			

2017 U.S. NAICS CODE #	PERMITTED USES	I N D	P R O C	C O M	R E S
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	A	D	C	R
453110	Florists	X	X	X	
453210	Office Supplies and Stationery Stores	X	X	X	
453220	Gift, Novelty, and Souvenir Stores	X	X	X	
453310	Used Merchandise Stores	X	X	X	
453910	Pet and Pet Supplies Stores	X	X	X	
453920	Art Dealers	X	X	X	
454110	Electronic Shopping and Mail-Order Houses	X	X	X	
<b>Information (except those including adult entertainment)</b>					
511110	Newspaper Publishers	X	X		
511120	Periodical Publishers	X	X		
511130	Book Publishers	X	X		
511140	Directory and Mailing List Publishers	X	X		
511191	Greeting Card Publishers	X	X		
511199	All Other Publishers	X	X		
511210	Software Publishers	X	X		
517311	Wired Telecommunications Carriers	X	X		
517312	Wireless Telecommunications Carriers (except Satellite)	X	X		
518210	Data Processing, Hosting, and Related Services	X	X		
519110	News Syndicates	X	X		
519120	Libraries and Archives	X	X		
519130	Internet Publishing and Broadcasting and Web Search Portals	X	X		
519190	All Other Information Services	X	X		
<b>Finance and Insurance</b>					
521110	Monetary Authorities-Central Bank	X	X	X	
522110	Commercial Banking	X	X	X	
522120	Savings Institutions	X	X	X	
522130	Credit Unions	X	X	X	
522190	Other Depository Credit Intermediation	X	X	X	
522210	Credit Card Issuing	X	X	X	
522220	Sales Financing	X	X	X	
522291	Consumer Lending	X	X	X	
522292	Real Estate Credit	X	X	X	
522293	International Trade Financing	X	X	X	
522294	Secondary Market Financing	X	X	X	
522298	All Other Nondepository Credit Intermediation	X	X	X	
522310	Mortgage and Nonmortgage Loan Brokers	X	X	X	
522320	Financial Transactions Processing, Reserve, and Clearinghouse Activities	X	X	X	
522390	Other Activities Related to Credit Intermediation	X	X	X	
523110	Investment Banking and Securities Dealing	X	X	X	
523120	Securities Brokerage	X	X	X	
523130	Commodity Contracts Dealing	X	X	X	
523140	Commodity Contracts Brokerage	X	X	X	
523210	Securities and Commodity Exchanges	X	X	X	
523910	Miscellaneous Intermediation	X	X	X	
523920	Portfolio Management	X	X	X	
523930	Investment Advice	X	X	X	
523991	Trust, Fiduciary, and Custody Activities	X	X	X	
523999	Miscellaneous Financial Investment Activities	X	X	X	
524113	Direct Life Insurance Carriers	X	X	X	
524114	Direct Health and Medical Insurance Carriers	X	X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I</i>	<i>P</i>	<i>C</i>	<i>R</i>
		<i>N</i>	<i>R</i>	<i>O</i>	<i>E</i>
		<i>D</i>	<i>OC</i>	<i>M</i>	<i>S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
524126	Direct Property and Casualty Insurance Carriers	X	X	X	
524127	Direct Title Insurance Carriers	X	X	X	
524128	Other Direct Insurance (except Life, Health, and Medical) Carriers	X	X	X	
524130	Reinsurance Carriers	X	X	X	
524210	Insurance Agencies and Brokerages	X	X	X	
524291	Claims Adjusting	X	X	X	
524292	Third Party Administration of Insurance and Pension Funds	X	X	X	
524298	All Other Insurance Related Activities	X	X	X	
525110	Pension Funds	X	X	X	
525120	Health and Welfare Funds	X	X	X	
525190	Other Insurance Funds	X	X	X	
525910	Open-End Investment Funds	X	X	X	
525920	Trusts, Estates, and Agency Accounts	X	X	X	
525990	Other Financial Vehicles	X	X	X	
<b>Real Estate Rental and Leasing</b>					
531110	Lessors of Residential Buildings and Dwellings	X	X	X	
531120	Lessors of Nonresidential Buildings (except Mini-warehouses)	X	X	X	
531130	Lessors of Mini-warehouses and Self-Storage Units	X	X	X	
531190	Lessors of Other Real Estate Property	X	X	X	
531210	Offices of Real Estate Agents and Brokers	X	X	X	
531311	Residential Property Managers	X	X	X	
531312	Nonresidential Property Managers	X	X	X	
531320	Offices of Real Estate Appraisers	X	X	X	
531390	Other Activities Related to Real Estate	X	X	X	
532111	Passenger Car Rental	X	X	X	
532112	Passenger Car Leasing	X	X	X	
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing	X	X	X	
532210	Consumer Electronics and Appliances Rental	X	X	X	
532281	Formal Wear and Costume Rental	X	X	X	
532282	Video Tape and Disc Rental	X	X	X	
532283	Home Health Equipment Rental	X	X	X	
532284	Recreational Goods Rental	X	X	X	
532289	All Other Consumer Goods Rental	X	X	X	
532310	General Rental Centers	X	X	X	
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	X	X	X	
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing	X	X	X	
532420	Office Machinery and Equipment Rental and Leasing	X	X	X	
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing	X	X	X	
533110	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)	X	X	X	
<b>Professional, Scientific, and Technical Services</b>					
541110	Offices of Lawyers	X	X	X	
541120	Offices of Notaries	X	X	X	
541191	Title Abstract and Settlement Offices	X	X	X	
541199	All Other Legal Services	X	X	X	
541211	Offices of Certified Public Accountants	X	X	X	
541213	Tax Preparation Services	X	X	X	
541214	Payroll Services	X	X	X	
541219	Other Accounting Services	X	X	X	
541310	Architectural Services	X	X	X	
541320	Landscape Architectural Services	X	X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I N D</i>	<i>P R O C</i>	<i>C O M</i>	<i>R E S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
541330	Engineering Services	X	X	X	
541340	Drafting Services	X	X	X	
541350	Building Inspection Services	X	X	X	
541360	Geophysical Surveying and Mapping Services	X	X	X	
541370	Surveying and Mapping (except Geophysical) Services	X	X	X	
541380	Testing Laboratories	X	X	X	
541410	Interior Design Services	X	X	X	
541420	Industrial Design Services	X	X	X	
541430	Graphic Design Services	X	X	X	
541490	Other Specialized Design Services	X	X	X	
541511	Custom Computer Programming Services	X	X	X	
541512	Computer Systems Design Services	X	X	X	
541513	Computer Facilities Management Services	X	X	X	
541519	Other Computer Related Services	X	X	X	
541611	Administrative Management and General Management Consulting Services	X	X	X	
541612	Human Resources Consulting Services	X	X	X	
541613	Marketing Consulting Services	X	X	X	
541614	Process, Physical Distribution, and Logistics Consulting Services	X	X	X	
541618	Other Management Consulting Services	X	X	X	
541620	Environmental Consulting Services	X	X	X	
541690	Other Scientific and Technical Consulting Services	X	X	X	
541810	Advertising Agencies	X	X	X	
541820	Public Relations Agencies	X	X	X	
541830	Media Buying Agencies	X	X	X	
541840	Media Representatives	X	X	X	
541850	Outdoor Advertising	X	X	X	
541860	Direct Mail Advertising	X	X	X	
541870	Advertising Material Distribution Services	X	X	X	
541890	Other Services Related to Advertising	X	X	X	
541910	Marketing Research and Public Opinion Polling	X	X	X	
541921	Photography Studios, Portrait	X	X	X	
541922	Commercial Photography	X	X	X	
541930	Translation and Interpretation Services	X	X	X	
541940	Veterinary Services	X	X	X	
541990	All Other Professional, Scientific, and Technical Services	X	X	X	
<b>Management of Companies and Enterprises</b>					
551111	Offices of Bank Holding Companies	X	X	X	
551112	Offices of Other Holding Companies	X	X	X	
551114	Corporate, Subsidiary, and Regional Managing Offices	X	X	X	
<b>Administrative and Support Services</b>					
561110	Office Administrative Services	X	X	X	
561210	Facilities Support Services	X	X	X	
561311	Employment Placement Agencies	X	X	X	
561312	Executive Search Services	X	X	X	
561320	Temporary Help Services	X	X	X	
561330	Professional Employer Organizations	X	X	X	
561410	Document Preparation Services	X	X	X	
561421	Telephone Answering Services	X	X	X	
561422	Telemarketing Bureaus and Other Contact Centers	X	X	X	
561431	Private Mail Centers	X	X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I N D</i>	<i>P R O C</i>	<i>C O M</i>	<i>R E S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
561439	Other Business Service Centers (including Copy Shops)	X	X	X	
561440	Collection Agencies	X	X	X	
561450	Credit Bureaus	X	X	X	
561491	Repossession Services	X	X	X	
561492	Court Reporting and Stenotype Services	X	X	X	
561499	All Other Business Support Services	X	X	X	
561510	Travel Agencies	X	X	X	
561520	Tour Operators	X	X	X	
561591	Convention and Visitors Bureaus	X	X	X	
561599	All Other Travel Arrangement and Reservation Services	X	X	X	
561611	Investigation Services	X	X	X	
561612	Security Guards and Patrol Services	X	X	X	
561613	Armored Car Services	X	X	X	
561621	Security Systems Services (except Locksmiths)	X	X	X	
561622	Locksmiths	X	X	X	
561910	Packaging and Labeling Services	X	X	X	
561920	Convention and Trade Show Organizers	X	X	X	
561990	All Other Support Services	X	X	X	
	<b>Educational Services</b>				
611110	Elementary and Secondary Schools	X	X	X	
611210	Junior Colleges	X	X	X	
611310	Colleges, Universities, and Professional Schools	X	X	X	
611410	Business and Secretarial Schools	X	X	X	
611420	Computer Training	X	X	X	
611430	Professional and Management Development Training	X	X	X	
611511	Cosmetology and Barber Schools	X	X	X	
611512	Flight Training	X	X	X	
611513	Apprenticeship Training	X	X	X	
611519	Other Technical and Trade Schools	X	X	X	
611610	Fine Arts Schools	X	X	X	
611620	Sports and Recreation Instruction	X	X	X	
611630	Language Schools	X	X	X	
611691	Exam Preparation and Tutoring	X	X	X	
611692	Automobile Driving Schools	X	X	X	
611699	All Other Miscellaneous Schools and Instruction	X	X	X	
611710	Educational Support Services	X	X	X	
	<b>Health Care and Social Assistance</b>				
621111	Offices of Physicians (except Mental Health Specialists)	X	X	X	
621112	Offices of Physicians, Mental Health Specialists	X	X	X	
621210	Offices of Dentists	X	X	X	
621310	Offices of Chiropractors	X	X	X	
621320	Offices of Optometrists	X	X	X	
621330	Offices of Mental Health Practitioners (except Physicians)	X	X	X	
621340	Offices of Physical, Occupational and Speech Therapists, and Audiologists	X	X	X	
621391	Offices of Podiatrists	X	X	X	
621399	Offices of All Other Miscellaneous Health Practitioners	X	X	X	
621410	Family Planning Centers	X	X	X	
621420	Outpatient Mental Health and Substance Abuse Centers	X	X	X	
621491	HMO Medical Centers	X	X	X	
621492	Kidney Dialysis Centers	X	X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	I N D	P R O C	C O M	R E S
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	A	D	C	R
621493	Freestanding Ambulatory Surgical and Emergency Centers	X	X	X	
621498	All Other Outpatient Care Centers				
621511	Medical Laboratories	X	X	X	
621512	Diagnostic Imaging Centers	X	X	X	
621610	Home Health Care Services	X	X	X	
621910	Ambulance Services	X	X	X	
621991	Blood and Organ Banks	X	X	X	
621999	All Other Miscellaneous Ambulatory Health Care Services	X	X	X	
622110	General Medical and Surgical Hospitals	X	X	X	
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals	X	X	X	
623110	Nursing Care Facilities (Skilled Nursing Facilities)	X	X	X	
623311	Continuing Care Retirement Communities	X	X	X	
623312	Assisted Living Facilities for the Elderly	X	X	X	
623990	Other Residential Care Facilities	X	X	X	
624110	Child and Youth Services			X	
624120	Services for the Elderly and Persons with Disabilities				
624190	Other Individual and Family Services				
624310	Vocational Rehabilitation Services				
624410	Child Day Care Services		X	X	
<b>Arts, Entertainment, and Recreation</b>					
712110	Museums	X	X	X	
712120	Historical Sites	X			
712130	Zoos and Botanical Gardens	X			
712190	Nature Parks and Other Similar Institutions	X			
713910	Golf Courses and Country Clubs	X			
713920	Skiing Facilities	X	X	X	
713930	Marinas	X	X	X	
713940	Fitness and Recreational Sports Centers	X	X	X	
713950	Bowling Centers	X	X	X	
713990	All Other Amusement and Recreation Industries	X	X	X	
<b>Accommodation and Food Services</b>					
721110	Hotels (except Casino Hotels) and Motels	X	X	X	
721191	Bed-and-Breakfast Inns	X	X	X	
721199	All Other Traveler Accommodation	X	X	X	
721211	RV (Recreational Vehicle) Parks and Campgrounds	X			
721214	Recreational and Vacation Camps (except Campgrounds)	X			
722310	Food Service Contractors	X	X	X	
722320	Caterers	X	X	X	
722330	Mobile Food Services	X	X	X	
722511	Full-Service Restaurants	X	X	X	
722513	Limited-Service Restaurants	X	X	X	
722514	Cafeterias, Grill Buffets, and Buffets	X	X	X	
722515	Snack and Nonalcoholic Beverage Bars	X	X	X	
<b>Other Services (except Public Administration)</b>					
812111	Barber Shops		X	X	
812112	Beauty Salons		X	X	
812113	Nail Salons		X	X	
812191	Diet and Weight Reducing Centers		X	X	
812199	Other Personal Care Services		X	X	



2017 U.S. NAICS CODE #	PERMITTED USES	<i>I N D</i>	<i>P R O C</i>	<i>C O M</i>	<i>R E S</i>
	<i>Use map reference</i>				
	<i>Subarea on zoning map</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
812210	Funeral Homes and Funeral Services		X	X	
812220	Cemeteries and Crematories		X	X	
812310	Coin-Operated Laundries and Dry-cleaners		X	X	
812320	Dry-cleaning and Laundry Services (except Coin-Operated)		X	X	
812331	Linen Supply		X	X	
812332	Industrial Launderers		X	X	
812910	Pet Care (except Veterinary) Services		X	X	
812921	Photofinishing Laboratories (except One-Hour)		X	X	
812922	One-Hour Photofinishing		X	X	
812930	Parking Lots and Garages		X	X	
812990	All Other Personal Services		X	X	
813110	Religious Organizations		X	X	
813211	Grantmaking Foundations		X	X	
813212	Voluntary Health Organizations		X	X	
813219	Other Grantmaking and Giving Services		X	X	
813311	Human Rights Organizations		X	X	
813312	Environment, Conservation and Wildlife Organizations		X	X	
813319	Other Social Advocacy Organizations		X	X	
813410	Civic and Social Organizations		X	X	
813910	Business Associations		X	X	
813920	Professional Organizations		X	X	
813930	Labor Unions and Similar Labor Organizations		X	X	
813940	Political Organizations		X	X	
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)		X	X	
	<b>Public Administration</b>				
9211	Executive, Legislative, and Other General Government Support				
921110	Executive Offices		X	X	
921120	Legislative Bodies		X	X	
921130	Public Finance Activities		X	X	
921140	Executive and Legislative Offices, Combined		X	X	
921150	American Indian and Alaska Native Tribal Governments		X	X	
921190	Other General Government Support		X	X	
923110	Administration of Education Programs		X	X	
923120	Administration of Public Health Programs		X	X	
923130	Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs)		X	X	
923140	Administration of Veterans' Affairs		X	X	
924110	Administration of Air and Water Resource and Solid Waste Management Programs	X	X	X	
924120	Administration of Conservation Programs	X	X	X	
925110	Administration of Housing Programs	X	X	X	
925120	Administration of Urban Planning and Community and Rural Development	X	X	X	
926110	Administration of General Economic Programs	X	X	X	
926120	Regulation and Administration of Transportation Programs	X	X	X	
926130	Regulation and Administration of Communications, Electric, Gas, and Other Utilities	X	X	X	
926140	Regulation of Agricultural Marketing and Commodities	X	X	X	
926150	Regulation, Licensing, and Inspection of Miscellaneous Commercial Sectors	X	X	X	
927110	Space Research and Technology		X	X	
928110	National Security		X	X	

2017 U.S. NAICS CODE #	PERMITTED USES	<i>I</i>	<i>P</i>	<i>C</i>	<i>R</i>
		<i>N</i>	<i>R</i>	<i>O</i>	<i>E</i>
		<i>D</i>	<i>OC</i>	<i>M</i>	<i>S</i>
	<i>Use map reference</i>	<b>A</b>	<b>D</b>	<b>C</b>	<b>R</b>
	<i>Subarea on zoning map</i>				
928120	International Affairs		X	X	
N/A	Residential Uses in accordance with the limitations and regulations defined in <b>19.03(C) and 19.05(B).</b>				X

- 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 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 for a total combined period of time under all issued permits not exceeding twenty-four (24) months. 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 shall 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.
- C.) **Commercial Residential:** Within the areas labeled “R-4” or “R-10” on the BIO Overlay Map, the following uses shall be permitted when developed in strict compliance with the approved Development Plan, including the development standards set forth in Section 19.05, and all other applicable Articles of the Zoning Resolution. Map and Text references to “R-4” within this Article only refer to the BIO and do not refer in any way to other Articles within this Resolution.
- D.) Non-residential uses of a religious, cultural, education or recreational nature or character to the extent that they are designed and intended to serve the residents of the surrounding area. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.

#### SECTION 19.04: PROHIBITED USES

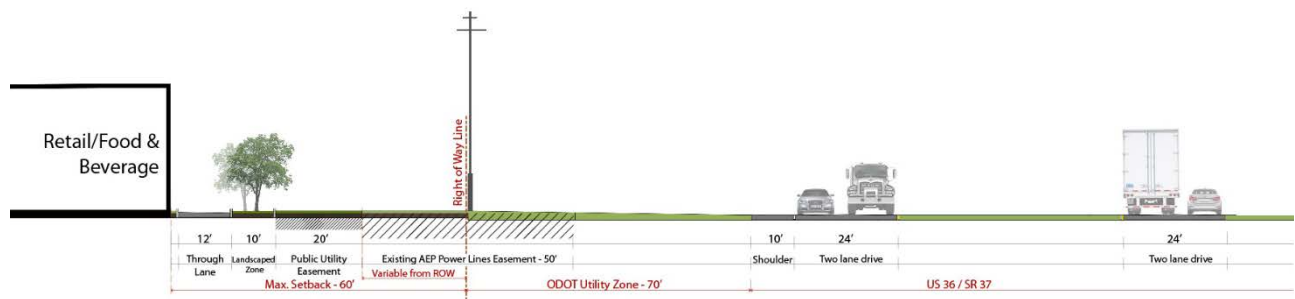
- A.) Uses not specifically authorized by the express terms of this Article of the Zoning Resolution are prohibited. Such uses, if included in another District(s) in the Berlin Township Zoning Resolution, shall only be approved as a part of a rezoning procedure as permitted by the Zoning Resolution. The granting of a conditional use permit on one parcel shall not be construed to automatically permit that conditional use on any other parcel.
- B.) The outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) days is prohibited.
- C.) No trailer of any type, no boats, no motor homes, nor equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on said lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) Except as specifically permitted in 19.03(B), no mobile home or mobile office structure shall be placed or occupied in this district.

- E.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public, as determined by the Board of Township Trustees. The Board of Township Trustees shall also retain any and all statutory authority that it may be afforded regarding nuisances, including but not limited to the authorities provided in Section 505 of the Ohio Revised Code.
- F.) No outside storage of any kind shall be permitted. All permitted uses shall be conducted completely within an enclosed building.

## SECTION 19.05: DEVELOPMENT AND DESIGN STANDARDS

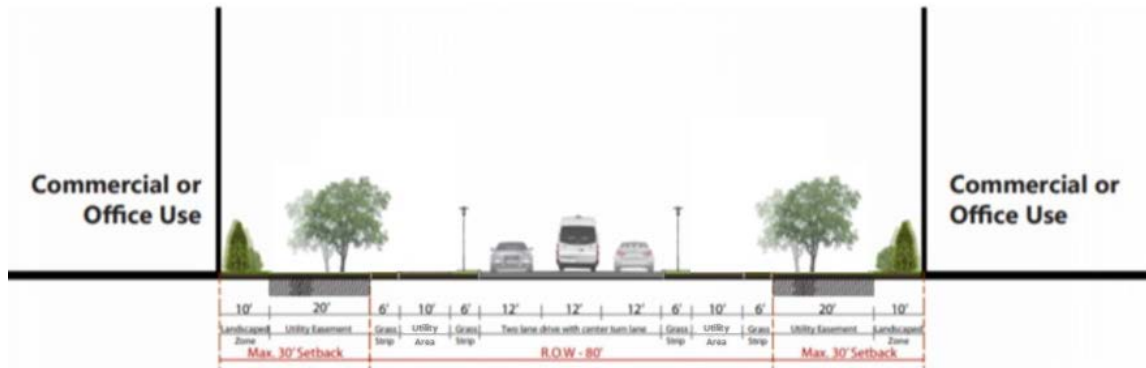
### A.) PROC/COM/IND Subareas

- 1.) **Minimum Tract Size per application:** five (5) acres.
- 2.) **Minimum Lot Width:** Shall equal at least one-half (1/2) the lot depth.
- 3.) **Right-of-Way Setbacks:** This overlay establishes **maximum** building setbacks from the right-of-way in an effort to create a sense of place, strengthen the image of the area and enhance the overall streetscape. The maximum building setback requirements from established or proposed public rights-of-way shall be determined by the street classification for said right-of-way as designated by the Delaware County Thoroughfare Plan. Unless otherwise noted, parking, loading spaces, and services docks are prohibited within the Right-of-Way setback. The setback may include any required utility easements and any required landscape zone.
  - a.) **PROC/COM:** The following **maximum** building setbacks shall apply to all buildings or structures within the PROC/COM subareas within the BIO.
    - i.) US 36/SR 37: maximum 60 feet
      - A 10-foot right-of-way landscape zone that complies with the requirements of Section 19.05(C)(4)(g) shall be provided within this setback.
      - One twenty-four (24) foot wide drive aisle is permitted within this setback, provided it is located between the building and required right-of-way landscape zone.
      - Example Cross Section:



- ii.) Collector and Local Roads: Maximum 30 feet

- A 10-foot building landscape zone that complies with the requirements in Section 19.09(C)(4)(g) shall be provided within this setback.
- Example Cross Sections:

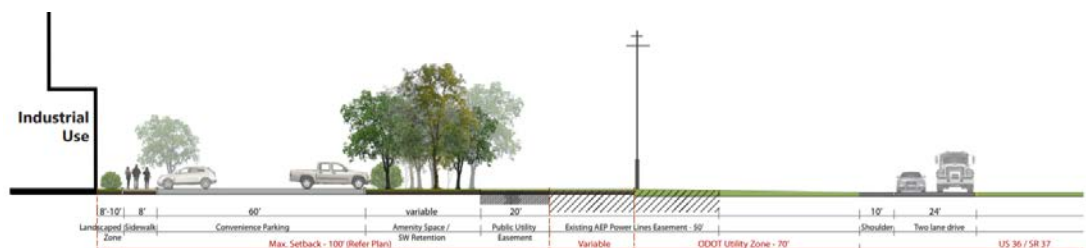


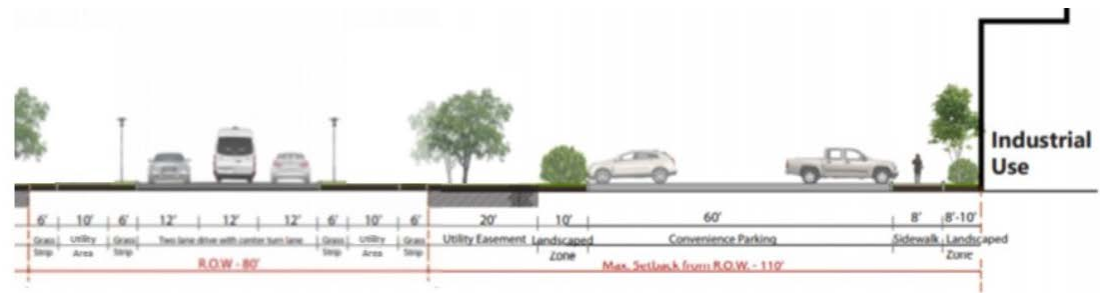
b.) **IND:** The following **maximum** building setbacks shall apply to buildings or structures located within the IND subarea within the BIO:

i.) US 36/SR 37 and Collector Roads: 120 feet

- A drive aisle with one row of parking on each side (for a total 60 foot width of pavement) shall be permitted within this setback to provide convenience parking to the proposed use(s). All other parking is prohibited in this setback. If convenience parking is provided, then an eight (8) foot sidewalk must be constructed parallel to the building and connect to said parking area. An eight (8) foot building landscape zone, which complies with the minimum standards in Section 19.05(C)(4)(h) of these Design Standards, must be located between the sidewalk and the building.
- There shall be a minimum forty-foot area between the AEP easement/right-of-way line and any permitted parking (or building if no convenience parking is provided) to allow for any required utility easements and a required minimum 10-foot right-of-way landscape zone, which shall comply with requirements Section 19.05(C)(4)(g).
- Example Cross Sections:

#### Industrial Use along US 36/ SR 37 Cross Section



**Industrial Use on Collector Road Cross Section****4.) Minimum Side and Rear Yards:**

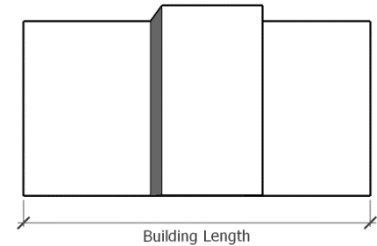
- a.) The minimum side and rear yard setbacks shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case, per Section 19.05(C)(8), shall a building or parking be constructed within two hundred and fifty feet of a lot line of an existing parcel utilized for residential purposes at the time of adoption of this overlay and as identified and defined by the list in Appendix A of this Article.

**5.) Building Height Limits:** The maximum height shall be as follows:

- a.) Any building or structure constructed within PROC/COM and adjacent to an existing parcel used for residential purposes at the time of the adoption of this Resolution as defined in Section 19.05(C)(8) shall be subject to the following height requirements. All distances shall be measured from the property line adjacent to the parcel with the existing residential use. Height shall be measured from the front door threshold to the highest point on the roof:
  - i.) Within two-hundred and fifty (250) feet – no buildings are permitted per 19.05(C)(8).
  - ii.) More than two-hundred and fifty (250) feet but less than three hundred and fifty (350) feet – the maximum building height shall be twenty-five (25) feet and no more than one story.
  - iii.) Between three hundred and fifty (350) feet and four hundred and fifty (450) feet – the maximum building height shall be thirty-five (35) feet and no more than two stories.
  - iv.) More than four hundred and fifty (450) feet – the maximum building height shall be forty-five (45) feet and no more than three stories.
- b.) Unless otherwise limited by Section 19.05(A)(5)(a), any building or structure in the PROC/COM shall be limited to forty-five (45) feet in height.
- c.) Any building or structure constructed on a property within the subarea denoted as IND in Section 19.03(A) that is located within four hundred (400) feet of the US 36/SR 37 right-of-way line shall be limited to forty-five (45) feet in height.

- d.) Unless otherwise limited by 19.05(A)(5)(c), the height for buildings and structures constructed for uses as permitted in the Subarea denoted as IND in Section 19.03 (A) shall not exceed sixty (60) feet.

- e.) Any building that is subject to a forty-five (45) foot maximum height, may extend up to 47 feet for a maximum of 10 percent of the building length to allow for architectural variations, features, and designs. In no such case shall a building exceed three stories. The building length shall be measured from the furthest edges of each elevation regardless of varying recesses and projections (see example). If a development plan is phased, each building within each phase must still meet the requirement of having no more than ten percent (10%) of its building length at a maximum height of forty-seven (47) feet. The remaining ninety percent (90%) of each building's length shall have a maximum height of forty-five (45) feet. The phasing plan required in Section 19.06(C)(13) must clearly reflect the timing of construction to ensure these percentages are met.



- f.) Any building located on a parcel adjacent to a School Parcel, as defined in Section 19.07, shall be limited to thirty-five (35) feet in height when said building is located within five hundred (500) feet of the school parcel line.

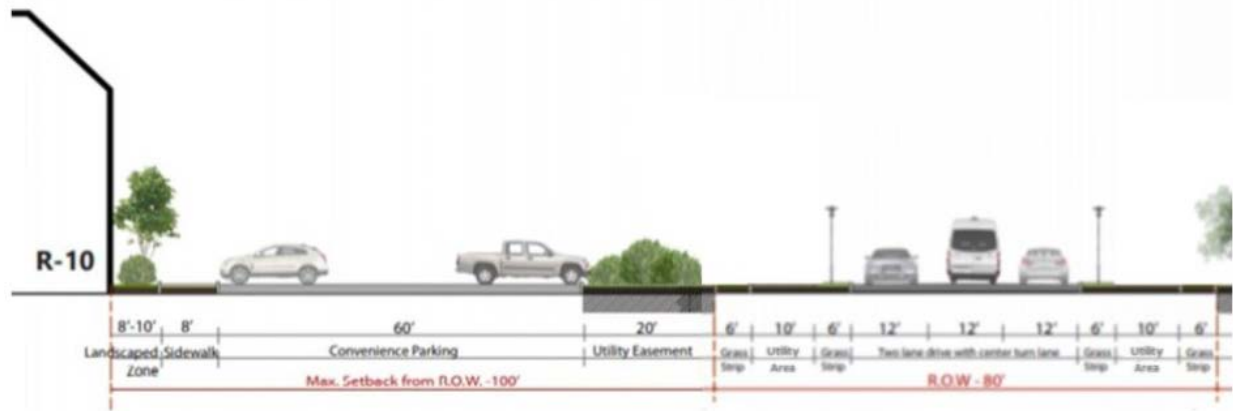
6.) **Rooftop Mechanical Units:** Rooftop mechanical units, antennas, and other similar apparatuses are permitted, provided they:

- a.) Do not exceed eight (8) feet in height;
- b.) Are clustered in one area of the roof that does not exceed twenty five percent of the total rooftop area.
- i.) Upon the recommendation of the Zoning Commission, the Board of Township Trustees may approve a height and location of the mechanical units that differs from the requirements of 19.05(A)(6)(a) and (b), if it is determined that these requirements cannot be met due to engineering and/or fire department purposes. All mechanical units shall comply with the height and location requirements approved by the Board of Trustees and as shown on the approved development plan;
- c.) Said mechanical units shall be screened on all sides by a wall, parapet or other similar architectural feature that does not extend more than ten (10) feet above the building height. Such screening shall be limited to the permitted area for said mechanical units, antennas or other similar apparatuses and shall not extend the entire length and/or width of the building.

