

Kingston Township Zoning Resolution



Kingston Township Zoning Resolution

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Preamble

Kingston Township is one of eighteen townships in Delaware County, Ohio. It is located in the northeastern part of Delaware County at the Morrow County Line, and is the only township named Kingston in the State of Ohio. The Township covers a 23.6 square mile land area, contains no lakes or towns, has two state routes running through it and is bisected by Interstate 71. The township currently maintains 17.93 miles of roadways.

Early settlers, including Puritans from New England, Germans from Pennsylvania, English and Dutch from New Jersey, and English and Scotch-Irish from Virginia, immigrated to the area in the early 1800's. John Phipps and George Hess from Bucks County, Pennsylvania were the first settlers in 1807. Phipps built a log cabin along the Little Walnut Creek. The men likely named the area Kingston after a township by the same name in Pennsylvania. Kingston Township was officially created on June 8, 1813 and consisted of four military sections of 16,000 acres total. The early settlers of the Township came to a wilderness that contained valuable timber, fertile farm land and good water supplies including Butler Run, Indigo Run, Taylor Run, Little Walnut Creek and Alum Creek which runs across the northwest corner of the Township. These water resources were important for raising livestock, agriculture and water power. Most early settlements occurred along Little Walnut Creek. The best lands for farming were along the streams and in the eastern portion of the area. While some wheat, corn and oats were grown, the area's land was best for grass and grazing of animals. Native Americans visited the area frequently up to the 1830's.

In 1827, Presbyterians raised money to build a frame church to replace an initial log church built in 1822 on a site at the intersection of what are now State Route 521 and Blue Church Roads. This structure became known as "the Old Blue Church", and was the center of Township activities for many years. This site now houses the Township cemetery and maintenance facility.

The Township originally was forested and quite swampy but large areas of it have been cleared and tilled for farming. The residents are proud of their agricultural heritage and seek to preserve it. The area also is beautiful and varied with flat farm land, rolling hills, wooded area, and watershed ravines. These natural resources should be preserved wherever possible for future generations. The residents of Kingston Township have determined that its rural character is critical to its community character.

The Township grew slowly, by only 5-10 households per year into the 1990s. New home starts increased during the late 1990's through 2003 averaging 35 houses per year. From 2004 to 2007, new home starts dropped to an average of 14 per year at which time the local housing market crashed due to the national economic crisis. For 2008 and 2009, Kingston Township experienced an average of 2.5 new home starts. Most of this growth has been single family homes on 2 acre single lots. The area is still predominantly natural and agricultural in nature. The Township's population in 2010 was 2,146, up from 1,603 in 2000, with an aggregate property valuation at over \$66 million dollars.

In order to preserve the character and environment of Kingston Township, to minimize congestion on its roads, to preserve natural open spaces, and to provide for slow, manageable and controlled growth, in 2001 the Kingston Township Board of Trustees adopted this Resolution, allowing local control of zoning matters. This Zoning Resolution provides for several different zoning districts. The Farm Residence District (FR-1) is a residential district which provides for a density of one house per 1.951 acres. The majority of acreage within the Township is in the FR-1 District. The Resolution also provides for a Planned Residence District (PRD) that is density neutral meaning no more houses can be built on a given number of acres in the PRD District than could be built if the same land were developed in the FR-1 District; however, homes in a PRD District may be clustered at up to one per ½ acre, with 50% of the land in such district to be set aside for open space. The PRD provisions have been contained in the Resolution since its inception but were the subject of a substantial amendment/rewrite in 2007 to increase the detail and sophistication of the provisions. Other zoning districts under the Resolution regulate office, commercial, institutional, recreation, adult entertainment and agricultural preservation.

In 2008, the Kingston Township Board of Trustees adopted a Comprehensive Plan with Land Use Map to act as a guideline for future development. Based on a survey conducted early in the planning process, the following excerpts from the Vision Statement reflect the general sentiment of Kingston Township residents:

- Ultimately, we would like Kingston Township to be a community that retains large lots, and a low residential density (generally less than one unit per 1.95 acres) in a rural setting with agriculture and significant permanent open space.
- The rural character of the Township will be maintained with a concerted effort to preserve open space, natural features of land, and farmland preservation with an emphasis on large residential lots. Rural roads would for the most part remain two lane roads, yet safely carry local traffic. They would have a rough edge, with fencing that reminds us of the rural past, and mature landscaping to replace fence/tree rows if they are removed as part of planned developments.
- Primary conservation features must be prioritized as restricted, permanent open space and preserved as the Township develops in this order; #1 woodlands, #2 wildlife habitats, #3 quality wetland buffers and #4 riparian zones. Secondary conservation features including floodways, scenic views and vistas, and sloping land must also be considered as restricted, permanent open space. Prime farmland and cultural resources (historic, archaeological or of cultural value) that give a sense of our heritage should be preserved as part of all new developments.

Most recently, this Preamble and the rest of the Resolution were substantially amended in 2010 to reflect changes in State law and to make technical corrections.

ARTICLE 1 – Title

Section 1.01:

This Resolution shall be known and may be cited and referred to as the Kingston Township Zoning Resolution, .

ARTICLE 2 – Purpose

Section 2.01:

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

ARTICLE 3 – Interpretations of Standards

Section 3.01:

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, resolutions or restrictions having the force of law, 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 having force of law shall control. The Zoning Commission, Board of Zoning Appeals and the Kingston Township Trustees will, when appropriate, refer to plans, comprehensive plans, and studies concerning or affecting the township area and may require inclusion of recommendations from such sources in plans or proposals as submitted or approved.

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ARTICLE 4 – Definitions

Section 4.01:

All words and terms used in this zoning resolution shall, unless defined in this Section or elsewhere in the Resolution, or in the Ohio Revised Code, be defined as provided in the current Webster's Dictionary. The words shall be liberally construed to achieve the salutary effect or objectives of this resolution.

As used in this Resolution, the following words, terms and phrases shall have the following definitions:

Accessory Use or Structure: any use or structure which is incidental, subordinate and customarily carried on in addition to the primary use or structure of the premises; contributes to the comfort, convenience, or necessity of occupants of the principal building or use served; and is located on the same lot as the principal building or principal use served; in residential districts this shall include activities which are in the nature of a hobby or recreation and not carried on with the intent to make a profit. Includes structures such as sheds, patios, decks, pool houses, unattached garages, and barns.

Adult Entertainment Business: a business or enterprise whose primary function is to offer material for sale or performances (1) whose dominant tendency is to arouse lust or to appeal to the prurient or scatological interest by displaying or depicting sexual activity, masturbation, sexual excitement, nudity or human bodily functions of elimination, (2) which, when taken as a whole, lack serious literary, artistic, political or scientific value, and (3) which may detrimentally affect the purposes of this Resolution. In this context, "material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record or tape, or other tangible thing capable of arousing interest through sight, sound or touch.

Adult Family Home: a residence or facility that provides accommodations to three (3) to five (5) unrelated adults and provides supervision and personal care services to at least three of those adults. (ORC 3722.01(7))

Adult Group Home: a residence or facility that provides accommodations to six (6) to sixteen (16) unrelated adults and provides supervision and personal care services to at least three (3) of those adults. (ORC 3722.01(8)).

Adult Residential Facility – a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under Section 5126.05 of the ORC, a county home or District home operating pursuant to Chapter 5155 of the ORC, or a Dwelling in which the only mentally retarded or developmentally disabled residents are in the independent living arrangement or are being provided supported living (ORC Section 5123.19(A)(1)(a)).

Adult Residential Facility (Type A): a licensed Residential Facility as defined in this resolution that provides room and board, personal care, habilitation services and supervision in a family setting for at least six (6) but not more than eight (8) persons with mental retardation or developmental disability.

Adult Residential Facility (Type B): a licensed Residential Facility as defined in this resolution that provides room and board, personal care, habilitation services and supervision in a family setting for at least nine (9) but not more than sixteen (16) persons with mental retardation or developmental disability.

Agriculture: defined in the Ohio Revised Code 519.01.

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

Antenna, Aerial: an arrangement of wires or metal rods used in sending or receiving electromagnetic waves; antennas may be freestanding or affixed to buildings; they are supported in the air by a telecommunications tower or structure used primarily for the purpose of supporting one or more antennas, including foundation, guys, and other components thereof.

Architecturally-Compatible Accessory Building: accessory structures that are designed to be compatible with the main structure, i.e., the main and accessory structures are designed as single architectural entity rather than a collection of unrelated facades.

Articles of Incorporation: the instrument which creates a private corporation, pursuant to the general corporation laws of the state.

Association: a legal entity operating under recorded land agreements or contracts through which each unit owner in a development is a member and each dwelling unit is subject to charges for a proportional share of the expenses of the organization's activities, such as maintaining restricted, permanent open space and other common areas and providing services needed of the development. An association can take the form of a homeowners' association, community association, condominium association or other similar entity.

Borrow Pit: a hole created to provide stones, soil, or other materials that can be used as fill elsewhere.

Building Line: the inner edge of any required yard or required setback, and the corresponding outer edge of the buildable area. Except as specifically provided by these regulations, no portion of any building or structure may be extended to occupy any portion of a lot outside its building lines.

Bylaws and/or Declaration for an Association: a regulation that governs the internal affairs of an Association, as well as the ownership, use, and maintenance of all common areas, including restricted, permanent open space in a PRD District development.

Child Day Care: a child day care center or child day care home, Type A or B, defined in this Section, licensed by the Department of Job and Family Services under O.R.C. 5104 in which persons other than the parents or guardians, custodians, or relatives by blood, marriage, or adoption of the children involved administer to the non-educational needs of infants, toddlers, preschool children, and school children outside of school hours for any part of the twenty-four-hour day in a place or residence other than a child's own home. Child Day Care shall be distinguished from educational institutions and home occupations.

Child Day Care Centers: any place where child day care, defined in this Section, is provided for thirteen (13) or more children at one time, or any place that is not the permanent residence of the licensee or administrator in which child day care is provided for seven (7) to twelve (12) children.

Child Day Care Homes - Type A: a permanent residence of the administrator in which private or publicly-funded child day care, defined in this Section, is provided for seven (7) to twelve (12) children at one time, or a permanent residence of the provider in which child day care is provided for four (4) to twelve (12) children at one time if four (4) or more are under two (2) years of age.

Child Day Care Homes - Type B: a permanent residence of the provider in which child day care, defined in this Section, is provided for one (1) to six (6) children at one time and in which not more than three (3) children are under two (2) years old at one time. In counting children for the purposes of this section, no children of the day care provider shall be counted.

Circulation Systems, Bicycle and Pedestrian: a bicycle and pedestrian circulation system is a public way, four or more feet in width, for bicycle and/or pedestrian use. Pedestrian walkways ensure that pedestrians can walk safely and easily throughout the development without being required to walk in the street and may or may not be included within the street right-of-way. Bicycle and pedestrian circulation systems in a PRD District provide trail connectivity between properties and activities or special features within the restricted, permanent open space system and need not always be located along streets.

Clustering: a development right that may be granted to a subdivision developer in the PRD District, where once the density for the development is determined, principal dwellings may be grouped together on a lot, or minimum lot sizes may be decreased, as necessary to accommodate restricted, permanent open space for the development.

Common Area: any land area and associated facilities within a condominium, platted subdivision, or Planned Residence District that is held in common ownership by the residents of the development through a Homeowner's Association,

Community Association, or other legal entity, or which is held by the individual members of the Condominium Association as tenants-in-common.

Common Access Drive (CAD): a privately constructed, owned and maintained drive within a platted ingress/egress easement, properly shown on a subdivision plat approved by the County Engineer in accordance with these Regulations.

Conditional Use: a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed within this ordinance.

Conservation Development Subdivision: a contiguous area of land to be planned and developed as a single entity, in which housing units are accommodated under more flexible standards (e.g., building arrangements and setbacks) than those that would normally apply under residential district regulations, and which allows for the flexible grouping of houses in order to conserve restricted, permanent open space and existing natural resources. Conservation development character differs from conventional residential development in that it is a rural form of flexible development that takes into consideration the preservation and minimal disturbance of unique natural and cultural variables associated with each site, such as rural character, historic homes, barns, public buildings, and stone walls, scenic views, farmlands, habitats, meadows, stately trees, woodlands, water courses, trails, sensitive groundwater aquifers, and other resources of community priority, as well as wetlands protected by federal and state law, floodplains, or steep slopes. Such a subdivision is not a separate District under this Resolution but is a style of development for which approval may be pursued under the Planned Residence District provisions of this Resolution.

Covenant: an agreement or promise to do or not to do a particular thing that “runs with the land” as that term is understood at law.

Decibel: a unit of relative loudness equal to ten times the common logarithm of the ratio of two readings. For sound, the decibel scale runs from zero for the least perceptible sound to 130 for sound that causes pain.

Declaration: the instrument by which condominium property is submitted to the provisions of ORC 5311, or an instrument establishing Deed Restrictions or Covenants.

Deed Restrictions: an agreement restricting the use of real property or the kind of buildings that may be erected thereupon; the promise is usually expressed by the creation of an express covenant, reservation, or exception in a deed or Declaration. In order for a grantor to enforce the covenant against subsequent owners who take title from the first grantee, the covenant must “run with the land.”

Density, Residential: the number of allowed dwelling units per acre stipulated in the district regulations for each type of residential District provided for in this Resolution.

District: see Article V of this Resolution

DODD Residential Facility: residential home or facility inspected and licensed by the Department of Developmental Disabilities pursuant to ORC 5123.19 that provides room and board, personal care, habilitation services, and supervision in a family setting by a person not a relative or legal guardian for mentally retarded or developmentally disabled persons. A DODD Residential Facility may also include a respite care home certified under ORC 5126.05, a county home or district home operated pursuant to ORC 5155, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

Development Plan: a dimensioned presentation of a proposed development of a specified parcel of land that, once approved, becomes part of the zoning for a property. The plan depicts site characteristics and development information and provides guidance for site plans. The development plan maps and defines the land uses proposed including the amount of development by use, street pattern, public facilities, and development phasing. It incorporates land development regulation, covenants, and other restrictions adequate to protect resources and facilities of local and state significance and specifies responsibilities and identifies the mechanisms for carrying out all commitments in the development plan and for compliance with all conditions of the Zoning Resolution.

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

Easements: the privilege to make lawful and beneficial use of the land of another, created by an express or implied agreement that is not inconsistent with any other uses which are already being made of the land.

Encumbrances: every right to, interest in, or legal liability upon real property which does not prohibit passing title to the land but which diminishes its value.

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

Family: (A.) an individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or (B.) a group of not more than five (5) persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

Federal Emergency Management Agency (FEMA) is the agency with overall responsibility for administering the National Flood Insurance Program.

Floodplain, Hundred-Year: hundred-year floodplains are any floodway area susceptible to being inundated by water from any source that has a one (1) percent or greater chance of being equaled or exceeded in any given year. The determination of the hundred-year floodplain elevations are to be determined from federal, state and other acceptable sources, when available, such as the most recent Flood Insurance Study and the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency of the Federal Insurance Administration, the United States Army Corps of Engineers Floodplain Information Reports, United States Geological Survey Flood-Prone Quadrangles, etc. Where such information is not available, then this elevation is determined by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used are in accordance with currently accepted hydrologic and hydraulic engineering techniques.