B.) **Residential uses**

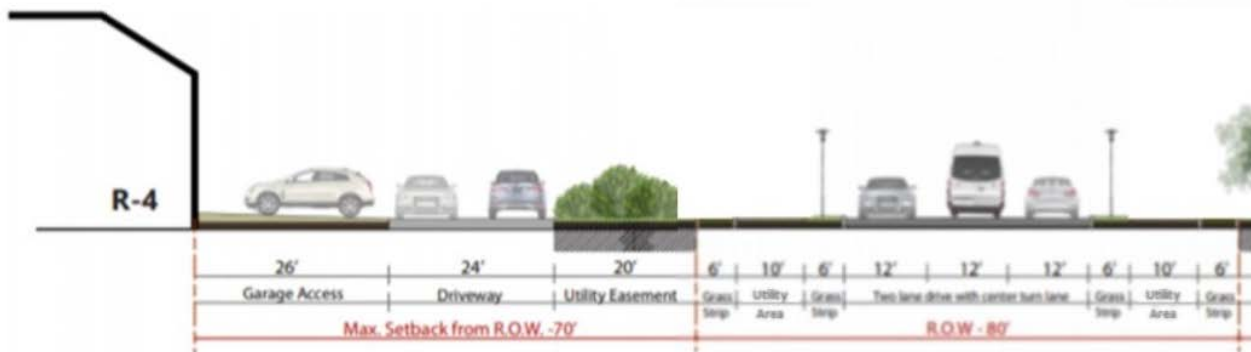
- 1.) **Minimum Tract Size:** 10 acres

- 2.) **Building Type and Density:** “R-4” and “R-10” residential uses shall be permitted in areas defined by the Overlay Map established in Section 19.04, provided they include multi-family residential structures that qualify as “commercial residential” by having at least four dwelling units. These types of commercial residential units include but are not limited to attached, modular, townhouse, patio, or common wall units.
- a.) Areas designated as “R-4” are limited to multi-family residential structures that contain no more than four dwelling units per building and the density shall not exceed four (4) dwelling units per net developable acre, as defined by Article 4 of the Berlin Township Zoning Resolution.
- b.) Areas designated as “R-10” may include apartment style buildings with more than four (4) dwelling units per building provided the overall density of the development does not exceed ten (10) dwelling units per net developable acre, as defined in Article 4 of the Berlin Township Zoning Resolution.
- 3.) **Arrangement of Structures:**
- a.) **Right-of-Way Setbacks.** This overlay establishes **maximum** building setbacks from the right-of-way in an effort to create a sense of place, strengthen the image of the area and enhance the overall streetscape. The maximum building setback requirements from established or proposed public rights-of-way shall be determined by the street classification for said right-of-way as designated by the Delaware County Thoroughfare Plan. Unless otherwise noted, parking, loading spaces, and services docks are prohibited within the Right-of-Way setback. The setback may include any required utility easements and any required landscape zone.
- i.) **R-10 Uses – All Roads:** 100 feet
- A drive aisle with one row of parking on each side (for a total 60-foot width of pavement) may be permitted within this setback to provide convenience parking to the proposed use(s). If such parking is provided, an eight (8) foot sidewalk must be constructed parallel to the building and connected to said parking area. An eight (8) foot building landscape zone, which complies with the requirements in Section 19.05 (C)(4)(h) must be located between the required sidewalk and the building.
  - A right-of-way landscape zone that complies with the requirements in Section 19.05 (C)(4)(g) shall be provided.
  - Example Cross Section:



ii.) **R-4 Uses – All Roads: 70 feet**

- Private access roads parallel to the public right-of-way and any connecting private driveways may be permitted within this setback.
- Low shrubbery landscaping is encouraged between any private, parallel access road and the public right-of-way.
- Example Cross Section:



- b.) **Minimum Side and Rear Setbacks:** Shall equal one-third (1/3) the sum of the height and depth of the structure., but in no case, per Section 19.05(C)(8), shall a building or parking be constructed within two hundred and fifty feet of a lot line of an existing parcel that is used for residential purposes at the time of the adoption of this overlay.
- c.) **Building Height Limits:** The following height limits shall apply as follows:
- R-10 Subareas: No buildings developed for residential uses within sub-areas labeled R-10 shall exceed forty-five (45) feet, or three stories, in height.
  - R-4 Subareas: No buildings developed for residential uses within sub-areas labeled R-4 shall exceed twenty- five (25) feet, or one story, in height
  - For purposes of this section, height is measured from the threshold plate at the front door to the highest point of the roof.



- d.) **Rooftop Mechanical Units:** Rooftop mechanical units, antennas and other similar apparatuses, are permitted for the R-10 uses provided they:

- i.) Do not exceed eight (8) feet in height; and
- ii.) Are clustered in the center of the roof in an area that does not exceed twenty five percent of the total rooftop area.

Upon the recommendation of the Zoning Commission, the Board of Township Trustees may approve a height and location of the mechanical units that differs from the requirements of 19.05(B)(3)(d)(i) and (ii), if it is determined that these requirements cannot be met due to engineering and/or fire department purposes. In no such case, shall the sum of the building height and mechanical unit height exceed fifty-three (53) feet. All mechanical units shall comply with the height and location requirements approved by Board of Trustees and as shown on the approved development plan.

- iii.) Said mechanical units shall be screened on all sides by a wall, parapet or other similar architectural feature that does not extend more than ten (10) feet above the building height. Such screening shall be limited to the permitted area for said mechanical units, antennas or other similar apparatuses and shall not extend the entire length and/or width of the building.
- iv.) Details above shall be provided with a visual exhibit with the Development Plan.

- 4.) **Living Area Dimensions:** All structures constructed within this district shall contain the following minimum living area:

- a.) One (1) bedroom unit: 800 square feet
- b.) Two (2) bedroom unit: 900 square feet
- c.) Three or more bedroom units: 1000 square feet

- C.) **General Design Standards:** The purpose of the design standards is to create a unified development and design approach to the Berlin Industrial Overlay area. Due to the unique nature of the overlay, these standards, (and submission requirements defined in 19.06(C)) unless otherwise noted will supersede any general design standards including but not limited to lighting, landscaping, and sign standards found within the Berlin Zoning Resolution. The following standards shall apply to all uses and developments within the BIO.

- 1.) **Architectural Requirements.** Unless otherwise noted, the following requirements apply to all uses:

- a.) **Site Design:** The bulk, height, and surface materials of buildings within the proposed development shall be compatible with the surrounding area. Buildings, structures, and parking areas shall be designed and located within the development in ways that conserve environmentally sensitive or unique natural, historic, or cultural features and minimize environmental impacts. An elevation of a building that fronts on US 36/SR 37 shall be designed to appear as the front façade of the building.

- b.) **Building Design:** The intent of the Building Design Requirements is to create an Artisan Design theme that is unique to the Berlin Business Park by focusing on materials and colors that transcends design fads while simultaneously allowing a unique design approach for individual projects through the review and guidance from the Architectural Review Board. Buildings and structures shall be designed to enhance both areas within and surrounding the development, giving due regard to building footprints, building orientation, massing, roof shape, pitch, and exterior materials. The following material and design element requirements have been established to achieve the Artisan Design theme.

- i.) **Building Materials and Design Elements:** Buildings for all uses shall be designed to be seen from three hundred sixty degrees (360°) and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing principal structure. Additionally, the following standards shall apply to the specific uses:

1.) **Commercial and Office Uses:**

- a.) **Building Materials:** All exterior elevations shall be comprised of at least eighty percent (80%) of one or more of the following: brick, wood, fiber cement, and native or cultured stone. Foundations must be clad with the same natural material utilized on the building to blend with the overall architecture of the structure. Exposed cement block or split face block foundations shall be prohibited. EFIS, Hardie Plank, or other natural materials may be utilized as an accent material provided that any one or combination thereof does not exceed twenty (20) percent of the gross exterior building wall square footage. Vinyl and/or aluminum shall be prohibited except when used for trim details such as downspouts, soffits, gutters and shutters. The use of black, gold, green, silver, opaque or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to review and recommendation of the Architectural Review Board with final approval of the Board of Trustees.
- b.) **Building Colors:** Building colors shall consist of earth tones limited to browns, tans, and grays. Leaf greens, gray sky blues, and whites may be utilized as an accent and shall not be the predominant building color.

- c.) **Design Elements:** Blank walls shall not be permitted. Where expanses of solid walls are necessary, they may not exceed twenty (20) feet in length. There shall be a minimum of three (3) unique design elements for every one hundred (100) feet of elevation facing a public right-of-way and a minimum of two (2) unique design elements for every one hundred (100) feet of each side and rear elevation that does not front on a public right-of-way. Design elements shall be consistent with Artisan Design theme and shall include:



Example Cupola – media.myworshiptimes22.com



Example Covered Porch – ruralbuilding.com/au



Example Portico/Covered Entry with Wood Columns - Kennedvtimber.com/au



Example Trellis with Plants – decorfortheoutdoors.com



Example Wood Column - edytimber.com/au

- Wood columns of sufficient width as determined by the ARB.
- A door at least twenty (20) square feet in area with portico/covered entry.
- A window of at least six (6) square feet in area. Windows closer than ten (10) square feet shall be considered one (1) element.
- A cupola
- Masonry water table
- Trellis containing plants
- Patio, deck or other similar features
- Balconies that project no more than two feet into the minimum setback and have a minimum clearance of ten (10) feet from grade.
- Works of art, fountains and pools, street furniture, landscaping and garden areas that are properly integrated into the streetscape and other similar significant permanent architectural features consistent with the Artisan Design theme may be permitted, subject to a recommendation by the Architectural Review Board and approved by the Board of Township Trustees.

Side and rear elevations of an in-line retail development may be exempt from these design elements standards, if such elevations are not visible to customer traffic, a public right-of-way, or if a future phase of the in-line retail development is forthcoming adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and screened by the landscaping, mounding, fencing, or combination thereof, as deemed appropriate by the Architectural Review Board and approved by the Board of Township Trustees.



Example Balcony – dowmet.com



Example landscape feature –  
landscapingnetwork.com



Example patio – thejunkmap.com/au

- d.) **Roofing:** For any building with a sloped roof, the roof shall have a minimum of 6:12 pitch. Pitched roofs must be constructed of dimensional shingles, standing seam metal, slate or simulated slate. Upon recommendation of the Zoning Commission, the Board of Township Trustees may approve flat roofs when it is determined that said roofs will blend with the overall architectural styles.
- e.) **Drive Thrus:** For commercial buildings only: A drive thru, if deemed appropriate for the site, shall be designed as an integral part of the structure it serves. Features incorporated with a drive thru including, but not limited to, canopies, awning and support posts shall match the material and color scheme within this Artisan Design theme. Drive thru features shall not have any pickup window, ordering areas, signage or other related items located on the front elevation of a building or located between the building and a street right-of-way.

## 2.) Industrial Uses:

- a.) All exterior elevations shall include a minimum twenty percent (20%) architectural features utilizing materials such as brick, wood, EFIS, Fiber Cement Board, Hardie Plank, stone, or other natural materials. Foundations must be clad with the same natural material utilized on the building to blend with the overall architecture of the structure. Any building elevation that is visible from a public right-of-way shall be broken up with architectural design elements, landscaping or a combination thereof.
- b.) Earth tones, muted hues, and natural tones are permitted as a structure's base color. Brighter hues are permitted only as an accent feature on building elements such as awnings, doors, and trim. A mixed color palette on a single building should be carefully selected so all colors harmonize with each other.
- c.) The use of black, gold, green, silver, opaque or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to the review and recommendation from the Architectural Review Board and approved by the Board of Township Trustees. Considerations shall be made for privacy and for light-sensitive operations.
- d.) **Pole Building Prohibited.** All buildings shall be constructed on a continuous, permanent foundation. Pole buildings shall not be permitted.



Example R-10 Design – aberfence.com/au

### 3.) **R-4 and R-10 Uses:**



Example – R-4 Design – Houseplans.pro

- a.) **Building Materials:** The exterior cladding material for all R-4 and R-10 uses shall be wood, EIFS, fiber cement, and native or cultured stone to keep consistent with the Artisan Design theme of the Berlin Business Park. Brick may be utilized as an accent but not as a predominant material. Vinyl and aluminum shall be prohibited except for downspouts, soffits, gutters, shutters. Exposed foundation material shall be stone, stamped concrete, or a textured concrete block compatible with the structure. Exposed chimneys shall have a brick or stone appearance and shall extend from the ground elevation to elevation above the roof line of the location of the chimney.
- b.) **Design Elements:** Each elevation of a Multi-Family Building (i.e. R-10 use) must include design elements per Section 19.05(C)(1)(b)(i)(1)(c) For all townhome or common wall units (i.e. R-4 uses), there shall be a minimum of three (3) unique design elements for every forty (40) feet of elevation width for an elevation facing a public right-of-way. Each side or rear elevation that does not front on a public right-of-way must contain at least two (2) unique design elements. Typical design elements are listed below, but this is not an all-inclusive list:
- A door of at least twenty (20) square feet in area
  - A window of at least six (6) square feet in area. Windows with a horizontal separation of less than ten (10) feet shall be considered as one (1) design element. Sets of adjacent windows shall be considered as one (1) design element.
  - A chimney
  - A Portico
  - Dormer
  - A gable vent of at least four (4) square feet in area
  - Porches, decks or similar structures
  - Balconies (may project up to two (2) feet into the minimum setback and must have a minimum clearance of ten (10) feet from grade.
  - A similar significant permanent architectural feature consistent with the style of the building may be permitted, subject to a recommendation by the Architectural Review Board and approved by the Board of Township Trustees.
- c.) **Garages:** Rear garages are encouraged. If front garages are provided, they shall not comprise more than thirty percent (30%) of the front elevation of the building, measured from the ground level to the lower edge of the roof. All front facing

garages must not extend beyond the front plane of the building. For the purposes of this section, the front plane shall include a covered porch and a garage may be flush with the covered porch. All other off-street parking, including other garages or unenclosed parking spaces must be located behind the building's front façade.

- 2.) **Ground Coverage:** No more than seventy five percent (75%) of the total tract coverage of a development, exclusive of the public street rights-of-way, shall be covered by impervious surfaces. Land underneath the overhead high voltage electric transmission lines may be utilized as open space, landscaping, parking, and roads with permission from the electric company.

3.) **Open Space:**

- a.) **For all uses:** Not less than twenty-five percent (25%) of the total tract acreage must be set aside as useable common open space. Open spaces may be used for retention, detention, and disposal of storm water drainage. Features which are likely to cause erosion or flooding shall not be permitted. The total tract acreage of open space shall be broken down as follows:

i.) **Central Green Space:**

- 1.) A minimum of fifteen percent (15%) of the total tract acreage shall be devoted to a Central Green Space that shall serve as usable green space and shall not include detention, retention or other stormwater purposes. Decorative and usable ponds are permitted and encouraged within the Central Green Space, in accordance with Section 24.08. The Central Green Space shall be easily and conveniently accessible by a paved five (5) foot walkway or eight (8) foot bikeway from all dwelling units within the tract.
- 2.) When streets abut the Central Green Space, the front façade of the buildings on the opposite side of the street shall face the Central Green Space rather than the rear building elevations, stormwater basins or parking lots.

- ii.) **Other Open Spaces:** The remaining ten percent (10%) of required open space may be distributed throughout the tract and may be utilized for retention, detention or other stormwater purposes.

- iii.) **All Open Spaces:** Open spaces for all uses shall be permanently deed restricted or platted as open space parcel to prevent future subdivision and development.

Example of Central Green Space:



4.) **Landscaping:**

a.) **Landscaping Material:** All landscaping required by the Overlay Design Standards shall meet the following requirements:

i.) Minimum tree sizes at the time of planting: Tree Type Minimum Size at the time of planting.

Deciduous Trees:

Canopy - minimum eight (8) feet in height or more, and two-inch caliper, or more, at planting.

Understory – minimum four (4) feet in height or more, and one-and-one-half inch caliper or more, at planting.

Evergreen Trees: minimum five (5) feet in height.

Shrubs minimum 3 gallon, 18" spread. Decorative Grasses may be proposed as substitute for shrubs, but must meet screening purposes and be approved as part of the Development Plan.


Unless otherwise provided, landscaping material shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one foot above finished grade level to the top of the required planting or hedge within four years after installation, unless the opacity requirement is met with a fence, wall, or earth mound.

ii.) All plants and trees listed on the Berlin Township Prohibited/Overused Plant and Tree List shall not be utilized. Preference will be given to plants and trees on the Berlin Township Native Plant and Tree List.

iii.) All plants shall meet or exceed American Standards for nursery stock as set forth by the American Association of Nurserymen.

- iv.) All trees and landscaping shall be well maintained. Dead trees, shrubs and other landscaping material shall be promptly removed and, when required, shall be replaced within three (3) months. Developer shall warranty any landscape material for a minimum of one (1) year.
- v.) Existing landscape material to 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 such material meets the requirements and achieves the objectives of these Design Standards as recommended by the Architectural Review Board and approved by the Board of Township Trustees.
- b.) **Vehicular Overhang:** Parked vehicles may hang over any required landscaping area no more than two and one-half (2-1/2) feet as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.
- c.) **Landscaping at Driveway and Street Intersections:** To ensure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, neither landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as, except during the early growth stages, only the tree trunk is visible between the ground and eight (8) feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.
  - i.) **Driveway Intersection Triangle:** At intersections 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 (10) feet along the driveway to a point and a distance of twenty (20) feet along the street curb to a point connecting these points.
  - ii.) **Street Intersection Sight Triangle:** At the street intersections, the sight triangle shall be formed by measuring at least fifty (50) feet along curb lines or edge of pavement and connecting these points.
- d.) **Street Trees.** Deciduous street trees shall be provided outside of and immediately adjacent to all public rights-of-way and shall be spaced at a maximum of thirty (30) feet on center.
- e.) **Screening Between Uses:** A fifteen (15) foot deep buffer with a continuous hedge and tree planting to provide screening between non-residential and an abutting residential use shall be installed. The required planting hedge and tree combination shall follow the minimum plant and tree size requirements as provided in Section 19.05(C)(4)(a)(i). Mounding may be used to achieve the required height and fencing may be incorporated to provide additional screening.
- f.) **Perimeter Area Buffer:** When a perimeter area buffer is required per Section 19.05 (C)(7), it shall be landscaped with five (5) deciduous trees, five (5) evergreen trees, and twenty-five (25) shrubs per one hundred (100) lineal feet.



- g.) **Right-of-Way Landscape Zone:** Whenever a right-of-way landscape zone is required in Section B of these Design Regulations, it shall be a minimum of ten (10) feet deep and contain three (3) deciduous trees and five (5) shrubs for every 100 linear feet of right-of-way frontage.
- h.) **Building Landscape Zone:** Whenever a building landscape zone is required in Section B of these Design Regulations, it shall be a minimum of eight (8) feet in depth located immediately adjacent to the building and shall contain one (1) shrub planted every five (5) linear feet.
- i.) **Screening of Vehicular Use Areas:** All Vehicular Use Areas (VUA) regardless of size shall be screened with a three (3) foot average height continuous planting, hedge, fence, wall or earth mound located within a minimum four (4) foot deep area around the VUA.
- j.) **Vehicular Use Area Island Landscaping:** Landscaped islands shall be provided in accordance with Section 19.05(C)(7)(c). Each landscape island shall have a minimum of one shade tree with a minimum of 2" in caliper at installation and include a minimum of fifty (50) square feet of other plant material. The remaining area of the island shall be covered with a weed mat of 3"-4" river rock. The use of mulch shall be prohibited within the landscaped islands.
 
- k.) **Landscaping for Service Structures:** Any service structure, or accessory use structure, shall be screened whenever located in any residential zone, commercial zone, or when located on property abutting any residential zone, freeway or arterial street prohibiting driveway access. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures.
  - i.) **Location of Screening:** A continuous (having ninety percent (90%) opacity year-round) planting, hedge, fence, wall of earth, which would enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed ten (10) 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.

- ii.) **Curbs to Protect Screening Material:** Whenever screening material is placed around any trash disposal unit or waste collection unit that is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one (1) foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.

**l.) Tree Preservation**

- i.) 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 rights-of-way or utility easements, or a temporary construction easement approved by the County Engineer.
  - 2.) Trees within the ground coverage of proposed structures or within twelve (12) feet of the perimeter of such structure.
  - 3.) Trees that in the judgment of the township authority are damaged, disease, over mature, which interfere with utility lines or are an inappropriate or undesirable species for that specific location. It is encouraged that exempted trees subject to destruction be preserved by relocating and replanting of such trees.
- ii.) **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.

**4.) Access and Connectivity**

- a.) **Access:** All lots shall have direct access to a public road or to a proposed access road that runs parallel to a public road. Access to US 36/SR 37 shall be limited to those locations approved by ODOT. All other access points shall be approved by the applicable permitting authority. Driveways shall also comply with Section 24.09 of the Berlin Zoning Resolution.
- b.) **Vehicular Connectivity (Access Roads and/or Parking Lot Connections):** The overall design within the Development Plan must provide for vehicular connectivity between properties within the Development Plan as well as future connections to adjacent properties outside of the Development Plan boundaries. This requirement could be achieved through access roads and/or through the use of cross access easements between parking lots. This requirement has been established to reduce traffic movements on mainline roads to improve the public health and safety of those utilizing the public rights-of-way. The township may rely upon recommendations from the Delaware County Engineer or other consulting engineers to determine that the

proposed method for providing connectivity is the most suitable in each particular development.

- c.) If access roads are utilized to comply with this connectivity requirement, there shall be a minimum distance of 200 feet between intersections. A greater distance may be required upon recommendation by the Delaware County Engineer or a consulting engineer to avoid safety concerns.
- 5.) **Pavement Standards:** All private streets, roads and driveways shall be constructed to a pavement width and cross section that meets the Average Daily Traffic and weights anticipated in the Delaware County Engineer's Location and Design Manual, or shall have a design life of 20 years. Parking lot pavement with heavy truck use, as determined by the Board of Township Trustees, shall have a minimum pavement depth that includes eight (8) inches of aggregate base with two (inches) of pavement. For all other uses, parking lot drive aisles that connect to the public streets shall be constructed to public street cross sectional and design life standards within 50 feet of the edge of the public paved road.
- 6.) **Parking:** Parking lot areas shall be designed and constructed to minimize the visual impact of the parking area from U.S. 36/S.R. 37 (preventing a "sea of asphalt"), minimize production of excess heat and prohibit any adverse effects on drainage. Appropriately sized landscaped areas shall be provided within each parking lot area allowing for a variety of shade trees to be planted. (See 19.05(C)(4)(j) for plant materials.) In order to accomplish these goals, all off-street parking lot areas shall be designed and constructed using the "Parking Bay" concept, which consists of parking spaces grouped together, with each Parking Bay separated by landscaped tree islands as further defined in the following sections.
- a.) **Vehicular Use Area Location:** All Vehicular Use Areas (VUAs) shall be located behind or to the side of the principal building and shall not encroach into the minimum Right-of-Way Setback requirements, except as otherwise noted in Section 19.05 (A) and (B). Driveways running perpendicular to a public or private street, which are used to connect the parking lot to the public or private street, are exempt from this requirement.
 

Vehicular Use Areas may encroach into a required internal side or rear setback but in no case shall the parking be closer than five (5) feet to internal lot lines, except in cases where the Board of Township Trustees, upon recommendation of the Architectural Review Board determines that parking lots need to straddle internal lot lines in order to comply with the connectivity requirements of Section 19.05(B). In such cases, appropriate cross access easements must be established.
  - b.) **Vehicular Use Area Size:** No VUA shall contain more than twenty-four (24) parking spaces, with a maximum of twelve (12) spaces in a single row for all uses, except industrial. For industrial uses, no parking bay shall contain more than forty-eight (48) parking spaces, with a maximum of twenty-four (24) spaces in a single row.

- c.) **Vehicular Use Area Islands:** Each landscape island in a single loaded parking stall design shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. See 19.05(C)(4)(j) for plant materials.



- d.) **Vehicular Use Area Screening:** All VUA shall be screened in accordance with Section 19.05(C)(4)(i).
- e.) **Number of Parking Spaces:** Every Development Plan within the BIO shall include a detailed Parking and Loading Space Plan, which shall comply with these Design Standards. Due to the unique nature of the US 36/SR 37 Corridor, parking requirements for all development within the BIO are being established to encourage efficient use of parking areas by establishing a maximum number of spaces required and permitting sensible shared parking to reduce Impervious Surfaces and increase green space. The Total Number of Required Parking Spaces shall be calculated for each separate use within the proposed Development Plan. In no case shall the total number of parking spaces for a particular use be less than the Minimum nor more than the Maximum Number of Required Parking Spaces for said use based upon the below chart. When calculating the required number of spaces, fractional numbers shall be increased to the next whole number.

Use	Minimum Number of Required Parking Spaces	Maximum Number of Required Parking Spaces
<b>Residential</b>	1 space per dwelling unit	3 spaces per dwelling unit
<b>Hotels/Motels</b>	1 space per room	2 spaces per room
<b>Warehousing within an enclosed building</b>	0.50 parking spaces per 1,000 gross square feet of storage portion of the building and parking for all other uses, including the rental and management office shall be in accordance with the BIO standards	1.25 parking spaces per 1,000 gross square feet of storage portion of the building and parking for all other uses, including the rental and management office shall be in accordance with the BIO standards
<b>All Other Uses</b>	1 space per 600 gross square feet	1 space per 365 gross square feet
*utilize gross square footage whenever there is a reference to square feet		

- f.) Handicap accessible parking spaces shall be provided in accordance with the Americans with Disabilities Act requirements.
- g.) All parking spaces shall be a minimum of 9 feet in width and 20 feet in length measured rectangularly and shall be served by aiseways of a minimum of 24 feet in width to permit easy and smooth access to all spaces.
- h.) All VUAs and adjacent driveways shall be paved with asphalt material or cement and parking spaces shall be striped.

i.) **Loading Spaces:**

- i.) All loading spaces must be located to the side or rear of the principal structure and are prohibited within any Right-of-Way Setback. Furthermore, buildings must be designed so that loading spaces are oriented away from areas designated for single family uses. In all cases, loading spaces must be screened in accordance with Section 19.05(C)(4)(i).
- ii.) A loading space shall consist of a rectangular area adequate for loading and unloading and be accessible from a maneuvering area.
- iii.) All loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.
- iv.) A required loading space shall have a clearance height of not less than 15 feet and shall have minimum dimensions of not less than twelve (12) feet in width and fifty-five (55) feet in length, exclusive of any driveway, aisle, or other circulation area.
- v.) The number of off-street loading spaces required for various types of uses shall be no less than as set forth in the following:
  - 1.) **Commercial – Office subarea:** Each use in this subarea shall provide loading spaces based on gross floor area as follows:

Less than 250,000 square feet = two spaces

Over 250,000 square feet = two spaces for each 250,000 square feet or portion thereof.
  - 2.) **Industrial:** Each use in this subarea shall provide loading spaces based on gross floor area as follows:

Under 10,000 square feet = none.

10,000 square feet or more but less than 75,000 square feet = one space.

75,000 square feet or more but less than 150,000 square feet = two spaces.

150,000 square feet or more but less than 300,000 square feet = three spaces

Over 300,000 square feet = one space for each 100,000 square feet or portion thereof.

The loading space requirements for buildings with multiple uses or tenants shall be determined based on the aggregate total of gross floor area of all uses or tenants.

- j.) **Cluster Mailbox Units:** When Cluster Mailbox Units (CBUs) are utilized, an appropriate amount of off-street parking spaces shall be provided to ensure proper traffic circulation throughout the development. Final unit and parking locations and number of off-street parking spaces shall be determined and controlled by the development plan approved by the Board of Township Trustees, upon recommendations from the ARB and Zoning Commission.
- 7.) **Perimeter Area:**
  - a.) No buildings or parking shall be constructed within two hundred and fifty feet (250') of the lot line of an existing parcel utilized for residential purposes at the time of adoption of this overlay and as identified and defined by the list in Appendix A of this Article. See Section 19.05(A)(5)(a)(i-iv) and 19.05(A)(5)(c) for additional building height versus distances to lot lines. This buffer shall include a minimum eight (8) foot tall mound running parallel to the lot line abutting the existing residential use and shall be landscaped in accordance with Section 19.05(C)(4)(f). The slope of each side of the mound shall be a maximum of 3:1, and the mound shall have a minimum ten (10) foot wide crest. Existing trees, streams, and other significant natural resources shall be preserved and taken into consideration when determining mound placement. The center of the mound crest should generally be within fifty (50) feet from the lot line abutting the existing residential use with the final mound location being determined and controlled by the development plan approved by the Board of Township Trustees, upon review and recommendations by the ARB and Zoning Commission.
  - b.) Any new parcel, created after the adoption of this overlay from a parcel subject to the mounding requirements in Section 19.05(C)(8)(a) at the time of adoption of this overlay, shall be required to construct a mound that complies with the requirements of 19.05(C)(8)(a). Said mound shall run parallel to the existing parcel utilized for residential purposes as defined herein. Upon the recommendation of the Zoning Commission, the Township Trustees may waive or modify this mound requirement for newly created parcels, if it is determined that the intent of the mound requirements in Section 19.05(C)(8)(a) have been met.
- 8.) **Signs:** Signs shall be permitted and developed in accordance with Article 25 of the Berlin Township Zoning Resolution.
- 9.) **Lighting:**
  - a.) All Exterior Lighting shall comply with these standards unless specifically exempted.
  - b.) Exemptions:
    - i.) All exterior lighting fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps are exempt from the requirements of this section.
    - ii.) Federal holiday lighting shall be exempt from the requirements of this section.
    - iii.) All temporary emergency lighting needed by the police, fire department, other emergency service vehicles, and public service vehicles, as well as all vehicular

luminaries, shall be exempt from the requirements of this section including flashing or blinking lights.

iv.) Street lights shall be exempt from the provisions of this section.

c.) **Prohibited Lighting:**

i.) Search lights, beacons, laser source lights, or any similar high-intensity or flashing lights are prohibited, except in emergencies by police and/or fire department personnel.

d.) **Types of Fixtures:** All light fixtures shall be full cut-off type fixtures except for decorative light fixtures.

e.) **Fixture Height:**

i.) The Fixture Height in parking lots for R-4 and R-10 uses shall not exceed twelve (12) feet.

ii.) The Fixture Height in parking lots for all other uses shall not exceed twenty (20) feet.

iii.) In no case shall the Fixture Height exceed the height of the proposed building.

iv.) Lighting located under canopies shall be flush mounted or recessed within the canopy.

v.) Fixture height shall be measured from the finished grade adjacent to the base of the light fixture to the top most point of the fixture.

f.) **Brightness:** Exterior lighting shall use not greater than 250 watt metal-halide lamps or equivalent (32 watt) LED fixtures. Lighting shall be designed and located to have the following maximum illumination levels. The levels shall be measured at the finished grade at the Lot Line as demonstrated by a lighting plan:

i.) The maximum illumination at a Lot Line that abuts a lot zoned or used for R-4 or R-10 purposes shall be 0.3 foot-candles.

ii.) The maximum illumination at a Lot Line that abuts any other use shall be 1.0 foot-candles.

iii.) The maximum illumination at a Lot Line for properties used for outdoor sports and recreation shall be reviewed for compliance with regard to the intent of these guidelines to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.

iv.) The illumination across any property shall be designed so as to not create excessively dark spots that may create safety issues.

g.) All lighting shall be directed toward the ground and the interior of the parcel. Uplighting shall be prohibited.