Floodway: the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

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

Foster Home: a private residence certified by the Ohio Department of Job and Family Services under ORC 5103 in which no more than five (5) children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children care, supervision, or training twenty-four hours a day. More than five (5) children may occupy a group foster home only when necessary to accommodate a sibling group or the remaining members of a sibling group.

Frontage: the side(s) of a lot abutting on a dedicated public or, in some cases, approved private street.

Greenways: linear parks, alternative transportation routes, or open space conservation areas which provide passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open spaces or natural areas.

Group Home: a facility wherein (a) the operator is not legally related to the individuals supervised and is licensed by the State, and wherein (b) one (1) or more individual is provided with room, board, specialized and distinctive care and supervision in a family environment, or where five (5) or more individuals reside and are provided with room, board, ordinary care and supervision in a family environment. The term "group home" shall include, without limitation by reason of enumeration, receiving homes, and work or wage homes.

Guest: any person who maintains a permanent address at a different location.

Hard Surface: in reference to a drive or parking area, includes pavement such as asphalt or concrete, as well as crushed stone and gravel, as long as it is designed and sufficiently compacted to withstand the weight of the proposed use.

Home Occupation: any activity carried out for gain by a resident conducted as a secondary use in the resident's dwelling unit and/or an approved accessory building.

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

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

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

Intermittent Stream: a natural channel that may have some water in pools but where surface flows are non-existent or interstitial for periods of one week or more during typical summer months.

Legible Scale: a submission requirement for the PRD District Development Plan for the scale of the required 24 inch by 36 inch planning sheets. Labels and dimensions must have a height of at least one-eighth (1/8) inch tall to be presumed legible.

Lot: a legally separate parcel of land as shown in the records of the County Auditor. This Resolution and the District provisions under it prescribe how Lots are occupied or to be occupied by a principal structure or group of structures and accessory structures, together with such yards, open spaces, lot width and lot area as are required by this Zoning Resolution, and having not less than the minimum required frontage upon a street. Lots are either shown and identified by lot number on a plat of record, or considered as a unit of property and described by metes and bounds.

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

Lot Line: a line bounding or demarcating a plot of land or ground as established by a plat of record.

Lot Width: the average horizontal distance between side lot lines.

Maintenance Agreements: used to ensure that a plan is in place for the proper maintenance of all common areas in a development, including restricted, permanent open space. These documents shall specify the maintenance requirements and schedule, responsible entity, and financial responsibilities, and will preferably be recorded documents that run with the land.

Manufactured Home: any non-self-propelled vehicle transportable in one or more sections, which in the traveling mode, is (8) body feet or more in width, or (40) body feet or more in length or, when erected on site, is (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and which conforms 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. Calculations used to determine the number of square feet in a structure's exterior dimensions is measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets and other projections containing interior space, but do not include bay windows (ORC 4501.01).

For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks or other foundation, connection to utilities and the like.

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

Mobile Home: a non self-propelled dwelling unit built on a permanent movable chassis which is 8' or more in width and more than 35' in length, which when erected on site is a minimum of 320 square feet, that is transportable in one or more sections and which does not qualify as a manufactured home. Mobile homes were constructed prior to, and do not conform to the 1974 HUD standards for manufactured homes. Mobile home does not include travel trailers.

Natural Resources: existing components of the landscape maintained as a part of the natural environment and having ecological value in contributing beneficially to air quality, erosion control, groundwater recharge, noise abatement, visual amenities, the natural diversity of plant and animal species, human recreation, reduction of climatic stress, and energy costs.

Non-Conforming Lot: a parcel of real estate which has been surveyed, given a legal metes and bounds description and legally recorded in the County Recorder's office prior to the adoption of or amendment to the zoning resolution, and which does not conform with the current zoning regulations.

Non-Conforming Use: a specific use that does not conform to the current Regulations for the Zoning District in which it is located. Can be further defined as a Legal Non-Conforming Use if the use of a building and/or land antedates the adoption of these Regulations or subsequent amendment and meets the standards of Article 22.

Noxious Weeds: invasive plant species that reproduce by seed, spread by roots, underground stems, or other reproductive parts, and, when established, are highly destructive to native vegetation and difficult to control, and are likely to cause economic or environmental harm or harm to human health.

The Ohio Noxious Weed List is codified at OAC Chapter 901:5-37. For reference, as of 8-18-10, the following plants are currently designated as prohibited noxious weeds: apple of Peru (*Nicandra physalodes*), Canada thistle (*Cirsium arvense* L. (Scop.)), cressleaf groundsel (*Senecio glabellus*), giant hogweed (*Heracleum mantegazzianum*), grapevines when growing in groups of one hundred or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years, johnsongrass (*Sorghum halepense* L. (Pers.)), kochia (*Bassia scoparia*), maretail (*Conyza canadensis*), mile-a-minute weed (*Polygonum perfoliatum*), musk thistle (*Carduus nutans*), oxeye daisy (*Chrysanthemum leucanthemum* var. *pinnatifidum*), palmer amaranth (*Amaranthus palmeri*), poison hemlock (*Conium maculatum*), purple loosestrife (*Lythrum salicaria*), Russian thistle (*Salsola Kali* var. *tenuifolia*), shatter cane (*Sorghum bicolor*), wild carrot (Queen Anne's lace) (*Daucus carota*), wild mustard (*Brassica kaber* var. *pinnatifida*), and wild parsnip (*Pastinace sativa*).

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

Open Space: an area that is intended to provide light and air and which may include natural areas, passive and active recreation areas, agricultural areas, or effluent spray fields, stormwater management, and/or water supply facilities.

Open Space Easement: a recorded legal instrument which permanently and irrevocably restricts designated land(s) within a Planned Residence District for Open Space uses. The easement shall be tied to the title of the land (i.e., shall "run with the land") regardless of subsequent ownership of the land. Parties entitled to enforce such an easement shall include the Township and the PRD homeowners' association.

Open Space, Restricted, Permanent: open space within a PRD development that is of sufficient size and shape to meet the minimum zoning requirements and that is restricted from further development according to the provisions of this Zoning Resolution.

Ordinary High Water Mark: the point of the bank or shore to which the presence and action of surface water is so continuous as to leave a distinct mark by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics. The ordinary high water mark defines the bed of a watercourse.

Paved, Pavement: a surface for driving, parking or walking that is made with concrete or asphalt.

Permanently Sited Manufactured Home(s): a factory built structure meeting the following criteria:

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

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

Plat: a subdivision drawing that is approved by county agencies and recorded with the county recorder. It is the legal document that creates the subdivision of lots and replaces the need for a legal description for each lot it includes.

Presents: creates, produces, directs, publishes, advertises, sells, rents, disseminates, distributes or displays.

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

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

Project Perimeter: the boundary defining the land that is included in the PRD District project.

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

Public Water: Del-Co Water Company or any municipal, township or county owned and operated water system.

Ravine: any natural land area with a steep-slope, wooded valley typically with continual or intermittent running water at its base. A ravine shall not include:

- A.) Mere depressions, gullies, or streams that do not have adjacent, larger, wooded steep-sided areas;
- B.) The upper reaches or secondary reaches of a steep sided, wooded valley, that has been extensively filled or extensively graded; or

- C.) The extreme upper reaches or secondary reaches of a steep-slope, wooded valley that is isolated from all primary ravine areas as a result of man-made improvements, such as roads or other structures.

Recreation, Active: consists of outdoor leisure pursuits characterized by repeated and concentrated use of land, often requiring equipment, and taking place at prescribed places, sites, or fields. Examples of active recreation facilities include play grounds, tennis and basketball courts, swimming pools open to the public or to private membership, fishing lakes, play fields, and golf courses. Active recreation includes all improvements necessary to protect users from harm or danger, buildings and club houses incident thereto, including internal restaurants to serve members and/or users of the facility.

Recreation, Passive: consists of non-motorized outdoor leisure pursuits involving existing natural resources, parks, or paths/trails that generally do not require a developed site or alteration of existing topography, are low vehicle trip generators, can be carried out with little alteration or disruption to the area in which they are performed and have minimal potential for nuisance to adjacent property owners. Passive recreation may include related accessory buildings and improvements necessary and appropriate for these recreational uses. Examples of passive recreation activities generally include, but are not limited to, such activities as picnicking, bird watching, walking, hiking, jogging, bicycling, and horseback riding.

Resident: one who resides in a dwelling permanently or for an extended period.

Riparian Area: of, on, or relating to the banks of a natural course of water.

Riparian Buffer: the area of land along a watercourse that filters stormwater and provides wildlife habitat. Typically these are vegetated or forested.

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

Septic System: an underground sewage disposal system with a septic tank used for the decomposition of domestic waste waters.

Setback: the required distance between a building and a lot line, street right-of-way, pavement, riparian area, wetland protected by federal or state law, or other delineated site feature. A perimeter setback relates to the project perimeter, while an interior setback relates to lots in the development which are not adjacent to the project perimeter.

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

Sexual Conduct: vaginal intercourse between a male and 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: any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

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

Single Family Dwelling: detached, individual dwelling units, which accommodate one family related by blood or marriage or up to five (5) unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform to the Building Code of Delaware County, be classified as an Industrialized Unit under the Ohio Basic Building Code, or conform to the Ohio Revised Code 3781.06 definition of permanently sited manufactured housing as defined in this Section.

Small Wind Project: any wind project less than 5MW which includes the wind turbine generator and anemometer.

Steep Slopes: any land area where the greatest amount of slope over any one hundred (100) foot distance is greater than twenty (20) percent (two vertical feet for every ten horizontal feet).

Structure: anything which is constructed or erected and the use of which requires permanent location on ground or attachment to something having permanent location on ground (this includes but is not limited to dwellings, accessory buildings, sheds, swimming pools, additions, decks, above-ground heating fuel containers, signs) not, however, including wheels; an edifice or building of any kind; any production or piece of work, artificially built up or composed of parts and joined together in some definite manner (this includes but is not limited to portable above-ground swimming pools of a temporary nature, and children's play sets).

Swimming Pool: a tank or large artificial basin, as of concrete or other rigid material, either above or in-ground, for filling with water for swimming. Swimming pools may be permanent (in place year-round) or seasonal (constructed or installed only during warmer periods).

Telecommunication Tower: any free-standing structure, or any structure to be attached to a building or other structures that meets the following criteria:

- A.) The free-standing or attached structure is proposed to be constructed on or after the effective date of the Ohio Revised Code amendment to Section 519.211 (i.e. 10/31/96).
- B.) The free-standing or attached structure is proposed to be owned or principally used by a public utility (or functionally equivalent provider) engaged in the provision of telecommunication services.
- C.) The free-standing or attached structure is proposed to be located in an unincorporated area of the township, in an area zoned for residential use. Areas zoned for residential use shall include all land located within the following Zoning Districts: Farm Residence District (FR-1) and Planned Residence District (PRD).
- D.) The free-standing structure is proposed to top at a height that is greater than 48 feet. In the case of an attached structure, such structure is proposed to top at a height that is eight (8) feet greater than the height of the building or other structure to which it is to be attached.
- E.) The free-standing or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

Third Party: third party ownership of open space land may include the Kingston Township Trustees or a homeowner's association.

Transfer Documents: used to convey possession or control of title to land.

Waterways: any natural channel, creek, stream, river, or brook having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

Wetlands: those areas protected under federal or state law that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. (40 CFR 232, as amended). Wetlands serve to:

- A.) Minimize flood impacts by absorbing peak flows, slowing the velocity of flood waters, regulating stream base flows, and maintaining stream flow patterns;
- B.) Minimize streambank erosion by reducing runoff volume and velocity;
- C.) Protect groundwater quality by filtering pollutants from storm water runoff;
- D.) Recharge groundwater reserves;
- E.) Protect surface water quality by minimizing sediment pollution from streambank erosion, and trapping sediments, chemicals, salts, and other pollutants from flood waters and storm water runoff;

- F.) Provide habitat for aquatic and terrestrial organisms, many of which are on Ohio's Endangered and/or Threatened Species listings;
- G.) Benefit the Township economically by minimizing encroachment on wetlands and the need for costly engineering solutions, such as retention/detention basins and rip rap, to protect structures and reduce property damage and threats to the safety of watershed residents; and
- H.) Contribute to the scenic beauty and environment of the Township, thereby preserving the character of the Township, the quality of life of residents of the Township, and corresponding property values.

Wetlands Protected by Federal or State Law: wetlands delineated by a qualified professional under guidelines established by the U.S. Army Corps of Engineers and Ohio Environmental Protection Agency. Such delineations must include the latest version of the Ohio Rapid Assessment Method for wetland evaluation in effect at the time of application of the regulations. Each wetland is assigned a category by Ohio EPA based on the wetland's relative functions and values, sensitivity to disturbance, rarity, and potential to be adequately compensated for by wetland mitigation. Classification is typically based on analysis of adjacent vegetation, aerial photographs, U.S. fish and wildlife service national wetland inventory maps, Ohio wetland inventory maps, public information, on-site inspections, previous site descriptions, and soil maps. (See OAC 3745-1-54).

Category 1 Wetlands. Wetlands assigned to Category 1 support minimal wildlife habitat, and minimal hydrological and recreational functions, and do not provide critical habitat for threatened or endangered species or contain rare, threatened or endangered species. Category 1 wetlands may be typified by some or all of the following characteristics: hydrologic isolation, low species diversity, a predominance of non-native species (greater than 50% area cover for vegetative species), no significant habitat or wildlife use, and limited potential to achieve beneficial wetland functions. Wetlands assigned to Category 1 may include, but are not limited to, wetlands that are acidic ponds created or excavated on mined lands without a connection to other surface waters throughout the year and that have little or no vegetation and wetlands that are hydrologically isolated and comprised of vegetation that is dominated (greater than 80% area cover) by species including, but not limited to: *Lythrum salicaria*; *Phalaris arundinacea*; and *Phragmites australis*.

Category 2 Wetlands. Wetlands assigned to Category 2 support moderate wildlife habitat or hydrological or recreational functions and typically include wetlands dominated by native species but generally without the presence of, or habitat for, rare, threatened or endangered species, and wetlands which are degraded but have a reasonable potential for reestablishing lost wetland functions.

Category 3 Wetlands. Wetlands assigned to Category 3 support superior habitat or hydrological or recreational functions and may be typified by some or all of the following characteristics: high levels of diversity, a high proportion of native species, or high functional values. Category 3 wetlands may include, but are not limited to: wetlands which contain or provide habitat for threatened or endangered species; high quality forested wetlands, including old growth forested wetlands, and mature forested riparian wetlands; vernal pools; and wetlands which are scarce regionally and/or statewide including, but not limited to, bogs and fens.

Wind Power Turbine Owner. the person or persons who own(s) a Wind Turbine Tower.

Wind Power Turbine Tower. a support structure to which a turbine and rotor for the generation of electric power are attached.

Wind Power Turbine Tower Height. the distance from the rotor blade at its highest point to the top surface of the ground at the foundation of a Wind Power Turbine Tower.