- h.) All non-essential outdoor lighting fixtures for non-residential uses, including lighting for parking areas, signs, displays and aesthetic lighting, shall be turned off after business hours. Only lighting needed for safety or security may remain lit after close of business, in which case the lighting shall be reduced to the minimum level necessary. Automatic shut-off fixtures, auto-dimming to adjust lighting based on ambient lighting and the use of as little lighting as necessary without creating safety issues is encouraged.
- 11.) **Sidewalks and Multi-Use Paths:**
  - a.) **Multi-Use Path (MUP) and Sidewalks:** All Arterial and Collector Roads in all subareas including residential shall have a 10-foot multi use path along one side of the road and a minimum five (5)-foot sidewalk on the other side of the road. All local roads shall have a minimum five (5)-foot sidewalk on both sides of the road. All sidewalks, curb ramps and crosswalks shall be installed per the then local, state and federal regulations, including but not limited to the Americans with Disabilities Act requirements. MUPs and sidewalks shall be placed outside of the right-of-way and within an easement designated for such public use. Street trees shall be planted in accordance with Section 19.05(C)(4)(d) of these design regulations.
  - b.) Sidewalks shall connect to the building entrances and to existing sidewalks on adjacent abutting Tracts and to nearby pedestrian destination points including any transit stops.
- 12.) **Environmentally Sensitive Areas:** Jurisdictional wetlands, slopes greater than 20% and 100-year floodplains shall be preserved to the greatest extent possible. No structures shall be constructed within the 100-year floodplain of any stream or river. To the maximum extent possible, all-natural drainage courses, vegetation and contours in excess of 6% shall be maintained.
- 13.) **Utilities:**
  - a.) All utility lines constructed to service the proposed uses shall be located underground.
  - b.) All developments shall be served by central water and sewer systems. Applicant shall indicate feasibility of water supply and wastewater disposal systems from the appropriate state and/or county agencies with jurisdiction at the time of the Development Plan review.
  - c.) Dry detention basins are prohibited in all subareas. All stormwater basins shall be wet basins and aeration devices may be required. Bioretention basins, or rain gardens, may be used only when approved by Berlin Township. All stormwater requirements must also comply with the Ohio Department of Natural Resources Rainwater and Land Development Handbook and any applicable requirements of the Delaware County Engineer.
- 14.) **Noise:** There shall be quiet hours between the hours of 10:00 p.m. and 6 a.m. every day of the week in accordance with all parameters of Resolution 17-05-02.



- 15.) **Mailboxes:** When cluster mailbox units (CBUs) are required by the U.S.P.S., said units shall be located outside the public right-of-way and appropriately distributed throughout the development. All CBUs and associated off-street parking areas shall be privately maintained.
- 16.) **Supplemental Conditions and Safeguards:** The Zoning Commission and Board of Township Trustees may require additional conditions be met 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 19.06: PROCESS FOR PLAN APPROVAL IN THE BERLIN INDUSTRIAL OVERLAY (BIO)

- A.) **Pre-Application Meeting.** The Applicant shall engage in informal consultations with the Township Zoning Inspector and any other township staff as determined by the Board of Township Trustees at each year's organizational meeting. Such consultations may also include the Delaware County Regional Planning Commission, ODOT, the Delaware County Engineer, and other departments prior to submission of an application for approval of a Development Plan. No statement or action by Township or County officials in the course of these informal consultations shall be construed to be a waiver of any legal obligation of the Applicant or of any procedure or formal approval required by Township or County statutes or rules. Ohio's Open Meetings Law (Section 121.22 of the Ohio Revised Code) is required to be observed at all meetings involving a quorum of members of the Zoning Commission or Board of Township Trustees.

The application should provide a conceptual layout of the proposed development to allow discussion of the existing features of the site, environmental limitations of the site, and any utility and transportation- related issues.

At the conclusion of the pre-application meeting, the applicant may submit three copies of a "draft" application for the Zoning Inspector to review for completeness. Once the application is determined by the Zoning Inspector to be complete, then the applicant may move forward with a formal application per 19.06(B) below.

- B.) **Application and Development Plan:** Applicant shall prepare and submit a formal application including a Development Plan, with sixteen (16) copies and one pdf digital copy along with the required fees, to the Zoning Inspector. Upon the submission of a completed application, the Zoning Inspector shall forward the application and Development Plan to the Architectural Review Board (ARB) who shall serve in an advisory capacity to the Zoning Commission and Board of Township Trustees. The application and development plan will be reviewed in accordance with the process identified in Section 19.06(D) below. The Zoning Commission shall request the DCRPC and may request other entities as it deems necessary to review and provide comments regarding the proposed Development Plan.

The Development Plan shall include in text and map form the following:

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.
- 2.) A finished grading plan drawn at a scale of 1"=100' or other scale acceptable to the Zoning Inspector, showing all information pertaining to surface drainage.
- 3.) An exhibit demonstrating environmentally-sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20%.

- 4.) A Development Plan drawn to a scale of at least 1"=100' or other scale acceptable to the Zoning Inspector demonstrating the details listed herein.

C.) **Development Plan Contents:** The Development Plan shall include in text and map form the following

- 1.) The general development character and all permitted uses, identified by NAICS code, and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, densities if applicable, 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 identifying the quantity and type and typical section of each.
- 2.) Architectural design criteria including materials, colors, and renderings for all structures including proposed signs that comply with the architectural requirements of this code.
- 3.) Building heights and dimensions.
- 4.) Off-street parking.
- 5.) Landscape Plan identifying each plant, shrub, or tree by name, its size at planting, and rendering of how that area of the development would look in elevation.
- 6.) Signage plan, showing all proposed signage and dimensions.
- 7.) Exterior Lighting Plan to show how exterior lighting fixtures will be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- 8.) 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. A copy of letters from the County Engineer and Sanitary Engineer stating general feasibility road geometries, surface drainage, and the provision of sewer shall be included.
- 9.) A Traffic Impact Analysis by a competent traffic engineer, based upon new trip generation as estimated by the Delaware County Engineer's standards and showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise. An internal traffic flow diagram showing the vehicle movements and circulations internal to the site (including any private roads) shall also be submitted.
- 10.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- 11.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
- 12.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- 13.) 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. This schedule shall include a detailed list of all items to be constructed in each phase of the development, including but not limited to any amenities such as fountains, tot lots, etc. This information must also include a set of documents for establishing any proposed Homeowners' Association including the proposed time frames for turning said association over to the residents. The phasing plan must also include information to clearly indicate that the requirements of Section 19.05(A)(5)(e) are being met.

- 14.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  - 15.) 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.
  - 16.) All drawings that are a part of the Development Plan shall respectively bear the seals of the preparing architect, landscape architect, and/or professional engineer. The respective professional attaching his or her seal to the drawings must be licensed to practice in the state of Ohio.
  - 17.) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the BIO district.
  - 18.) Performance Standards: No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
  - 19.) The proposed locations of any proposed cluster mailbox units (CBUs), associated off-street parking spaces, and proposed methods for maintaining said units and parking spaces.
  - 20.) The Township Zoning Commission and Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed. This includes but is not limited to, landscaping, development, improvement, and maintenance of common open space as well as any other pertinent development characteristics.
- D.) ARB, Zoning Commission and Trustee Action. After receipt of a completed Application and Development Plan from the Zoning Inspector, the ARB shall schedule and hold a public hearing within thirty (30) days and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the ARB hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the ARB. The ARB shall render a recommendation to the Zoning Commission at the conclusion of the ARB hearing and shall forward the recommendation to the Zoning Commission.

The Zoning Commission shall schedule and hold a public hearing within thirty (30) days of the conclusion of the ARB meeting and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice of the hearing at least ten (10) days before the date of the Zoning Commission hearing. Notice shall be

sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the Application. The Zoning Commission shall render a recommendation to the Board of Township Trustees on the Application and Development Plan at the conclusion of the hearing and shall forward the recommendation to the Berlin Township Board of Trustees.

The Berlin Township Board of Trustees shall, upon receipt of such application and recommendation, set a time for a meeting to consider approval of the application and Development Plan, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Zoning Commission and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice of the hearing at least ten (10) days before the date of the hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action the Board of Trustees may take on the Application. The Board of Trustees shall render a decision on the Application and Development Plan at the conclusion of the hearing, unless the applicant requests a delay of action (tabling) for a specific period of time.

E.) **Basis of Approval.** In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

- 1.) That the proposed development is consistent in all aspects with the intent, and general standards of this zoning resolution.
- 2.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
- 3.) That the proposed development advances the health, safety and morals of the township and the immediate vicinity.
- 4.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.
- 5.) That the proposed development will be compatible in appearance with the remainder of the district; and
- 6.) That the minimum open space as required herein has been provided.
- 7.) That the proposed development is in the interest of public health, safety, welfare and morals of the township.

F.) **Effect of Approval.**

- 1.) The Trustee determination on said application shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code. If the Board of Trustees make a final determination that the Development Plan included in the Application complies with this Article (or if the Board of Trustees' final determination is one of noncompliance and a court of competent jurisdiction makes a final non-appealable order finding compliance) the Board of Trustees shall approve the Application and upon approval shall cause the Zoning Map to be changed so that any other zoning district that applied to the property that is the subject of the

Application no longer applies to that property. The removal of the prior zoning district from the Zoning Map is a ministerial act and shall not be considered to be an amendment to the Township Zoning Resolution for the purposes of Section 519.12 of the Revised Code and may not be appealed pursuant to Chapter 2506 of the Revised Code.

- 2.) **Approval Period:** The approval of the Development Plan shall be effective for a period of five (5) years (or for such other time period as may be approved as part of the Development Plan) in order to allow for the preparation and recording of a subdivision plat (if required under applicable law) and the commencement of construction following the issuance of a zoning permit(s). If no plat has been recorded within this approval period (or, if platting is not required, if construction has not commenced) and unless the Board of Trustees approve an extension of this time limit, the Development Plan shall expire. Upon the expiration of the Development Plan, the subject parcel(s) shall remain zoned Berlin Industrial Overlay (BIO), but no use shall be established or changed and no building, structure or improvement shall be constructed until a new Application accompanied by a new Development Plan have been filed with and approved by the Zoning Commission and Board of Trustees using the procedures and approval process for an initial Development Plan.
- 3.) **Plat Required.** The Development Plan as approved by the Board of Trustees 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 or county subdivision regulations. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved Development Plan. 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 Zoning Resolution. The subdivision plan and plat shall be in accordance with the approved Development Plan.
- 4.) **Zoning Certificate:** No zoning certificate shall be issued for any structure in any portion of the Berlin Industrial Overlay (BIO) for which a plat is required by the Delaware County Regional Planning Commission unless the subdivision plat for that portion has been approved by the applicable platting authorities and recorded with the Delaware County Recorder in accordance with the approved Development Plan and with the Subdivision Regulations of Delaware County, Ohio.
- 5.) **Changes in Approved Development Plan:** If any changes to the approved Development Plan are required and/or desired for any reason, said changes must be approved in accordance with Section 19.06(F)(7). These reasons include but are not limited to unforeseen site conditions, meeting the requirements of other review agencies, including but not limited to the Delaware County Regional Planning Commission, Delaware County Engineer's office, ODOT or other regulatory agency, and other similar reasons.
- 6.) **Extension:** An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Board of Trustees upon Application of the owner(s), provided the Board of Trustees determines 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 recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the

Application submitted and at the discretion of the Board of Trustees. A request for extension shall be filed prior to the expiration of the established approval period.

- 7.) **Modifications:** Upon submittal of a written application specifically detailing the changes requested to an Approved Development Plan and the justification(s) for the modification request, the Zoning Inspector shall refer the application to the Township Zoning Commission.

Within thirty (30) days of receiving an application, the Zoning Commission shall schedule and conduct a public meeting to consider whether the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is not in conflict with the intent and purpose of the Berlin Industrial Overlay (BIO). The Zoning Commission shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Zoning Commission hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the Zoning Commission.

The Zoning Commission shall render a recommendation to the Board of Trustees for the approval, modification, or the denial of the application at the conclusion of its meeting.

Within thirty (30) days of receiving the Zoning Commission's recommendation, the Board of Trustees shall schedule and conduct a public meeting to consider the request, along with the recommendations of the Zoning Commission. The Board of Trustees shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice at least ten (10) days before the date of the Board of Trustees hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's then current tax list. The failure of delivery of that notice shall not invalidate any action of the Board of Trustees. The Board of Trustees shall render a decision at the conclusion of its meeting.

- G.) **Fees.** A fee in an amount established by the Board of Trustees shall accompany an Application requesting approval of the Development Plan, as well as any request for extension or modification. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Berlin Township in using professional consulting services to review the Development Plan. These expenses may include, without limitation, costs for professional consultants such as attorneys, architects, landscape architects, planners and engineers utilized by the Township in connection with reviewing the Development Plan and related Application materials. As soon as reasonably practicable following the submission of an Application for approval of a Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist it in reviewing the application. If the Zoning Commission decides it needs professional consulting services, it shall, in its sole discretion, designate the person(s) to be consulted and make an initial estimate of the expenses anticipated to be incurred in reviewing the Application materials. The Zoning Commission shall provide the applicant with notice of its initial estimate of such expenses.

This initial estimate will be reviewed, and may be revised, from time to time during the review process, and, if such review results in an increase in the estimated professional consulting fees and charges which will be incurred in the Township's review of the Application materials, the Zoning Commission shall send the applicant written notice of the revised estimate of fees and charges. Within fourteen

(14) days of the date of the notice of the initial estimate of fees and charges (and, if applicable, within fourteen (14) days of the date of the notice of any revised estimate), the applicant shall deposit in the office of the Township Fiscal Officer or the Fiscal Officer's designee, an amount equal to the estimated cost of the Township's expenses. In making the estimate of the professional consulting fees and charges anticipated to be incurred, the Zoning Commission shall consider the reasonable commercial rates of qualified professionals. Upon request, the Township shall provide the Applicant with an itemized copy of any consultant(s) bill paid for in accordance with this Section. Notwithstanding the foregoing, bills for legal services shall only disclose the costs incurred and narrative descriptions shall not be disclosed, in that these are privileged communications and protected from disclosure under attorney-client privilege.

- H.) **Failure to Maintain.** If the approved Development Plan is not adhered to, or the open space is not properly maintained, the Township Zoning Inspector may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance with the plan as a zoning violation which will be dealt with under Penalties for Violation within this Zoning Resolution.
- I.) **Administrative Review.** All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, Zoning Commission, and/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.

#### **Appendix A:**

##### **List of Existing Parcels Utilized for Residential Purposes**

The following map indicates parcels that are considered to be existing parcels utilized for residential purposes at the time of the adoption of this Overlay.

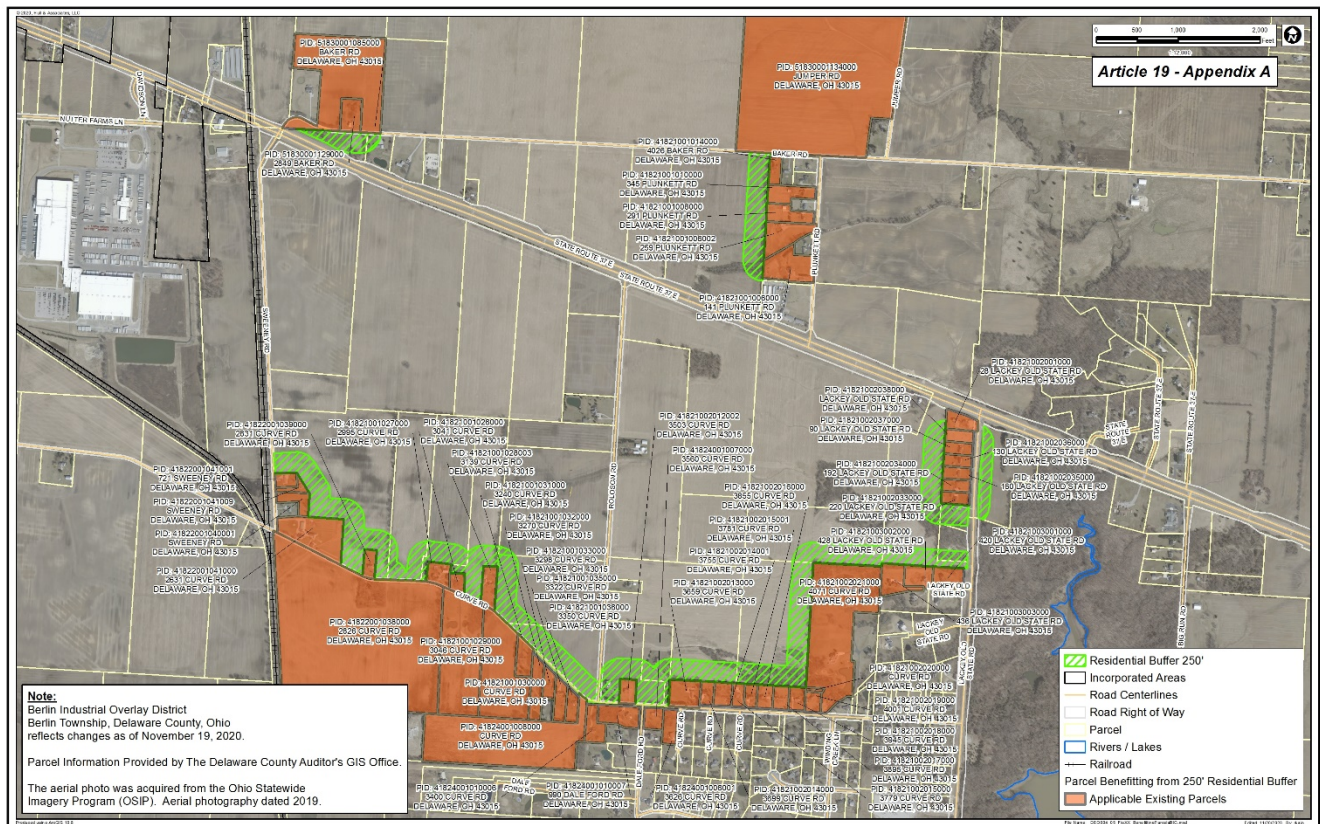


Photo Credit: Unless otherwise noted, all pictures within this Article are from Google Maps.

End of Article



## ARTICLE 20 INDUSTRIAL DISTRICT (ID)

### SECTION 20.01: PURPOSE: SEE SECTION 5.065

### SECTION 20.02: PERMITTED USES

Within the Industrial District (I) the following uses, as described by the 2002 North American Industrial Classification System (NAICS) printed by the US Government Printing Office, shall be permitted when developed in strict compliance with the standards of this resolution:

- A.) Permitted Manufacturing and related uses, as specifically described by the 2002 NAICS Code Number below and provided the building or structure may not exceed five thousand (5000) square feet in area:

NAICS CODE #	PERMITTED USES
236210	Industrial Building Construction
236220	Commercial and Institutional Building Construction Building, Developing and General Contracting
311211	Flour Milling
311212	Rice Milling
311213	Malt Manufacturing
311221	Wet Corn Milling
311224	Soybean and Other Oilseed Processing
311225	Fats and Oils Refining and Blending
311230	Breakfast Cereal Manufacturing
311811	Retail Bakeries
311919	Other Snack Food Manufacturing
311999	All Other Miscellaneous Food Manufacturing
312111	Soft Drink Manufacturing
312112	Bottled Water Manufacturing
315110	Hosiery and Sock Mills
315190	Other Apparel Knitting Mills
315210	Cut and Sew Apparel Contractors
315220	Men's and Boys' Cut and Sew Apparel Manufacturing
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing
315280	Other Cut and Sew Apparel Manufacturing
315990	Apparel Accessories and Other Apparel Manufacturing
316210	Footwear Manufacturing
321999	All Other Miscellaneous Wood Product Manufacturing
322219	Other Paperboard Container Manufacturing
322220	Paper bag and Coated and Treated Paper Manufacturing
322230	Stationary Product Manufacturing
323111	Commercial Printing (except Screen and Books)
323113	Commercial Screen Printing
323117	Books Printing
323120	Support Activities for Printing
325314	Fertilizer (mixing only) manufacturing
325411	Medicinal and Botanical Manufacturing

325412	Pharmaceutical Preparation Manufacturing
325413	In-Vitro Diagnostic Substance Manufacturing
325414	Biological Product (except Diagnostic) Manufacturing
326111	Plastics Bag and Pouch Manufacturing
326112	Plastics Packaging Film and Sheet (including Laminated) Manufacturing
326113	Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing
326121	Unlaminated Plastics Profile Shape Manufacturing
326122	Plastics Pipe and Pipe Fitting Manufacturing
326130	Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing
326140	Polystyrene Foam Product Manufacturing
326150	Urethane and Other Foam Product (except Polystyrene) Manufacturing
326160	Plastics Bottle Manufacturing
326191	Plastics Plumbing Fixture Manufacturing
326199	All Other Plastics Product Manufacturing
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing
327120	Clay Building Material and Refractories Manufacturing
327211	Flat Glass Manufacturing
327212	Other Pressed and Blown Glass and Glassware Manufacturing
327213	Glass Container Manufacturing
327215	Glass Product Manufacturing Made of Purchased Glass
327310	Cement Manufacturing
327320	Ready-Mix Concrete Manufacturing
327331	Concrete Block and Brick Manufacturing
327332	Concrete Pipe Manufacturing
327390	Other Concrete Product Manufacturing
332311	Prefabricated Metal Building and Component Manufacturing
332312	Fabricated Structural Metal Manufacturing
332313	Plate Work Manufacturing
332321	Metal Window and Door Manufacturing
332322	Sheet Metal Work Manufacturing
332323	Ornamental and Architectural Metal Work Manufacturing
332510	Hardware Manufacturing
332613	Spring Manufacturing
332618	Other Fabricated Wire Product Manufacturing
332710	Machine Shops
332721	Precision Turned Product Manufacturing
332722	Bolt, Nut, Screw, Rivet, and Washer Manufacturing
333241	Food Product Machinery Manufacturing
333249	Other Industrial Machinery Manufacturing
333131	Mining Machinery and Equipment Manufacturing
333999	All Other Miscellaneous General Purpose Machinery Manufacturing
334111	Electronic Computer Manufacturing
334290	Other Communications Equipment Manufacturing
334310	Audio and Video Equipment Manufacturing
334412	Bare Printed Circuit Board Manufacturing
334413	Semiconductor and Related Device Manufacturing

335110	Electric Lamp Bulb and Part Manufacturing
335121	Residential Electric Lighting Fixture Manufacturing
335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing
335129	Other Lighting Equipment Manufacturing
335210	Small Electrical Appliance Manufacturing
335220	Major Household Appliance Manufacturing
335311	Power, Distribution, and Specialty Transformer Manufacturing
335312	Motor and Generator Manufacturing
335313	Switchgear and Switchboard Apparatus Manufacturing
335314	Relay and Industrial Control Manufacturing
335911	Storage Battery Manufacturing
335912	Primary Battery Manufacturing
335921	Fiber Optic Cable Manufacturing
335929	Other Communication and Energy Wire Manufacturing
335931	Current-Carrying Wiring Device Manufacturing
335932	Non current-Carrying Wiring Device Manufacturing
335991	Carbon and Graphite Product Manufacturing
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing
336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing
336611	Ship Building and Repairing
336612	Boat Building
336991	Motorcycle, Bicycle, and Parts Manufacturing
339999	Other Miscellaneous Manufacturing
<b>Wholesaling Uses</b>	
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers
423690	Other Electronic Parts and Equipment Merchant Wholesalers
423710	Hardware Merchant Wholesalers
423990	Other Miscellaneous Durable Goods Merchant Wholesalers
424110	Printing and Writing Paper Merchant Wholesalers
424120	Stationery and Office Supplies Merchant Wholesalers
424490	Other Grocery and Related Products Merchant Wholesalers
424930	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers
425120	Wholesale Trade Agents and Brokers
<b>Retail Uses</b>	
441110	New Car Dealers
441210	Recreational Vehicle Dealers
441222	Boat Dealers
441228	Motorcycle, ATV, and All Other Motor Vehicle Dealers
441310	Automotive Parts and Accessories Stores
441320	Tire Dealers
447110	Gasoline Stations with Convenience Stores
447190	Other Gasoline Stations
452311	Warehouse Clubs and Superstores
453930	Manufactured (Mobile) Home Dealers

454110	Electronic Shopping and Mail Order Houses
454310	Fuel Dealers
484110	General Freight Trucking, Local
484121	General Freight Trucking, Long-Distance, Truckload
484122	General Freight Trucking, Long-Distance, Less Than Truckload
484210	Used Household and Office Goods Moving
484220	Specialized Freight (except Used Goods) Trucking, Local
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance
485111	Mixed Mode Transit Systems
485113	Bus and Other Motor Vehicle Transit Systems
485119	Other Urban Transit Systems
485210	Interurban and Rural Bus Transportation
485310	Taxi Service
485320	Limousine Service
485510	Charter Bus Industry
485991	Special Needs Transportation
485999	All Other Transit and Ground Passenger Transportation
491110	Postal Service
492210	Local Messengers and Local Delivery
492110	Couriers and Express Delivery Services
493110	General Warehousing and Storage
493120	Refrigerated Warehousing and Storage
493130	Farm Product Warehousing and Storage
493190	Other Warehousing and Storage
532111	Passenger Car Rental
532112	Passenger Car Leasing
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing
532210	Consumer Electronics and Appliances Rental
532281	Formal Wear and Costume Rental
532283	Home Health Equipment Rental
532284	Recreational Goods Rental
532289	All Other Consumer Goods Rental
532310	General Rental Centers
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing
532420	Office Machinery and Equipment Rental and Leasing
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing
541611	Administrative Management and General Management Consulting Services
541612	Human Resources Consulting Services
541613	Marketing Consulting Services
541614	Process, Physical Distribution, and Logistics Consulting Services
541618	Other Management Consulting Services
541620	Environmental Consulting Services
541690	Other Scientific and Technical Consulting Services
561110	Office Administrative Support Services
561431	Private Mail Centers

561439	Other Business Service Centers (including Copy Shops)
561510	Travel Agencies
562991	Septic Tank and Related Services
722310	Food Service Contractors
722320	Caterers
722330	Mobile Food Services
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722514	Cafeterias, Grill Buffets, and Buffets
722515	Snack and Nonalcoholic Beverage Bars
811111	General Automotive Repair
811122	Automotive Glass Replacement Shops
811191	Automotive Oil Change and Lubrication Shops
811192	Car Washes
811211	Consumer Electronics Repair and Maintenance
811212	Computer and Office Machine Repair and Maintenance
811213	Communication Equipment Repair and Maintenance
811219	Other Electronic and Precision Equipment Repair and Maintenance
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
811411	Home and Garden Equipment Repair and Maintenance
811412	Appliance Repair and Maintenance
811420	Reupholstery and Furniture Repair
811430	Footwear and Leather Goods Repair
811490	Other Personal and Household Goods Repair and Maintenance

**B.) Other Permitted Uses That Do Not Have an NAICS Number**

Temporary structures such as manufactured/mobile offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The 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 twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal, and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

**SECTION 20.03: CONDITIONAL USES**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

The storage of any inoperable, unlicensed or unused vehicles, or trailers detached from semi-tractors, provided said vehicles are stored behind properly maintained hedges or fences so as not to be visible from any adjoining property or public road.

The operation of any listed permitted use in a building larger than 5000 feet, provided a site plan is submitted that demonstrates that:

- A.) There is adequate area for off-street parking;
- B.) A band of landscaping and grass at least 50 feet wide is created or preserved around the perimeter of the lot;
- C.) Adjacent houses, if any exist, are screened from viewing any outdoor storage or loading areas;
- D.) The operation does not produce excessive noise that would disturb existing residential uses;
- E.) The appearance of the buildings and the nature of the operation will be compatible with the surrounding neighborhood.

#### **SECTION 20.04: PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution or by the Board of Zoning Appeals shall be prohibited.
- B.) Unless specifically permitted by the Board of Zoning Appeals as incidental and necessary to a permitted or conditional use in this district, the storage of any inoperable, unlicensed or unused vehicles, or trailers detached from semi-tractors, shall be prohibited unless said vehicles are stored behind properly maintained hedges or fences so as not to be visible from any adjoining property or public road.
- C.) Unless specifically permitted by the Board of Zoning Appeals as incidental and necessary to a permitted or conditional use in this district, no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located behind the minimum setback on said lot, the setback line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions in the plat or deed.
- D.) Residential use of any kind.
- E.) Except as specifically permitted in Section 20.02(B) no manufactured/mobile home or manufactured/mobile office structure shall be placed or occupied in this district.
- F.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or portion thereof which creates an eyesore, hazard or nuisance to the neighborhood or general public.

## SECTION 20.05: DEVELOPMENT STANDARDS

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

- A.) **Lot Size:** A minimum lot of one (1) net acre shall be required; however, the lot size shall be adequate to provide the required yard spaces and off-street parking as herein required.
- B.) **Lot Width:** A minimum lot width of two-hundred (200) feet shall be required; the industrial tract shall have access to approved streets and shall be of sufficient width to provide required yard spaces and off-street parking.
- C.) **Building Height Limits:** No building or structure in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point on the roof. Chimneys, spires, domes, flag poles, and elevator shafts, may be constructed to any safe height, but not to exceed one-hundred (100) feet in height. No windmill, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- D.) **Building Setback:** No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.05.
- E.) **Building Size:** No permitted structure in this district shall contain more than five-thousand (5000) square feet of floor space. Conditionally permitted structures may contain any amount of floor space, when approved by the Board of Zoning Appeals, but shall meet the maximum lot coverage requirements of this Article.
- F.) **Side Yards:** There shall be a yard on each side of the main building constructed in this district of not less than fifty (50) feet on each side. No accessory building, outdoor storage area, or required off-street parking shall encroach in said side yard.
- G.) **Rear Yards:** No building shall be located closer than fifty (50) feet to the rear line of any lot. No accessory building, outdoor storage area, or required off-street parking shall encroach in said rear yard.
- H.) **Maximum Lot Coverage:** On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than fifty percent (50%) of the lot area. Structures shall cover no more than twenty-five percent (25%) of the lot or parcel.
- I.) **Landscaping:** All yards, front, side, and rear shall be landscaped, and all organized open spaces or areas shall be landscaped as required in Article 26 of this Resolution.
- J.) **Parking:** Off-street parking shall be provided within this district in strict compliance with the provisions of Article 24 of this Resolution.
- K.) **Signs:** Except as controlled by Article 25 of this Resolution and except as permitted by the Board of Zoning Appeals incidental to conditional uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding thirty-two (32) square feet in area per side advertising said subdivision, development, or tract for sale.

- L.) **Lighting:** Exterior lighting fixtures shall meet the requirements of Article 24 of this Resolution.
- M.) **Freight Loading Areas:** When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- N.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.



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## ARTICLE 21 PLANNED INDUSTRIAL DISTRICT (PID)

### SECTION 21.01: PURPOSE: SEE SECTION 5.062

### SECTION 21.02: PERMITTED USES

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

A.) Permitted Manufacturing and related uses, as specifically described by the NAICS Code Number below:

NAICS CODE#	PERMITTED USES
111411	Mushroom Production
111419	Other Food Crops Grown Under Cover
111421	Nursery and Tree Production
111422	Floriculture Production
236210	Industrial Building Construction
236220	Commercial and Institutional Building Construction Building, Developing and General Contracting
311211	Flour Milling
311212	Rice Milling
311213	Malt Manufacturing
311221	Wet Corn Milling
311224	Soybean and Other Oilseed Processing
311225	Fats and Oils Refining and Blending
311230	Breakfast Cereal Manufacturing
311811	Retail Bakeries
311919	Other Snack Food Manufacturing
311999	All Other Miscellaneous Food Manufacturing
312111	Soft Drink Manufacturing
312112	Bottled Water Manufacturing
313310	Textile and Fabric Finishing Mills
314999	All Other Miscellaneous Textile Product Mills
315110	Hosiery and Sock Mills
315190	Other Apparel Knitting Mills
315210	Cut and Sew Apparel Contractors
315220	Men's and Boys' Cut and Sew Apparel Manufacturing
315240	Women's, Girls', and Infants' Cut and Sew Apparel Manufacturing
315280	Other Cut and Sew Apparel Manufacturing
315990	Apparel Accessories and Other Apparel Manufacturing
316210	Footwear Manufacturing
321211	Hardwood Veneer and Plywood Manufacturing
321212	Softwood Veneer and Plywood Manufacturing
321213	Engineered Wood Member (except Truss) Manufacturing
321999	All Other Miscellaneous Wood Product Manufacturing
322212	Folding Paperboard Box Manufacturing
322219	Other Paperboard Container Manufacturing

322220	Paper bag and Coated and Treated Paper Manufacturing
322230	Stationary Product Manufacturing
323111	Commercial Printing (except Screen and Books)
323113	Commercial Screen Printing
323117	Books Printing
323120	Support Activities for Printing
325314	Fertilizer (mixing only) manufacturing
325412	Pharmaceutical Manufacturing
326160	Plastics Bottle Manufacturing
326199	All Other Plastics Product Manufacturing
327110	Pottery, Ceramics, and Plumbing Fixture Manufacturing
327120	Clay Building Material and Refractories Manufacturing
327211	Flat Glass Manufacturing
327212	Other Pressed and Blown Glass and Glassware Manufacturing
327213	Glass Container Manufacturing
327215	Glass Product Manufacturing Made of Purchased Glass
327310	Cement Manufacturing
327320	Ready-Mix Concrete Manufacturing
327331	Concrete Block and Brick Manufacturing
327332	Concrete Pipe Manufacturing
327390	Other Concrete Product Manufacturing
332311	Prefabricated Metal Building and Component Manufacturing
332312	Fabricated Structural Metal Manufacturing
332313	Plate Work Manufacturing
332321	Metal Window and Door Manufacturing
332322	Sheet Metal Work Manufacturing
332323	Ornamental and Architectural Metal Work Manufacturing
332510	Hardware Manufacturing
332613	Spring Manufacturing
332618	Other Fabricated Wire Product Manufacturing
332710	Machine Shops
332721	Precision Turned Product Manufacturing
332722	Bolt, Nut, Screw, Rivet, and Washer Manufacturing
333241	Food Product Machinery Manufacturing
333249	Other Industrial Machinery Manufacturing
333131	Mining Machinery and Equipment Manufacturing
333999	All Other Miscellaneous General Purpose Machinery Manufacturing
334111	Electronic Computer Manufacturing
334290	Other Communications Equipment Manufacturing
334310	Audio and Video Equipment Manufacturing
334412	Bare Printed Circuit Board Manufacturing
334413	Semiconductor and Related Device Manufacturing
335110	Electric Lamp Bulb and Part Manufacturing
335121	Residential Electric Lighting Fixture Manufacturing
335122	Commercial, Industrial, and Institutional Electric Lighting Fixture Manufacturing
335129	Other Lighting Equipment Manufacturing

335210	Small Electrical Appliance Manufacturing
335220	Major Household Appliance Manufacturing
335311	Power, Distribution, and Specialty Transformer Manufacturing
335312	Motor and Generator Manufacturing
335313	Switchgear and Switchboard Apparatus Manufacturing
335314	Relay and Industrial Control Manufacturing
335911	Storage Battery Manufacturing
335912	Primary Battery Manufacturing
335921	Fiber Optic Cable Manufacturing
335929	Other Communication and Energy Wire Manufacturing
335931	Current-Carrying Wiring Device Manufacturing
335932	Non current-Carrying Wiring Device Manufacturing
335991	Carbon and Graphite Product Manufacturing
335999	All Other Miscellaneous Electrical Equipment and Component Manufacturing
336310	Motor Vehicle Gasoline Engine and Engine Parts Manufacturing
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing
336611	Ship Building and Repairing
336612	Boat Building
336991	Motorcycle, Bicycle, and Parts Manufacturing
339999	All Other Miscellaneous Manufacturing
<b>Wholesaling Uses</b>	
423620	Household Appliances, Electric Housewares, and Consumer Electronics Merchant Wholesalers
423690	Other Electronic Parts and Equipment Merchant Wholesalers
423710	Hardware Merchant Wholesalers
423990	Other Miscellaneous Durable Goods Merchant Wholesalers
424110	Printing and Writing Paper Merchant Wholesalers
424120	Stationery and Office Supplies Merchant Wholesalers
424490	Other Grocery and Related Products Merchant Wholesalers
424930	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers
425120	Wholesale Trade Agents and Brokers
<b>Retail Uses</b>	
441110	New Car Dealers
441120	Used Car Dealers
441210	Recreational Vehicle Dealers
441222	Boat Dealers
441220	Motorcycle and Other Motor Vehicle Dealers
441310	Automotive Parts and Accessories Stores
441320	Tire Dealers
442110	Furniture Stores
442210	Floor Covering Stores
442291	Window Treatment Stores
442299	All Other Home Furnishings Stores
443141	Household Appliance Stores
443142	Electronics Stores

444110	Home Centers
444120	Paint and Wallpaper Stores
444130	Hardware Stores
444190	Other Building Material Dealers
444210	Outdoor Power Equipment Stores
444220	Nursery, Garden Center, and Farm Supply Stores
445110	Supermarkets and Other Grocery (except Convenience) Stores
445120	Convenience Stores
445210	Meat Markets
445230	Fruit and Vegetable Markets
445291	Baked Goods Stores
445292	Confectionery and Nut Stores
445299	All Other Specialty Food Stores
447110	Gasoline Stations with Convenience Stores
447190	Other Gasoline Stations
452210	Department Stores
452311	Warehouse Clubs and Supercenters
452319	All Other General Merchandise Stores
453110	Florists
453210	Office Supplies and Stationery Stores
453310	Used Merchandise Stores
453910	Pet and Pet Supplies Stores
453920	Art Dealers
453930	Manufactured (Mobile) Home Dealers
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)
454110	Electronic Shopping and Mail Order Houses
454310	Fuel Dealers
484110	General Freight Trucking, Local
484121	General Freight Trucking, Long-Distance, Truckload
484122	General Freight Trucking, Long-Distance, Less Than Truckload
484210	Used Household and Office Goods Moving
484220	Specialized Freight (except Used Goods) Trucking, Local
484230	Specialized Freight (except Used Goods) Trucking, Long-Distance
485111	Mixed Mode Transit Systems
485113	Bus and Other Motor Vehicle Transit Systems
485119	Other Urban Transit Systems
485210	Interurban and Rural Bus Transportation
485310	Taxi Service
485320	Limousine Service
485510	Charter Bus Industry
485991	Special Needs Transportation
485999	All Other Transit and Ground Passenger Transportation
487110	Scenic and Sightseeing Transportation, Land
491110	Postal Service
492110	Couriers and Express Delivery Services
492210	Local Messengers and Local Delivery

493110	General Warehousing and Storage
493120	Refrigerated Warehousing and Storage
493130	Farm Product Warehousing and Storage
493190	Other Warehousing and Storage
511110	Newspaper Publishers
511120	Periodical Publishers
511130	Book Publishers
511140	Directory and Mailing List Publishers
511191	Greeting Card Publishers
511199	All Other Publishers
511210	Software Publishers
512110	Motion Picture and Video Production
512120	Motion Picture and Video Distribution
512131	Motion Picture Theaters
512191	Teleproduction and Other Postproduction Services
512199	Other Motion Picture and Video Industries
512230	Music Publishers
512240	Sound Recording Studios
512250	Record Production and Distribution
512290	Other Sound Recording Industries
515111	Radio Networks
515112	Radio Stations
515120	Television Broadcasting
515210	Cable and Other Subscription Programming
517311	Wired Telecommunications Carriers
517312	Wireless Telecommunications Carriers (except Satellite)
517410	Satellite Telecommunications
517911	Telecommunications Resellers
517919	All Other Telecommunications
518210	Data Processing, Hosting, and Related Services
519110	News Syndicates
519130	Internet Publishing and Broadcasting and Web Search Portals
519190	All Other Information Services
524210	Insurance Agencies and Brokerages
531130	Lessors of Mini-warehouses and Self Storage Units
532111	Passenger Car Rental
532112	Passenger Car Leasing
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing
532210	Consumer Electronics and Appliances Rental
532281	Formal Wear and Costume Rental
532283	Home Health Equipment Rental
532284	Recreational Goods Rental
532289	All Other Consumer Goods Rental
532310	General Rental Centers
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing
532412	Construction, Mining, and Forestry Machinery and Equipment Rental and Leasing

532420	Office Machinery and Equipment Rental and Leasing
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing
54 (category)	Professional, Scientific and Technical Services (includes Lawyers, Notaries, Legal Services, Accountants, Payroll, Architectural, Engineering, Mapping, Interior Design Medical, Veterinarians, Computer and Related Hardware and Research and Development etc.)
551111	Offices of Bank Holding Companies
551112	Offices of Other Holding Companies
551114	Corporate, Subsidiary, and Regional Managing Offices
561110	Office Administrative Support Services
561431	Private Mail Centers
561439	Other Business Service Centers (including Copy Shops)
561510	Travel Agencies
562212	Solid Waste Landfill: In addition to requirements imposed by state agencies the Zoning Commission may require such screening as is necessary to protect adjacent neighborhoods
562991	Septic Tank and Related Services
611410	Business and Secretarial Schools
611420	Computer Training
611430	Professional and Management Development Training
611511	Cosmetology and Barber Schools
611513	Apprenticeship Training
611519	Other Technical and Trade Schools
611610	Fine Arts Schools
611620	Sports and Recreation Instruction
611630	Language Schools
611691	Exam Preparation and Tutoring
611692	Automobile Driving Schools
611699	All Other Miscellaneous Schools and Instruction
611710	Educational Support Services
621111	Offices of Physicians (except Mental Health Specialists)
621112	Offices of Physicians, Mental Health Specialists
621210	Offices of Dentists
621310	Offices of Chiropractors
621320	Offices of Optometrists
621330	Offices of Mental health practitioners
621340	Offices of Physical, occupational, and speech therapists and audiologists
621391	Offices of Podiatrists
621399	Offices of All Other Miscellaneous health care practitioners
621491	HMO Medical Centers
621492	Kidney dialysis centers
621493	Freestanding Ambulatory surgical and emergency centers
621511	Medical laboratories
621512	Diagnostic imaging centers
621610	Home health care services
621910	Ambulance services



622110	General Medical and Surgical Hospitals
622210	Psychiatric and Substance Abuse Hospitals
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals
623110	Nursing Care Facilities
623311	Continuing Care Retirement Communities
623312	Assisted Living Facilities for the elderly
713940	Fitness and Recreational Sports Centers
713950	Bowling Centers
713990	All Other Amusement and Recreation Industries
722310	Food Service Contractors
722320	Caterers
722330	Mobile Food Services
722511	Full-Service Restaurants
722513	Limited-Service Restaurants
722514	Cafeterias, Grill Buffets, and Buffets
722515	Snack and Nonalcoholic Beverage Bars
811111	General Automotive Repair
811122	Automotive Glass Replacement Shops
811191	Automotive Oil Change and Lubrication Shops
811192	Car Washes
811211	Consumer Electronics Repair and Maintenance
811212	Computer and Office Machine Repair and Maintenance
811213	Communication Equipment Repair and Maintenance
811219	Other Electronic and Precision Equipment Repair and Maintenance
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance
811411	Home and Garden Equipment Repair and Maintenance
811412	Appliance Repair and Maintenance
811420	Reupholstery and Furniture Repair
811430	Footwear and Leather Goods Repair
811490	Other Personal and Household Goods Repair and Maintenance
812111	Barber Shops
812112	Beauty Salons
812113	Nail Salons
812191	Diet and Weight Reducing Centers
812199	Other Personal Care Services
812210	Funeral Homes and Funeral Services
812220	Cemeteries and Crematories
812310	Coin-Operated Laundries and Dry-cleaners
812320	Dry-cleaning and Laundry Services (except Coin-Operated)
812910	Pet Care (except Veterinary) Services
812990	All Other Personal Services
813 (all uses that begin with 813)	Religious, Grant making, Civil, Professional and Similar Organizations

921 (all uses that begin with 921)	Executive Offices, Legislative Bodies, Public Finance Activities, Executive and Legislative Offices, Combined, Other General Government Support
922 (all uses that begin with 922)	Courts, Police Protection, Legal Counsel and Prosecution, Correctional Institutions, Parole Offices and Probation Offices, Fire Protection, Other Justice, Public Order, and Safety Activities
923 (all uses that begin with 923)	Administration of Education Programs, Administration of Public Health Programs, Administration of Human Resource Programs (except Education, Public Health, and Veterans' Affairs Programs), Administration of Veterans' Affairs

C.) Adult-Related Uses in accordance with Article 27.

### SECTION 21.03: CONDITIONAL USES

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

A.) **Temporary Structures:** Manufactured/mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use. The permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal, and water supply, as he/she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

### SECTION 21.04: PROHIBITED USES

- A.) Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall not be permitted.
- B.) Except as approved in the development plan, the outdoor storage of inoperable, unlicensed or unused vehicles, including trailers detached from semi-tractors, for a period exceeding fourteen (14) days is prohibited.
- C.) Except as provided in the development plan, no trailer of any type, no boats, no motor homes, nor equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on said lot, the building line shall be considered to be the front wall of the

structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.

- D.) Residential uses of any kind.
- E.) Except as specifically permitted in Section 21.03 (B) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- F.) No trash, debris, unused property, or discarded materials shall be permitted to accumulate on any lot or parcel which creates an eyesore, hazard, or nuisance to the neighborhood or general public.

## SECTION 21.05: DEVELOPMENT PLANS

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

Sixteen (16) copies of the preliminary development plan and electronic media as specified by the Zoning Inspector shall be submitted to the Zoning Commission with the PID application along with a list of addresses for notification as defined in Section 31.01. The plan shall include in text and map form, the following:

- 1.) The proposed size and location of the PID district, at a scale of at least 1"=200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, and 100-year floodplains.
- 2.) The suggested architectural designs for all structures and signs to the extent known.
- 3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage, to the extent known. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.
- 4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.
- 5.) A design of the common open space and proposed description of its use and maintenance.
- 6.) The specific statements of divergence from the development standards in this article.
- 7.) The proposed location of all structures, to the extent known.
- 8.) A Preliminary Traffic Impact Analysis, based upon new trip generation.
- 9.) The responsibility and maintenance of any proposed on-site sewage disposal systems, and letter from the appropriate county or state agency declaring the site feasible for such design.
- 10.) All required design features.
- 11.) Emergency service provisions (letter from Fire and Police departments).
- 12.) The phasing plans, if any.

- B.) **Final Development Plan:** The applicant shall submit sixteen (16) copies of the final development plan and electronic media as specified by the Zoning Inspector to the Zoning Commission with the application for final development plan approval. The Zoning Commission shall be the reviewing authority for the final development plan.

The review and approval of the Final Development Plan is an administrative, not legislative act, unless the final development plan is simultaneously submitted with an application for the zoning change.

If, in the opinion of the Zoning Commission, there is substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence.

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

- 1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed Planned Industrial District.
- 2.) The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:
  - a.) The general development character of the tract including the limitations or controls to be placed on all uses, with proposed lot sizes, and minimum setback requirements. Other development features, including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities, and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, the landscape plan shall identify each plant, shrub, or tree, its name, its size at planting and rendering of how that section of the development would look in elevation.
  - b.) Environmentally sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.
  - c.) Architectural design criteria including materials, colors, and renderings for all structures including proposed signs.
  - d.) The proposed provisions for water, fire hydrants, sanitary sewer, and surface drainage with engineering feasibility studies or other evidence of reasonableness. Line sizes and locations, detention basins and drainage structures shall be drawn.
  - e.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets, and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - f.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - g.) Location of schools, parks and other public facility sites, within or adjacent to the site.

- h.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- i.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
- j.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- k.) Specific statements of divergence from the development standards in Articles 24 (General Standards), 25 (Signs), 26 (Landscaping), and/or existing County Subdivision regulations or standards and the justification therefore. Unless a divergence from these development standards is specifically approved by the Zoning Commission, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built, all standards for setback, landscaping parking and lot size are per plan.
- l.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- m.) The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.

## SECTION 21.06: DEVELOPMENT STANDARDS

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

- A.) **Setbacks:** The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 24 unless a divergence variance is approved by the Zoning Commission.
- B.) **Building Dimensions:** Buildings may contain such area of floor space as is approved in the development plan.
- C.) **Building Height Limits:** No building or structure in this district shall exceed thirty-five (35) feet in height measured from the front door threshold to the highest point on the roof. Chimneys, spires, domes, flag poles, and elevator shafts, may be constructed to any safe height, but not to exceed one-hundred (100) feet in height. No windmill, antenna, or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract and not to exceed one hundred (100) feet in height.
- D.) **Maximum Lot Coverage and Minimum Open Space:** On no lot or parcel in this zoning district shall structures and paving be constructed which cover more than seventy five percent (75%) of the lot area.
- E.) **Landscaping:** All yards, front, side, and rear shall be landscaped, and all organized open spaces or areas shall be landscaped as required in Article 26 of this Resolution.

- F.) **Site Development:** All natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained to the maximum extent possible.
- G.) **Parking:** Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 24 of this Resolution shall, when appropriate, be incorporated.
- H.) **Lighting:** Exterior lighting fixtures shall meet the requirements of Article 24 of this Resolution.
- I.) **Signs:** According to Article 25 or as approved per development plan.
- J.) **Performance Standards:** No use shall be conducted within this district which fails to maintain the standards defined in Section 24.17.
- K.) The Township Zoning Commission and/or the Board of Township Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed. This includes landscaping, development, improvement, and maintenance of common open space as well as any other pertinent development characteristics.
- L.) **Expiration of Development Plan Approval:** If construction of any structure has not been commenced within five (5) 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 Board of Trustees. Absent an extension, no use shall be established or changed and no structure shall be constructed.

## SECTION 21.07: APPLICATION PROCEDURE

Consistent with [ORC§519.021\(A\)](#), and in addition to any other procedures set forth in this Code, all Applications for Amendments to the Zoning Map to rezone lands to the PID shall follow this process:

- 1.) **Step 1:** The applicant, being the owner of the subject real estate (or his/her representative or assignee) may apply for designation of the land to the PID designation. Simultaneous with the application, it is recommended that the applicant schedule a walkabout or informal review with the Zoning Inspector and other county agencies to familiarize all parties with the lay of the land and the general design intent of the applicant.  
  
A Preliminary Development Plan which complies with the requirements of Section 21.05(A) must be submitted with the application. Consideration and approval of the Preliminary development Plan is a legislative amendment and is subject to referendum by the citizens of the township.
- 2.) **Step 2:** The applicant, being the owner of the subject real estate (or his/her assignee) may apply for the consideration and approval of a Final Development Plan which must comply with the requirements of Section 21.05(B) and, unless otherwise allowed, conform to the approved Preliminary Development Plan. The approval or disapproval of the Final Development Plan is an administrative act by the Zoning Commission.

## SECTION 21.08: REQUIRED FINDINGS FOR PID APPROVAL

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

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

#### **SECTION 21.09: EFFECT OF FINAL DEVELOPMENT PLAN APPROVAL, PLAT REQUIRED**

- A.) The Final Development Plan as approved by the Township Zoning Commission shall be the subject of a subdivision plat to be approved by the Delaware County Regional Planning Commission if required by the Ohio Revised Code.

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

Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development.

The subdivision plat and plan shall be in accordance with the approved development plan and shall include:

- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
  - 2.) Deed restrictions, covenants, easements, and encumbrances to be used to control the use, development, and maintenance of the land, and the improvements thereon.
  - 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.
- B.) **Failure to Maintain:** If the approved development plan is not adhered to, or the open space is not properly maintained, the township zoning officer shall serve written notice upon such organization of

the deficiencies and demand that corrective action be taken within 14 days. The township may pursue noncompliance as a zoning violation as provided in Article 33 of this resolution.

## **SECTION 21.10: ADMINISTRATION OF THE DEVELOPMENT PLAN**

### **A.) Extension of Time or Modification**

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

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



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## **ARTICLE 22 AGRICULTURAL CONSERVATION DISTRICT (A-1)**

### **SECTION 22.01: PURPOSE: SEE SECTION 5.063**

### **SECTION 22.02: APPLICATION**

All lands in Berlin Township zoned Agricultural Conservation District shall be controlled by the provisions of this Article of the Zoning Resolution.

### **SECTION 22.03: PERMITTED USES**

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

- A.) Farm residence (Limited to one dwelling unit per parcel, tract, or lot).
- B.) Accessory buildings and accessory uses including private garages and one apartment for full time domestic help employed on the premises or full time farm labor.
- C.) Projects specifically designed for watershed protection, conservation of water or soils or for flood control.
- D.) Agriculture, beekeeping, dairying, floriculture, grazing and raising of livestock, orchards, plant nurseries, poultry raising, raising of grains, sod farming, truck farming, equestrian trails, forest and game management, greenhouses, nature trails and walks and stables.
- E.) Roadside sales of agricultural products shall be permitted in this district provided however that at least fifty percent (50%) of the gross income from the market is derived from the sale of products which are produced on lands in this township or adjacent townships farmed by the proprietor of said sales stand and further that said stand is in operation for not more than two-hundred (200) days in any year and adequate area exists outside the road right-of-way adjacent thereto for parking. No permanent buildings or structures shall be placed without permission of the Board of Zoning Appeals and issuance of a conditional use permit.
- F.) Facilities for the storage, sorting, preliminary processing or sale of agriculture products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incidental to other farming operations by the owner/proprietor.
- G.) 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 user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice for a total combined period of time under all issued permits not exceeding eighteen (18) months. 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.

- H.) 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 consecutive days.
- I.) Telecommunications towers.
- J.) Limited Home occupations as provided in Section 24.15.

#### **SECTION 22.04: 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said 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 lessee shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. Failure to comply with the terms of a conditional use permit shall result in a zoning violation. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded home occupations as provided in Section 24.16 of this resolution.
- B.) Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.
- C.) Permanent structures or improvements used for retail sale of agricultural products produced on the premises. Adequate off-street parking shall be provided.
- D.) One (1) occupied mobile home to be occupied by full time farm labor only and provided that said mobile home is installed in compliance with rules and regulations established by the Delaware General Health District. Not more than one mobile home shall be located on any farm within this Township.
- E.) Bed and Breakfast Home provided that:
  - 1.) A maximum of eight (8) short-term guests that may be housed at any one time.
  - 2.) Lighting: All exterior lighting must meet the requirements of Article 24 of this Resolution.
  - 3.) Parking: All bed and 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 one (1) per bedroom.
  - 4.) 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 homes for use by guests.
- F.) Boarding Kennels, Boarding/Riding Stables and Animal Shelters subject to the following conditions:

- 1.) No building or structure used for the purpose of a boarding kennel, boarding/riding stable or animal shelter shall be located closer than two-hundred (200) feet from the lot line of any residence, church, school or any institution of human care.
  - 2.) Full compliance with Delaware General Health District shall be satisfied.
  - 3.) Suitable fencing and/or screening shall be provided as approved by the Berlin 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.
- G.) Public or Private Hunt Clubs, sportsmen's clubs, fishing lakes, campgrounds, or similar recreational uses with all buildings and club houses incident thereto including restaurant to serve members and/or users of the facility.
- H.) Granny flat/handicapped accessible suite, provided that it conforms to the following conditions:
- 1.) The property owner must live on-site, and the granny flat must be subservient to the principal use of the property as a dwelling.
  - 2.) Size of granny flat or handicapped accessible suite: 600 square feet minimum, 816 square feet maximum.
  - 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.
  - 4.) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal to serve both the principal residence and the granny flat.
  - 5.) Off-street parking on a hard all-weather surface must be provided, 2 spaces for the principal residence and one space for the granny flat, 9' x 18' per space. No one space shall block another. Garages count as parking spaces.
  - 6.) Maximum Height of the accessory structure is 24 feet at the peak. A granny flat may be located on the first or second floor.
  - 7.) Maximum lot coverage by all residential structures - 25%.
  - 8.) All structures must meet the current edition of the CABO (Council of American Building Officials) One, Two, and Three dwelling residential structures are now also subject to the Ohio Residential Building Code and the Delaware County Plumbing Code.

## **SECTION 22.05: PROHIBITED USES**

- A.) Uses not specifically authorized by the express terms of this chapter of the Zoning Resolution shall be permitted.

- B.) Outdoor storage of inoperable, unlicensed, or unused vehicles or trailers for a period exceeding fourteen (14) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No motor home, mobile home, or camper of any type may be occupied by a guest of the resident owner for more than fourteen (14) days and only one (1) occupied motor home or camper is permitted at any one 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, hazard, or nuisance to the neighborhood or general public.
- E.) Except as specifically permitted by Section 22.03(G) or Section 22.04(E) no mobile home shall be placed or occupied in this district.

## SECTION 22.06: DEVELOPMENT STANDARDS

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

- A.) **Lot Area:** No parcel of land in this district shall be used for residential purposes which has a net area of less than five (5) acres (217,800 square feet). All other uses in this district shall have such lot area as prescribed by the article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B.) **Lot Frontage:** All lots or parcels within this zoning district shall have a minimum of three-hundred (300) continuous feet of frontage on a County approved road. Lots or parcels having less than the above listed minimum frontage on the right-of-way line of the adjoining approved road or street must have a lot width fifty (50) feet forward of the front building line which is equal to that minimum lot frontage requirement. In no case shall the parcel of lot frontage at the right-of-way line be less than sixty (60) continuous feet and the width shall not be less than sixty (60) feet wide at any point forward of the front building line of the principal residence located on the premises.
- C.) **Building Height Limits:** No buildings in this district shall exceed thirty-five (35) feet in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, but not to exceed one-hundred (100) feet in height. No windmill, antenna, or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one-hundred (100) feet in height.
- D.) **Building Dimensions (Living Area Requirements):** Each single family dwelling erected in this district shall have a ground floor living area of not less than one-thousand (1000) square feet or eight-hundred (800) square feet on the first floor if the residence is multi-story. All such living areas shall be exclusive of basements, breezeways, porches, and garages.
- E.) **Building Setback:** No building or use shall be located to the right-of-way line or center line of the adjacent public or private road than permitted in Section 24.05.
- F.) **Side Yard Setback:** No buildings or structure shall be located closer than twenty-five (25) feet to any side lot line.

- G.) **Rear Yard Requirement:** No principal dwelling shall be located closer than eighty (80) feet to the rear line of any lot and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.
- H.) **Maximum Lot Coverage:** On no lot or parcel in this zoning district shall buildings and paving be constructed which cover more than fifty percent (50%) of the parcel area. Structures or buildings shall cover no more than twenty-five percent (25%) of the 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 Article 24 of this Resolution.
- J.) **Signs:** Except as provided under the provisions of this article for home occupations or as controlled by Article 25 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.
- K.) **Lighting Standards:** All exterior lighting shall meet the general lighting requirements of Article 24 of this Resolution.
- L.) **Landscaping Standards:** All yards, front, side, and rear shall be landscaped, and shall meet the requirements of Article 26 of this Zoning Resolution.

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## ARTICLE 23 FLOODPLAIN REGULATORY DISTRICT (FPRD)

### SECTION 23.01: ESTABLISHMENT OF REGULATORY FLOODPLAIN DISTRICT

**Purpose:** The Regulatory Floodplain District shall exist as an overlay to all zoning districts and shall apply concurrently with other zoning district classifications. Land uses and development allowed under Article 23 must also meet all other applicable sections of this Resolution.

- A.) **Designation of the Regulatory Floodplain District:** The Regulatory Floodplain District shall be designated as those flood hazard areas which are identified in the “Flood Insurance Study for Delaware County, Ohio” and accompanying Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP), and all revisions and amendments thereto. These maps and data shall be on file at the Delaware County Building Department.
- B.) **Floodway and Floodway Fringe:** The Regulatory Floodplain District is further divided into two portions consisting of the Floodway and the Floodway Fringe. The Floodway is that portion of the Floodplain consisting of the channel and sufficient adjacent lands to convey the Base Flood discharge without increasing the Base Flood Elevation more than one-half foot. The Floodway Fringe is that portion of the Floodplain outside of the Floodway. The FEMA water surface profiles of the Base Flood shall govern the location of the Floodplain boundary. The Base Flood Elevations and Floodway boundaries shall be established as those indicated by NFIP maps and data published by FEMA, including all revisions and amendments thereto. The Floodplain District shall be illustrated on the Berlin Township Zoning District maps. FEMA maps and data shall be used to establish the Regulatory Floodplain District. FEMA maps and data shall govern in case of omission on or in conflict with the zoning maps.
- C.) **Non-detailed Flood Hazard Areas:** In designated flood hazard areas for which FEMA has not determined detailed flood elevations and Floodway boundaries, the applicant shall be required to furnish such information prepared by qualified personnel. Such studies shall be submitted to the Community NFIP Administrator and the State NFIP Coordinating Agency. Flood maps and data published by State or Federal sources such as the USDA Soil Conservation Service, U.S. Army Corps of Engineers, U.S. Geological Survey, or Ohio Department of Natural Resources shall be utilized when available. In case of differing information from two or more of these sources, the more comprehensive and recent technical data shall be used.