Zero Discharge, Land Application Sewage System: a sewage system that distributes treated wastewater evenly over a field and/or open space for the purpose of irrigation.

ARTICLE 5 – Districts and Boundaries

Section 5.01 – Zoning District:

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

FR-1	Farm Residence District
PRD	Planned Residence District
C-1	Neighborhood Office District
C-2	Neighborhood Commercial District
PC	Planned Commercial and Office District
A-1	Agricultural Preservation District
INS	Institutional District
PINS	Planned Institutional District
REC	Recreational District
AE	Adult Entertainment

The regulations shall be uniform for each class or kind of building or other structure or use throughout each district or zone, but the regulations in one district or zone shall differ from those in other districts or zones, as established in this Resolution.

Section 5.02 – District Boundaries:

The boundaries of each district into which the township is divided are indicated upon the Kingston Township Zoning Map, which are hereby made a part of this Resolution. The said map of Kingston Township, plans submitted with rezoning petitions, and all notations, references, and other matters shown thereon, excepting property ownership names, shall be as much a part of this Resolution as if the notations, references, and other matters set forth by said maps were fully described in this Resolution. The township **zoning** map entitled “Zoning Map, Kingston Township, Ohio”, is properly attested and is on file in the office of the Zoning Inspector of Kingston Township, and the Delaware County Recorder’s Office.

Section 5.03 – Rules for Interpretation of Boundaries:

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

- A.) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B.) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C.) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- D.) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- E.) Where the boundary of a district follows a stream, or other body of water, the center line of the body of water shall be deemed to be the boundary of the zoning district unless otherwise indicated.

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

- G.) Questions concerning the exact location of district boundary lines shall be determined by the Zoning Inspector, subject to the owners' right of appeal to the Board of Zoning Appeals as provided in this Resolution.

Section 5.04 – Zoning Map:

The official zoning map shall be maintained by the Township Zoning Inspector and the same shall be accessible to the public at all reasonable times.

Section 5.05 – Nature and Classification of Zoning Districts:

Each of the zoning districts includes land so zoned or classified in Kingston Township and differs from others by reason of the uses that are permitted or by reasons of the standards of developments that are applicable in the zoning districts. The purpose of each zoning district can be found in the applicable article for each district. The residential zoning districts consist of the Farm Residence District (FR-1) and the Planned Residence District (PRD). With the exception of agricultural uses, the residential zoning districts are intended to define and protect residential areas from the intrusion of uses not performing a function appropriate to the principal use of the land for residential dwellings and related facilities desirable for residential use.

The commercial zoning districts consist of Neighborhood Office District (C-1), Neighborhood Commercial District (C-2) and Planned Commercial and Office District (PC). The commercial zoning districts are intended to promote convenient and efficient distribution of a broad range of commercial and retail goods and services in order to meet consumer demands; satisfy commercial land use requirements; achieve a stable and compatible land use pattern; and encourage a visually satisfying environment.

The proper development of commercial areas is not only a right under this Zoning Resolution, but a responsibility to the entire Township. Because these commercial areas are subject to public use which is a matter of important concern to the whole community, they should provide an appropriate appearance, ample parking, controlled traffic movement, and suitable relationship to adjacent areas.

In addition to residential and commercial uses, there are a number of miscellaneous districts under this Resolution for a variety of other purposes: the Agricultural Preservation District (A-1), the Institutional District (INS), Planned Institutional District (PINS), Recreational District (REC), and Adult Entertainment (AE).

ARTICLE 6 – Application of Resolution

Section 6.01 – Conformance Required:

Except as otherwise provided in this resolution, no structure (temporary or permanent) or part thereof shall be moved on the site, erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure 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 structures shall conform to state and or local building codes in effect on the date that construction of the structure or any alteration thereto is commenced.

Section 6.02 – Agriculture:

- A. **Lots Greater than 5 Acres:** Except as regulated under Paragraphs (B) and (C) below, with respect to lots greater than five (5) acres of land, nothing contained in this Resolution shall prohibit the use of any such land for agricultural purposes, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no Zoning Certificate shall be required for any such use, building or structure.
- B. **Regulation within Platted Subdivisions:** Agriculture shall be regulated as follows in any platted subdivision approved under Ohio Revised Code sections 711.05, 711.09, or 711.10, as follows:
 - 1.) Agriculture is prohibited on lots of one acre or less.
 - 2.) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres must conform to the setbacks, size and height requirements for the underlying zoning district. Subject to subparagraph (B)(3) below, agriculture is permitted on lots greater than one (1) acre but not greater than five (5) acres.
 - 3.) Dairying and animal and poultry husbandry are permitted on lots greater than one (1) acre but not greater than five (5) acres until thirty-five 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, ongoing dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Ohio Revised Code and Article 22 of this Resolution. Dairying, poultry and animal husbandry shall be prohibited on all lots within the subdivision after thirty five percent of the lots are so developed.
- C. **Regulation within other non-platted areas:** Agriculture shall be regulated as follows in any subdivision consisting of fifteen or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road:
 - 1.) Agriculture is prohibited on lots of one acre or less.
 - 2.) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres must conform to the setbacks, size and height requirements for the underlying zoning district.
- D. **Farm markets** that derive at least fifty percent of their gross income from produce raised on farms owned or operated by the market owner in a normal crop year are permitted in any zone, subject to the following regulations.
 - 1.) Buildings less than 144 square feet must be placed at least 15 feet outside the road right of way so as to safely allow for adequate customer off street parking. Seasonal farm markets may use grassed areas for parking. Permanent farm markets must have paved or graveled parking.

- 2.) For buildings larger than 144 square feet, off street parking must be provided at the ratio of one space for each 400 square feet of farm market. Seasonal parking may be grassed areas, but permanent parking must be graveled or paved and provide ingress and egress in accordance with the recommendation of the Delaware County Engineer. Setbacks are the same as for any structure in the underlying zone.

E. **Agritourism:** For the purposes of this section “Agritourism” means an agriculturally-related educational, entertainment, historical, cultural or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity within a Farm composed of tracts, lots or parcels totaling not less than ten acres currently engaged in agricultural production. In an effort to protect the public health and safety of residents and visitors to an Agritourism activity, the following must be provided:

- 1.) Safe and adequate ingress and egress must be maintained at all times.
- 2.) Any structures used primarily for Agritourism must meet the setbacks of the applicable zoning district and shall not exceed thirty-five (35) feet in height. All structures intended for public use shall conform to all applicable regulations for such buildings by the Delaware County Code Compliance Office.
- 3.) All parking demands created by the activity shall be met off the street and shall not be located any closer to the street than the required setback line.
- 4.) Existing or additional (new) points of ingress/egress may be considered for Agritourism use based upon approval by the State, County or Township for roadways under their respective jurisdiction.
- 5.) Waste materials, solid or liquid, shall not be created on or imported onto the premises at a level that creates a burden on adjoining property. Permanent or temporary sanitary waste disposal shall be provided as regulated by the Delaware General Health District or Sanitary Engineer.

Section 6.03 – Township Zoning Not to Affect Public Utilities, Railroads, Liquor Sales, or Oil and Gas Production:

Except as otherwise provided in Section 6.04, 6.05, and 6.06 of this Resolution, this Resolution confers no power on the 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 building or structure 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. The term “operation of its business” shall not be deemed to include general offices or other uses not related directly to provision of utility services. Notwithstanding the foregoing: (a) all applicable regulations contained within this Resolution shall apply where authority is granted by the Ohio Revised Code; (b) Telecommunication towers may be regulated as provided in ORC 519.211.

Section 6.04 – Exception for Review of Telecommunications Towers:

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

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

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

- A.) **Towers Proposed within Areas Zoned for Residential Use** - Telecommunications towers may be regulated in areas zoned for residential use upon receipt of an Objection.

- 1.) **Notice** - Any person who plans to construct a tower in an area subject to zoning shall first and as a condition precedent provide the following by CERTIFIED MAIL: written notice to each property owner whose land is contiguous to or directly across a street from the property on which the tower is proposed to be located. Notice must include intent of the person to construct the tower, a description of the property, and a notice that no later than fifteen days after the date of mailing of the notice, any such property owner may file an official objection with the Township Trustees. Copies of such a Notice shall be

contemporaneously sent by the person planning the tower, by certified and regular first class US Mail, to the Trustees and the Zoning Inspector.

- 2.) **An Objection** is written notice addressed to the Trustees requesting that the zoning regulations be applied.
- 3.) **Procedure if Objections Are Filed:** Upon the timely receipt by the Township Board of Trustees of an objection to a proposed tower, the Trustees shall notify the applicant within five (5) days that the regulations of the zoning resolution apply.
- 4.) **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.

B.) **Local Zoning Authority** - If objections are timely filed for a proposed tower in a district zoned for residential use then the telecommunications tower shall only be permitted as a conditional use by the Board of Zoning Appeals, provided that all of the following conditions of this section are met.

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

a.) A locator map which shall contain the following:

- i.) The location of all the applicant's existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
- ii.) The general location of planned future facilities within a radius of one (1) mile of the proposed location of the telecommunications tower.
- iii.) For each location of the applicant's existing facilities within a radius of one (1) mile of the proposed location of the telecommunications tower, there shall be listed:
 - 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 depicting any parcels on which any existing or proposed tower(s), antenna(s) or equipment is currently or is proposed to be located.

b.) A scaled and dimensioned site plan for the facility that is being proposed, containing the following:

- i.) the location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
- ii.) the location of existing and proposed buildings and structures, access drives, circulation and parking areas;
- iii.) detailed drawings of the landscape screening plan and related design standards;
- iv.) on-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
- v.) setbacks from property lines and dwellings within 600 feet of the proposed tower;
- vi.) legal description of the lot on which the tower is to be sited;
- viii.) any other information necessary to assess compliance with this section; and

- ix.) any illumination required by the FAA or FCC.
- c.) A written certification from a Professional Engineer stipulating:
 - i.) that the tower's design is structurally sound and in compliance with all applicable federal, state and local building codes;
 - ii.) that the equipment placed on the tower and at the site complies with all current FCC regulations;
 - iii.) that the tower will, to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location; and
 - iv.) height and fall zone drawing.
- 2.) **Conditional Use Procedure by Board of Zoning appeals on Receipt of Application** - Consistent with the procedures set forth in Sections 25.07 and 25.08 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 (B) (1) of this Resolution.
- 3.) **General Requirements for all Telecommunications Towers in Residential Zones**
 - i.) 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.
 - ii.) Maintenance: Towers and related structures must be maintained in good working order. The owner shall, within 30 days of permanently ceasing operation of a tower, provide written notice of abandonment to the Zoning Inspector.
 - iii.) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued. Removal includes removal of all apparatuses, supports, and or other hardware associated with the tower. All costs associated with the demolition of the tower and associated equipment shall be borne by the property owner.
- 4.) **Development Standards for all Telecommunications Towers in Residential Districts**
 - a.) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.
 - b.) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 100 feet. The maximum height of a tower proposed for

multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:

- i.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 115 feet;
 - ii.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 130 feet; and
 - iii.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 145 feet.
- c.) Clear Fall Zone: Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
- i.) 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.
 - ii.) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.
 - iii.) The tower base shall be located no closer to a street right-of-way than permitted in Article 21.
- d.) Ancillary Requirements:
- i.) 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.
 - ii.) 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 and screened from view.
 - iii.) 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.
 - iv.) Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a monopole design.
 - v.) No advertising is permitted anywhere on the tower.
 - vi.) 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.

- vii.) 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.
 - viii.) 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.
 - ix.) If the applicant proposes to construct a separate equipment shelter on the site, the equipment shelter shall be shown on the site plan, be designed to be aesthetically and architecturally compatible with the surrounding environment, be located completely within the fenced area of the site, and be in compliance with the accessory building regulations of the district in which it is to be located.
- 5.) **Towers on Township Property** - With the prior consent of the Township Trustees obtained through resolution, a telecommunications carrier may site a telecommunications tower on Township owned property not zoned for residential use. Additionally, with the prior consent of the 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 the procedures and subject to the requirements and development standards provided in this Section 6.04.
- 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 must first be obtained. A Certificate of Zoning Compliance may be obtained in such circumstance provided that the requirements found in the following provisions are met: 6.04(B)(1)(a)(iii). A substantial change in height shall mean the proposed addition of more than 40 feet to the existing tower or structure, or any proposed addition that would cause the tower to be higher than the maximum provided above for towers having the number of co-located antennae that the tower would have after the proposed addition.

Section 6.05 – Small Wind Project Farms less than 5 Megawatts:

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

A.) General Requirements

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

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

B.) Permits

- 1.) A permit shall be required before construction is commenced on an individual wind turbine project system.
- 2.) As part of the permit process, the applicant shall inquire with the County Building Regulations as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports.
- 3.) Applicant shall then provide the Township Zoning Inspector with the following items and/or information when applying for a permit:
 - a.) Location of all public and private airports in relation to the location of the wind turbine.
 - b.) An engineering report that shows:
 - i.) The total size and height of the unit
 - ii.) If applicable, the total size and depth of the unit's foundation structure concrete mounting pad, as well as soil and bedrock data.
 - iii.) A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, and lightning protection, braking systems, guy wiring & anchors.
 - iv.) Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
 - v.) The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.

- vi.) Ambient noise levels at property lines.
- vii.) Hazardous materials containment and disposal plan.
- c.) A site drawing showing the location of the unit in relation to existing structures on the property, roads and other public right-of-ways, and neighboring property lines.
- d.) Evidence of established setbacks of 1.1 times the height of the wind turbine and “clear fall zone.” with manufacturer’s recommendation must be attached to the engineering report.
- e.) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled.

Section 6.06 – Regulation of Public Utilities Engaged in Certain Types of Trucking, Buses, and Taxis.

Pursuant to ORC 519.211 (C), ORC Sections 519.02 to 519.25 confer power on a Board of Township Trustees to regulate the location, erection, construction, reconstruction, change, alteration maintenance, removal, use or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road or highway in the state of Ohio, and with respect to the use of land by any such public utility for the operation of its business to the extent that any exercise of such power is reasonable and not inconsistent with chapters 4901, 4903, 4905, 4921, and 4923 of the Ohio Revised Code. For the purposes of this Resolution, all such uses shall be considered commercial uses and shall be located in commercial or industrial districts if approved by the Board of Township Trustees. The Board of Trustees has no power with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants.

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

Section 6.07 – Buildings Under Construction and New Construction:

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

Section 6.08 – Issued Zoning Certificates:

Any new proposed construction for which a zoning certificate is issued shall be completed within eighteen (18) months after the issuance of the zoning certificate. Construction work may not be performed under a zoning certificate which is more than eighteen (18) months old. .

ARTICLE 7 – Farm Residence District (FR-1)

Section 7.01 – Purpose:

There is created hereby, a Farm Residence District to provide for the use of appropriate lands for continued agricultural purposes and to permit construction of low density single family residences and other essentially non-urban types of residential and agricultural activities so that the basically rural character of these areas may be preserved and maintained.

Section 7.02 – Application:

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

All lots in subdivisions, which are located within the limits of Kingston 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 the Zoning Resolution shall be considered legal residential lots and nothing in this Resolution shall be construed to prohibit the use thereof for residential purpose.