### SECTION 23.02: PERMITTED USES IN THE FLOODWAY

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

- A.) Agricultural land uses such as general farming and cultivation, pasturing, grazing, outdoor open air nurseries, truck farming, forestry, sod farming, and similar uses.
- B.) Private or public recreational land uses such as golfing, tennis, archery, picnicking, boating, swimming; parks, wildlife, or nature preserves; shooting ranges, hunting and fishing areas; hiking, biking, jogging, and horseback riding trails; and other similar uses, provided no regrading or excavation of land occurs that would increase base flood elevations, and that no such excavation or regrading occurs within the stream channel or within 50 feet of it. No excavation shall occur during times of heavy rainfall that might result in erosion, or stream sedimentation.
- C.) Residential open space uses such as lawns, gardens, play areas, and other similar uses.

### **SECTION 23.03: PROHIBITED USES IN THE FLOODWAY**

The following structures and uses are prohibited in the Floodway unless specifically listed under Section 23.04 as a Conditional Use:

- A.) Buildings and structures, including mobile homes, for residential, commercial, industrial, agricultural, or other use.
- B.) Storage or processing of materials.
- C.) Trash garbage, or waste disposal operations; landfills; wastewater treatment and disposal facilities.
- D.) Placement of material, fill, or spoil of any type or the construction or extension of levees, dams, dikes, floodwalls, or other such moundings or embankments unless otherwise allowed under Article 23 (Floodplain Regulations).
- E.) Encroachments which would cause any increase in the Base Flood Elevations.
- F.) Extraction of sand, gravel or other resources.
- G.) Alteration or relocation of the channel or watercourse.

### **SECTION 23.04: CONDITIONAL USES IN THE FLOODWAY**

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

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

### **SECTION 23.05: PERMITTED USES IN THE FLOODWAY FRINGE**

- A.) Uses permitted in the Floodway by Section 23.02 shall also be permitted in the Floodway Fringe.
- B.) Maintenance work on an existing structure such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$1,000.00.
- C.) Accessory structures, not for human occupancy and no larger than 576 square feet gross floor area provided the structure is certified by a registered professional engineer or architect; or the structure is created with a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding and ensuring that the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other openings provided that they permit the automatic entry and exit of floodwaters. All accessory structures shall meet the applicable requirements of Section 23.07.

### **SECTION 23.06: CONDITIONAL USES IN THE FLOODWAY FRINGE**

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

- A.) All Conditional Uses in the Floodway as listed in Section 23.04.
- B.) Parking and loading areas.
- C.) Wastewater treatment and disposal systems, provided structures are flood proofed or elevated one foot above the base flood elevation of the 100 year flood.
- D.) Flood control or mitigation structures and measures.
- E.) Temporary or permanent placement of earth only as needed for a use permitted in 23.05.

### SECTION 23.07: DEVELOPMENT STANDARDS

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

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

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

- E.) **Parking and Loading Areas:** Public or private parking or loading areas which would be inundated to a depth of one and one-half (1-½) feet or more or subjected to flow velocities over four (4) feet per second must be provided with adequate flood warning devices and measures.
- F.) **Public or Private Utilities or Facilities:** Wastewater treatment and disposal facilities must be approved by the Ohio EPA, the County Sanitary Engineer, or the County District Board of Health, whichever has jurisdiction, and must be elevated or flood-proofed to provide protection from the Base Flood.

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

- G.) **Flood or Erosion Control Measures or Watercourse Alteration or Relocation:** Dams, dikes, levees, embankments, floodwalls, riprap, rock protection, or other flood or erosion control measures and any alteration or relocation of the channel or watercourse shall be subject to all applicable provisions of Sections 1521.06 and 1521.07 of the Ohio Revised Code and all other applicable state, federal, county and local ordinances and regulations.
- 1.) Such measures over three (3) feet in height or involving over one thousand (1,000) square feet of surface area may be submitted by the Community NFIP Administrator to the U.S. Army Corps of Engineers and/or the Ohio Department of Natural Resources for review, recommendations, and approval as appropriate.
  - 2.) Flood control measures intended to remove lands from the Regulatory Floodplain District classification must be approved by FEMA. The Regulatory Floodplain District shall be changed to coincide only with effective revisions to published NFIP maps.

### **SECTION 23.08: BUILDINGS AND STRUCTURES**

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

- A.) Residential Construction shall be prohibited in the floodway and floodway fringe, and no fill material may be placed to attempt to increase a base flood elevation so as to allow residential construction in the floodway fringe.
- B.) Non-residential Construction
- 1.) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the Base Flood Elevation, plus floodway computation increases; or, together with attendant utility and sanitary facilities, shall:
    - a.) be flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water to at least one-foot above the Base Flood Elevation, plus floodway computation increases;
    - b.) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
    - c.) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. A flood proofing certificate, to be completed by a registered professional engineer or architect is required if flood proofing is chosen over elevation.
  - 2.) All structural, site and/or grading plans for nonresidential development activities in the floodplain shall be prepared and sealed by a registered professional engineer and/or architect.
  - 3.) The applicant shall obtain and furnish to the Community NFIP Administrator as-built elevations, certified by a Registered Surveyor, of the basement and first floor, to be maintained on file for public inspection.

- 4.) No nonresidential buildings and/or structures shall be located in the Floodway portion of the Floodplain.

### SECTION 23.09: FLOODWAYS

- A.) **Areas with Floodways:** The Flood Insurance Study identifies a segment within areas of special flood hazard known as a floodway. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:
  - 1.) See Sections 23.08(A) and 23.08(B) for residential and nonresidential floodway development provisions.
  - 2.) Other encroachments, including fill, and other developments are prohibited unless otherwise permitted in Section 23.02 and 23.04.
  - 3.) ODNR approved flood control, drainage or highway structures may be approved if a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
  - 4.) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon prior approval by the Federal Emergency Management Agency.
- B.) **Areas Without Floodways:** In all areas of special flood hazard where FEMA has provided base flood elevation data but has not delineated a floodway, the following provisions apply:
  - 1.) Encroachments, including fill, and other development shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot at any point.
  - 2.) Fill may not be added to allow residential uses in areas designated as floodway fringe in the FEMA studies.

### SECTION 23.10: ADDITIONAL PLAN REQUIREMENTS

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

- A.) Plans drawn to scale showing the nature, location, dimensions, and details of the property, development activities, and land use, both existing and proposed;
- B.) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;
- C.) Existing and proposed topographical information;

- D.) Elevation in relation to mean sea level to which any proposed structure will be flood proofed where base flood elevation data are utilized including certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria required by this resolution;
- E.) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.
- F.) Other information as may be reasonably deemed necessary by the Community NFIP Administrator.
- G.) The applicant shall submit certification of finished elevations, and/or other proofs or assurances of compliance with approved plans to the satisfaction of the Community NFIP Administrator.
- H.) Permits issued on the basis of applications, plans, specifications, and other information approved by the Community NFIP Administrator shall authorize only the use, arrangement, and construction set forth therein.

### **SECTION 23.11: COMPLIANCE WITH APPROVED PLANS**

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

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

### **SECTION 23.12: COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM**

The provisions of Section 23 of this Resolution have been submitted to and reviewed by the National Flood Insurance Program (NFIP) State Coordinating Agency and the Federal Emergency Management Agency (FEMA) as required by Federal Law. These agencies have determined that these provisions meet or exceed the Federal standards of Federal Law 44 CFR part 60.

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

### **SECTION 23.13: WARNING AND DISCLAIMER OF LIABILITY**

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



Floodplain Regulatory District (FPRD)

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## ARTICLE 24 GENERAL DEVELOPMENT STANDARDS

### SECTION 24.00: 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. 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 24.01: PARKING

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

- A.) **Design:** Width and angle of parking stalls, drive aisle widths for automobile parking lots and truck loading docks shall conform to the design standards promulgated by the Eno Foundation for Transportation, Saugatuck, Connecticut (See Appendix A). Handicap accessible spaces shall be provided in compliance with the Americans with Disabilities Act.
- B.) **Paving:** Except in the Farm Residential Zoning District (FR-1) and the Agricultural Conservation District (A-1) all common parking areas and adjacent aisles or driveways shall be paved with asphalt material or concrete.
- C.) **Driveways:** All driveways serving parking lots for five (5) or more vehicles shall be served by a driveway not less than twenty (20) feet in width but adequate in width to permit easy access to parking spaces. No driveway shall be located so that it enters a public road within one-hundred (100) feet of the intersection of any two (2) public roads unless there are two (2) driveways serving the lot, one (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.) **Common Access Driveway Subdivisions:** Common Access Driveway subdivisions (CADs) shall be permitted if approved by the Delaware Regional Planning Commission
- E.) **Parking Area Location:** Except in the residential districts (A-1), (FR-1), (R-1.25), (R-1.5), (R-1.85), and (PRD), no parking lot or parking areas shall be located nearer than six (6) feet to the side or rear line of the tract on which the structure is located, and parking in front of the main structure is permitted, but not more than forty percent (40%) of the front setback area may be used for parking (such parking area shall be at least twenty (20) feet from the nearest right-of-way). All parking spaces required herein shall be located on the same lot with the building or use served unless otherwise approved as part of a development plan for a Planned District. The parking lot shall be situated so that no vehicle will be required to back on to a public street or road.
- F.) **Required Off-Street Parking Spaces:** The user of any tract shall provide off-street parking for all employees, customers, and visitors. The following table shall specify the minimum parking areas to be provided.

USE	REQUIRED PARKING SPACES
1. Single Family Residential	Four (4) per dwelling unit (sufficient space within garages and driveways may count).
2. All Other Residential	Three (3) per dwelling unit (sufficient space within garages and driveways may count).
3. Hotels, Motels, Lodges (without public meeting facilities)	One (1) per rental unit plus one (1) per employee on largest shift plus one (1) for each four (4) seats in the dining room or restaurant areas.
4. Hotels, Motels, Lodges, Exhibition Halls and Public Assembly Areas (except churches)	One (1) per rental unit plus one (1) per employee on the largest shift plus 1 per seventy-five (75) sq. ft. of floor area used for exhibition or assembly purposes plus 1 per four (4) seats in any restaurant therein.
5. Churches or Places of Public Assembly	One (1) for each three (3) seats or one (1) for each forty-five (45) sq. ft. of assembly area, whichever is greater.
6. Hospitals	One and one half (1 1/2) for each bed plus one (1) for each employee on the largest shift.
7. Nursing Homes	One (1) for each three (3) beds plus one (1) for each employee on the largest shift.
8. Museums, Libraries, etc.	One (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	One and one half (1 ½) for each classroom
10. Secondary Schools. Colleges, Trade Schools, etc.	Four (4) for each classroom plus one (1) for each four (4) students.
11. Restaurants	One (1) for each two (2) seats plus one (1) for each employee on the largest shift.
12. Offices	One (1) for each three hundred (300) square feet of floor area.
13. Funeral Homes	Eight (8) spaces per parlor or 2.3 spaces for each 100 square feet of assembly area.
14. Large Retail Stores (65,000 s.f. or larger)	Five (5) per one thousand square feet of gross leasable area.
15. Specialty Retail Stores (less than 65,000 s.f.)	Five (5) per two thousand square feet of gross leasable area.
16. All Industrial, Warehousing	Two-thirds (0.66) of a space per employee on the largest shift, plus 1 for each vehicle maintained on the premises.
17. Country Club or Golf Course	Twenty (20) plus 1 for each two (2) employees, or 1 for each four (4) members, or 1 for each two-hundred (200) sq. ft. of floor area, whichever is greater.

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

## SECTION 24.02: 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, storage towers, tanks, water towers, or necessary mechanical appurtenances which may be erected to any safe and lawful height, but not to exceed one-hundred (100) feet in height.

**SECTION 24.03: STRUCTURE SEPARATION**

No principal structure shall be located closer than twenty-five (25) feet to another principal structure.

**SECTION 24.04: SANITARY SEWER REQUIREMENTS AND POLLUTION CONTROL**

All uses shall be conducted in compliance with the respective regulations of the Ohio Environmental Protection Agency, the Delaware General Health District and/or the Delaware County Sanitary Engineer's Office. Prior to issuance of any zoning certificate, evidence of compliance with said regulations shall be presented to the Zoning Inspector.

**SECTION 24.05: SETBACK REGULATIONS**

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

- A.) **CLASS A:** The Township designates the following roads as Class A roads: U.S. 23, and U.S. Rt. 36, Cheshire Road, South Old State Road, and Africa Road and any other roads as later designated by the Trustees of the Township.
- B.) **CLASS B:** Any through public street or road or any private road or street approved by the Delaware County Engineer connecting two or more public roads.
- C.) **CLASS C** – Dead-end roads or streets ending at a cul-de-sac or approved turn-around when the lot configuration or approved plan precludes future extension of said roadway or any branch there from to create a connecting street between two (2) or more existing or future streets or roads.

**MINIMUM SETBACK DISTANCES**

All distances are measured from the center line of the existing or proposed right-of-way to the nearest use or improvement, except parking areas or signs which may be located within the setback area as regulated by Article 24 of this Resolution.

Setback requirements shall meet the designated distance from centerline in the following chart. Lots, tracts, or parcels which adjoin more than one (1) county approved street, road, alley, or easement (corner lots or double frontage lots) shall meet the required setback requirement for each adjoining street, road, alley, or easement.

USE CLASSIFICATION		ROAD CLASSIFICATION		
		CLASS A	CLASS B	CLASS C
FR-1	Farm Residential	130	100	90
R-1.25	Low Density Residential	130	80	70
R-1.85	Residential High Density	130	80	70
R-1.50	Residential Medium Density	130	80	70
PRD	Planned Residential	A*	A*	A*
NCD	Neighborhood Commercial	130	100	90
TPUD	Transitional Planned Unit Development	A*	A*	A*
BCO	Berlin Commercial Overlay	see Article 15		
BIO	Berlin Industrial Overlay	see Article 19		
POD	Planned Office	A*	A*	A*
PCD	Planned Commercial and Office	A*	A*	A*

OCPUD	Old Cheshire Planned Unit District	A*	A*	A*
I	Industrial	130	130	100
PID	Planned Industrial	A*	A*	A*
A-1	Agricultural Conservation	130	100	90

A\*: As Approved in the development plan.

**Note:** No building or use except signs or parking areas as permitted in Article 24 or 25 of this Resolution shall be permitted closer than eighty (80) feet to the nearest right-of-way line of US 23 or US 36-37.

#### **SECTION 24.06: DRAINAGE**

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

In no event shall any person interfere with any existing tile or surface drainage channel unless it is determined that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties. All drainage conditions must adhere to and be approved by the Delaware County Soil and Water Conservation District.

#### **SECTION 24.07: CUL-DE-SACS**

All Cul-de-sacs shall meet the current Delaware County Engineer's standard ([engineer.co.delaware.oh.us](http://engineer.co.delaware.oh.us)).

#### **SECTION 24.08: WATER IMPOUNDMENTS**

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

- A.) No impoundment shall be located closer than twenty-five (25) feet to the nearest right-of-way or fifty-five (55) feet of the center line of any adjacent approved road.
- B.) Except for those impoundments located within the FR-1 or A-1 district, no impoundment shall be located in the front yard in any district except upon issuance of a conditional use permit pursuant to Article 32 of this Resolution or as approved in plans of development or approved subdivision plans.
- C.) All pond structures and headers shall include a stone facing that enhances the appearance and provides a natural look to all in-flow and out-flow areas.

#### **SECTION 24.09: 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): In addition to the conditions or specifications imposed in subsections (B) or (C) hereinafter established the following specifications are required for all driveways, regardless of the use served:
  - 1.) Driveway shall not have a grade, up or down, from the public road pavement level exceeding eight percent (8%) for a minimum of twenty-five (25) feet.
  - 2.) Driveway shall not contain a grade exceeding ten percent (10%) at any point over its entire length.

- 3.) At the point the driveway intersects the public road, the same shall have such radii and drain pipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway. Drainage pipes shall be a minimum of twelve (12) inches in diameter and should be sized to handle a five (5) 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 head-wall is installed to protect the end of such pipe. Any bridge or structure spanning a stream or ditch shall be designed and approved 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 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-by-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 percent (95%) 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, as necessary, shall be constructed 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. All drainage conditions must adhere to and be approved by the Delaware County Soil and Water Conservation District.
  - 8.) All curves in the driveway shall be of sufficient radius (not less than fifty (50) feet centerline) to permit unhindered passage of public safety vehicles including fire vehicles and all other vehicles reasonably expected to utilize the same.
  - 9.) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.
  - 10.) Obstructions on the prevailing wind-ward side of the driveway which contribute to drifting snow shall be removed when possible.
  - 11.) An adequate open area shall be provided at the end of the driveway to allow emergency and fire vehicles to turn around.
  - 12.) The first phase of any construction project shall be the construction of a driveway 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 imposed by Section 24.09(A) previously set forth, the following standards are required for driveways serving residential structures or uses:

- 1.) Driveways shall not be less than twelve (12) feet in width, shall be constructed over an aggregate base of reasonable depth, and shall be located a minimum of five (5) feet from side or rear property lines unless otherwise approved as part of a Development Plan.
  - 2.) Driveways that exceed one-hundred fifty (150) feet in length shall not be less than fourteen (14) feet in width.
  - 3.) Driveways that exceed one-hundred fifty (150) feet shall require a pull-off of an additional six (6) feet in width by sixty (60) feet in length every five hundred (500) feet. Additional pull-offs may not be necessary provided the Berlin Township Fire Department confirms that the driveway will support the imposed load of fire apparatus weighing seventy-five thousand (75,000) pounds.
  - 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 required by Section 24.09(A) previously set forth, the following standards are required for driveways serving all commercial and industrial uses and apartment complexes containing 10 or more units and served by a common parking area:
- 1.) Driveways shall be not less than twenty (20) feet in width.
  - 2.) Driveway base and surface shall be designed by a professional engineer to sufficient depth for anticipated use and access by public safety vehicles.
  - 3.) The finished surface of the driveway shall be hard-surfaced and may be of any Ohio Department of Transportation approved materials.

#### **SECTION 24.10: STRUCTURES IN THE RIGHT-OF-WAY**

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

#### **SECTION 24.11: CONSTRUCTION DEBRIS OR REFUSE**

Upon the initiation of construction, a steel container must be provided on site for the containment and the regular disposal of construction debris and refuse. Said container must be emptied monthly or when full.

#### **SECTION 24.12: INSTALLATION OF SATELLITE SIGNAL RECEIVING STATIONS**

Installation of dish type satellite signal receiving stations shall be governed by this Article and the following regulations shall be imposed:

- A.) This section does not apply and no permit for installation of a dish shall be required for a dish measuring one (1) meter or thirty-nine and thirty-seven one-hundredths (39.37) inches or less in diameter.
- B.) No installations may be made forward of the rear building line of the principal structure and no antenna or no part of a dish shall be placed nearer than twenty (20) feet to any property line.
- C.) No dish shall be placed on the roof of any residential structure and the top of the dish may not exceed twelve (12) feet above the natural grade.
- D.) No dish shall be installed on the roof or mounted more than six (6) feet above the natural grade in a commercial or industrial district, unless the mounting of the same is designed to withstand a wind force

of eighty-five (85) miles per hour and a certificate is furnished to the Zoning Inspector, signed by a licensed and qualified engineer, that the installation is in conformity to the above limitations.

- E.) No dish over twelve (12) feet in diameter shall be permitted in a residential district.

### **SECTION 24.13: LIGHTING REGULATIONS**

- A.) General Requirements: All lighting shall be controlled to avoid shining on the neighboring properties or into the sky. Examples of ways in which this shall be accomplished:

- 1.) Using light fixtures on which the light source is directed and fully shielded or covered;
- 2.) Direct light fixtures downward rather than upward;
- 3.) Shielding the light in such a manner that the light emitting portion of the fixture does not shine onto adjacent property.
- 4.) Searchlights are prohibited under any condition.

- B.) Specific Requirements:

- 1.) Where used for security purposes or to illuminate walkways, roadways, equipment yards, and parking lots, only fully shielded style outdoor light fixtures shall be used.
- 2.) Where used for signs, decorative effects, or recreational facilities, such as for building landscaping or sports-field illumination, the outdoor light fixtures shall be equipped with automatic timing devices and shielded and focused to minimize light pollution.
- 3.) All outdoor light pole fixtures shall not exceed a maximum height of thirty (30) feet above the surrounding grade.

- C.) Exemptions:

- 1.) All outdoor light fixtures producing light directly from fossil fuel, such as kerosene lanterns or gas lamps.
- 2.) All low-voltage lighting and holiday lighting.
- 3.) Flag poles bearing the insignia of the United States and/or the State of Ohio.

### **SECTION 24.14: STREET SIGN POLES**

All street sign poles shall be made of galvanized steel or comparable non-biodegradable material.

### **SECTION 24.15: LIMITED HOME OCCUPATION**

A limited home occupation (business) shall be permitted within a dwelling in all residential zoning districts (not in detached garages or pole barns) in accordance with the following provisions:

- A.) The home occupation does not occupy more than twenty percent (20%) of the gross floor area of the dwelling unit or two hundred (200) square feet, whichever is larger.
- B.) Requirements:

- 1.) The appearance of the structure shall not be altered or the occupation within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or unauthorized signs. A home occupation shall be clearly incidental and secondary to the use of the unit for dwelling purposes.
- 2.) There are no non-resident employees.
- 3.) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, computers, wireless phones or hand held wireless transmitting devices off the premises, or causes fluctuations in line voltage off the premises.
- 4.) There shall be no outside storage of any kind.
- 5.) Specialized instruction or tutoring shall be limited to one (1) individual at a time.
- 6.) No traffic shall be generated in substantially greater volumes than would be generated by a single family home.
- 7.) No direct, face to face sales to the public on site.
- 8.) There shall be no signs permitted.

#### **SECTION 24.16: EXPANDED HOME OCCUPATION (BUSINESS)**

It is recognized that there may be some Home Occupations which do not meet the criteria of Section 24.15 but which may be appropriate for a residential area provided the following additional standards are addressed through the Conditional Use Permit procedure conducted by the Board of Zoning Appeals (BZA). Deviation from any of the following standards may be reason for the BZA to deny the application or limit the number of non-resident employees.

Prior to any approval for a conditional use permit, the BZA shall determine that because of the location and orientation of the residence and property in question, the proposed business use will not become a detriment to the existing residential character of the property or the general area through an increase in traffic, street parking, or any other factor resulting in an adverse impact as determined by the Board of Zoning Appeals. The conditional use permit applies to the applicant and will expire upon sale of said property.

A business plan outlining the specifics of said business such as hours, traffic and other potential detrimental or enhancing values to surrounding properties and neighbors shall be submitted for review. The BZA may deny the application or limit the number of employees if the plan indicates that the business will be detrimental to the existing, prevailing residential character of the neighborhood. This plan shall be used to help evaluate the following items.

- A.) The home occupation shall be carried on within the confines of the residential structures within zoning districts that specifically list an Expanded Home Occupation as a Conditional Use and/or within architecturally compatible accessory buildings, which are customarily associated with the residential use and character of the neighborhood.



- B.) There can be up to three non-resident employees as determined by the Board of Zoning Appeals. The BZA determination will be based on the following criteria and their potential impact on the neighborhood:
  - a.) Property size and shape, and layout of proposed business and parking.
  - b.) Building and parking set-backs from property lines, and distance from surrounding properties.
  - c.) No non-resident employees shall be allowed for properties less than three-quarters (3/4) of an acre in size.
- C.) No outside storage of any kind associated with a home occupation conditional use shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.
- D.) Only one sign may be erected advertising the home occupation. The sign may be mounted flat against a building or on a pole in the front yard. The sign shall be of a design compatible with the residential character, shall not be animated or lighted, and shall comply with the requirements as specified in Article 25, Section 25.02(B).
- E.) All parking demands created by the conduct of a home occupation shall be met with parking located off the street and other than in a front yard. Off-street parking may be permitted in a side yard or rear yard, but shall not be located any closer to the street than the required setback line. Parking surface shall be consistent with the materials used for the surfaces of parking and driveways of the surrounding properties. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)
- F.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference, or other nuisance detectable to normal senses off the lot. All activities, materials, and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- G.) Solid or liquid waste materials shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.
- H.) No activity shall be conducted or permitted which creates a nuisance to neighboring properties.
- I.) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty percent of the total floor area of the dwelling unit shall be used in the conduct of the home occupation nor more than fifty percent of the floor space of any garage or accessory building.
- J.) No traffic shall be generated in substantially greater volumes than would be generated by a single family home.

## SECTION 24.17: PERFORMANCE STANDARDS

No use shall be conducted within Berlin Township which fails to maintain the following standards:

- A.) **Fire and Explosive Hazards:** All activities, including storage, involving flammable, explosive, or hazardous materials shall include the provisions of adequate safety devices against the hazard of spill, fire and/or explosion. All standards enforced by the Occupational Safety and Health Administration (OSHA) shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B.) **Air Pollution:** No emission of air pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- C.) **Glare Heat and Exterior Light:** Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- D.) **Dust and Erosion:** Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities. Applicants shall meet the required standards of the Delaware County Engineer.
- E.) **Liquid or Solid Wastes:** No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- F.) **Vibrations:** No use 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.
- G.) **Odors:** No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.
- H.) **Noise:** All uses shall meet the applicable township noise regulations.

## SECTION 24.18: SWIMMING POOLS AND SWIMMING POOL FENCES

Swimming Pools and Swimming Pool Fences shall comply with all requirements of this Section.

- A.) **Application and Permit for Swimming Pool:** No Swimming Pool shall be constructed until a Swimming Pool permit has been issued. The application for this permit shall be accompanied by plans or drawings including a plot plan or property survey showing the proposed location of the Swimming Pool, pool decking, and pool fencing. The signature of the property owner(s) must be shown on the plans or drawings submitted for the required Swimming Pool zoning permit. The Certificate of Compliance must be issued by the Zoning Inspector prior to use and must be obtained prior to the expiration date of the zoning permit.
- B.) **Swimming Pool Fence:** All Swimming Pools and accompanying concrete, patios, and decking shall be surrounded on all sides and enclosed by a minimum of a 4½' or 54" high Fence, but no higher than 6' or 72" high Fence, with self-closing and self-latching gate(s) on all gates, regardless of Fence style. The height

shall be measured from the finished grade surface to the highest point of the Fence. The minimum Fence height of 4 ½' or 54" is required at all points on the Fence perimeter. The Fence shall comply with the following standards:

- 1.) Such Fence shall be constructed of horizontal and vertical members in a manner that deters and/or prevents unauthorized entry and climbing. No split rail, cross buck, or 3 or 4 rail "horse" Fences are permitted, unless securely backed with chain link Fencing or welded, tied, or woven wire that otherwise meets the requirements of this section.
- 2.) The top of any horizontal Fence member or rail shall be no less than 48" from the top of the bottom Fence member or rail.
- 3.) The space between each vertical member shall not exceed 4".
- 4.) If the style of Fence requires the top of any horizontal Fence member or rail to be less than 48" from the top of the bottom Fence member or rail, the space between vertical members shall not exceed 1 ¾".
- 5.) If the style of Fence used is chain link or is split rail, cross buck, or 3 or 4 rail "horse" Fence securely backed with chain link fencing or welded, tied, or woven wire, the chain link or welded, tied, or woven wire "diamond" shall not exceed 2 ¼" maximum width.
- 6.) To deter and/or prevent crawling under the Fence, at no point shall the bottom of any Fence surrounding or enclosing a Swimming Pool be more than 4" above the finished grade.
- 7.) One or more sides of the Fence may be comprised by a building, including a dwelling.
- 8.) All Swimming Pool Fences shall comply with the setbacks as applicable to the district in which the Fence is located.
- 9.) Any Swimming Pool, both in-ground and above ground, including related accessory structures, shall comply with the setback requirements as applicable to accessory structures in the district in which it is located.
- 10.) Swimming Pool covers of any kind, manual or automatic, locking or not locking, shall not be used in lieu of a Swimming Pool Fence as required by and which meets the requirements of this section.

## **SECTION 24.19: ACCESSORY STRUCTURES**

- A.) Unless the regulations of a specific District are more restrictive, all Accessory Buildings shall be in conformity with the following provisions. In the event that regulations of a specific district are applicable, the most restrictive provision shall control.
  - 1.) No Accessory Building shall be erected within any required Front Yard Setback of the Principal Building.
  - 2.) No Accessory Building shall be located within fifteen (15) feet of any Side or Rear Lot Line or when the required Side Lot Line. However, for the Principal Building on that property is less than fifteen (15) feet the Accessory Building may be located at that reduced setback.
  - 3.) The maximum number of permitted Accessory Buildings per parcel shall be one (1) plus one (1) for each full acre of parcel size, but in no case shall exceed five (5) Accessory Buildings on a parcel.

- 4.) The maximum height shall not exceed twenty-two (22) feet on a parcel under three (3) acres in size. On parcels three (3) acres or larger, the maximum height shall not exceed thirty-five (35) feet.
  - 5.) The area of all Accessory Building(s), added together with all other buildings on a lot, shall not exceed the maximum permitted lot coverage within the zoning district.
  - 6.) No Accessory Building within any district shall be used for human occupancy except in accordance with an approved Conditional Use permit as specified within a district.
- B.) All Accessory Structures, not otherwise regulated, shall be in conformity with the following provisions, unless specifically defined elsewhere:
- 1.) No Accessory Structure shall exceed twelve (12) feet in height or be located in an easement, Front Yard or in a required Setback for an Accessory Building, according to Section 1609.01, unless specifically permitted.
  - 2.) A mechanical Structure, customarily accessory to the lawful use of the property, such as a generator, air conditioning unit, or similar structure is permitted in a Rear or Side Yard, if the unit is at least fifteen (15) feet from any adjoining property.
  - 3.) A propane tank is permitted in a Side or Rear setback if it is at least six (6) feet from any adjoining property and entirely screened from view from adjoining properties.
  - 4.) An outdoor fireplace, pit or permanently-sited grill is permitted in a required Rear Yard provided it is no closer than fifteen (15) feet from any property line.
  - 5.) Solar panels shall be constructed so as to not protrude more than two (2) feet above the roofline of a building on which they are mounted, not to exceed the maximum building height.

#### **SECTION 24.20: SMALL WIND PROJECT FARMS LESS THAT FIVE (5) MEGAWATTS**

As used in this Section and in [ORC519.213](#), “Small Wind Farm” means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts (5MW). Wind Farms of five megawatts (5MW) or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations.

Any proposed construction, erection, or siting of a small wind farm including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use in any zoning district except those expressly zoned for residential use. A Conditional Use Permit shall be required for small wind farms in all districts zoned for residential use. The areas expressly zoned for residential use shall be deemed to be all land located within the following districts: Farm Residential (FR-1), Low Density Residential District (R-1.25), Medium Density Residential District (R-1.5), High Density Residential District (R-1.85), and Transitional Planned Unit District (TPUD). The following conditions shall be met for both Permitted and Conditional Use Permits:

##### **A.) General Requirements**

- 1.) Height: The maximum height of any turbine shall be one hundred twenty-five (125) feet. For purposes of this Zoning 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 shall be calculated by measuring the length of a prop at maximum vertical rotation to the base of the tower.

- 2.) Setbacks: Any turbine erected on a parcel of land shall be setback one and one tenth (1.1) times the height of the tower, or established "clear fall zone," from all road right-of-way lines and neighboring property lines, structures, and any inhabited structures on the parcel intended for the turbine. A turbine shall be erected and placed in such a manner that if it were to fall, whatever direction the fall occurs would be contained solely on the property where the turbine is located and would not strike any structures including the primary dwelling, and any inhabited structures.
- 3.) Maintenance: Wind turbines must be maintained in good working order. The owner shall, within thirty (30) days of permanently ceasing operation of a turbine, provide written notice of abandonment to the Zoning Inspector. An unused wind turbine or small wind farm may stand no longer than twelve (12) months following abandonment. All costs associated with the demolition of the wind turbine tower and associated equipment shall be borne by the property owner. A wind turbine tower is considered abandoned when it ceases transmission of electricity for thirty (30) consecutive days. Wind turbines that become inoperable for more than twelve (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 including, but not limited to, cement footers, and returning the affected area(s) of the property to a graded and grassed/landscaped condition harmonious with the surrounding area.
- 4.) Decibel Levels: Decibel levels shall not exceed those provided by the manufacturer as provided below in this Section. All units collectively shall operate at not more than five (5) decibels above the established ambient decibel levels at property lines. This information shall be included in the engineering report described in this Section. This information shall be obtained from the manufacturer of the turbine, and all decibel readings, if necessary, shall be taken from the nearest neighboring property lines. Those turbines not meeting this requirement will be issued a zoning violation and be required to shut down immediately until the required decibel levels are met.
- 5.) Wiring and electrical apparatuses: All wires and electrical apparatuses associated with the operation of a wind turbine unit shall be located underground or in an appropriate enclosed structure and meet all applicable local, state, and federal codes, including the Delaware County Building Code and Ohio Building Code.
- 6.) Warning Signs: Appropriate warning signs to address voltage shall be posted.

#### **B.) Permits**

- 1.) A zoning permit shall be required before construction is commenced on an individual wind turbine project system.
- 2.) Building Permits: All small wind farms and parts thereof shall obtain all applicable Building Permits from the State of Ohio and Delaware County Code Compliance where required.
- 3.) As part of the permit process, the applicant shall inquire with the Delaware County Code Compliance as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports.

- 4.) Applicant shall then provide the Township Zoning Inspector with the following items and/or information when applying for a zoning permit:
  - a.) Location of all public and private airports in relation to the location of the wind turbine.
  - b.) An engineering report that shows all of the following:
    - i.) The total size and height of the unit
    - ii.) If applicable, the total size and depth of the unit's foundation structure concrete mounting pad, as well as soil and bedrock data.
    - iii.) A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring & anchors.
    - iv.) Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
    - v.) The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
    - vi.) Ambient noise levels at property lines.
    - vii.) Hazardous materials containment and disposal plan.
- 5.) 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.
- 6.) Evidence of an established setback of one and one tenth (1.1) times the height of the wind turbine and "clear fall zone" with manufacturer's recommendation must be attached to the engineering report.
- 7.) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled.

#### **SECTION 24.21: PORTABLE STORAGE UNITS**

- A.) Portable Storage Units may be permitted as a temporary use in any zoning district only in conjunction with and not to exceed the times listed for the following activities:
  - 1.) Temporary use, including open top dumpsters and Bagster bags®, for construction sites as accessory to and in association with an ongoing construction project at such site for a period of up to one hundred twenty (120) total days in any three hundred sixty-five (365) consecutive day period or upon the completion of the project, whichever occurs sooner.
  - 2.) Temporary use, including open top dumpsters and Bagster bags®, when the occupant of the property on which the portable storage unit is located is relocating for a period not to exceed seven (7) consecutive days or for a period of fourteen (14) total days in any one hundred eighty (180) consecutive day period.

- 3.) Temporary use, including open top dumpsters and Bagster bags®, to facilitate temporary activities not described elsewhere in this Section, for a period not to exceed seven (7) consecutive days or for a period of fourteen (14) total days in any one hundred eighty (180) consecutive day period.
- B.) Portable Storage Unit Criteria – Portable Storage Units, including open top dumpsters and Bagster bags®, shall be subject to the following requirements:
- 1.) A Portable Storage Unit shall not exceed one hundred sixty-nine (169) square feet in size and eight (8) feet in height.
  - 2.) Not more than one (1) Portable Storage Unit shall be permitted on any lot at any time.
  - 3.) No Portable Storage Unit shall be located in a public right-of-way.
  - 4.) Portable Storage Units shall be located no closer to an adjacent lot than the greater of ten (10) feet or the required minimum side or rear yard setback for accessory buildings in the district in which the Portable Storage Unit is located.
  - 5.) Portable Storage Units shall only be used for the storage of personal property and for no other purpose whatsoever.
  - 6.) The placement of Portable Storage Units shall be in such manner as not to create a public nuisance.
  - 7.) A Portable Storage Unit is not permitted as a permanent accessory storage structure regardless of the proposed location on a lot.
  - 8.) A Temporary Use Permit shall be obtained prior to the placement of a Portable Storage Unit on a property. For the activities listed in Section 24.21(A) and 24.21(B), no more than two (2) Temporary Use Permits may be issued for the same property during any three hundred sixty-five (365) consecutive day period.

## SECTION 24.22: SMALL SOLAR FACILITIES

Solar facilities of fifty (50) megawatts or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations.

### A.) Definitions.

- 1.) Ground Mounted Solar Energy Systems: a solar energy system that mounts a solar panel or panels and facilities on or above the ground.
- 2.) Integrated Solar Energy Systems: a solar energy system that is incorporated into or replaces standard building materials and does not have mounting equipment. For example, these systems may include materials that replace traditional roofing, shingle, or siding materials, awnings, canopies, skylights, or windows.
- 3.) Rooftop Solar Energy Systems: a solar energy system that is mounted to a structure or building's roof on racks.

- 4.) Small Solar Facility: a Solar Energy System and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than fifty (50) megawatts.
- 5.) Solar Energy: radiant energy (direct, diffused, or reflected) received from the sun that can be collected and converted into thermal or electrical energy.
- 6.) Solar Energy System: a system and associated facilities that collect Solar Energy, which may include, but is not limited to, an Integrated Solar Energy System, Rooftop Solar Energy System, or Ground Mounted Solar Energy System.

B.) Permitted Uses

- 1.) Integrated Solar Energy Solar Systems: Subject to the restrictions contained herein any construction, erection, or siting of an Integrated Solar Energy System shall be a permitted use in the following zoning districts: **A-1, FR-1, PCD, PID.**
- 2.) Rooftop Solar Energy Systems: Subject to the restrictions contained herein, any construction, erection, or sitting of a Rooftop Solar Energy System shall be a permitted use in the following zoning districts: **A-1, FR-1, PCD, POD, PID.**
- 3.) Ground Mounted Solar Energy Systems: Subject to the restrictions contained herein, any construction, erection, or sitting of a Ground Mounted Solar Energy System shall be a permitted use in the following zoning districts: **A-1, FR-1.**

C.) Conditional Uses

- 1.) Integrated Solar Energy Solar Systems: Subject to the restrictions contained herein, as well as any other relevant conditions as the Board of Zoning Appeals may determine, any construction, erection, or siting of an Integrated Solar Energy System shall be a conditional use in the following zoning districts: **PRD, POD.**
- 2.) Rooftop Solar Energy Systems: Subject to the restrictions contained herein, as well as any other relevant conditions as the Board of Zoning Appeals may determine, any construction, erection, or siting of a Rooftop Solar Energy System shall be a conditional use in the following zoning districts: **PRD, POD.**
- 3.) Ground Mounted Solar Energy Systems: Subject to the restrictions contained herein, as well as any other relevant conditions as the Board of Zoning Appeals may determine, any construction, erection, or siting of a Ground Mounted Solar Energy System and all other Small Solar Facilities shall be a conditional use in the following zoning districts: **PID.**
- 4.) All Other Small Solar Facilities: Subject to the restrictions contained herein, as well as any other relevant conditions as the Board of Zoning Appeals may determine, any construction, erection, or siting of Small Solar Facilities, other than Integrated, Rooftop, and Ground Mounted Solar Energy Systems (“All Other Small Solar Facilities”), shall be a conditional use in the following zoning districts: **A-1.**

D.) General Requirements

- 1.) Integrated or Rooftop Solar Energy Systems:



- a.) Height: The maximum height of any Integrated or Rooftop Solar Energy System shall not exceed the maximum height applicable to principal structures located in the zoning district where located. An Integrated or Rooftop Solar Energy System mounted on a roof shall not vertically exceed the highest point of the roof to which it is attached.
  - b.) Coverage: An Integrated or Rooftop Solar Energy System shall cover no more than 40% of a structure's walls and/or roof, as applicable.
- 2.) Ground Mounted Solar Energy Systems:
  - a.) Height: The maximum height of any Ground Mounted Solar Energy System at any point shall not exceed fifteen (15) feet.
  - b.) Coverage: Ground Mounted Solar Energy Systems shall be included as part of any lot/tract/ground coverage calculation applicable to the zoning district where located. In the event a zoning district does not have a restriction limiting the ground area occupied by buildings, structures, parking areas, sidewalks, or other impervious surfaces, all Ground Mounted Solar Energy System(s) shall not exceed in the aggregate 70% of the total area of the lot or tract.
  - c.) Visual Buffer: A Ground Mounted Solar Energy System shall have a visual buffer of natural vegetation, plantings, and/or fencing that provides reasonable visual screening to minimize view of and noise from the Small Solar Facilities on adjacent lots and from any public right-of-way as defined in Section 24.05. Ground Mounted Solar Energy Systems located on corner lots shall comply with the applicable requirements (including, but not limited to, those for yards, buffering, and screening) for lots in the zoning district where located.
- 3.) All Other Small Solar Facilities:
  - a.) Height: The maximum height of any All Other Small Solar Facilities at any point shall not exceed the max height for accessory structures in the district where located.
  - b.) Coverage: All Other Small Solar Facilities shall be included as part of any lot/tract/ground coverage calculation applicable to the zoning district where located. In the event a zoning district does not have a restriction limiting the ground area occupied by buildings, structures, parking areas, sidewalks, or other impervious surfaces, All Other Small Solar Facilities shall not exceed in the aggregate 70% of the total square footage of the lot or tract.
  - c.) Visual Buffer: All Other Small Solar Facilities shall have a visual buffer of natural vegetation, plantings, and/or fencing that provides reasonable visual screening to reduce view of and noise from the Small Solar Facilities on adjacent lots and from any public right-of-way as defined in Section 24.05. All Other Small Solar Facilities located on corner lots shall comply with the applicable requirements (including, but not limited to, those for yards, buffering, and screening) for lots in the zoning district where located.
- 4.) Lighting. Any lighting for a Small Solar Facility shall meet any lighting restrictions applicable to the zoning district where located. In the event there are no applicable provisions regarding lighting, all lighting in, of, and associated with the Small Solar Facility must narrowly focus light inward

toward the solar equipment, be downlit and shielded, and result in a maximum horizontal illuminance level not to exceed one foot-candle. Small Solar Facilities shall be placed or arranged in a manner so as not to reflect unreasonable glare onto adjacent buildings, properties, or roadways.

- 5.) Noise. Any Small Solar Facility shall comply with the noise resolution and all applicable noise restrictions set forth within the Township, including, but not limited to, those applicable to the zoning district where located. In the event there are no applicable provisions regarding noise, no Small Solar Facility shall emit sound to an adjacent lot at a level exceeding 65 decibels.
- 6.) Setbacks: When a Small Solar Facility borders any residential (A-1, FR-1, PRD) perimeter setbacks shall be a minimum of two hundred (200) feet.
- 7.) Maintenance: Small Solar Facilities must be maintained in good working order at all times. The owner of the property and owner of the Small Solar Facilities shall, within thirty (30) days of permanently ceasing operation of a Small Solar Facility, provide written notice of abandonment to the Zoning Inspector. An unused Small Solar Facility may stand no longer than three (3) months following abandonment. All costs associated with the dismantling/demolition of the Small Solar Facility and associated equipment shall be borne by the property owner. A Small Solar Facility is considered abandoned when it ceases transmission of electricity for thirty (30) consecutive days. Removal includes removal of all apparatuses, supports, and or other hardware associated with the existing Small Solar Facility and, in the case of Ground Mounted Solar Energy Systems installed returning the property to a graded, seeded and/or landscaped state similar to its condition prior to the construction/installation.
- 8.) Building Permits: All Small Solar Facilities and parts thereof shall obtain all applicable required Building Permits from the State of Ohio and County or other local building jurisdiction.
- 9.) Advertising: Small Solar Facilities and the property where located shall not be used for the display of advertising. For the purposes of this section, reasonable and customary identification (name, insignia, logo, and/or similar) of the manufacturer or operator of the system that is incorporated into or manufactured on the equipment itself shall not be considered advertising.
- 10.) Other Restrictions: A Small Solar Facility shall comply with all applicable federal, state, and local laws, rules, and regulations.
  - a.) Road Use Maintenance Agreement: The property owner shall provide for the adequate maintenance and protection of Township maintained, protected, or managed infrastructure (including, but not limited to roadways, rights-of-way, and easements) to be used in connection with the Small Solar Facility as detailed further in a road use and maintenance agreement ("RUMA") with the Township. Any damaged public roads, culverts, and bridges shall be repaired promptly to their previous or better condition by the property owner or their designee under the guidance of the appropriate regulatory authority.
  - b.) Safety Services: The property owner shall provide sufficient evidence that the property can be adequately served by the appropriate safety services, for example, a letter from the applicable fire department verifying that emergency response personnel and vehicles can safely reach and service the property, including the area where the Small Solar Facility is located.

- c.) Location:
  - 1. Any Small Solar Facility other than an Integrated or Rooftop Solar Energy System (except components located entirely underground) shall be located entirely in the rear yard.
  - 2. No Small Solar Facility shall be located on the front façade of any structure or on any façade facing a public right-of-way.
  - 3. No Small Solar Facility shall be located in front of a principal building or structure. In the case of corner lots, no Small Solar Facility shall be located between a principal building or structure and a public right-of-way.
- iv. Height: the maximum height of any Small Solar Facility shall not exceed fifteen (15) feet.
- v. Buffers and Setbacks:
  - 1. Where a Small Solar Facility is located on property adjacent to or in close proximity to property zoned for residential use (as determined by the Zoning Inspector), no part of the Small Solar Facility (other than components located entirely underground) shall be located within two hundred (200) feet of an existing residential dwelling.
  - 2. No Small Solar Facility (other than components located entirely underground) shall be located within one hundred and fifty (150) feet of another property line.
  - 3. No Small Solar Facility (other than components located entirely underground) shall be located within one hundred and fifty (150) feet of a public right-of-way or shared-use driveway.
- vi. Visual Buffer: A Small Solar Facility shall have a visual buffer of natural vegetation, plantings, and/or fencing designed to and that does all of the following:
  - 1. Enhances the view from any existing residential dwelling and from any public right-of-way.
  - 2. Is in harmony with the existing vegetation and viewshed in the area; and
  - 3. Provides reasonable visual screening to minimize view of and noise from the Small Solar Facilities to adjacent lots and from any public right-of-way.
- vii. Glare: Solar panels shall be placed or arranged in a manner so as not to reflect unreasonable glare onto adjacent buildings, properties, or roadways.
- viii. Lighting: All lights associated with the Small Solar Facility must narrowly focus light inward toward the equipment, be downlit and shielded, and prohibit any spillover onto any adjacent property.
- ix. Fencing: Any fencing and/or screening installed in connection with the Small Solar Facility shall be harmonious and compatible with the surrounding properties and uses. Fencing shall be maintained in good repair and in an aesthetic manner at all times.

- x. Conditions: Any conditions or other requirements as determined by the Board of Zoning Appeals in connection with the issuance of a Conditional Use Permit.

F.) Certificate of Zoning Compliance

- 1) A certificate of zoning compliance shall be required before any construction is commenced on a Small Solar Facility.
- 2) Applicant shall provide the Township Zoning Inspector with the following items and/or information when applying for a certificate of zoning compliance:
  - a) An engineering report that shows:
    - i) The total size and height of the proposed Small Solar Facility.
    - ii) Data specifying the megawatt size and generating capacity in megawatts of the particular Small Solar Facility.
    - iii) Hazardous materials containment and disposal plan.
- b) A site drawing showing the location of the Small Solar Facility including all equipment and components thereof in relation to (and measurements of distances from) all existing structures on the property, roads and other public rights-of-way, and neighboring property lines.
- c) Evidence of compliance with applicable setback and all other applicable zoning restrictions.
- d) A maintenance schedule as well as a dismantling plan that outlines how the Small Solar Facility including all equipment and components thereof will be dismantled at the end of their use and/or upon abandonment.
- e) Any other information or materials reasonably requested by the Zoning Inspector.





## ARTICLE 25 SIGN AND BILLBOARD REGULATIONS

### SECTION 25.01: PURPOSE

The purpose of this sign regulation is to promote and protect the public welfare by regulating existing and proposed outdoor signs of all types. It is intended to protect values, enhance and protect the needs of the properties in the entire township as well as the physical appearance of the Historic Village of Cheshire and preserve the scenic and natural beauty of the communities and countryside as a whole.

### SECTION 25.02: PERMITTED SIGNS: NO PERMIT REQUIRED

The following signs, ribbons and streamers (Section 25.03(H)(3)), 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 signs shall not be illuminated and shall not exceed six (6) 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 not be higher than four (4) feet in height and will be removed after occupancy by the purchaser.
- B.) Signs for Expanded Home Occupations: One (1) sign per parcel of property shall be permitted in any residential district where an expanded home occupation is permitted for the purpose of announcing a home occupation which has complied with all conditions imposed by the Board of Zoning Appeals.
  - 1.) Only one (1) sign, not larger than six (6) square feet and four (4) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at a maximum of eight (8) feet in height from the grade to top of the sign if sign is mounted flat against a building.
  - 2.) The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
  - 3.) The sign and all associated materials shall be placed outside the road right-of-way (ROW).
- C.) **Identification, Informational, or Directional Signs:** On-site directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum size of two (2) square feet in area and maximum height of four (4) feet in height above the established approved grade and do not interfere with safe vehicular or pedestrian traffic circulation and are not located within the clear sight distance triangle. No more than two such signs are allowed per vehicular access point. Such signs may contain information such as “in”, “enter”, “entrance”, “out”, “exit”, “do not enter”, with arrows indicating desired traffic movement or similar language as approved by the Zoning Inspector or his designee. Such signs may contain no advertising, including logos and must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public ROW.
- D.) **Name and Address of Occupant or Property:** These signs are permitted provided that such sign is not more than three (3) square feet in area per side and is located outside of easements or ROW of any road. Not more than one sign shall be permitted.

- E.) **School Pride Signs:** These signs are permitted at a residence, outside of the ROW, provided that their content is specific to the occupants / children and their school achievements. No sign shall contain any profanity or other inappropriate verbiage. These signs must be maintained in good condition as determined by the Zoning Inspector and/or replaced when their condition deteriorates, becomes worn, faded or tears.
- F.) **Political Signs:** The erection of political signs shall be permitted in any district of the Township provided that the property owner consents and said signs:
- 1.) Do not interfere with the clear sight triangle of vehicular traffic entering or leaving a public street.
  - 2.) Are 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.) The sign and all associated materials shall be placed outside the road ROW.
- G.) **Temporary signs announcing special public or institutional events:** Said signs shall not be placed within an easement or ROW of any road. Such signs shall not exceed thirty-two (32) square feet in area per side and shall not be permitted more than thirty (30) days prior to the planned event nor more than seven (7) days after said event. Such sign shall designate the name and address of the person charged with the duty of removing said sign.
- H.) **Farm signs** denoting the name and address of the occupants, denoting produce or products for sale on the premises and denoting membership in organizations. No more than one (1) sign of any type may be permitted on a single parcel of property and it shall be located outside the road ROW. Advertising signs may not exceed thirty-two (32) square feet of area per side and all other signs shall be limited to six (6) square feet per side.
- I.) **Signs not having more than ten (10) square feet** of display area on or over a shop window or door of a store or business establishment, announcing without display or elaboration, only the name of the proprietor and the nature of his business.
- J.) **“Open / Closed” signs:** A business or use located in a non-residential district may have one (1) “Open / Closed” sign. Such sign shall indicate only the word “Open,” shall not exceed two (2) feet by one (1) foot in size, and shall be limited to a maximum of two (2) colors (not including the single color background) and must be located inside a store window. The sign may be either a printed sign or electrically lit (e.g., neon, LED). Note: Such sign may not flash or show movement.
- K.) **Garage Sale or Yard Sale sign:** A sign advertising the conducting of the casual sale of goods in what is commonly referred to as a garage sale or yard sale provided that such a sign is located outside the road ROW and only on the lot or parcel upon which the sale is being conducted. Not more than two such signs shall be displayed on any lot or parcel. Such a sign shall not be illuminated and shall not exceed six (6) square feet of area per side with not more than two (2) sides. Such sales shall not be conducted more than six (6) days in any calendar year or more than three (3) consecutive days.
- L.) **Signs Approved in Planned Districts:** Signs in Planned Districts shall be constructed in strict compliance with Article 25.



- M.) **Signs Approved as Part of Conditional Use Permit:** In residential zoning districts provided such signs are constructed in strict compliance with the imposed conditions.
- N.) **Signs Required or Authorized for a Public Purpose:** By any law, statute or ordinance, such signs to include traffic control devices provided that such signs contain no supplementary advertising.
- O.) **Commemorative Signs and or Plaques:** Signs that are placed on items donated to the township or an establishment within the township are allowed providing that the information pertains to the donation, such as “In Memoriam or Donated By”, also providing there is no advertising (announcement of business services) imparted by the wording other than the name(s) of the donor and or the logo or trademark for the establishment.
- P.) **Ribbons and Streamers:** Used solely for decoration in outdoor seating or garden areas are allowed. These items must be maintained in good condition or replaced when their condition deteriorates, becomes worn, faded or tears.
- Q.) **Flags and Insignia:** Of the United States or the State of Ohio.
- R.) **Integral Decoration or Architectural Details:** Of buildings except: letters, trademarks, moving parts or moving lights. Spinning barber poles are allowed.
- S.) **Signs that are in the nature of Cornerstones, Commemorative Tablets and Historical Signs:** Such signs shall be less than nine (9) square feet in size and not illuminated.
- T.) **Menu Boards** (except “Drive-thru or Drive-up Menu Boards as noted in Section 25.03(F): shall be less than ten (10) square feet of display area and must be mounted flush to the wall of the building of the store or business establishment. Said signage will be in keeping with the architecture of the building, be professionally produced.
- U.) **Projecting Signs Displaying the Name of the Business** – Shall have an area of two (2) square feet or less when located under a pedestrian canopy.
- V.) **Signs for Personal Sale of Goods other than Garage Sale or Yard Sale:** A sign that advertises the personal sale of goods other than garage sale or yard sale located on the premises. Such sign must not be greater than (6) square feet in size, must be located on the premises, shall be limited to four (4) feet in height, must be located out of the ROW and must be printed in legible block letters. Such sales shall not be conducted more than sixty (60) days in any calendar year or more than 30 consecutive days.

### SECTION 25.03: PERMITTED SIGNS: PERMIT REQUIRED

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

- A.) **Outdoor Advertising or Billboards:** For a product or service not located upon the premises on which the sign is located shall be classified as a business use and shall be permitted in all commercial and industrial districts and/or lands used for agricultural purposes subject to regulations set forth herein.
  - 1.) No billboard shall exceed one hundred (100) square feet of advertising area per separate side and shall not have more than two (2) sides.

- 2.) No billboard shall exceed fifteen (15) feet in height above the average grade of the sign 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 and sight triangle 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.) Billboards shall be located at least 1,250 feet in any direction from other billboards. The measurement shall apply to billboards located on the same and opposite 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.

B.) **Commercial or industrial display signs:** All display signs shall be mounted on the building which houses the business establishment advertised by such signs, except as otherwise specifically authorized by this Resolution.

- 1.) Such signs shall be located on or along a wall of such building which faces a street, parking lot or service drive, and shall be located no more than fifteen (15) feet above finished grade or the height of the ceiling of the first floor of the building, whichever is less.
- 2.) 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 above finished grade 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.
- 3.) 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:

- a.) Signs may be installed on an attached canopy, roof, or marquee which projects beyond the building over a walk or yard, provided that no part of such signs may extend above such canopy, roof or marquee.
  - b.) One sign, not more than fifteen (15) inches in height and five (5) square feet in area, projecting outward from the building wall not more than three (3) feet, may be erected at each entrance to such building, and the area of such signs shall not be included in determining the aggregate sign area of such building.
- 4.) No part of any sign shall be less than eight (8) feet above the sidewalk or ground level, if such projects forward of the wall on which it is mounted to such an extent as to constitute a hazard or inconvenience to pedestrian or vehicular traffic. No part of any sign shall be closer to either end of the building face, (including any wall extension), on which it is erected than eighteen (18) inches. Where more than one sign is erected on the same face of a building, there shall be a distance of at least three (3) feet between signs. Letters, numerals or other graphics attached directly to the building wall shall be considered a wall sign. Unlighted letters, numerals, or other graphics carved into the face of the building shall generally not be considered wall signs, unless they are over nineteen inches high, or one inch thick, or the color contrasts with that of the building. Super-graphics (large scale painted graphic devices) and architectural detailing which has graphic or signage functions, which are painted upon a building, shall be subject to regulation as a wall sign.
- 5.) No display sign shall exceed three hundred (300) square feet in area, except as hereinafter provided. If a building is located at least five hundred (500) feet from the right of way of U.S. Route 23 or U.S. Route 36, and within eight hundred (800) feet of the right of way of U.S. Route 23 or U.S. Route 36, a display sign having an area up to a maximum of four hundred eighty (480) square feet may be approved as a conditional use by the Board of Zoning Appeals upon its finding that such sign:
  - a.) Is necessary to the conduct of the business or use occupying the building; and
  - b.) Will not substantially alter the essential character of the neighborhood; and
  - c.) Will not cause adjoining properties to suffer a substantial detriment.
- C.) **Monument style freestanding signs identifying commercial or office complexes:** A monument style freestanding sign, which is defined as a sign that identifies a commercial or office complex and is directly supported by and affixed directly to an architectural base having a width at least equal to that of the sign, with no intervening openings (except as needed to accommodate structural integrity and wind load), supporting posts, poles, pillars, uprights or braces, may be permitted on the following conditions:
  - 1.) The maximum height of such sign does not exceed eight (8) feet above the average grade of the site and the sign when it is located fifteen (15) feet from any street ROW line. The maximum allowable height will increase according to the table outlined below depending on the distance away from the ROW.
  - 2.) The structural design for wind loads shall comply with the applicable requirements of the current Ohio Building Code and the overall design must be approved by the zoning office.

- 3.) The total advertising area of all surfaces (not including the structural base) does not exceed thirty-two (32) square feet when the sign is located fifteen (15) feet from the primary frontage street ROW line. For each additional one (1) foot setback from the street ROW line, an additional eight (8) square feet of total display area will be permitted up to a maximum of one hundred twenty-eight (128) square feet of total display area, as indicated below.
- 4.) Such sign does not have more than two (2) sides or surfaces, and the display area of any one side or surface does not exceed one half of the total display area permitted, as indicated below.

<b>Total Display Area (square feet)</b>	<b>Maximum Area per Side or Surface (square feet)</b>	<b>Required Setback From Front ROW Line (feet)</b>	<b>Maximum Allowable Height (feet)</b>
32 sq. ft.	16 sq. ft.	15 ft.	8 ft.
40 sq. ft.	20 sq. ft.	16 ft.	8.5 ft.
48 sq. ft.	24 sq. ft.	17 ft.	9 ft.
56 sq. ft.	28 sq. ft.	18 ft.	9.5 ft.
64 sq. ft.	32 sq. ft.	19 ft.	10 ft.
72 sq. ft.	36 sq. ft.	20 ft.	10.5 ft.
80 sq. ft.	40 sq. ft.	21 ft.	11 ft.
88 sq. ft.	44 sq. ft.	22 ft.	11.5 ft.
96 sq. ft.	48 sq. ft.	23 ft.	12 ft.
104 sq. ft.	52 sq. ft.	24 ft.	12.5 ft.
112 sq. ft.	56 sq. ft.	25 ft.	13 ft.
120 sq. ft.	60 sq. ft.	26 ft.	13.5 ft.
128 sq. ft. (maximum)	64 sq. ft. (maximum)	27 ft.	14 ft. (maximum)

- 5.) Not more than five (5) colors are used. For the purposes of this Section, black and white shall not be considered colors.
- 6.) No part of such sign will be closer to any street ROW line than fifteen (15) feet, nor will it be closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.
- 7.) The function of such sign is in keeping with the uses in the surrounding area.
- 8.) Such sign will be in harmony with the buildings on the site, and will not detract from the appearance of the general neighborhood in which it is located or adversely affect property values in such neighborhood.
- 9.) 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.
- D.) **Signs not approved as part of the development plan** for a Planned Residential District are permitted provided that the approved sign is constructed in strict compliance with the guidelines of Article 25 Signs and a permit is issued.

E.) **Model Home Signs:** Provided the following conditions are met:

- 1.) Maximum advertising area of sixteen (16) square feet per single side of sign, two sides only.
- 2.) Maximum height of four (4) feet to the top of the advertising area.
- 3.) Must be a ground, monument, or single pole, braced inverted "L" pole, with suspended sign.
- 4.) If lit, must be externally lit from above only.

F.) **Drive-thru or Drive-up Menu Boards:** Provided all of the following conditions are fulfilled:

- 1.) The sign is positioned on the property to which it refers;
- 2.) The sign is oriented solely for the use of patrons utilizing the drive-through;
- 3.) The sign is not intended to be visible from adjacent property or the ROW;
- 4.) The sign does not exceed thirty-two (32) square feet in size, unless a variance is approved by the Board of Zoning Appeals (BZA).

G.) **A-Frame Signs:** Provided the following conditions are met.

- 1.) The sign is positioned on the property to which it refers;
- 2.) The construction of the sign is in keeping with the nature of the establishment, the sign itself may not be illuminated, has only two (2) sides, and is made of heavy materials such that it cannot be easily displaced by the wind or be a nuisance to pedestrians and/or motorists.
- 3.) The sign may not be located in the ROW and must not impede any flow of traffic into or out of the property as well as maintaining the proper line of vision. (See clear sight triangle in Article 4 of this document);
- 4.) The sign must be removed daily at the close of business and replaced in the morning;
- 5.) The sign must be kept in good repair and appearance;
- 6.) The sign must only be used to reflect the events, specials or goods and services of the business upon which said sign is located;
- 7.) The total size of the sign will not exceed 6 square feet on either side.