Section 7.03 – Permitted Uses:

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

- A.) **Single family dwellings.** (Lots in this District are limited to one single family dwelling per Lot, inclusive of dwellings which are Permanently-Sited Manufactured Homes as defined in Article 4).
- B.) **Accessory buildings and accessory uses including private garages.** Accessory buildings subject to other applicable provisions regarding accessory structures are permitted to be constructed prior to the primary structure being constructed provided the primary structure is to be built within one year after the accessory structure and adequate assurance is provided to that effect.
- C.) **Projects specifically designed for watershed protection,** conservation of soil or water or for flood control.
- D.) **Agricultural purposes,** beekeeping, dairying, floriculture, grazing and raising of livestock, orchards, plant nurseries, poultry raising, raising of grains, sod farming, animal husbandry, truck farming, equestrian trails, forest and game management, greenhouses, nature trails and walks and stables, subject to the following restrictions:
 - 1.) Roadside sales of agricultural products shall be permitted in this district provided however, that at least fifty (50%) percent of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Adequate area shall exist adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares. No permanent buildings or structures shall be placed without permission of the Board of Zoning Appeals and issuance of conditional use permit.
 - 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 incident to other farming operations by the owner/proprietor.
 - 3.) Temporary mobile homes or dwellings for migrant worker(s), are permitted only while workers are actually on site to perform seasonal agricultural work. Provisions shall be made for sanitary waste disposal, solid waste and water supply, to the reasonable satisfaction of the Zoning Inspector.
- E.) **Mobile homes and recreational vehicles for temporary residential use** and temporary buildings of a non residential character may be used or occupied only during residential construction on the premises for a maximum of eighteen (18) months from the date of issuance of the zoning permit. Said temporary structure shall be removed no later than thirty (30) days after expiration of said eighteen (18) month period or no later

than thirty (30) days after issuance of occupancy permit, whichever comes first. Provisions shall be made for sanitary waste disposal, solid waste and water supply, to the reasonable satisfaction of the Zoning Inspector.

- F.) **Conducting of casual sales of goods** in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- G.) **Limited Home Occupations** of the building resident carried on solely within the confines of the dwelling unit and provided:
 - 1.) Appearance of structure shall not be altered or the occupation within the residence shall not be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials of construction, lighting or signs. The home occupation shall be clearly incidental and secondary to the use of the unit for dwelling purposes.
 - 2.) Development shall follow the Standards for External Impacts as defined in Section 20.15.
 - 3.) There shall be no outside storage of any kind related to the home occupation.
 - 4.) Deliveries, other than those associated with the residential use of the property, are prohibited.
 - 5.) Traffic, other than that associated with the residential use of the property, is prohibited.
 - 6.) Commercial vehicles limited to one (1); being a two axle, pickup, van, panel or light truck and which has operating characteristics similar to those of a passenger car shall be allowed.
 - 7.) Not to exceed 20% floor area of the principal dwelling.
 - 8.) No employees other than the building occupant(s).
- H.) **Adult Family Homes** and Adult Residential Facilities (Type A) as defined in Article 4.
- I.) Foster Homes certified by the Ohio Department of Job and Family Services pursuant to ORC 5103.
- J.) DODD Residential Facilities for one (1) to eight (8) persons.
- K.) **Class B Child Day Care** as provided in ORC 5104.054.
- L.) **Religious Land Uses** – a Church, place of worship, place of religious assembly, religious institution, or parsonage provided:
 - 1.) Parking, landscaping, lighting and signage conform to Article 20 and 21.
 - 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 standards provided for in Section 7.06.
- M.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment.

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 25 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year of their

approval by the Board of Zoning Appeals or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

A.) **Expanded Home Occupations** conducted by the resident of a permitted dwelling subject to the following restrictions:

- 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
- 2.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or one hundred (100%) percent, and no more than 1,000 square feet, of the combined floor space in any detached garage or accessory building.
- 3.) No more than one (1) non-resident employee shall work on said premises.
- 4.) Services may be rendered on the premises or elsewhere.
- 5.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line.

The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)

- 6.) Development shall follow the Standards for External Impacts as defined in Section 20.15.

B.) **Private landing fields for aircraft** for use by the owner of the property and his guests provided that no commercial activities associated with the airfield take place on said premises and the site is in compliance with all F.A.A. regulations for a private landing field.

C.) **Child Care Facilities, provided the facility occupies a minimum of three (3) acres.** The building occupied by the use 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. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.

D.) **Public playgrounds, play fields, and picnic areas** 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.) **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.) All exterior lighting fixtures will be shaded and directed down wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
- 3.) No Group Home shall be located within a one (1) mile radius of another such facility in a given neighborhood.
- F.) Permanent structures or improvements used for **roadside sale of agricultural products** produced on the premises.
- G.) **One permanent mobile home to be occupied by full-time domestic help** only and provided that said mobile home is installed in compliance with rules and regulations established by the Delaware County Health Department. Not more than one mobile home shall be located on any farm within Kingston Township (See 7.03 (D3)).
- H.) **An aerial or antenna** for the sole purpose of residential use is permitted, provided that the maximum height of structure does not exceed 75' and shall not be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- I.) **Cemetery**, provided:
 - 1.) Interment 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.) 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.
- J.) **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 Delaware 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.
- K.) **Telecommunication Towers** subject and pursuant to Section 6.04.

Section 7.05 – Prohibited Uses:

- A.) No use not specifically authorized by the express terms of this chapter of the zoning resolution shall be permitted.
- B.) While the outdoor storage/parking of trailers of any type, boats, motor homes, recreational vehicles and buses up to four (4) units is permitted, additional units must be entirely screened (from view) from adjoining properties or roadways by means of a building or fencing (minimum height 6'). Junk motor vehicles and nuisances typically will be addressed outside this Resolution under the authority of the Board of Trustees granted by the Ohio Revised Code.
- C.) No **motor home or camper** of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- D.) Except as conditionally permitted in Section 7.04 **no mobile home** shall be placed or occupied in this district.

- E.) **No office, semi or mobile home trailer, railroad box car, camper, motor home, truck or any other motor or recreational vehicle**, or part thereof, or any manufactured object which was manufactured for primary uses other than that of a storage building, shall be used as a storage building.
- F.) **No trash, debris, unused personal property or discarded material** shall be permitted to accumulate on any lot or portion of any lot thereof which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

Section 7.06 – Development Standards:

All lands and uses within the Farm Residence District 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 purposes which has an area of less than 85,000 square feet (1.951 acres). 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** - Except as set forth in this Resolution, all lots or parcels within this zoning district shall have the following minimum lot frontage on a road approved by the Delaware County Engineer.

Less than 2 acres	150 ft.
2 acres but less than 3 acres	175 ft.
3 acres but less than 4 acres	200 ft.
4 acres but less than 5 acres	250 ft.
5 acres or larger	300 ft.

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 which is equal to that minimum lot frontage requirement, and this Lot Width must be maintained fifty (50) feet forward of the building line, and in no such case shall the parcel or lot frontage at the right-of-way line be less than sixty (60) feet in width and the width of sixty (60) feet shall not be decreased at any point forward of the building line of the principal residence located on the premises.

Any parcel of land, which at the building setback line is separated or removed from the public road by more than one other parcel of land, shall be accessed only by a Common Access Drive (CAD) approved by the Delaware County Regional Planning Commission. Multiple lots with narrow frontage or flag lots must be separated by a lot meeting the required frontage at the right-of-way line. For lots having frontage on streets having extreme curvature, e.g., cul-de-sacs, the lot shall have the minimum width as specified above at the building line.

- C.) **Building Height Limits** - No building in this district shall exceed thirty-five (35) feet in height measured from the average finish grade elevation at the front foundation wall to the highest point of the roof. Church spires, domes, flag poles and elevator shafts are exempted from any height regulation and may be erected to any safe height. No windmills, aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract. Standards set forth in Section 20.02 shall apply.
- D.) **Building Dimensions (Floor Space Requirements)** - Each single family dwelling hereafter erected in this district shall have a finished habitable area of not less than twelve hundred (1,200) square feet. All such living areas shall be exclusive of basements, porches or garages.
- E.) **Building Setback** - No building or use shall be located closer to the line or center line of the adjacent public or private road than permitted in Sec. 20.10.
- F.) **Side Yard Setback** - No building or structure shall be located closer than twenty-five (25) feet to any side lot line.

- G.) **Rear Yard Requirement** - No principal dwelling shall be located closer than eighty (80) feet to the rear line of any lot and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.
- H.) **Maximum Lot Coverage** - On no lot or parcel in this zoning district shall buildings or accessory structures be constructed which cover more than twenty-five (25%) percent of the lot area.
- I.) **Parking** - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 20 of this Resolution.
- J.) **Signs** - Except as provided under the provisions Article 21 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

- K.) **Garages** - Each single family dwelling shall provide a minimum one-car garage.
- L.) **Site Development** - To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- M.) **Lot Proportion** - The maximum lot depth to width ratio is 4:1.
- N.) **Standards for External Impacts** - As defined in Section 20.15.

ARTICLE 8 – Planned Residence District (PRD)

Section 8.01 – Purpose:

Conservation of natural resources and open space is the essential purpose of the Planned Residential District. This district intends to strike a balance between the township's desire to conserve and protect sensitive and/or significant resources that contribute the most to the character of the community and the development rights of the property owner (developer) if the property were developed as a conventional subdivision. The primary feature in this PRD District is the perpetual preservation of the desired types of open space and natural resources and enhancement of the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that stream corridors, associated riparian areas, and wetlands provide, as well as to lessen flood damage to persons and property and reduce public expenditures for flood relief and flood control projects, and the retention of wooded greenways along ravines, waterways, and project perimeters. In return for conservation, the PRD District enables the developer to approximate the dwelling unit potential as the Township Zoning Resolution would allow if the development was undertaken in the FR-1 District (but not in any circumstance to allow more dwelling units to be built than if the same land were to be platted and developed in the FR-1 District after the application of all laws, regulations, and geophysical factors that would affect the number of units that could in reality be platted and built in the FR-1 District). This clustered development also allows greater efficiency and cost savings in development of public roads and utility services. A PRD District Development Plan is to be reviewed and approved by the Zoning Commission and the Trustees as part of the approval process each time the Zoning Map is proposed to be amended to show a PRD District. Corollary purposes for the PRD District include:

- A.) To conserve (within the framework of natural resource conservation) the rural characteristics and quality of living in the Township.
- B.) To encourage more efficient use of land and public services through a planned development.
- C.) To establish development review criteria which promote creative design solutions in a manner which best conserves the area's resources.
- D.) To establish a review process which maintains local review and approval of the overall development plan and which results in the timely consideration of an application.
- E.) To ensure that the proposed PRD development complies with the objectives of the Township as expressed in the Kingston Township Land Use Plan.

Section 8.02 – Permitted Uses:

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

- A.) Detached single-family residential structures and architecturally-compatible accessory buildings.
- B.) Non-residential places of religious worship, cultural, educational, governmental, or other similar indoor uses to the extent that they are designed and intended to serve the residents of the Planned Residence District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- C.) Temporary Structures such as mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit. No such temporary unit shall be occupied as a residence without

approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 25 of this resolution.

- D.) Casual Sales of Goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
- E.) Common area set aside for open space and restricted, permanent open space as required in Section 8.06.B, including accessory buildings and improvements necessary and appropriate for recreational uses.
- F.) Child Day Care Homes - Type B.
- G.) Adult Family Homes and Adult Residential Facilities (Type A) as defined in Article 4.
- H.) Foster Homes certified by the Ohio Department of Job and Family Services pursuant to ORC 5103.
- I.) Outdoor Storage of inoperable and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type. However, any such outdoor storage for a period exceeding fourteen (14) days during any calendar year shall be entirely screened from view from adjoining properties and roadway by means of an otherwise permissible building or otherwise permissible fencing with a minimum height of six (6) feet.

For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which use was other than that of a storage building, shall be used as a storage building.

- J.) Public Utility Services which serve the proposed development satisfactory to the County Engineer and Delaware General Health District, including water supply facilities, sewage management (including individual home septic system leach fields, zero discharge land application systems, or public sanitary sewer systems, and treated effluent holding ponds), and storm water management retention and detention ponds.

Section 8.03 – Conditional Uses:

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 26 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year of approval or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with condition(s) imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Home Occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
 - 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
 - 2.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or no more than 1,000 square feet, of the combined floor space in any detached garage or accessory building.
 - 3.) No more than one (1) non-resident employee shall work on said premises.
 - 4.) Services may be rendered on the premises or elsewhere.

- 5.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard and shall not exceed two additional vehicles. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. 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.)
- 6.) 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 or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. Development shall follow the Standards for External Impacts as defined in Section 20.15.
- 7.) Waste materials, solid or liquid, shall not be created on or imported onto 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.

B.) Active Recreation Uses:

- 1.) Public Playgrounds, Play Fields, and Picnic Areas 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.
- 2.) Public or Private Golf Courses, Country Clubs, Fishing Lakes, or Similar Recreational Uses with all buildings and club houses incident thereto including restaurants to serve members and/or uses of the 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 within the development in which the model is located 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 designated on the Development Plan. 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. The structure's status as a model home may be renewed after five (5) years. 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 designated in the development plan 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.) Parking Lots or Storage Yards for boats and recreational vehicles provided such area is owned or controlled by neighborhood or community association and use is limited to residents of the subdivision served.
- E.) DODD Residential Facilities for one (1) to eight (8) persons.
- F.) An Aerial or Antenna for the sole purpose of residential use is permitted, considering the maximum height of structure does not exceed seventy-five (75) feet and shall not be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- G.) Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities associated with the airfield take place on said premises and the site is in compliance with all F.A.A. regulations for a private landing field.
- H.) Telecommunications Tower pursuant to Section 6.04.

Section 8.04 – Prohibited Uses:

Land uses not specifically authorized by the express terms of this chapter of the zoning resolution shall not be permitted. Without limiting the foregoing:

- A.) Motor Homes or Campers of any type may not be occupied by the resident or property owner or a guest of the resident or property owner and motor homes, campers, or boats may not be stored outdoors on a lot for more than fourteen (14) days during any ninety (90) day period.
- B.) Mobile Homes and Manufactured Homes shall not be placed or occupied in this district except as permitted in Section 8.02.C (Temporary Structures) and conditionally permitted in 8.03(C) (Model Homes) or where a manufactured home qualifies as a “permanently-sited manufactured home” as defined in Section 4.01.
- C.) Trash, Debris, Unused Property or Discarded Material shall not be permitted to accumulate on any lot or portion of any lot thereof which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

Section 8.05 – Development Standards:

The following standards for arrangement and development of lands and buildings are required in a Planned Residence District.

- A.) **Minimum Development Size** – The minimum total site area for a PRD is 20 acres.
- B.) **Maximum Residential Density** - The maximum number of residential dwelling units permitted in a PRD shall be determined by the number of lots that will fit on the site on a plat prepared by a licensed engineer which is in compliance with the FR-1 Zoning District and Delaware County Subdivision Regulations after the application of all laws, regulations, and geophysical factors that would affect the number of units that could in reality be platted and built in the FR-1 District, and as determined by the submission and approval of a Preliminary Subdivision Plan by the Delaware County Regional Planning Commission (an “FR-1 Yield Plan”). In the alternative, density may be calculated by the following formula:
 - 1.) $(\text{Total Site Area} - A - B - C) \times 80\% \div \text{Minimum Lot Area}$, where:
 - a.) Total Site Area = the total amount of land proposed to be zoned as a PRD, in acres.

- b.) A = Any existing or proposed area to be used for nonresidential purposes in acres. "Restricted, permanent open space" is not intended to be included in the determination of the formula variable "A".
 - c.) B = Any public right-of-way (ROW) within the project boundary existing at the time the development plan is submitted in acres.
 - d.) C = The total area of non-buildable land (in acres) within riparian areas, floodways, wetlands protected by federal or state law, or land subject to existing utility or conservation easements. Where such riparian areas, floodways, wetlands, water bodies, or land subject to an existing conservation easement overlap, they shall be counted only once.
 - e.) 80% = A uniform adjustment factor to account for 20% typical losses in available land area due to proposed roads and inefficiencies in lot layouts.
 - f.) Minimum Lot Area = the minimum lot area, expressed in acres, required per dwelling unit in the FR-1 District.
 - g.) When the above formula produces a fractional value for the total number of units for the total project area, this final number shall be rounded to the nearest whole number (e.g., 26.5 units will round up to 27 units).
- 2.) Notwithstanding the maximum number of dwelling units calculated in an FR-1 Yield Plan or by the foregoing formula, the maximum number of dwelling units allowed in the PRD shall not exceed the number that would be allowed under the most restrictive interpretation of these regulations including in the interpretation the minimum lot sizes and setbacks set forth in this Article 8 and other applicable regulations, such as a minimum lot size imposed by the Delaware General Health District for area, length, and width of on-site septic systems and minimum spacing of such systems from site elements as well as from other systems. Alternative sewage treatment may be allowed as provided for by the Delaware General Health District.
- C.) **Restricted, Permanent Open Space** - A minimum of fifty (50) percent of the total site area shall be provided as designated public or private restricted, permanent open space.
- D.) **Lot Requirements** - The following minimum lot size and lot proportion standards shall apply to each dwelling unit:
- 1.) Minimum Lot Area/Clustering. No lot shall be less than one-half acre in area for any dwelling unit.
 - 2.) Minimum Lot Width. The minimum lot width shall not be less than one hundred (100) feet at the building line. For lots fronting on public or private roads with extreme curvature (e.g., cul-de-sacs) the lot width forward of the building line of the principal residence may taper down to a width not less than sixty (60) feet.
- E.) **Arrangement of Structures** - The physical relationships of dwelling units, non-dwelling structures and their minimum yard spaces shall be developed in strict compliance with this Article.
- 1.) Development Perimeter Setbacks
 - a.) Where a PRD is adjacent to another existing housing development, the minimum setback from an existing perimeter public right-of-way shall be the average of the front setback requirements for those adjacent lots outside the PRD on the same side of the street. At the sole discretion of the Zoning Commission, the minimum setback requirement may mirror the setback for those adjacent lots immediately across the street from the PRD. The minimum setback for lots abutting the boundary of the PRD shall be identical to, or mirror, the rear yard setback of the adjacent district.

- b.) Where a PRD is not adjacent to another existing housing development, the minimum building setback from an existing perimeter public right-of-way shall be one hundred (100) feet. The minimum setback from the project boundary shall be seventy-five (75) feet.
 - c.) At the sole discretion of the Zoning Commission, a reduction to a minimum building setback from an existing perimeter public right-of-way may be considered when:
 - i.) Natural features existing along the existing perimeter public right-of-way are substantial enough to provide adequate buffering between the units in the development and the road; or
 - ii.) When there are significant natural features located on the interior of the site and the Zoning Commission and Trustees find that it is more important to conserve those natural features than to maintain large building setbacks along the existing perimeter public right-of-way.
 - d.) Where a PRD is adjacent to existing public roadways, the following shall apply:
 - i.) The minimum setback from the centerline of U.S. or State Routes shall be one hundred thirty (130) feet.
 - ii.) The minimum setback from the centerline of any pre-existing county or township road which connects two or more public roads shall not be less than ninety (90) feet.
- 2.) Interior Building Setback Regulations
- a.) Front Yard Setback. The minimum setback from a proposed street right-of-way or the proposed outside pavement edge of a private road shall not be less than thirty-five (35) feet.
 - b.) Side Yard Setback. The minimum side yard setbacks shall not be less than fifteen (15) feet. The setback designed for the principal use on a lot shall also apply to all accessory uses.
 - c.) Rear Yard Setback. 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.
- F.) **Building Dimensions** - Each single family dwelling hereafter erected in this district shall have a living area of not less than twelve hundred (1,200) square feet. All such living areas shall be exclusive of basements, porches or garages.
- G.) **Height Limits** - No structure in this district shall exceed thirty-five (35) feet in height. Church spires, domes, flag poles and elevator shafts, are exempted from any height regulation and may be erected to any safe height. No antenna or aerial shall be permitted to extend more than twenty-five (25) feet over the highest point of the principal residence on the premises. Standards set forth in Section 21.04 shall apply.
- H.) **Garages** - Each single family dwelling shall provide a minimum one-car garage.
- I.) **Landscaping** - All yards, front, side and rear, shall be landscaped. All organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the Final Development Plan.
- J.) **Parking** - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 20 of this resolution shall, when appropriate, be incorporated.
- K.) **Signs** - Except as provided under the provisions of Article 21 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses:

- 1.) No signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which said sign is located. Such sign shall not exceed six (6) square feet in area on each side.
- 2.) The owner or developer of a subdivision or similar area may, upon the conditions and for the time period designated in the development plan, erect one sign not exceeding 32 square feet in area per side advertising said subdivision, development or tract for sale.

L.) Street Design Criteria

- 1.) Street alignments shall follow natural contours and be designed to conserve natural features.
- 2.) Locations of streets shall be planned to avoid excessive storm water runoff and reduce the need for storm sewers.
- 3.) The area of the project devoted to streets and related pavement shall be the minimum necessary to provide adequate and safe movement through the development as designated by the County Engineer.
- 4.) Road cross-section shall be curb and gutter with enclosed stormwater management.

M.) Bicycle and Pedestrian Circulation Systems - A bicycle and pedestrian circulation system shall be included in the development and shall be designed to ensure that pedestrians can walk safely and easily throughout the development.

- 1.) The pedestrian system shall provide connections between properties and activities or special features within the restricted, permanent open space system and need not always be located along streets. For example, the bicycle and pedestrian circulation system should effectively promote the ability to access scenic views, natural features, and recreation areas. They should also consider pedestrian safety, particularly where they will be used by children, and consideration should be given to their proximity to busy streets.
- 2.) Trails for which public right of passage has been established shall be incorporated in the pedestrian circulation system.

N.) Resource Protection Regulations – To the maximum extent possible, the following features shall be maintained in their original condition in the development:

- 1.) All existing natural and man-made drainage courses.
- 2.) Slopes in excess of six (6) percent.
- 3.) **Trees.** All existing trees with a trunk diameter at breast height of eight (8) inches or more shall be retained or mitigated with equivalent dimension species on-site unless it is determined by the Zoning Commission that the retention of such trees would unreasonably burden the development or unreasonably limit use of the site. Prior to construction and/or land clearing, the applicant shall do the following:
 - a.) All such trees for which application is being made for removal shall be so identified on-site by red flagging tape prior to field inspection by the Zoning Inspector. Trees selected for transplanting shall be flagged with a separate distinguishing color.
 - b.) Construction limit fencing shall be erected that restricts access to areas under the tree canopy and tree protection devices shall be installed where required over tree roots, branches, and/or tree trunks.
 - c.) Fences and tree protection devices installed shall be maintained and all construction materials, supplies, and equipment shall be kept outside of the protected areas.

- 4.) **Conservation of Riparian Areas.** A riparian buffer shall be provided along the entire length and on both sides of a river or perennial stream channel. The buffer area shall have a width not less than fifty (50) feet. Riparian buffer areas shall be measured in a horizontal direction outward from the ordinary high water mark of each designated watercourse. Alteration of areas located within the riparian buffer shall be strictly limited and shall be preserved in their natural state.

a.) Permitted Uses in a Riparian Buffer:

- i.) Walkways and passive recreational activities, as defined in this resolution, when the Zoning Commission determines that such activities will create minimal change to the riparian buffer.
- ii.) Maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of this regulation.
- iii.) Streambank stabilization projects which emphasize the use of natural materials and native plant species where practical and available. Revegetation and/or reforestation with native, noninvasive, riparian trees, shrubs, and herbaceous wetland vegetation should be encouraged for restoration or established wherever possible.
- iv.) Conservation measures designed to remove damaged or diseased trees or to control noxious weeds or invasive species to preserve the forest from pest infestation, disease infestation, or fire threat when accomplished under the advice and guidance of an appropriate government agency.
- v.) Removal of damaged or diseased trees that are in danger of falling and causing damage to structures or causing blockage to the stream flow or otherwise exacerbating flooding.
- vi.) Storm water management wet basin when native plantings are used to provide landscaping around the site. Other storm water retention and detention facilities shall not be constructed in the riparian setback.
- vii.) Crossings of designated watercourses through riparian buffers with roads, driveways, easements, bridges, culverts, utility service lines, or other means. All crossings must be made in a manner that will not interrupt the course of the waterway, and that will allow for the free flow of water during periods of heavy rain. All crossings must also be made in a manner that will enhance, rather than detract from the natural beauty of the area.

b.) Prohibited Uses in Riparian Buffer:

- i.) There shall be no buildings, structures, roads or driveways, parking spaces, parking lots, or loading/unloading spaces or other human made impervious cover, except as permitted under this regulation. Fencing shall not be permitted unless it allows the passage of water.
- ii.) There shall be no use of motorized vehicles, except as permitted under this regulation.
- iii.) There shall be no mining activity, grading, filling or dredging of soil, spoils, or any material (natural or man-made) except for noncommercial composting of uncontaminated natural materials and except as permitted under this regulation.
- iv.) New Sewage Disposal or Treatment Areas. Riparian setbacks shall not be used for the surface and/or subsurface disposal or treatment of sewage, except for undeveloped parcels that have received site evaluation approval and/or permit approval prior to the enactment of this resolution or properly-sited disposal/ treatment systems serving dwellings existing at the time of passage of this resolution and permitted or in accordance with the Delaware General Health District and/or the Ohio Environmental Protection Agency.

- 5.) **Floodway Fringe Protection.** Within a floodway fringe, as defined in this Resolution, all land shall be used, and buildings or structures hereafter shall be erected, altered, enlarged, repaired or rebuilt, moved, or designed to be used, in whole or in part, only for a use listed below.
 - a.) Agriculture;
 - b.) Public or private parks and outdoor recreational facilities, including swimming pools, riding academies, play fields, ball fields, courts, trails, etc.;
 - c.) Fencing that allows the unrestricted passage of water;
 - d.) Off-street parking areas accessory to the above uses provided that such areas are improved with pervious pavement materials, such as pervious asphalt or pervious concrete or combinations of geotextiles with sand, gravel and sod.
- 6.) **Wetlands Protection.** Wetlands found within a site that are protected under federal or state law by the Army Corp. of Engineers or the Ohio EPA must remain in a natural state with minimal disturbance or contamination during construction of buildings, parking areas and streets. No off-site mitigation of wetlands shall be permitted. These wetland areas shall further be protected by a “no-disturb” buffer area having a width not less than thirty-five (35) feet, measured from the edge of the designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.

O.) **Standards for External Impacts** – As defined in Section 20.15.

- P.) The Township Zoning Commission and/or the 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 restricted, permanent open space; and any other pertinent development characteristics, as reasonably necessary to ensure fulfillment of the Purposes identified in Section 8.01, in any particular PRD project.

Section 8.06 – Regulations for Restricted, Permanent Open Space:

The restricted, permanent open space (pursuant to Section 8.05.C.) shall comply with the following:

- A.) **Conservation Design Priorities** - The following development site areas shall be located and designated to satisfy restricted, permanent open space and ensure that the development meets the conservation design objectives of the PRD District. The Zoning Commission shall have latitude in the approval of features to be preserved as restricted, permanent open space; however, where possible the selection should address the priorities which follow:
 - 1.) **Primary Conservation Features.** The following areas shall be prioritized as restricted, permanent open space to the maximum extent possible in the order prioritized:
 - a.) **Conservation of Woodlands, Vegetation, and Other Natural Resources.** The design and layout of the development should conserve, maintain, and incorporate existing wooded areas, meadows, and hedgerows and tree lines between fields or meadows, especially those containing significant wildlife habitats. Non-indigenous, invasive vegetation species, such as wild honeysuckle and multi-flora roses, are the only species that may be removed.
 - b.) **Conservation of Wildlife Habitats.** Wildlife habitat areas of species listed as endangered, threatened, or of special concern by the US Environmental Protection Agency and/or by the Ohio Department of Natural Resources should be protected.
 - c.) **Conservation of Wetland Quality Buffers.** Wetlands that are protected by the Army Corp of Engineers or the Ohio Environmental Protection Agency should be protected by a “no-disturb” buffer area having a width not less than thirty-five (35) feet, measured from the edge of the

designated wetland. The area within this buffer shall not be disturbed and shall be retained in its natural state.

- d.) Conservation of Riparian Zones. A riparian buffer of fifty (50) feet, measured in a horizontal direction outward from the ordinary high water mark of each designated river or stream bank, should be provided along the entire length and on both sides of a river or perennial stream channel.

- 2.) **Secondary Conservation Features.** Having given first priority to the Primary Conservation Features above, second priority, in the designation of restricted, permanent open space, should be given to the following types of areas in the order presented:

- a.) Conservation of Floodway. All land within a floodway should be preserved from development except for the following uses: agriculture; outdoor recreational facilities including swimming pools, riding academies, playfields, ball fields, courts, trails, etc.; fencing that allows the passage of water; and off-street parking areas accessory to the previous uses provided that such areas are improved with pervious pavement materials, such as pervious asphalt or pervious concrete or combinations of geotextiles with sand, gravel and sod. Any decrease in floodway area should be mitigated on-site.
- b.) Conservation of Existing Scenic Vistas and Visual Quality of the Environment. Buildings should be located to ensure that scenic views and vistas are unblocked or uninterrupted.
- c.) Conservation of Sloping Land. The road system and buildings should be located to minimize changes to the topography and the need for cutting and filling. Steep slope areas over 20% should be preserved as no build / no disturbance areas.

- 3.) **Third Priority Conservation Features.** The following areas shall be designated for restricted, permanent open space as the third priority features for conservation when higher priority conservation features on the development site have already been designated:

- a.) Conservation of Prime Farmland. Farmland that satisfies the USDA definition of “prime” or “locally unique” farmland should be conserved.
- b.) Conservation of Cultural Resources. Sites of historic, archaeological, or cultural value and their environs should be protected insofar as needed to safeguard the character of the feature, including stone walls, spring houses, barn foundations, underground fruit cellars, earth mounds, and burial grounds.