H.) **Temporary Business Signs:**

- 1.) Temporary Business signs shall require a temporary sign permit.
- 2.) Banners, pennants, temporary wall signs, sixteen (16) square feet or less are permitted provided that they are attached at each corner, point and/or end so as to prevent movement. Banners may be attached to ground signs within the frame provided that they are attached at each corner, point and/or end so as to prevent movement. Only one banner is permitted per establishment. No business shall display such signs for more than ninety (90) days per calendar year or for more than thirty (30) continuous days. The area of each banner shall not count toward the minimum sign area as specified herein.

- 3.) Ribbons, streamers and other moving devices are prohibited as signs but may be used as decoration in outdoor seating areas or gardens as permitted in Section 25.02.
- 4.) All temporary business signs shall be located at the site or location of the event being promoted or of the headquarters for the sponsoring organization except as otherwise provided for community events.
- 5.) The date upon which a temporary business sign is first displayed and the time period for which the sign will be displayed shall be legibly marked on the sign.
- 6.) Normal construction requirements for permanent signs shall not be applicable to temporary business signs.

**I.) Historic Village of Cheshire Informational and / or Directional Signage:**

- 1.) One sign each from the North, East, South, and West within one mile of the intersection of Africa and Cheshire Roads which identifies or depicts the Village of Cheshire and its inherent historic features may be placed at locations upon entering the area. The sign located East of the intersection will require approval by the owner of the private property. The signs located North, South, and West of the intersection will require approval of the Army Corps of Engineers. Such signs shall be located outside the ROW and shall not exceed six (6) square feet of area per side with not more than two (2) sides.
- 2.) A single permanent directional sign may be erected in a central location which identifies the area and provides space for the names of individual area businesses, helping visitors locate areas of commerce. Architectural structure and placement of the sign must be developed in conjunction with the Zoning Commission and be in strict compliance with Section 25.03(C), (Monument style freestanding signs identifying commercial or office complexes).

**SECTION 25.04: 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 32 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use(s) is (are) not commenced within one (1) year from the date of Board of Zoning Appeals approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to re-apply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) **Free-Standing Pole Signs:** Free-standing pole signs, existing lawfully and now in place, which are made non-conforming by this Amended Zoning Resolution, may be maintained until such sign is destroyed, dismantled or removed. No such sign shall hereafter be relocated, rebuilt, enlarged, extended, or otherwise altered in any material respect. If, in the opinion of the Board of Zoning Appeals, a change in product name is required which is beyond the control of the owner/occupant, such substitution of signage may be approved. In the event of a violation of this provision, the continued maintenance of such sign shall be unlawful. Provided, however, that such sign, prior to January 1, 1989, may be

relocated on the same lot or parcel of ground or may be reduced in size or height, but only upon the granting of a variance therefore by the Board of Zoning Appeals.

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

- 1.) The filing of a written application for such sign, together with a scale drawing of the proposed sign showing its design, color and materials, and a site plan with the location of the proposed sign.
- 2.) A determination by the Board of Zoning Appeals that a free-standing pole sign is necessary to the conduct of the business, professional or commercial activity on the site and that a permitted ground or monument sign would constitute a hazard or create a hardship due to sight lines, topography, or some other unique site feature not generally shared with other similar properties in the district.
- 3.) A determination that the proposed 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 ROW. For each additional three (3) feet setback from the street ROW, an additional one (1) foot in height will be permitted up to a maximum of fifteen (15) feet high.
  - b.) The total display area of all surfaces does not exceed sixteen (16) square feet when the sign is located fifteen (15) feet from the primary frontage street ROW line. For each additional one (1) foot setback from the street ROW line, an additional three (3) square feet of display area will be permitted up to a maximum of thirty-two (32) square feet.
  - c.) The display area of any one surface does not exceed thirty-one (31) square feet.

<b>Total Display Area (square feet)</b>	<b>Maximum Area per Side or Surface (square feet)</b>	<b>Required Setback From Front ROW Line (feet)</b>	<b>Maximum Allowable Height (feet)</b>
16 sq. ft.	8 sq. ft.	15 ft.	8ft.
19 sq. ft.	9 sq. ft.	16 ft.	8'4"
22 sq. ft.	11 sq. ft.	17 ft.	8'8"
25 sq. ft.	12 sq. ft.	18 ft.	9 ft.
28 sq. ft.	14 sq. ft.	19 ft.	9'4"
31 sq. ft. (maximum)	15 sq. ft. (maximum)	20 ft.	9'8"
		21 ft.	10 ft.
		24 ft.	11 ft.
		27 ft.	12 ft.
		30 ft.	13 ft.
		33 ft.	14 ft.
		36 ft.	15 ft. (maximum)

- d.) No part of such sign will be closer to any nearest street ROW line than fifteen (15) feet, or closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.
  - e.) The function of such sign is in keeping with the activities in the surrounding district.
  - f.) Such sign will be in harmony with the architecture of the buildings on the site, and will not detract from the appearance of the general neighborhood in which it is located or adversely affect property values in such neighborhood.
  - g.) Such sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists.
- 4.) In making its determination, the Board of Zoning Appeals shall take into consideration all pertinent factors relating to the compatibility of such sign with the surrounding neighborhood, including, but not limited to its size, shape, color, brightness, design and its general appearance.
- 5.) Not more than one (1) freestanding 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 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 free-standing 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) free-standing sign, fronting on each street, may be authorized.

## **SECTION 25.05: PROHIBITED SIGNS**

The following signs shall be prohibited in Berlin Township:

- A.) ALL signs not specifically permitted by the express terms of the Berlin Township Zoning Resolution.
- B.) Portable signs, portable billboards, pennants, streamers, flashing lights, moving string of lights, inflatable devices, moving computer driven LED signs (“running tickers”) and air-activated 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 displayed or painted directly upon the wall or roof on any building or structure.
- E.) No sign shall be attached to any fence within the ROW 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.
- H.) Pole signs, except as otherwise specifically permitted herein.
- I.) Clear or white backgrounds on internally lit cabinet signs.
- J.) Obscene Nature: No sign shall be erected that displays a sexual, provocative, or promiscuous act.
- K.) Signs on or over any public property or public ROW except as is specifically permitted in these regulations. Signs may be erected on public property only by an authorized representative of a public agency or a quasi-public agency, provided such sign is approved by the Zoning Inspector prior to its erection. Signs on State Road rights-of-way shall comply fully with ODOT regulations.
- L.) Advertising signs on benches, trash receptacles, bus shelters and similar structures, when visible from the public ROW.
- M.) Off premise signs, except for legal billboards.
- N.) Billboards in residential zoning districts.
- O.) Billboards or signs for advertising purposes on any water tower, wind turbine or landmark.
- P.) Revolving signs (excepting barber poles and Temporary Holiday Lighting), and animated signs (includes mechanical or electronic changeable copy signs, flashing signs, moving signs and any animation of signs). No sign shall contain or consist of, ribbons, streamers or similar moving devices.
- Q.) Arrangements of lights in rows, strings, patterns, or designs that outline or are attached to any portion of a building or structure, including windows, are prohibited. This prohibition does not apply to seasonal light displays, or lights that are an integral part of an approved sign or those required for public safety. Flashing signs are prohibited, with the exception of time and temperature signs that do not exceed twenty-five (25) square feet of total area.
- R.) Realtor signs located at a subdivision entrance.

## **SECTION 25.06: GENERAL REGULATIONS**

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

### **A.) Location:**

No sign shall be located within the ROW of any public or private road within the township. Said sign or signs shall be located in strict compliance with this Resolution, or in strict compliance with the approved development plan or restrictions imposed by the Board of Zoning Appeals. Ground and projecting signs shall be located no closer than five feet from any side lot line. No Sign shall interfere with the clear sight triangle of vehicular traffic entering or leaving a public street.

### **B.) Lighting:**

- 1.) No illuminating device for any sign shall be constructed which permits the direct beaming of any light on to adjacent properties, or thoroughfares thereby creating a hazard to vehicular traffic.

- 2.) No flashing, rotating or moving light source shall be permitted on any sign within this Township, with the exception of a spinning barber pole.
- 3.) All lighting shall also conform to the lighting standards of Article 24 of this Resolution.
- 4.) Confusing Lights: There shall be no red, amber, and blue or green lights, either fixed, moving or flashing, which could create confusion with traffic signals or lights on emergency vehicles.
- 5.) Illumination:
  - a.) **Near Residential Districts:** Except for signs located facing or fronting the public ROW, signs that are within one hundred fifty (150) feet of a residential district or existing, conforming single-family home shall be indirectly illuminated.
  - b.) **Internally Lit Sign Backgrounds:** Clear or white backgrounds are prohibited for interior illuminated signs. Internally lit signs may use colored translucent backgrounds for the advertising area, or they may use opaque backgrounds with illuminated letters.
- C.) **Height:** No signs within Berlin Township shall be erected to a height greater than fifteen (15) feet from the approved established grade. The established grade shall be measured from the crown of the road directly adjacent to the sign.
- D.) **Sight Interference:** No sign shall be permitted in Berlin 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 flag, banner or 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 advertising area or display surface of all exterior signs of every nature shall not exceed three (3) square feet for each lineal foot of the street frontage of such building, if a one-story building, or four (4) square feet per foot, if more than one (1) story in height. Street frontage is defined as the total width of that side of the building that 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) thereof for each lineal foot of other street frontage. The total sign area on any single side of a building shall not exceed the allowable area for such side computed in accordance with the foregoing rules. In the case of a building which does not front on a public street, as in shopping centers, the drives and parking areas adjacent to such building shall be considered as public streets for the purpose of this Resolution, provided that where any such drive or parking area abuts a Residential District, the frontage of the building on such drive or parking area shall not be considered as frontage for such purpose if the distance from such building to the nearest private property in said Residential District is less than one-hundred fifty (150) feet. In

no case shall the aggregate sign area of any single commercial use exceed twelve hundred (1,200) square feet.

- I.) **Sign Area Measurement:** Sign area shall include the advertising area of the sign, not including the bracing, framing and structural supports, unless such support members are made part of the message or face of the sign or are determined by the Zoning Inspector to be intended solely to make the sign more visible rather than serving aesthetic or structural purpose. For internally illuminated signs or internally illuminated awnings, canopies or marquees, the entire lighted surface shall be considered the sign area. The lighted surface area of internally illuminated canopies, awnings, or marquees is counted as signage regardless of whether it contains graphics.

Where a sign has two (2) or more display faces, the area of all faces of the sign shall be included in determining the area of the sign unless two (2) display faces join back to back, are parallel to each other and not more than twenty-four (24) inches apart, or form a V-angle of less than forty-five (45) degrees. For spherical signs, the sphere shall be dissected by an imaginary line through the center of the sphere and the surface area of the half (1/2) sphere shall be counted as the sign face. For cubical signs, the area of all display faces shall be included in determining the area of the sign.

- J.) **Compliance with Other Codes:** All signs shall be erected, altered, or maintained in accordance with the county's adopted building, fire and electrical codes and all other applicable regulations.
- K.) **Fire and Health Hazards:** Vegetation shall be kept trimmed in front of, behind, and underneath the base of any ground sign in an area encompassing a ten (10) foot radius around the base of the sign, and no rubbish shall be permitted to remain under or near such sign which would constitute a fire or health hazard.
- L.) **Public Interference:** Signs shall not create a traffic or fire hazard, nor create conditions that adversely affect public safety.
- M.) **Wind Pressure and Dead Load Requirements:** All signs shall be designed and constructed in strict conformity with the adopted Building Code; the Chief Building Official is authorized to require certification thereof by a licensed professional engineer.
- N.) **Placement:** No sign shall be placed upon any tree, shrub, vine, or utility structure.
- O.) **Sign Area and Number:** In no event shall the maximum number of signs allowed be exceeded even though the total allowed area may not be used.
- P.) **Information to be Provided on Sign:** All signs shall permanently display the name of the company installing the sign, the date of erection, and the permit number in a conspicuous place thereon, in letters not less than one (1) inch in height.
- Q.) **Frontage:** The term "frontage" as used in calculating ground signs shall refer to the dimension of the lot along the street. When used in calculating wall signs, the term shall refer to the building wall dimension facing the street or parking lot. For structures and uses having no direct frontage on public roads, as within shopping centers, frontage shall be counted as the intersection of the building line onto adjacent drives or parking areas.
- R.) **Maintenance:** Applications for permanent subdivision identification signs must demonstrate provisions for future maintenance and maintenance easements at the time of final platting. Written

consent of the property owner of each proposed sign location shall be submitted with each permit application.

#### **SECTION 25.07: 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. Such sign shall be removed by owner at owner's expense at the direction of the Township Zoning Office. An abandoned sign or billboard is defined as any sign or billboard that meets any one of the following criteria:

- A.) Any sign or billboard associated with an abandoned non-conforming 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, but signs are determined to be abandoned when the business has ceased operation for one (1) year.
- C.) Any sign or billboard that is not maintained in accordance with this Resolution.
- D.) Any sign that is structurally defective, in need of repair, or is otherwise a hazard to public safety or aesthetically incompatible with the surrounding property.

#### **SECTION 25.08: NON-CONFORMING SIGNS OR BILLBOARDS**

Any sign or billboard legally in existence within the Township prior to the effective date of this Article, as amended from time to time, 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 existing sign or billboard shall be illegal.

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

- A.) The size and structural shape shall not be changed or altered.
- B.) The copy may be changed, provided that the change applies to the original non-conforming use associated with the sign or billboard and that the change is made by the owner of the sign or billboard at the time the sign or billboard became non-conforming; the copy area shall not be enlarged. Any subsequent owner 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 percent (50%) or more of either the structure or the replacement value of the sign or billboard, the sign or billboard shall be brought into compliance. Where the damage to the sign or billboard is less than fifty percent (50%) of the structure or its replacement value, the sign or billboard shall be repaired within thirty (30) days.
- D.) Illegal Signs: The Zoning Officer is authorized to give written notice requiring the removal of any illegal sign erected without a required permit within thirty (30) days of receipt of such notice.

- E.) Conformance- No permit for new signs, other than for changes in sign content, shall be issued until all non-conforming signs on premises advertising the same business are removed or brought into compliance with this Code.

### SECTION 25.09: SIGN PERMIT REQUIREMENTS

Before erecting, relocating, altering, or replacing any sign not specifically exempt under these regulations, the person authorized to erect such sign shall first secure a permit from the Zoning Inspector.

An applicant for a sign permit shall submit the following to the Zoning Inspector:

- A.) An accurate, scaled **drawing** which shows the dimensions, materials, illumination and colors of the proposed sign;
- B.) **Construction details;**
- C.) **Electrical plans** conforming to the requirements of Section 4101:2-1-35 of the Ohio Basic Building Code;
- D.) **A drawing** showing the location of the proposed sign on the site or building, including dimensions to property lines, rights of way, and/or buildings on the site;
- E.) **The location**, type, and dimensions of other signs on the same site advertising the same business.
- F.) **Fees:** The applicant for a permit herein shall pay such fee as is prescribed by the Berlin Township Trustees. An application for a sign permit shall be completed at the time such plans are submitted. The permit fee is required with the application.
- G.) **Term of Permit:** Unless a different time period is stated in the zoning permit, the 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.
- H.) **Inspection:** Prior to erection all signs or billboards erected within this Township are subject to inspection, whether a permit is required or not.
- I.) **Cancellation of Permit:** In the event that the owner of any sign or property fails to comply with the terms of this Zoning Resolution, said permit may be revoked upon compliance with the following terms:

**Notice:** The Township Zoning Inspector shall notify both the owner of the sign and owner of the land upon which it is located of any deficiency or violation of this Resolution. Notice shall be served personally or by ordinary mail at the last known address of the permit holder. The permit holder may seek a hearing on said notice by complying with the provisions of Article 32 of this Resolution dealing with revocation of the Conditional Use Permit. Failure to correct deficiencies or to appeal the decision of the Zoning Inspector within thirty (30) days will result in cancellation of the permit for such sign and said sign shall then be removed as provided by this Resolution.

- J.) **Removal of Signs:** The Township Zoning Inspector shall effect the removal of any sign illegally placed within the ROW of any road within this township. The Zoning Inspector shall store said sign and shall notify the owner thereof of its location. If the name and address of the owner is not listed on the sign as required by Article 25, no notice under this section shall be provided. If the owner of the sign fails

to claim the same within thirty (30) days after mailing of notice by the Zoning Inspector, said sign may be destroyed or junked.

#### **SECTION 25.10: PENALTY**

- A.) Any person, firm, corporation, partnership, or association violating any provision of this chapter or failing to obey any lawful order issued pursuant to its terms shall be fined not more than \$500 per offense. Each day during which such violation continues may be deemed a separate offense.

#### **SECTION 25.11: SIGN VARIANCES**

- A.) **Limitation to Legally Non-Conforming Signs:** Applications for a variance shall be limited to the repair or reconstruction of signs established under this Article as non-conforming, or to damaged signs and which have been damaged or destroyed to less than fifty (50) percent of their current value.

B.) **Processing Procedure:**

- 1.) **Applications:** Applications shall be filed with the Township zoning officer. The application shall be accompanied by:

- a.) A statement outlining the cause of damage to the sign.
- b.) A drawing, to scale, depicting the location of the sign.
- c.) A filing fee as required by Article 32 of this resolution.

Each application shall be scheduled for a hearing by the Board of Zoning Appeals.

2.) **Hearing of Sign Variances for Legally Non-Conforming Signs by the Board of Zoning Appeals:**

- a.) The Board of Zoning Appeals is authorized to hear a request for a variance to allow the repair or reconstruction of legally non-conforming signs as set out in this Section.
- b.) The Board of Zoning Appeals shall consider variances based on damage to signs resulting from the forces of nature or man-made causes not initiated by the owner of the sign.
- c.) The Board of Zoning Appeals shall grant, modify, or deny the application based on the criteria established within this Section.
- d.) Notice shall be given in conformance with Article 32.

3.) **Hearing of Sign Variances for New Signs that do not meet the standards of Article 25:**

- a.) The Board of Zoning Appeals is authorized to hear a request for a variance to the sign regulations.
- b.) The Board of Zoning Appeals shall consider variances based on practical difficulties to a particular property due to the stringent literal reading of Article 25.
- c.) The Board of Zoning Appeals shall grant, modify, or deny the application based on the criteria established within this Section.
- d.) Notice shall be given in conformance with Article 32.

- 4.) Appeals from Decisions of the Board of Zoning Appeals: All decisions of the Board of Zoning Appeals relating to applications for a sign variance are final unless appealed by filing an administrative appeal to the Court of Common Pleas pursuant to Chapter 2506 of the Ohio Revised Code.

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## ARTICLE 26 LANDSCAPING

### SECTION 26.01: 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 as a buffer between certain land uses to minimize nuisance.

### SECTION 26.02: APPLICATION

- A.) **New Sites:** No certificate of zoning compliance shall be issued for any site development or the construction or improvement of any building, structure, or vehicular use except where landscaping for such development has been approved as required by the provisions of this Article. Farm residential uses and agricultural conservation uses shall be exempt from the requirements of Section 26.03(D)(2), but all other requirements of this Article shall apply.
- 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, as 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 open space, parking or building purposes.

### SECTION 26.03: MINIMUM LANDSCAPING REQUIREMENTS

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

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

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

1.) **Property Perimeter Requirements:**

a.) **Adjacent Uses:**

	A.	B.	C.	D.
	When the following	adjoins the following or (vice versa)	the minimum landscaping (within a buffer zone of this average side width (with 3 ft. as the least dimension) is required. See footnote **.	which will contain this material, to achieve opacity required.
	Any Residential Zone	Mobile Home Park	10 ft., adjacent to all common boundaries including street Frontage.	1 tree/40 ft. of lineal boundary* continuous 6 ft. high planting, hedge, fence, wall or earth mound.
	Any Residential	Any Office Zone	6 ft., adjacent to all common boundaries except street frontage.	1 tree/40 ft. of lineal boundary* continuous 6 ft. high planting, hedge, fence, wall or earth mound.
	Any Residential Zone	Any Commercial Use	10 ft., adjacent to all common boundaries except street frontage.	1 tree/40 ft. of lineal boundary* continuous 6 ft. high planting, hedge, fence, wall or earth mound.
	Any Zone	Any Industrial Use	15 ft., adjacent to all common boundaries except street frontage.	1 tree/40 ft. of lineal boundary* continuous 6 ft. high planting, hedge, fence, wall or earth mound.

b.) **Adjacent Roads and Utilities**

	Any zone (unless the property within the zone is used for vehicular sales or service) Except Agricultural and Industrial Zones	A Freeway, Arterial Street, or Railroad (except spur tracks)	20 ft. for residential zones and 10 ft. for all other zones adjacent to freeway or arterial	1 tree/30 ft.* plus continuous 6 ft. high planting, hedge, wall, fence or earth mound.
	Any property boundary, Including road or street right-of-ways	Utility sub-station, junk yards, landfills, sewage plants or similar uses	15 ft. adjacent to all boundaries except only 5 ft. for utility substations measured adjacent to the enclosure	1 tree/30 ft.*), plus continuous 6 ft. high planting, hedge, wall, fence or earth mound.
	Any property used for vehicular sales or service	a freeway or arterial	10 ft. adjacent to freeway or arterial	1 tree/50 ft., plus 1 low shrub/10 ft.* opacity requirements do not apply) for the first 300 linear feet of easement; if an easement for the property exceeds 300 ft. in length, then the remaining easement shall contain 1 tree/30 ft.* , plus a continuous 6 ft. high wall, hedge, planting, or earth mound.

\*Or fraction thereof – distances shall be rounded up. Trees do not have to be equally spaced, but may be grouped.

\*\*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.

## 2.) **Vehicular Use Area (VUA) Perimeter Requirements:**

A vehicular use area (VUA) is any open or unenclosed area containing more than one-thousand eight-hundred (1800) square feet of area and/or used by six or more of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas.

Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or roads or other vehicular use elements described previously in this paragraph, and where intervening curbs, sidewalks, landscape strips, etc. Do not eliminate adjacency.

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

		A.	B.	C.
	When the following	Adjoins the following or vice versa	the minimum landscape buffer zone of this width is required,	which will contain this material, to achieve opacity required

	Any property in any zone	any vehicular use areas (VUA) on any (see note 1) on any adjacent property	4 ft. Minimum to all trees from edge of paving where vehicles overhang, and 3 ft. strip that prohibits any vehicular overhang for areas adjacent to VUA on adjacent property	1 tree/40 ft. of boundary of vehicular area, plus a 3 ft. average height continuous planting, hedge, fence, wall or earth mound.
	Any public street or private street right-of-way or service road, except freeways.	any VUA, (except vehicular sales facility) in any zone	4 ft. Minimum to all trees from edge of paving where vehicles overhang, and 3 ft. strip that prohibits any vehicular overhang for areas adjacent to VUA facing public or private street or road	1 tree/40 ft.* , plus a 3 ft. Average height continuous planting, hedge, fence, wall or earth mound
	Any public street or private street right-of-way or service road, except freeways.	any vehicular Sales or service area	4 ft. Minimum to all trees from edge of paving where vehicles overhang, and 3 ft. strip that prohibits any vehicular overhang for areas adjacent to VUA facing public or private street or road.	1 tree/50 ft.* , plus 1 low shrub 10 ft.* (opacity requirements do not apply)

\* Or fraction thereof – distances shall be rounded up.

- 3.) **Landscape Buffer Zone:** The landscape buffer zone and material required adjacent to any street under this article shall be provided by the property owner adjoining street, unless the authority building the street right-of-way. When adjacent to other common boundaries, the landscape buffer zone and materials:
- a.) May be placed on either adjoining parcel, or astride the boundary, if both owned and being processed by the same owner; or
  - b.) Generally be placed on the activity listed under property perimeter requirement chart, column B and vehicular use area perimeter chart, column b when adjoining parcels have different owners; or
  - c.) May be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Township Zoning Office, as a public record; or
  - d.) Shall be placed on the parcel being processed when adjoining property is already developed with the exception of property perimeter requirement chart, lines 6 and/or 9; or
  - e.) Shall not be required along the common boundary if the requirements of this article have been fully complied with on the adjoining property, in fulfillment of the requirements of this article.
- 4.) **Requirements Conflicts:** Wherever a parcel or activity falls under two or more of the categories listed in the tables the most stringent requirements shall be enforced.
- 5.) **Landscape Buffer Zone Conflicts:** The required landscape buffer zone may be combined with a utility 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 (2-1/2) feet, and wheel stops or curbs shall be required.

- 6.) **Existing Landscape Material:** Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objectives of this article.
- 7.) **Landscaping at Driveway and Street Intersections:** To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, neither landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as, except during the early growth stages, only the tree trunk is visible between the ground and eight (8) feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.
  - a.) **Driveway Intersection Triangle:** At intersections 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 (10) feet along the driveway to a point and a distance of twenty (20) feet along the street curb to a point connecting these points.
  - b.) **Street Intersection Sight Triangle:** At the street intersections, the sight triangle shall be formed by measuring at least fifty (50) feet along curb lines or edge of pavement and connecting these points.
- B.) **Interior Landscaping for Vehicular Use Areas:** Any open vehicular use area, excluding loading, and unloading and storage areas in an industrial zone or business zone, containing more than six-thousand (6000) square feet of area, or twenty (20) 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.
  - 1.) **Landscape Area:** For each one-hundred (100) square feet or fraction thereof, of vehicular use area, a minimum total of five square feet of landscaped area shall be provided.
    - a.) **Minimum Area -** The minimum landscape area permitted shall be sixty-four (64) square feet with a four (4)-feet minimum dimension to all trees from edge of pavement where vehicles overhang.
    - b.) **Maximum Contiguous Area -** In order to encourage the required landscaped areas to be properly dispersed, no individual areas shall be larger than three-hundred fifty (350) square feet in size, and no individual area shall be larger than 1500 square feet in vehicular use areas over 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.
  - 2.) **Minimum Trees:** The following minimums are required, based upon total ground coverage of structures and vehicular use areas.

- a.) Up to 20,000 square feet: a minimum of one (1) tree per 5000 square feet of ground coverage and, a total tree planting equal to one (1) inch in tree trunk size for every 2000 square feet of ground coverage.
  - b.) Between 20,000 and 50,000 square feet: a minimum of one (1) tree for every 5000 square feet of ground coverage and, a total tree planting equal to ten (10) inches plus one-half (1/2) inch in tree trunk size for every 2000 square feet over 20,000 square feet in ground coverage.
  - c.) Over 50,000 square feet: A minimum of one (1) tree for every 5000 square feet of ground coverage and , a total tree planting equal to twenty-five (25) inches plus one-half (1/2) inch in tree trunk size for every 4000 square feet over 50,000 square feet in ground coverage.
  - d.) 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.
- 3.) **Vehicular Overhang:** Parked vehicles may hang over the interior landscaping area no more than two and one-half (2-1/2) feet long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.
- C.) **Landscaping for Service Structures:** Any service structure, or accessory use structure, shall be screened whenever located in any residential zone, commercial zone, or when located on property abutting any residential zone, freeway or arterial street prohibiting driveway access. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures.
- 1.) **Location of Screening:** A continuous (having ninety percent (90%) opacity year round) planting, hedge, fence, wall of earth, which would enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed ten (10) 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 that is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one (1) foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.
- D.) **Interior Landscaping for All New Developments:** All new developments, regardless of type and all alterations or expansions to existing developments shall provide interior landscaping in addition to the

previously required perimeter landscaping. Interior landscaping shall consist primarily of new tree planting or the preservation of existing trees or hedges within the development site.

- 1.) **Preservation of Existing Landscape Materials:** All trees having a trunk diameter of six (6) inches or greater as measured twenty-four (24) inches from ground level shall be preserved unless such trees are exempted as follows:
  - a.) Trees within public rights-of-way or utility easements, or a temporary construction easement approved by the County Engineer.
  - b.) Trees within the ground coverage of proposed structures or within twelve (12) feet of the perimeter of such structure.
  - c.) Trees within the driveway access to parking or service areas or proposed areas to service a single family home.
  - d.) Trees that in the judgment of the township authority are damaged, disease, over-mature, which interfere with utility lines or are an inappropriate or undesirable species for that specific location.

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

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

2.) **Tree Planting Requirements:**

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

USE	REQUIREMENTS
PRD DISTRICTS, R-1.25, R-1.5, and R-1.85	There shall be tree plantings equal to one-half (1/2) inch in tree trunk size for every 150 square feet in ground coverage by a single-family structure. Such plantings shall be required within the property lot lines of each structure.
Business and Community Shopping Uses per lot	In addition to the requirements of Section 23.03 (G) for vehicular use areas, the following shall apply: There shall be landscaped areas equal to 20 square feet for every 1000 square feet of building ground coverage area, or fraction thereof. Such landscaping areas shall contain trees, planting beds, hedges, fences, walls, earth mounds, benches, or other material designed and located in a manner complimentary to the overall architecture to the surrounding buildings.
Office, Institutional	In addition to the requirements of sub-section (G) Uses hereof, for vehicular use areas, the following shall apply: there shall be tree plantings equal to one inch in tree size for every 1500 square feet of building ground coverage, of fraction thereof.

Industrial Uses	In addition to the requirements of sub-section (G) hereof, for vehicular use areas, the following shall apply: There shall be tree plantings equal to one inch in tree size for every 2000 square feet of building ground coverage, or fraction thereof.
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- b.) **Parking Lots:** See Section 26.03(B) (Vehicle Use Areas).
- c.) No new tree planting shall be required if existing trees and the aggregate trunk sizes of such trees meet or exceed the requirements as set forth in this article and providing that such trees are evenly distributed throughout the developed area and not confined either to out-of-the-way dense clusters or to the permeate of developed area. The minimum tree size for such tree plantings shall be no less than one and one-half (1-1/2) inch in trunk diameter.
- d.) For new development or construction, if new tree plantings are required for conformance to the landscaping requirements of this article, the applicant or owner shall indicate on the landscape plan the location and size of such tree plantings. If such tree landscape plan is approved, the applicant or owner shall plant such trees as may be required within one (1) year or the next spring planting season after issuance of a zoning permit.

#### SECTION 26.04: PLAN SUBMISSION AND APPROVAL

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

- A.) **Plan Content:** The contents of the plan shall include the following:
  - 1.) Plot plan, drawn to an easily readable scale no smaller than one (1) inch equals sixty (60) 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, location or structures on adjoining parcels, water outlets and landscape materials, including botanical names and common names, installation sizes, on center planting dimensions where applicable, and qualities for all plants used and all existing trees.
  - 2.) Typical elevations and/or cross sections are required.
  - 3.) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, general orientation plan so that north is to top of plan and zoning district.
- B.) **Zoning Permit and Certification of Compliance:** Where landscaping is required, no zoning permit shall be issued until the required final landscaping plan has been submitted and approved and no certificate of compliance shall be issued until landscaping is completed as certified by an on-site inspection by the zoning department, unless a performance bond, or irrevocable letter of credit from a banking institution, has been posted. If the required landscaping has not been completed and a temporary certificate of compliance is issued, a performance bond or irrevocable letter of credit from a banking institution shall be posted at that time.