- B.) **Permitted Uses in Restricted, Permanent Open Space.** Areas designated for restricted, permanent open space purposes may be preserved, designed, or utilized for:

- 1.) Active and passive recreation uses; however, active recreation areas, including golf courses, shall be limited to less than fifteen (15%) of the total site area of the development. Any restricted, permanent open space intended to be devoted to recreational activities must be of a useable size and shape for the intended purposes;
- 2.) Agricultural uses pursuant to ORC 519.21 when authorized in the Association’s covenants and restrictions;
- 3.) Fire protection areas;
- 4.) Lakes, ponds, and water supply reservoirs up to a maximum of fifty (50) percent of the restricted, permanent open space;
- 5.) Natural areas;

- 6.) Public recreation facilities;
 - 7.) Sewage management (including individual home septic system leach fields, zero discharge land application systems, or public sanitary sewer systems; but excluding treated effluent holding ponds) where easements satisfactory to the County Engineer, Delaware General Health District, County Sanitary Engineer (where a land application system may be proposed, or Ohio Environmental Protection Agency (where a combined treatment area may be proposed) are established;
 - 8.) Stormwater management where easements satisfactory to the County Engineer are established; however, retention and detention ponds shall be subject to the above restriction on lakes and ponds.
- C.) **Prohibited Uses of Restricted, Permanent Open Space** - In order to encourage the creation of large areas of contiguous open space, the following areas and features shall not be considered restricted, permanent open space:
- 1.) Minimum yard space as required;
 - 2.) Private yards;
 - 3.) Required setbacks between buildings, between buildings and streets, between buildings and parking areas, and project boundaries;
 - 4.) Required off-street parking areas, accessways, and driveways;
 - 5.) Street right-of-ways, private roads and Common Access Drives;
 - 6.) All public utility structures which serve the proposed development not specified under permitted uses, including: water towers, wastewater treatment facilities, treated effluent holding ponds, electrical substations, etc.;
 - 7.) A minimum of fifteen (15) feet between buildings and restricted, permanent open space;
 - 8.) Other small fragmented or isolated open space areas with a diameter of less than sixty (60) feet in any direction.
- D.) **Connectivity of Restricted, Permanent Open Space** – Restricted, permanent open space shall provide open space connectivity, linkages and viewshed protection.
- 1.) Eighty-five percent (85%) of residential lots shall be designed with direct access to (and direct views of) the open space system.
 - 2.) Restricted, permanent open space shall be interconnected with open space areas on abutting parcels.
 - 3.) Open space design should be highly creative in order to open up views from the public right-of-way and to provide immediate or nearby access from every dwelling. Restricted, permanent open space should be interconnected with open space areas on abutting parcels.
 - 4.) Pedestrian circulation systems should be designed to ensure that pedestrians can walk safely and easily throughout the development. The pedestrian system should provide connections between properties and activities or special features within the restricted, permanent open space system and need not always be located along streets. The pedestrian system should promote the enjoyment of scenic views, natural features, and recreation areas. They should also be designed for pedestrian safety, particularly where they will be used by children, and consideration should be given to their proximity to busy streets.
- E.) **Prohibition of Further Subdivision of Restricted, Permanent Open Space** – Restricted, permanent open space shall be prohibited from further subdivision or development by deed restriction, conservation easement,

covenant, dedication or other agreement in a form acceptable to the Township and duly recorded in the office of the Delaware County Recorder.

F.) Open Space Maintenance Standards - The development plan shall provide a means to properly maintain the restricted, permanent open space.

- 1.) The ultimate owner of the restricted, permanent 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. When restricted, permanent open space is owned by a homeowners' association, it shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.
- 2.) In the event the owner shall fail to maintain the restricted, permanent open space in reasonable order and condition in accordance with the development plan, the township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the restricted, permanent open space in reasonable condition.
- 3.) Failure to adequately maintain the restricted, permanent open space in reasonable order and condition constitutes a violation of this ordinance. The township is hereby authorized to give notice, by personal service or United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy same within thirty (30) days.
- 4.) Should any bill for maintenance of restricted, permanent open space by the township be unpaid on November 1 of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as municipal claims.

G.) Open Space Ownership Standards: Restricted, permanent open space within a development shall be owned, administered and maintained by any or all of the following methods, either individually or in combination, and subject to approval by the township:

- 1.) Offer of Dedication. The township shall have the first and last offer of dedication of restricted, permanent 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 shall not be required to, accept restricted, permanent open space provided:
 - a.) Such land is accessible to the residents of the township;
 - b.) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and,
 - c.) The township agrees to and has access to maintain such lands. Where the township accepts dedication of restricted, permanent open space that contains improvements, the township may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.
 - d.) The trustees may lease restricted, permanent open space lands to any other qualified person, or corporation, for operation and maintenance of such open space lands, but such a lease agreement shall provide:
 - i.) That the residents of the development shall at all times have access to the restricted, permanent open space lands contained therein (except croplands during the growing season);
 - ii.) That the restricted, permanent open space to be leased shall be maintained for the purposes set forth in this ordinance; and

- iii.) The lease shall be subject to the approval of the trustees and any transfer or assignment of the lease shall be further subject to the approval of the trustees. Lease agreements so entered upon shall be recorded with the County Recorder of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the township.
- 2.) **Homeowners' Association.** The restricted, permanent 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:
 - a.) The developer shall provide a description of the association, including its bylaws and methods for maintaining restricted, permanent open space.
 - b.) The association shall be organized by the developer and shall be operated with a financial subsidy from the developer, before the sale of any lots within the development.
 - c.) Membership in the association is automatic (mandatory) for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from the developer to the homeowners shall be identified.
 - d.) The association shall be responsible for maintenance of insurance and taxes on restricted, permanent open space, enforceable by the liens placed by the township on the association. The association may place liens on homes or house lots of members who fail to pay their association dues in a timely manner. Such liens may require the imposition of interest and/or late charges to the extent authorized by Ohio law governing homeowner associations.
 - e.) The members of the association shall share equitably the costs of maintaining and developing such restricted, permanent open space. Shares shall be defined within the association bylaws.
 - f.) In the event of a proposed transfer, within the methods here permitted, of restricted, permanent open space land by the homeowners' association, or the assumption of maintenance of restricted, permanent open space land by the township, notice of such action shall be given to all property owners within the development.
 - g.) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the restricted, permanent open space land.
 - h.) The homeowners' association may lease restricted, permanent open space lands to any other qualified person, or corporation, for operation and maintenance of restricted, permanent open space lands, but such a lease agreement shall provide:
 - i.) That the residents of the development shall at all times have access to the restricted, permanent open space lands contained therein (except croplands during the growing season);
 - ii.) That the restricted, permanent open space to be leased shall be maintained for the purposes set forth in this ordinance; and
 - iii.) The lease shall be subject to the approval of the homeowners' association and the township and any transfer or assignment of the lease shall be further subject to the approval of the association and Kingston Township. Lease agreements so entered upon shall be recorded with the County Recorder of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the township.
- 3.) **Dedication of Easements:** The township may, but shall not be required to, accept easements for public use of any portion or portions of restricted, permanent open space land, title of which is to remain in ownership by a condominium or homeowners' association, provided:

- a.) Such land is accessible to township residents;
 - b.) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and,
 - c.) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the township.
- 4.) **Transfer of Conservation Easements.** With the permission of the township, the owner(s) of the restricted, permanent open space may, in accordance with the provisions of ORC 5301.67-70, grant a conservation easement to any of the entities listed in ORC 5301.68, provided that:
- a.) The entity is acceptable to the township;
 - b.) The provisions of the conservation easement are acceptable to the township; and,
 - c.) The conveyance contains appropriate provision for assignment of the conservation easement to another entity authorized to hold conservation easements under ORC 5301.68 in the event that the original grantee becomes unwilling or unable to ensure compliance with the provisions of the conservation easement.

Section 8.07 – Review Procedure:

PRD Zoning District regulations shall apply to property only at the election of the property owner with approval by action of the Zoning Commission and Trustees. Any owner or owners of lots and lands within the area under Township Zoning may request that the Zoning Map be amended to include such tracts in the Planned Residence District in accordance with the provisions of this resolution. A PRD Development Plan in the form of a Preliminary Development Plan, a Final Development Plan, or a Combined Preliminary and Final Development Plan must be submitted simultaneously with the Zoning Map amendment request. Additional fees may be required from the applicant to cover the expenses associated with the public review of the plans, including the need to retain a registered professional engineer, architect, landscape architect, aquatic and wetland biologists, or other professional consultants to advise the Zoning Commission on any or all aspects of the Development Plan.

- A.) **Informal Consultation** - The applicant is strongly encouraged to engage in informal consultations with the township Zoning Commission prior to formal submission of a Development Plan. It is suggested that informal consultation with the Township include review of the Four-Step Conceptual Site Development Plan which is required in the formal submission. It is to be understood that no statement made in an Informal Consultation shall be binding upon the Township. Further, it is recommended the applicant take the first step of the multi-step County Subdivision Plat Procedure by submitting a Sketch Plan / Site Review to the Delaware County Regional Planning Commission.
- B.) **Zoning Map Amendment Application** - An application for a PRD Zoning Map amendment shall be filed with Zoning Commission by the owner(s) or authorized agents of the subject property on a form provided by the Zoning Inspector. All applications for amendments to the zoning map to rezone lands to this district shall follow the procedural requirements of Article 26 (Amendments) and one of the following procedures:
 - 1.) **Multi-Step Procedure.** The owner of the subject real estate may apply for a Zoning Map amendment to rezone the land to a PRD District and simultaneously submit a Preliminary Development Plan with the application. Preliminary Development Plan review has the purpose of securing early agreement on an overall pattern of streets, density, house lots and restricted, permanent open space prior to any significant expenditure on engineering costs in the design of streets, storm water management, or the accurate delineation of site details. If the Zoning Map Amendment application is approved, then the Zoning Map is amended to PRD. The change in the zoning map is considered a legislative amendment and is subject to referendum by the citizens. The approval of the Preliminary Development Plan will permit the applicant to seek "preliminary plan" approval from the Delaware County Regional Planning Commission pursuant to the Subdivision Regulations of Delaware County. The subsequent submission to, and review and approval of, a PRD Final Development Plan by the township Zoning Commission,

based on the PRD standards in this Section, is an administrative act and shall not be considered to be an amendment or supplement to the Zoning Resolution for the purposes of ORC 519.12, but may be appealed pursuant to ORC 2506.

- 2.) Combined Procedure. The owner of the subject real estate may apply for a Zoning Map amendment to designate the land as a PRD and simultaneously submit Combined Preliminary and Final Development Plans in accordance with the standards in this Section. If the Combined Preliminary and Final Development Plan is acceptable to the Township, then the Zoning Map is amended to PRD. This change in the Zoning Map is a legislative act and is subject to referendum by the citizens. A Zoning Certificate will not be issued until the Zoning Inspector determines that "final plat" approval by the Delaware County Regional Planning Commission and recording of the plat with the County Recorder pursuant to the Subdivision Regulations of Delaware County fully complies with the PRD Final Development Plan approved by the Township.
- C.) **Preliminary Development Plan** - When Preliminary Development Plan review is desired, ten (10) copies of the Preliminary Development Plan application, available from the Zoning Inspector, shall be submitted with twenty-one (21) copies of the planning maps. Ten (10) copies of the maps shall be required drawn at a legible scale within a 22 inch x 34 inch border on 24 inch x 36 inch plan sheets, but not with a scale smaller than 1 inch = 200 feet. One (1) copy of the maps shall be required enlarged on 36 inch x 48 inch sheets at a traditional scale. The ten (10) remaining copies of the maps shall be required reduced (half-sized) on 11 inch x 17 inch sheets. Drafting standards shall include: the name of the development; date of preparation/revision; north point, bar scale, and legend; sheet numbering; sheet size; dimensions indicated to the nearest foot; applicant/landowner contact information; and registered engineer, surveyor, and/or landscape architect contact information. The submissions shall include, but not necessarily be limited to, the following:
- 1.) Vicinity Map. A vicinity map of the Township which indicates the proposed site, and its relation to existing schools, parks, and other public sites.
 - 2.) Aerial Photograph. A recent aerial photograph of the site, taken within the last two (2) years, at a scale of 1" = 400' with site boundaries clearly marked and which illustrates the proposed size and location of the proposed development within its neighborhood context (an area within 2,000 feet of the development).
 - 3.) Legal Description. The legal description of the development site property, described using existing parcels and metes and bounds descriptions.
 - 4.) List of Property Owners. A current parcel map and a list of all mailing addresses for property owners, homeowners, and occupants, as appear on the county auditor's current tax list, for all properties to be rezoned, and those within, contiguous to, and directly across an existing street from the properties proposed to be rezoned, and within one thousand (1,000) feet of the exterior boundaries of the development. For each of the property owners the applicant shall provide pre-addressed, stamped, letter-size envelopes with sufficient postage to send notice via first class mail.
 - 5.) Natural and Man-Made Site Characteristics. A Preliminary Development Plan shall require an Existing Resources Plan for the proposed development indicating the following information:
 - a.) Site boundaries of the area proposed for development clearly marked, indicating dimensions, total acreage, and current and proposed zoning;
 - b.) Contour lines based upon the most recent U.S. Geological Survey at vertical intervals of not more than five (5) feet, highlighting ridge lines, rock outcroppings, and other significant topographical features;
 - c.) Existing property lines;
 - d.) Existing public roads, access, utility easements and other rights-of-way and tracks and trails of known or potential historic, cultural, or archeological significance. Similar data shall be made

available regarding adjacent properties within one thousand (1,000) feet of the development in order to provide continuity of roads, paths, and walkways. Indicate the location of schools, shopping, parks and other facility sites, if any are on-site or nearby;

- e.) Existing uses and structures on the site, including existing fences or stone walls, and within five hundred (500) feet of the property's boundary, including whether such sites or structures are of known or potential historic, cultural, or archeological significance;
 - f.) Land protected under conservation easements;
 - g.) A map report by a qualified aquatic and wetland biologist identifying the location, classification, and type of water bodies, (including ponds, rivers, perennial streams, intermittent streams and their related river or stream bank), the floodway boundary and floodway elevation as delineated by the Federal Emergency Management Agency, wetland and potential wetland complexes (by category and whether protected under federal or state law), severely constraining elements, such as steep slopes (over 20%) subject to soil erosion, and all riparian rights-of-way and easements;
 - h.) The delineation of existing watershed divides and drainage patterns on and adjacent to the development site, noting existing wells, well sites, and household sewage treatment system locations;
 - i.) The location of significant features such as woodlands, tree lines, open fields or meadows, significant scenic viewsheds into or from the site and identification of unique vistas, rock outcrops, existing fences or stone walls, and existing structures, roads, tracks and trails, and sites or buildings, and whether any are of known or potential historic, cultural, or archeological significance. Similar data shall be made available regarding adjacent properties and existing developments in order to provide continuity of plans including streets, paths and walkways;
 - j.) Soil boundaries as shown on the USDA Natural Resource Conservation Service maps, including all soils identified as prime farmland and soils susceptible to slumping.
- 6.) Four-Step Conceptual Site Development Plan. A Conceptual Site Development Plan must be provided over an Aerial Base Map in a four-step process on GIS maps so that the Zoning Commission may easily see how the proposed layout has been designed to conserve noteworthy or significant site features.
- a.) Planning Sheet #1. On Planning Sheet #1, indicate the potential location and a summary of the acreage of restricted, permanent open space area and location and size of any proposed open space improvements, such as recreation facilities, parking areas and pedestrian/bicycle trails. Development of restricted, permanent open space is subject to restricted, permanent open space development design criteria in Section 8.06.E.
 - b.) Planning Sheet #2. Once the restricted, permanent open space area to be conserved has been designated, on Planning Sheet #2 add the potential location of house sites, including a summary of the number of residential units, type and height of dwellings, and overall density by type of dwelling. Provide an explanation how this proposed layout meets the planning objectives of restricted, permanent open space connectivity, pedestrian linkages and viewshed protection.
 - c.) Planning Sheet #3. Once the restricted, permanent open space area to be conserved and the house sites have been designated, on Planning Sheet #3 add the general street and right-of-way layout tentatively aligned to provide vehicular access to each house in the most reasonable and economic way that avoids or minimizes adverse impacts on conservation areas. Indicate the relationship and impacts of any transportation facility upon existing conditions, topographical and otherwise. Note that:
 - i.) Wetland crossings and streets traversing existing slopes over fifteen (15) percent shall be strongly discouraged.

- ii.) Street connections shall generally be encouraged to minimize the number of cul-de-sacs to be maintained by the Township and to facilitate ease of access to adjacent properties.
 - iii.) Cul-de-sacs serving more than six (6) homes shall generally be designed with a central island containing trees, shrubs, and other plantings to be maintained by a homeowners association.
 - d.) Planning Sheet #4. On Planning Sheet #4, add a sketch of the layout of lot line locations (where applicable) generally drawn midway between house locations with probable lot sizes, and minimum set back requirements for principal and accessory uses, indicating where any zoning standards for the district cannot be met.
- 7.) Grading Plan. Show the approximate clearing limits and areas that will be more than five (5) feet of fill or cut. Indicate how and explain why natural features, such as woods, watercourses, drainage patterns, ponding areas, and off-site watersheds will be altered or impacted by the development.
 - 8.) Roadway Plan. Provide a preliminary roadway plan that indicates traffic counts on adjacent, existing roads, approximates major driveways and public intersections within one thousand (1,000) feet of the proposed intersection, and project Institute of Traffic Engineers (ITE) traffic counts for the access point(s) to the development.
 - 9.) Utility Plan. Propose provisions for water, sewage disposal, surface drainage, and utility easement locations with engineering feasibility studies or other evidence of reasonableness. For sites not served by off-site public water, a hydrological study shall be required to identify groundwater recharge areas and to analyze whether the proposed system will affect existing area wells. For sites not served by public or centralized sewer, septic system feasibility shall be demonstrated by letter from the Delaware General Health District.
 - 10.) Landscaping Plan. Indicate where new landscaping will be installed to mitigate damage to natural resources and/or restore natural beauty to the site.
 - 11.) Architectural Plan. Indicate the general development character of the tract including the limitations or controls to be placed on residential and related uses, including architectural design criteria for all structures, entrance features, and criteria for proposed signs with proposed control procedures.
 - 12.) Outline the method/structure to perpetually preserve the restricted, permanent open space. In addition to the legal method to prevent further subdivision or unapproved development of the restricted, permanent open space, generally indicate: the structure of the Association; membership requirements; financial responsibilities; and the relationship of the entity to public agencies having responsibilities related to the project.
 - 13.) Estimate a general time schedule for development of the site, including streets, buildings, utilities, and other facilities. This should include a suggestion for project phasing, including the phased construction of, permanent open space improvements.
 - 14.) Proposed maximum residential density indicating values for each variable in Section 8.05.B. (Maximum Residential Density).
- D.) **Final Development Plan** - Ten (10) copies of the Final Development Plan application, available from the Zoning Inspector, shall be submitted with twenty-one (21) copies of the planning maps. Ten (10) copies of the maps shall be required drawn at a legible scale within a 22 inch x 34 inch border on 24 inch x 36 inch plan sheets, but not with a scale smaller than 1 inch = 100 feet. One (1) copy of the maps shall be required enlarged on 36 inch x 48 inch sheets at a traditional scale. The ten (10) remaining copies of the maps shall be required reduced (half-sized) on 11 inch x 17 inch sheets. Drafting standards shall include: the name of the development; date of preparation/revision; north point, bar scale, and legend; sheet numbering; sheet size; dimensions indicated to the nearest foot; applicant/landowner contact information; and registered engineer,

surveyor, and/or landscape architect contact information. The submissions shall include, but not necessarily be limited to, the following:

- 1.) **Modifications to the Preliminary Plan.** A narrative of conditions imposed by the Zoning Commission in the Preliminary Development Plan review, if conducted as part of the Multi-Step Procedure, and additional conditions required by the County Planning Commission, the County Engineer, or other reviewing regulatory officials and agencies, noting the source of each condition. Any modification to an approved Preliminary Development Plan drawing due to these required conditions are to be referenced in the narrative and on the modified drawing.
- 2.) **Open Space Plan.** The exact location and a summary of the acreage of restricted, permanent open space area and any proposed recreation facilities or open space improvements, such as parking areas and pedestrian trails. Depict how buffers designed to separate active recreation areas and development of restricted, permanent open space is subject to restricted, permanent open space development design criteria.
- 3.) **Building Envelope Area Plan.** The exact location of building footprints or envelopes within which dwelling units or other structures are to be constructed in relation to the restricted, permanent open space areas to be conserved. Indicate how structures will meet required setbacks. Summarize the exact number of residential units, type and height of dwellings, and overall density by type of dwelling. Provide dimensions of the spacing between dwelling units/structures proposed for the development.
- 4.) **Roadway Plan.** An exact street and right-of-way layout aligned to provide vehicular access to each house in the most reasonable and economic way that avoids or minimizes adverse impacts on the primary and secondary conservation areas. Indicate the proposed traffic patterns, the relationship of the site to other transportation facilities, existing conditions, topography, sidewalk plans, and otherwise indicate whether public or private streets, and show how the site will have direct access to a major street without creating traffic on minor residential streets outside the PRD district. Unless waived by the Zoning Commission, provide an access management traffic study prepared within the last two (2) years and accepted by the County Engineer, examining the impact of the development on the existing infrastructure, modifications required to handle the increased traffic and the commitments and timetables to complete the necessary improvements.
- 5.) **Lot Line Plan.** The exact lot line locations (where applicable) with dimensions and setbacks indicated for all residential units for which individual ownership is proposed.
- 6.) **Grading Plan.** A grading plan showing all information pertaining to surface drainage. Indicate the exact location of all areas where soil disturbance or vegetation/canopy cover removal will occur, especially where natural features to be temporarily or permanently altered or impacted by the grading plan. Indicate on-site wetland or tree removal mitigation areas and management plan criteria, qualified oversight commitments, and timetables for this activity. Detail all low impact development measures to be taken to comply with County soil and water conservation requirements. Certify that the physical character of the site shall be suitable for development in the manner proposed without hazards to persons or property, on or off the site from probability of flooding, erosion, subsidence, or slipping of the soil or other dangers, annoyances, or inconveniences.
- 7.) **Utility Plan.** The exact locations for water, fire hydrants, sanitary sewer (where applicable), surface drainage and utility easement locations and indicate how existing and proposed utility services are adequate for the proposed development. For sites not served by off-site public water, a hydrological study shall be required identify groundwater recharge areas and to analyze whether the proposed system will effect existing area wells. For sites not served by public centralized sewer, sewage disposal feasibility shall be demonstrated by letter from the Delaware General Health District, the Ohio EPA, or a licensed sanitary or civil engineer.
- 8.) **Landscaping Plan.** A detailed landscaping plan for areas where new landscaping will be installed, including entry features, and a landscaping maintenance plan which identifies maintenance timing, technique, and who is responsible.

- 9.) Architectural Plan. Detailed architectural design criteria for all structures and development features.
 - 10.) Off-Street Parking. Indication of how the common areas in the development conform to required parking and loading space regulations.
 - 11.) Sign Plan. A detailed sign plan and criteria for proposed signs with proposed control procedures.
 - 12.) Ownership and Maintenance. The Declaration, Articles of Incorporation and either Bylaws (for a Condominium Association) or Code of Regulations (for a Homeowners' Association) and any other final deed restrictions, covenants, easements, encumbrances, and restrictions and maintenance agreements to be used to control the use, development, and maintenance of the land as well as to the ownership, use, and maintenance of all common areas, including restricted, permanent open space. These documents shall specify the structure of the association, membership requirements, financial responsibilities, and the relationship of the entity to public agencies having responsibilities related to the project. Drafts of all proposed ownership transfer documents, Deed Restrictions, and covenants, shall be included.
 - 13.) Timetable. The planned time schedule for development of the site, including streets, buildings, utilities, and other facilities. If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, including the phased construction of restricted, permanent open space improvements shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases. All phases so indicated shall not be less than five (5) acres or the whole tract (whichever is smaller).
 - a.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable. Describe how land surrounding the proposed development can be planned in coordination with the proposed development and any concerns regarding development compatibility.
 - b.) Documentation of the ability of the applicant to carry forth its plan by control of the land, the engineering feasibility of the plan, and whether the applicant either possesses, or has access to, sufficient funds for the initiation and completion of the project as described in the final Development Plan.
 - i.) There shall be evidence of the applicant's ability to post a bond if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
 - ii.) 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 year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.
 - 14.) Development Plan Design and Amenities. Specific statements of divergence from any development standard requirements in this Section or other existing township regulations or standards and the justification therefore. Whether the design and amenities incorporated in the development plan warrant flexibility from these development standards shall be specifically approved by the Zoning Commission.
- E.) **Criteria for Approval** - In approving an application for a Planned Residence District, the reviewing authorities shall determine:
- 1.) Whether the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.

- 2.) Whether the proposed development considers the recommendations of the Township's comprehensive plan or such portions thereof as may apply.
- 3.) Whether the proposed development advances the general welfare of the township and the immediate vicinity.

F.) **Effect of Approval** - The approval of a PRD Zoning Map amendment by the Township Trustees shall constitute an approval of the Preliminary Development Plan (in the Multi-Step Procedure) or the Preliminary and Final Development Plan (in the Combined Procedure).

- 1.) **Plat Required.** The Development Plan approval shall continue for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the approval shall require that an application for time extension is timely submitted and approved.
- 2.) In the Planned Residence District (PRD), 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 the Final Development Plan approved by the Township.
- 3.) 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.

G.) **Extension of Time** - An extension of the time limit of the approved development plan may be approved by the township Zoning Commission.

- 1.) No extension of time shall be granted except on application filed with the Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 8.07.F (Effect of Approval).
- 2.) Such approval shall be given only upon a finding of the purpose and necessity for such extension and evidence of reasonable effort toward the accomplishment of the original Development Plan, and that such extension is not in conflict with the general health, welfare and safety of the public or development standards of the district.

H.) **Amendment (Changes) to Any Approved Preliminary or Final Development Plan** - After a Development Plan has been approved by the Township, adjustments or rearrangements of buildings, parking areas, entrances, heights, or yards may be requested by the developer. For any proposed amendment to an approved Preliminary Development Plan, the developer shall have the option to seek amendment approval pursuant to Section 8.07.H prior to review of the Final Development Plan, or to use the same procedure for approval of the Final Development Plan. Where a proposed modification to the Development Plan also requires modification from the Preliminary Subdivision Plan as approved by the Delaware County Regional Planning Commission, Township review of the modification shall require prior approval by the Delaware County Regional Planning Commission and the County Engineer.

1.) **Minor Changes**

a.) Minor changes or revisions to an approved PRD shall consist of the following modifications:

- i.) Adjustments to the size and location of buildings, swimming pools, and other on-site structures so long as:

They do not result in an increase in the number of units over and above those in the approved plan;

They do not encroach materially into the established setback areas;

They do not encroach materially into the designated parking areas to the extent that would necessitate an alteration in the layout of the access drives or provisions for additional parking spaces;

They do not create a large building mass either through an increase in their height or length that would magnify their effect on the adjoining areas.

- ii.) Alterations to the proposed drives and/or parking areas so long as they do not encroach materially into building areas or specified recreation areas.
 - iii.) Adjustments in the size and location of development identification signs.
- b.) All proposed Minor Changes must be submitted to the Zoning Inspector not less than fourteen (14) business days before the next Zoning Commission meeting for consideration. The Zoning Commission may approve the change to the Development Plan and such change shall be indicated on the Final Development Plans.
- 2.) Major Amendment. A Major Amendment is any change to a Development Plan that does not meet the criteria for a Minor Change and, in addition, is one which would constitute a significant alteration in the basic plan design or result in a use different from those originally intended. Major Amendments include but are not limited to changes in road access points, the size and use of open space, a reduction of the overall acreage of the development, etc.

A proposed Major Amendment shall require the review and determination by the Board of Trustees after receipt of a recommendation by the Delaware County Regional Planning Commission and a public hearing and recommendation by the Zoning Commission. Public notice of the time, date, and location of the public hearing shall be both mailed by ordinary mail to all affected Township officials and all owners of land within five hundred (500) feet of the exterior boundaries of the subject development, and shall be published in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing.

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ARTICLE 9 – Reserved

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ARTICLE 10 – Neighborhood Office District (C-1)

Section 10.01 – Purpose:

It is the intention of the Township to create a district which will regulate future commercial development and foster expansion and rehabilitation of existing facilities to provide the atmosphere and opportunity to develop neighborhood-oriented office facilities which are small, pleasant, safe and convenient to the neighborhood.

Section 10.02 – Application:

The provisions of the C-1 district shall apply to proposed uses as defined in this Article, provided the owner or his/her representative complies with the amendment process pursuant to Article 26.

Section 10.03 – Permitted Uses:

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

- A.) **Office facilities for the providing of personal service** such as insurance agencies, insurance brokers, real estate offices, law offices, offices of physicians, dentists, osteopaths, chiropractors, podiatrists or other allied medical, dental or optical fields, accountants, architects and engineers.
- B.) **Offices of credit agencies, personal credit institutions or loan offices** provided that no drive-in windows are provided.
- C.) **Offices of Veterinarians** provided that the practice of said veterinarian is limited to small domestic animals, that no animals are boarded on the premises and that no outside runs or exercise areas are provided.
- D.) **Other offices, similar in nature or character**, as determined by the Zoning Commission.
- E.) **Temporary structures** such as trailer and construction office 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 twelve (12) months and may be renewed not more than once. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of permit or (10) days after project completion, whichever comes first.
- F.) **Churches, religious organizations, schools, and government buildings.**

Section 10.04 – 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 25 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the 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.) **Single Family Residences** provided the same contains at least twelve hundred (1,200) square feet of living area exclusive of porches, garages and basements.