The final landscaping plan as submitted to the township zoning inspector shall include the following information:

- 1.) Plot plan, drawn to an easily readable scale no smaller than one inch equal sixty (60) feet; showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings and other structures, vehicular use areas including parking stalls, driveways, service areas square footage, etc., location of structures on adjoining parcels, water outlets and landscape materials, including botanical names and common names, installation sizes, on center planting dimensions where applicable, and qualities for all plants used and all existing trees.
  - 2.) Typical elevations and/or cross sections are required.
  - 3.) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, general orientation plan so that north is to top of plan and zoning district.
- C.) **Posting of Bond or Irrevocable Letter of Credit:** After a posting of bond or an irrevocable letter of credit has been approved, 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 (1) month extension of the planting period may be granted by the zoning department 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 (1) 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.

## SECTION 26.05: LANDSCAPE MATERIALS

The landscaping materials shall consist of the following and are described in more detail in the plant list on file in the zoning office. The proposed landscape material should complement the form of the existing trees and plantings, as well as the development's general design and architecture. The type of sun or shade should be considered in selecting plant materials.

- A.) **Earth Mounds:** Earth mounds shall be physical barriers which block the view to a hedge, fence, or wall. Mounds shall be constructed with proper and adequate plant materials to prevent erosion. A difference in elevation between areas requiring screening does not constitute an existing earth mound and shall not be considered as fulfilling any screening requirements.
- B.) **Plants:** Artificial plants are prohibited. All plant material shall be living plants and shall meet the following requirements:
  - 1.) **Quality:** Plant material used in conformance with provisions of this chapter shall conform to the standards of the American Association of Nurserymen and shall pass inspections required by state regulations.
  - 2.) **Deciduous Trees:** Trees which normally shed their leaves in the fall shall be species having an average mature crown spread greater than fifteen (15) feet in central Ohio and having trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at vehicular use area intersections where eight (8) feet clear wood requirements shall control. Trees having a mature crown spread less than fifteen (15) feet may

be substituted by grouping the same so as to create the equivalent of a fifteen (15) feet crowns spread. A minimum of ten (10) feet overall height or a minimum caliper, trunk diameter, measured six (6) inches above ground for trees up to four (4) inches of at least one and three-fourths (1-3/4) inches immediately after planting shall be required. Trees of species whose root systems are known to cause damage to public roadways or other public works shall not be planted closer than fifteen (15) feet to such public works.

- 3.) **Prohibited Trees:** Shall be those currently listed on Berlin Township's prohibited tree list.
- 4.) **Evergreens:** Evergreens shall be a minimum of five (5) feet high with a minimum caliper of one and three-fourths (1-3/4) inches immediately after planting.
- 5.) **Shrubs and Hedges:** Shall be at least two (2) feet in average height and shall conform to the opacity and other requirements within four (4) years of planting.
- 6.) **Grass or Ground Cover:** Grass of the fescue (Gramineae) or bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in central Ohio, and may be sodded or seeded: except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sewn for immediate protection until complete coverage otherwise obtained. Ground cover shall be planted in such a manner as to present a finished appearance and seventy-five percent (75%) of complete coverage after complete growing seasons.

- C.) **Maintenance and Installation:** All landscape material shall be installed in a sound, workmanship-like manner and according to accepted, good construction and planting procedures. The owner of the property shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in proper, neat, and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant material shall be replaced within one (1) year, or by the next planting period, whichever comes first: while other defective landscape material shall be replaced or repaired within three (3) months. Violation of these installations and maintenance provisions shall be grounds for the zoning inspector to refuse a certificate of compliance permit or institute legal proceedings, or to take any other enforcement action as allowed by this zoning resolution or Ohio law.

## **ARTICLE 27 ADULT ENTERTAINMENT REGULATIONS**

### **SECTION 27.01: INTRODUCTION**

Pursuant to Ohio Revised code Section [ORC§519.02](#) and for the purposes specified thereunder Berlin Township hereby regulates and has local zoning control over land use in Berlin Township, providing for a variety of adult-oriented businesses while still preserving and enhancing the health, safety, and morals of the inhabitants of the Township. Adult entertainment establishments are a type of land use.

The Adult Entertainment Regulations are intended to limit the establishment of adult businesses within close proximity to existing adult entertainment businesses, residentially-zoned areas, schools, churches, parks, and playgrounds within the township.

There is a difference between Low Impact, Medium Impact and High Impact adult entertainment businesses.

- A.) Examples of Low Impact businesses are mainstream media stores that sell less than 10 percent of their inventory as adult media, and mixed adult media stores as defined herein.
- B.) Examples of Medium Impact businesses are adult media stores and Sex Shops as defined herein.
- C.) Examples of High Impact businesses are private video or arcade booths for viewing adult videos, nude dancing, private non-therapeutic massage, adult motion picture theater, adult cabaret lingerie modeling studio, escort service, and adult primary live entertainment.

### **SECTION 27.02: STUDIES OF SEXUALLY-ORIENTED BUSINESSES**

The Delaware County Regional Planning Commission 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 the Township.

Detailed findings of these studies are indicative of the kinds of problems that can occur when adult entertainment establishments locate within a community like Berlin Township. The studies which were selected for relevance and appropriateness to the Township are the following:

Effects of 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 Regulations 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.

### **SECTION 27.03: ADVERSE SECONDARY IMPACTS OF SEXUALLY ORIENTED BUSINESSES**

- A.) 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. 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.) The Denver Study found that 69% of residents surveyed felt that adult use businesses had a negative overall effect on their neighborhood. Of residents polled within the study areas in Denver, 23% reported they had considered moving to get away from the adverse secondary impacts of adult entertainment establishments. 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.
- C.) 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).
- D.) 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.
  - 1.) 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.
  - 2.) 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:
    - a.) “The average crime rate figure for the Indianapolis Police Department district was 784.55. The Control Area had a rate that was 137.79 points higher than the overall

police district, whereas the Study area was 204.17 points higher than the Control Area. 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.”

- b.) “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.”
  - c.) “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.”
  - d.) “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.”
  - e.) “The average sex-related crime rate in the control area was 26.2. The Study Area had an average rate of 46.4. If the same ratio between the Control and Study Areas established for major crime during this period were applied, we would expect a crime rate that was 23% higher in the study area. The actual rate is 77% higher. An obvious difference lies in the presence of one or more adult establishments.”
- 3.) The Austin Study “reveals a definite pattern concerning sex-related crime rates. Sex-related crime rates in the control area are consistently low, ranging from 65% to 88% of the city wide average. In contrast, sex related crimes in the Study Areas are 177%-482% higher than the city wide average.”
  - 4.) 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.”
  - 5.) The Denver study also noted that:
    - a.) 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.
    - b.) Drug related crimes were 10.7% of all reported offenses in the study area vs. 4.5% citywide.
    - c.) Robberies were highest in Adult Theater study areas, at 9.1% of all crimes versus 2.7% citywide.
    - d.) 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 a 24-hour operating sexually oriented businesses.

- 6.) There is a correlation between illegal prostitution and the human contact businesses such as “health clubs,” escort services, non-therapeutic massage, and lingerie modeling (APA Report 495 by Kelley and Cooper).
  - 7.) Adult video arcades or “peep shows” correlate with illicit sexual activity, acts of indecent exposure, loitering and unsanitary conditions on the premises (APA Report 495 by Kelley and Cooper, Austin TX, and Indianapolis).
  - 8.) The concentration of two or more adult businesses in one location multiplies the adverse secondary impacts related to that site (St. Paul, Denver, Kansas City, Los Angeles, Austin, Newport News, and Rochester, New York). Dispersion by separation is an important regulation to reduce adverse secondary effects. The co-location of multiple adult uses within one building is problematic and should not be allowed.
- E.) Berlin 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 the Township at such time adult entertainment establishments choose to locate there. The Township intends to use its zoning powers over local land use authorized by [ORC§519.02](#) to regulate adult entertainment establishments, and therefore to mitigate the anticipated adverse secondary impacts of such establishments.

#### **SECTION 27.04: ZONING ISSUES REGARDING ADULT ENTERTAINMENT ESTABLISHMENTS**

At the time of the adoption of this regulation, there are no sexually-oriented businesses in the Township. There is the possibility that adult entertainment businesses will someday want to locate within the Township. Berlin Township is a suburban residential community with a 2013 population of approximately 5,015. It lies to the north of the state capital of Columbus (2010 population of approximately 787,033). Renton, Washington, a suburb of Seattle, enacted 1000-foot separation standards between adult entertainment establishments and certain other land uses; those standards were upheld by the United States Supreme Court. The 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 and has chosen to emulate the Renton standards.

#### **SECTION 27.05: ADULT ENTERTAINMENT REGULATIONS**

- A.) Low Impact: Mainstream media shops or stores that have a maximum of 10 percent of their gross floor area devoted to hard core material are permitted in the Planned Commercial District, provided:
- 1.) Adult and/or X-rated material shall be physically and visually separate. Separation shall be by a walled enclosure at least eight feet high or reaching to the ceiling.
  - 2.) Access to the adult material section shall be controlled by electronic or other means to provide assurance that persons under 18 will not obtain access, and the general public will not accidentally enter this section.
  - 3.) Adult material section shall provide signage at its entrance warning that persons under the age of 18 are not permitted inside.
  - 4.) No adult arcades are permitted in mainstream media stores.
  - 5.) No more than one designated area for sexually oriented merchandise per store.

- 6.) There shall be no exterior signs that advertise hard core or XXX media.
- B.) Medium Impact and High Impact: Adult Entertainment Establishments are permitted in the Planned Commercial and Planned Industrial Districts under the following provisions:
- 1.) Such adult material shall not be permitted within 1,000 feet measured from the closest wall structure of the adult media store to the closest wall structure of any of the following:
    - a.) Religious institution;
    - b.) Kindergarten -12th grade school;
    - c.) Park or playground;
    - d.) Residence within a residential zoning district;
    - e.) Library;
    - f.) Day care center;
    - g.) Another adult entertainment establishment.
  - 2.) Only one adult entertainment establishment (i.e. adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, lingerie modeling studio, nude or seminude model studio, or sexual encounter establishment) is permitted in a single building. No co-location of adult entertainment establishments is permitted within one building. It is not permissible to co-locate an adult bookstore with an adult theater, for example.
  - 3.) Hard core material may not be displayed publicly.
  - 4.) No adult entertainment establishment shall be open for business prior to 10:00 a.m. or no later than 11:00 p.m.
  - 5.) There shall be no exterior signs that advertise hard core or XXX-rated material.
  - 6.) Such adult material shall be limited to an area within 3,000 feet measured from the closest wall structure of the adult media store to the right-of-way of U.S. Route 23.

## **SECTION 27.06: ZONING PROCESS**

In addition to any other procedures set out in this Resolution, all Applications for Adult Entertainment Uses shall follow the procedures hereinafter set forth:

- A.) When the subject parcel is not zoned Planned Commercial or Planned Industrial at the time of application, the owner(s) or lessee on behalf of the owner of lots and lands within the Township may request that the Zoning Map be amended to include such tracts in the PC or PI District in accordance with the provisions of those district regulations within this Resolution.
- B.) When the subject parcel is zoned Planned Commercial or Planned Industrial at the time of application, the owner(s) or lessee on behalf of the owner of lots and lands within the District may request that the Development Plan be amended in accordance with the provisions of those district regulations within this Resolution.

- C.) All other provisions of this Resolution, including Platting Requirements and Zoning Permits shall be met.
- D.) No zoning permit shall be granted until the applicant provides evidence of applicable licensing through the Berlin Township Trustees.



## **ARTICLE 28 NON-CONFORMING USES**

### **SECTION 28.01: 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 years or more, any future use shall be in conformity with this Zoning Resolution and amendments hereto.

### **SECTION 28.02: 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 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 32; provided, however, such restoration shall be commenced within 90 days of such calamity and diligently continued until completed. For the purposes of this section, "value" shall be defined as the reproduction cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines for the structure.

### **SECTION 28.03: ENLARGEMENT**

No non-conforming building or use may be completed, restored, reconstructed, extended, expanded or substituted except upon the granting of a conditional use permit issued by the Board of Zoning Appeals pursuant to Article 32 and this section.

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

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

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

### **SECTION 28.04: 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 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 32. 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.

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

#### **SECTION 28.05: CONVERTED CONDITIONAL USES**

All conditional uses that were granted by the County of Delaware to the residents or property owners of Berlin Township shall, upon the adoption of this Zoning Resolution, become non-conforming uses. Restrictions on these non-conforming uses shall remain the same as granted by the County of Delaware. Any change or alteration from these restrictions shall be considered a violation of this zoning code unless so granted by the Berlin Township Board of Appeals.

## **ARTICLE 29 ZONING INSPECTOR, ZONING CERTIFICATES, AND APPLICATIONS**

### **SECTION 29.01: TOWNSHIP ZONING INSPECTOR**

The Township Trustees shall appoint a Township Zoning Inspector, together with such assistants as may be necessary. It shall be the duty of the Township Zoning Inspector to compare each zoning certificate application with the then existing zoning map. The Township Zoning Inspector, before entering upon the duties of his office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, signed by two 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. The compensation for such Zoning Inspector shall be set and paid by the Township Trustees.

### **SECTION 29.02: ZONING CERTIFICATE REQUIRED**

No structure shall hereafter be located, constructed, reconstructed, enlarged or structurally altered, nor shall any work be started upon the same, nor shall any use of land be commenced nor development begun until a zoning certificate for same has been issued by the Berlin Township Zoning Inspector, which certificate shall state that the proposed building use and/or development comply with all the provisions of this Zoning Resolution or the approved Development Plan. Fees for zoning certificates are established by the Township Trustees in Section 31.04.

### **SECTION 29.03: PROCEDURES FOR OBTAINING ZONING CERTIFICATE**

No zoning certificate shall be issued by the Township Zoning Inspector until the zoning certificate application shows that the property is being or is to be used in complete conformity with this Zoning Resolution and the Official Zoning Map. In every case where the lot is not served and is not proposed to be served with public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Health Officer of Delaware County of the proposed method of water supply and/or disposal of sanitary wastes. No zoning certificate shall be issued by the Township Zoning Inspector until the applicant for said zoning certificate has submitted a plot plan of the area upon which the applicant's use or structure is proposed. Said plot 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 to all zoning regulations then in force for said area.

### **SECTION 29.04: CONDITIONS OF CERTIFICATE**

No zoning certificate shall be effective for more than one 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 29.05: CERTIFICATE OF COMPLIANCE**

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

### **SECTION 29.06: TEMPORARY CERTIFICATE OF COMPLIANCE**

A temporary certificate of compliance may be issued by the Zoning Inspector for a period not exceeding 6 months during alterations or partial occupancy of a building pending its completion.

### **SECTION 29.07: ZONING CERTIFICATE (CHANGE OF USE)**

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

### **SECTION 29.08: NON-CONFORMING USES**

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

### **SECTION 29.09: RECORDS**

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

### **SECTION 29.10: COMPLAINTS**

The Zoning Inspector shall investigate all complaints received alleging violations and shall provide a copy of his/her findings to the Township Trustees. If violations are evident, the Zoning Inspector (official) shall take the appropriate action to bring the use into compliance. A written notice by first class mail or personal service shall be served on the property owner in violation giving them thirty (30) days to bring the use into compliance. If compliance is not obtained by the end of thirty days, the matter shall be turned over to the Prosecutor for legal recourse. If a clear and present danger exists the thirty (30) day written notice may be waived and the Zoning Inspector may refer the matter directly to the Prosecutor for appropriate action. The Inspector may require that all such complaints be submitted in writing.

### **SECTION 29.11: FOUNDATION CERTIFICATE**

The purpose of the Surveyor's Foundation Certificate is to document that the structure is constructed within the setback limits early, to allow for a correction of location errors. Upon completion of the foundation, a Surveyor's Foundation Certificate shall be submitted to the Berlin Township Zoning Office. Upon approval of the Surveyor's Foundation Certificate, Berlin Township will approve further construction. These two steps MUST be completed before proceeding with construction beyond the foundation.

A.) The Surveyor's Foundation Certificate must include:

- 1.) Existing location of foundation and structure envelope with reference to all property lines, setbacks, building lines and easements. Structure envelopes to include location of all eaves, cantilevers, decks, fireplaces and other protrusions.
- 2.) Length and width of drive is required to determine the amount of available off-street parking.
- 3.) This information should be submitted on a survey similar to the plot plan so that comparisons can be made.
- 4.) The document should be identified as a Surveyor's Foundation Certificate, stamped, and signed (original, not copied) by the Ohio Registered Professional Surveyor responsible for the field work.

B.) The burden is clearly on the builder to ensure the house is properly located on the lot; therefore, the approval of the Surveyor's Foundation Certificate is required before proceeding with construction beyond the foundation or the completion of any further inspections or certificates.

## **ARTICLE 30 ZONING COMMISSION**

### **SECTION 30.01: TOWNSHIP ZONING COMMISSION**

The Board of Township Trustees creates and establishes a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the township under township zoning to be appointed by the Trustees, and the terms of the members shall be five (5) years and so arranged that the term of one member will expire each year. Where there is a township or regional planning commission, the trustees may appoint qualified members of such commission to serve on the Township Zoning Commission. Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable for non-performance of duty, misconduct in office, or other cause by the Trustees, upon written charges being filed with the Trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Trustees and shall be for the unexpired term.

### **SECTION 30.02: COMPENSATION AND EXPENSES**

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

### **SECTION 30.03: FUNCTIONS OF THE TOWNSHIP ZONING COMMISSION**

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

The Township Zoning Commission may, within the limits of the moneys 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.

### **SECTION 30.04: 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.

### **SECTION 30.05: MEETINGS AND AGENDA OF TOWNSHIP ZONING COMMISSION**

The Zoning Commission shall meet as necessary in Berlin Township House within the township.

### **SECTION 30.06: MINUTES**

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

### **SECTION 30.07: ALTERNATES**

The Board of Trustees may appoint 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 31 AMENDMENTS

### SECTION 31.01: AMENDMENTS

This article is intended to be a restatement of [ORC 519.12](#) and is adopted herein for the convenience of the citizens of Berlin Township. Any amendments to [ORC 519.12](#) adopted by the Ohio Legislature shall be considered adopted herein.

Amendments to the Zoning Resolution may be initiated by a motion of the Township Zoning Commission, by the passage of a resolution therefore by the Township Trustees or by filing of an application by one 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. A legal description of metes and bounds of said property affected plus a fee to defray cost of advertising, mailing, and other expenses must accompany application. Said requirements shall be required for each application. The Township Trustees shall upon passage of such resolution, certify passage 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 publication in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing. The published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

If the proposed amendment intends to re-zone or redistrict ten or less parcels of land, as 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 and contiguous to, directly across the street, and within 200 feet of the perimeter boundaries of such area proposed to be rezoned or redistricted to the addresses 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 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 Regional Planning 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 recommendation to the Township Zoning Commission. Such recommendation shall be considered at the public hearing held by the Township Zoning Commission on such proposed amendment.

The Township Zoning Commission shall, within thirty 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 Township Trustees.

The Township Trustees shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Township Zoning Commission. Notice of such public hearing shall be given by the

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

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

Within twenty (20) days after such public hearing the Trustees shall either adopt or deny the recommendations of the Zoning Commission or adopt some modification thereof pursuant to Section 519.12 of the Ohio Revised Code.

Such amendment adopted by the 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 Township Trustees a petition, signed by a number of registered electors residing in the unincorporated areas under township zoning 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 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 Court Recorder and with the Regional or County Planning Commission if one exists.

The Board shall file all amendments, including text and maps that were in effect on January 1, 1992 in the office of the County Recorder. 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 31.02: 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 31.03: RECORD**

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



#### **SECTION 31.04: FEES**

The owner or lessee of property filing for a zoning certificate or an application to amend this Zoning Resolution shall deposit with such application a fee, as prescribed by the Township Trustees, to defray the cost of advertising, mailing and other expenses. This fee shall be required generally for each application and the amount of such fee shall be established by the Township Trustees.

## Amendments

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## **ARTICLE 32 BOARD OF ZONING APPEALS**

### **SECTION 32.01: BOARD OF ZONING APPEALS**

A Township Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five (5) members who shall be appointed by the Board of Township Trustees and who shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five (5) years and so arranged that the term of one member will expire each year. Each member of the Board of Zoning Appeals shall serve until his successor is appointed and qualified. Members of the Board of Zoning Appeals shall be removable for the reason specified and in compliance with the procedure established in Chapter 519 of the Ohio Revised Code. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term.

### **SECTION 32.02: ORGANIZATION**

The Board of Zoning Appeals shall organize, electing a chairman and vice-chairman, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the zoning office at the Township Hall, and shall be public record. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse or modify any order, requirement, decision, or determination of the Zoning Inspector or to decide in favor of an applicant on any matter which the Board is required to hear under the Berlin Township Zoning Resolution. The failure of an applicant to secure at least three (3) concurring votes shall constitute a decision for disapproval of the application and, in the case of an appeal, shall be deemed a confirmation and affirmation of the decision of the Zoning Inspector. The Board of Township Trustees, the Township Fiscal Officer, and the Zoning Inspector shall be notified in advance of all meetings conducted by the Board.

### **SECTION 32.03: COMPENSATION AND EXPENSES**

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

### **SECTION 32.04: POWERS OF THE BOARD**

This article is intended to be a restatement of Section 519.14 of the Ohio Revised Code and is adopted herein for the convenience of the citizens of Berlin Township. Any amendments to Section 519.14 adopted by the Ohio Legislature shall be considered adopted herein.

The Township Board of Zoning Appeals may:

- A.) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Section [ORC§519.02](#) to [ORC§519.25](#) of the Ohio Revised Code, or of any resolution adopted pursuant thereto.
- B.) Authorize, in specific cases, certain variances from the terms of the Zoning Resolution as provided in paragraphs (1) and (2) below.

- 1.) Use variances- The BZA is not intended to use its variance power grant a use that is not normally provided for in the district; that is the power to zone that belongs to the Zoning Commission and Trustees. However, in very special circumstances, where it would be both inappropriate to rezone to another category and where existing conditions have permitted other uses surrounding the parcel of land in question such that the current zoning leaves no viable economic use, only then may the BZA consider a use variance, and only with the finding that owing to special conditions, the literal enforcement of the Resolution will result in an unnecessary hardship to the landowner, and no viable economic use of the property could otherwise be made, the variance will not be contrary to the public interest, and that the spirit of the Resolution shall be observed and substantial justice done.
- 2.) Area variances- The Board of Zoning Appeals shall have the power to authorize, in specific cases, variances that relate solely to area requirements from the provisions of this resolution as will not be contrary to the public interest.

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

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

- a.) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- b.) Whether the variance is substantial;
- c.) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties or the comprehensive plan for the community would suffer a substantial detriment as a result of the variance;
- d.) Whether the variance would adversely affect the delivery of governmental services;
- e.) Whether the property owner purchased the property with knowledge of the zoning restriction;
- f.) Whether the owner's predicament feasibly can be obviated through some method other than a variance;
- g.) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance; and
- h.) (Citation from Duncan v. Village of Middlefield (1986), 23 Ohio St. 3d 83).

- C.) Grant conditional zoning certificates for the use of land, buildings, or other structures if such conditional uses are provided for in the Zoning Resolution.
- D.) Revoke an authorized conditional zoning certificate granted for the extraction of minerals, if any condition of the certificate is violated.

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

In exercising the above mentioned powers, the Board of Zoning Appeals may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end has all powers of the officer from whom the appeal is taken.

#### **SECTION 32.05: PROCEDURE ON HEARING APPEALS**

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give ten (10) days written notice by ordinary mail to the applicant and any abutting property owners within 300 feet of the property in question, give notice of such public hearing by one publication in a newspaper of general circulation within the township at least ten (10) days prior to the date of such hearing, and decide the same within a reasonable time after it is submitted. At the hearing, any party may appear in person or by attorney.

#### **SECTION 32.06: PROCEDURE ON APPLICATION FOR VARIANCE**

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

Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this Resolution, or by reason of exceptional topographic conditions, or other extraordinary situations or conditions of such parcel of property, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Resolution would involve practical difficulty or would cause unnecessary hardship, the Board shall have power to authorize a variance from the terms of this Resolution.

- A.) **Public Notice:** Written application for a variance shall be made to the Township Zoning Inspector who shall transmit said application to the Board of Zoning Appeals. The Board of Zoning Appeals shall give written notice by ordinary mail to the applicant and all owners of land within three hundred (300) feet

of the exterior boundaries of the land for which a variance is requested. An application for a variance shall be advertised at least once, ten (10) days in advance of the time set for the public hearing, in newspapers of general circulation within the township. The notice shall state the time and place of the public hearing, and the nature of the proposed appeal or variance.

- B.) **Hearing and Decision:** At such hearing the applicant shall present a statement and adequate evidence, in such form as the Township Board of Zoning Appeals may require.

Within a reasonable period of time after the public hearing the Board of Zoning Appeals shall approve, disapprove, or approve with supplementary conditions.

In granting such variance the Board shall determine that said variance will not be contrary to the public interest, is justified due to special conditions, that the literal enforcement of the Resolution will result in practical difficulties (for an area variance) or unnecessary hardship (for a use variance) and that the spirit of this Resolution will be observed and substantial justice done.

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

- C.) **Form of Application:** All applications for variances under this section shall be submitted on such forms as designated and approved by the Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application.

#### **SECTION 32.07: PROCEDURE ON APPLICATION FOR CONDITIONAL USE PERMIT**

The owner, potential purchaser, 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.) **Application:** An application for a Conditional Use permit shall be submitted on such forms as designated and/or approved by the Township Trustees. No application shall be considered unless the same is fully completed and accompanied by all required information on said application together with plot plans or drawing as necessary.
- B.) **Hearing:** The application shall be transmitted to the Board of Zoning Appeals who shall cause a public hearing to be held.
- C.) **Notice:** Notice of the application for a Conditional Use permit and the hearing thereon shall be given to the applicant and all property owners within three hundred (300) feet of the premises on which the use is planned. Notice shall be given by ordinary mail. In addition thereto one notice of said meeting shall be published in a newspaper of general circulation within the township not less than ten (10) days prior to the scheduled hearing. The notice shall set out the time and place of the meeting, as well as the general nature of the conditional use.
- D.) **Decision:** The Board shall make its decision within a reasonable time after the hearing. If the Board, in its discretion, approves the Conditional Use permit, it may impose such conditions, safeguards and restrictions as it deems necessary to ensure that the use will be conducted in the best interest of the zoning district.

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

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

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

#### **SECTION 32.08: DECISION OF BOARD**

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

#### **SECTION 32.09: RECORD**

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

#### **SECTION 32.10: FEES TO ACCOMPANY NOTICE OF APPEAL OR APPLICATION FOR VARIANCE OR CONDITIONAL USE**

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

#### **SECTION 32.11: ALTERNATES**

The Board of Trustees may appoint two (2) alternate members to the Board of Zoning Appeals for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member.

When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.





## **ARTICLE 33 ENFORCEMENT**

### **SECTION 33.01: VIOLATIONS**

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of this Zoning Resolution, or amendment or supplement to such Resolution, adopted by the Township Board of Trustees pursuant to [ORC§519](#). 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 33.02: 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 [ORC§519](#), or of this Zoning Resolution or amendments hereto adopted by the 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 Township Trustees may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section.

### **SECTION 33.03: PENALTY**

Whoever violates the provisions of this Zoning Resolution and amendments hereto or [ORC§519](#), 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.

Enforcement

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## **ARTICLE 34 SEVERABILITY AND REPEAL**

### **SECTION 34.01: SEVERABILITY**

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

### **SECTION 34.02: REPEAL**

This Zoning Resolution may be repealed only by complying with the requirements of [ORC§519](#), as amended.

### **SECTION 34.03: REPEAL OF CONFLICTING RESOLUTION**

The Township Zoning Resolution or parts thereof previously in effect in Berlin 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 on January 1, 1988 or established hereafter are hereby repealed. However, all suits at law or in equity and or all prosecutions resulting from violation of any Zoning Resolution or part thereof heretofore in effect, which are not 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.

Severability and Repeal

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## APPENDIX

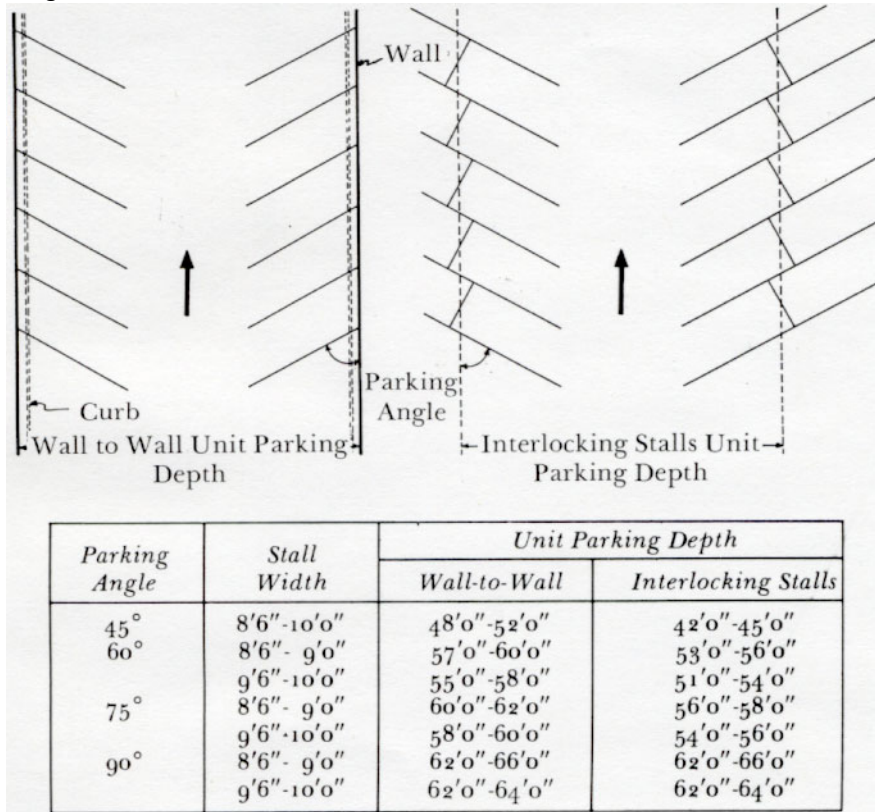
### FIGURE 1 – PARKING AND LOADING ZONE STANDARDS

Parking and Loading Zone Standards

From *Zoning, Parking and Traffic*, 1972

By the Eno Foundation,

Saugatuck, Connecticut



**FIGURE 2 - TRUCK YARD AND DOCK STANDARDS FOR LOADING AREAS**

<i>Overall Length of Tractor-Trailer (feet)</i>	<i>Berth Width (feet)</i>	<i>Recommended Apron Length (feet)</i>	<i>Dock Approach (feet)</i>
40	10	46	86
	12	43	83
	14	39	79
45	10	52	97
	12	49	94
	14	46	91
50	10	60	110
	12	57	107
	14	54	104
55	10	65	120
	12	62	117
	14	58	113
60	10	72	132
	12	63	123
	14	60	120