- B.) **Apartments** in areas over or adjacent to the office facility provided that apartments constructed within this district shall contain the following minimum floor space, exclusive of porches, basements or garages:

One (1) bedroom unit	900 sq. ft.
Two (2) bedroom unit	1,050 sq. ft.
Three or more bedroom units	1,200 sq. ft.

- C.) **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. All such facilities shall possess all approvals and or licenses as required by state or local agencies.

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 and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway. Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') if such building or fencing is otherwise permissible under the provisions of this Resolution which are applicable to this District.

For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.

- C.) **No motor home or camper** of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- D.) Except as specifically permitted in Section 10.03 (E) in this Section **no mobile home** or mobile office structure shall be placed or occupied in this district.
- E.) **Adult Entertainment Facilities** - See Article 19.

Section 10.06 – Development Standards:

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

- A.) **Building Size** - No structure in this district shall contain more than six thousand (6,000) square feet of floor space devoted to any permitted or conditional use.
- B.) **Lot Size** - Minimum lot size shall be 3 acres, and the lot size shall be adequate to provide the yard spaces and off-street parking as required in this Section.
- C.) **Lot Proportion** - The maximum lot depth to width ratio is 4:1 and all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off street parking.
- D.) **Building Parcel Coverage** – No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by horizontal improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and horizontal improvements, with the end result at least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.

- E.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- F.) **Building Height** - No building shall exceed two (2) stories or thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- G.) **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 Sec. 20.10.
- H.) **Side Yard** - Side yards shall be required adjacent to residential districts not less than one-fourth (1/4) of the sum of the height and depth of the office buildings but in no case less than twenty-five (25) feet from the adjacent residential district.
- I.) **Rear Yard** - Rear yards of not less than eighty (80) feet shall be required when commercial areas are adjacent to residential areas. The rear yard setback shall not be less than adjoining residential setback
- J.) **Screening** - All commercial and office areas shall provide a screening of shrubbery or artificial fencing so as to hide trash collection areas and service areas from the view. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- K.) **Parking** - Off street parking shall be provided, within this district in strict compliance with the provisions of Article 20 of this Resolution.
- L.) **Signs** - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 21 of this resolution.
- M.) **Lighting** - Exterior lighting fixtures shall be shaded, shielded or directed downward that the light intensity or brightness shall not be objectionable to surrounding areas.
- N.) **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.
- O.) **Landscape Plan** - When any use abuts on a Class A or Class B road as defined in Sec. 20.10 a landscape plan shall be developed which is compatible, in the discretion of the Zoning Commission, with the adjoining areas and the owner or occupant of the premises shall at all times maintain all grassed and landscaped areas.
- P.) **Standards for External Impacts** – As defined in Section 20.15.

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ARTICLE 11 – Neighborhood Commercial District (C-2)

Section 11.01 - Purpose:

It is the intent of the Township to create a commercial district which together with the regulation of future areas and rehabilitation of existing facilities will provide the atmosphere and opportunities to develop small neighborhood shopping areas which are pleasant, safe, and convenient to the neighborhood.

Section 11.02 - Application:

The provisions of the C-2 district shall apply to proposed uses as defined in this Article, provided the owner or his/her representative complies with the amendment process pursuant to Article 26.

Section 11.03 - Permitted Uses:

Within the Neighborhood Commercial District (C-2) the following uses, developed in accordance with other provisions of this resolution, shall be permitted provided that all activities and transactions, except off street parking and loading/unloading shall be conducted within a closed building.

- A.) **Retail Stores** primarily engaged in the selling of merchandise for personal or household consumption and rendering services incidental to the sale of goods including hardware stores, grocery stores, meat and seafood markets, fruit stores and vegetable markets, candy stores, nut and confectionery stores, dairy product stores, retail bakeries, drug and proprietary stores, liquor stores, carryouts, florists, eating and drinking places where service is provided totally within the building, self-service laundromats, laundry and dry-cleaning shops, beauty shops, health spas, barber shops, shoe repair or shining shops or any other like retail establishment consistent with the above listed uses. Businesses providing drive-thru facilities or facilities which do not require the occupant to leave his or her car are not considered permitted uses.
- B.) **Office facilities** for the providing of personal service such as insurance agencies, insurance brokers, real estate offices, law offices, offices of physicians, dentists, osteopaths, chiropractors, podiatrists or other allied medical, dental or optical fields, accountants, architects and engineers.
- C.) **Offices of credit agencies**, personal credit institutions or loan offices provided that no drive-in windows are provided.
- D.) **Offices of Veterinarians** provided that the practice of said veterinarian is limited to small domestic animals, that no animals are boarded on the premises and that no outside runs or exercise areas are provided.
- E.) **Other business**, similar in nature or character as determined by the zoning board.
- F.) **Temporary structures** such as trailers and construction office 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 twelve (12) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration or (10) days after project completion, whichever comes first.
- G.) **Churches, religious organizations, schools, and government buildings.**

Section 11.04 - 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 25 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to

reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the 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.) **Single Family Residences** as an accessory use provided the same contains at least twelve hundred (1,200) square feet of living area exclusive of porches, garages and basements.
- B.) **Apartments** in areas over or adjacent to the office facility provided that apartments constructed within this district shall contain the following minimum floor space, exclusive of porches, basements or garages:

One (1) bedroom unit	900 sq. ft.
Two (2) bedroom unit	1,050 sq. ft.
Three or more bedroom units	1,200 sq. ft.

- C.) **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. All such facilities shall possess all approvals and/or licenses as required by state or local agencies
- D.) **Drive-thru or drive-in facilities** for financial institutions, restaurants or other businesses.

Section 11.05 - 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 and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway. Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') if such building or fencing is otherwise permissible under the provisions of this Resolution which are applicable to this District. For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.
- C.) No motor home or camper of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- D.) Except as specifically permitted in Sec. 11.03 (F) in this Section no mobile home or mobile structure shall be placed or occupied in this district.

Section 11.06 - 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.) **Building Size** - No structure in this district shall contain more than ten thousand (10,000) square feet of floor space per lot devoted to any permitted or conditional use.
- B.) **Lot Size** - Minimum lot size shall be 3 acres, and the lot size shall be adequate to provide the yard spaces and off street parking as required in this resolution.
- C.) **Lot Proportion** - The maximum lot depth to width ratio is 4:1 and all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off street parking.

- D.) **Building Parcel Coverage** – No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by horizontal improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and horizontal improvements, with the end result at least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.
- E.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- F.) **Building Height** - No building shall exceed two (2) stories or thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- G.) **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 Sec. 20.10.
- H.) **Side Yards** - Side yards shall be required adjacent to residential districts not less than one-fourth (1/4) of the sum of the height and depth of the buildings but in no case less than twenty-five (25) feet from the adjacent residential district.
- I.) **Rear Yards** - Rear yards of not less than eighty (80) feet shall be required when commercial areas are adjacent to residential areas.
- J.) **Screening** - All commercial and office areas shall provide a screening of shrubbery or artificial fencing so as to hide trash collection areas and service areas from view. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- K.) **Parking** - Off street parking shall be provided, within this district in strict compliance with the provisions of Article 20 of this Resolution.
- L.) **Signs** - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 21 of this resolution.
- M.) **Lighting** - Exterior lighting fixtures shall be shaded, shielded or directed downward so that the light intensity or brightness shall not be objectionable to surrounding areas.
- N.) **Freight Loading Area** - When any use within this district requires the 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.
- O.) **Landscape Plan** - When any use abuts a Class A or Class B road as defined in Sec. 20.10, a landscape plan shall be developed which is compatible, in the discretion of the Zoning Commission, with the adjoining areas and the owner or occupant of the premises shall at all times maintain all grassed and landscaped areas.
- P.) **Standards for External Impacts** – As defined in Section 20.15.

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ARTICLE 12 - Planned Commercial and Office District (PC)

Section 12.01 – Purpose:

The Township, recognizing that with increased urbanization and population growth comes increased demands for well organized commercial areas to provide employment, goods and services to area residents as well as to provide a balanced economy within the Township, hereby provides for the Planned Commercial and Office District, intending hereby to promote the variety and flexibility of land development for commercial purposes that are necessary to meet these demands while still preserving and enhancing the health, safety and morals of the inhabitants of Kingston Township.

Section 12.02 – Application:

The provisions of the PC district shall apply to proposed uses as defined in this Article provided the owner or his/her representative complies with the amendment process pursuant to Section 12.05.

Section 12.03 – Permitted Uses:

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

- A.) **Commercial and Office Establishments** of all types developed and maintained within an organized development of associated commercial activities in accordance with the approved development plan.
- B.) **Community Facilities** such as libraries, offices or educational facilities operated by a public agency or government.
- C.) **Establishments** normally associated with and intended to service the traveling public with **motels, service stations, restaurants, travel trailer parks** for overnight parking or any other allied activity.
- D.) **Hospitals**, medical facilities, nursing homes and convalescence homes.
- E.) **Medical**, dental and optical laboratories.
- F.) **Kindergarten or child care facilities**.
- G.) **Outdoor storage** of licensed and operable motor vehicle(s), boats and/or recreational vehicles.
- H.) **Mini Storage**.
- I.) **Apartments** or residences when the same are specifically designed as part of the architecture of the structure in a village setting. All living units constructed within this district shall contain the following minimum floor space:

One (1) bedroom unit	900 sq. ft.
Two (2) bedroom unit	1,050 sq. ft.
Three or more bedroom units or single family residences	1,200 sq. ft.

No commercial or business activity shall be conducted in a unit designed for residential use without consent of the Zoning Commission.

- J.) **Temporary structures** such as trailer and construction office 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 the defined time of approved plan. 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 Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

K.) **Other commercial ventures** not provided by this or other section of this resolution if approved as part of the plan.

L.) **Churches**, religious organizations, schools, and government buildings.

Section 12.04 – Prohibited Uses:

A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.

B.) Outdoor storage of inoperable and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway. Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') if such building or fencing is otherwise permissible under the provisions of this Resolution which are applicable to this District.

For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.

C.) No motor home or camper of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.

D.) Except as specifically permitted in Sec. 12.03(J) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.

E.) Adult Entertainment Facilities - See Article 19.

Section 12.05 – Review Procedure:

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

A.) **Application** - The owner or owners of land under Township Zoning 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.

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

B.) **Development Plan** - Ten (10) copies of the development plan shall be submitted with the application, which plan shall include in the text and map form:

1.) **The proposed size and location** of the Planned Commercial District.

2.) **The general development character** of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum setback requirements, and other development features including landscaping.

3.) **Architectural design criteria** for all structures and criteria for proposed signs with proposed control procedures.

- 4.) **The proposed provisions for water, sanitary sewer and surface drainage** with engineering feasibility studies or other evidence of reasonableness.
 - 5.) **The proposed traffic patterns** showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
 - 6.) **The relationship of the proposed development** to existing and probable uses of surrounding areas during the development timetable.
 - 7.) **Location of parks** and other public facility sites, if any.
 - 8.) **The proposed time schedule** for development of the site including streets, buildings, utilities and other facilities.
 - 9.) **If the proposed timetable for development includes developing the land in phases**, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give county and township officials definitive guidelines for approval of future phases.
 - 10.) **The ability of the applicant to carry forth its plan** by control of the land and the engineering feasibility of the plan.
 - 11.) **Specific statements of divergence** from the development standards in Articles 11, 20, and/or 22 or existing County or Township regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved the same shall be complied with.
 - 12.) **Evidence of the applicant's ability to post a bond** if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- C.) **Criteria for Approval:** In approving an application for a Planned Commercial and 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 this Zoning Resolution.
 - 2.) If the proposed development considers the recommendations of the comprehensive plan or portion thereof as it may apply.
 - 3.) If the proposed development advances the general welfare of the Township and the immediate vicinity.
- D.) **Effect of Approval:** The Development Plan as approved by Township Trustees shall constitute an amendment to the zoning resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, an application for time extension is required to be submitted and approved prior to the expiration of the three-year time period.
- E.) **Extension of Time or Modification:** An extension of the time limit as a modification of the approved development plan may be approved by the Township Trustees. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public 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 prescribed in Section 12.06 (D) in this Section .

- F.) **Plat Required:** In the Planned Commercial and Office (PC) District, no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:
- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
 - 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, 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 year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building until such time as the facilities for the phase in which the building is located are completed.
- G.) **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 insure substantial compliance with the development plan as approved.

Section 12.06 - 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 20 unless variance therefrom is approved.
- B.) **Building Height Limits:** No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- C.) **Building Size:** Buildings may contain such area of floor space that the total building area shall occupy no more than twenty percent (20%) of the total development land or as approved in the development plan.
- D.) **Lot Size:** Minimum lot size shall be 3 acres, and, the lot size shall be adequate to provide the yard spaces and off street parking as required in this resolution.
- E.) **Lot Proportion:** The maximum lot depth to width ratio is 4:1 and all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off street parking.
- F.) **Minimum Development Size:** The minimum area for a planned district is 20 acres.
- G.) **Building Parcel Coverage:** No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by horizontal improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and horizontal improvements, with the end result at least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.

- H.) **Landscaping:** All yards, front, side and rear, shall be landscaped and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- I.) **Site Development:** To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- J.) **Structure Separation:** No principal structure shall be located closer than twenty-five (25) ft. to another principal structure on the same lot or parcel unless the adjacent walls of both structures are masonry in which event said principal structures shall be no closer than fifteen (15) feet. No principal structure shall be located closer than fifteen (15) feet to another principal structure unless one of said structures has, as its exterior facing wall, a fire wall, free of any opening and capable of retarding the spread of any fire.
- K.) **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 20 of this resolution shall, when appropriate, be incorporated.
- L.) **Garages:** Each single family dwelling shall provide a minimum one-car garage.
- M.) **Signs:** Except as provided under the provisions of Article 21 of this resolution and except as permitted in the approved Development Plan, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which said sign is located. Such sign shall not exceed six (6) square feet in area on each side.
- N.) The 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 common open space; and any other pertinent development characteristics.
- O.) **No trash, debris, unused property or discarded material** shall be permitted to accumulate on any lot or portion of any lot thereof which creates an eyesore, hazard or public nuisance to the neighborhood or general public.
- P.) **Standards for External Impacts** – As defined in Section 20.15.

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ARTICLE 13 – Reserved

Section 13 – Reserved

ARTICLE 14 – Reserved

Section 14 – Reserved

ARTICLE 15 – Agricultural Preservation District (A-1)

Section 15.01 - Purpose:

The Agricultural Preservation District is intended to protect extensive land areas currently in agricultural use and/or extensive areas possessing soils that are especially suited to agricultural purposes and protect them from uncontrolled encroachment by urban types of development. In addition to farmland preservation, this district is intended for single family residences incidental to farming.

Section 15.02 - Application:

This section shall apply to all agricultural lands, the owner of which has applied for the A-1 classification provided such lands meet the criteria established by state law as to size, location, productivity and classification and provided the owner or his/her representative has complied with the map amendment process pursuant to Article 26.

Section 15.03 - Permitted Uses:

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

- A.) Farm residence.
- B.) Accessory buildings and accessory uses including private garages and permanent dwellings for full time domestic help employed on the premises or full time farm labor.
- C.) One occupied mobile home to be occupied by full time domestic help 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 Kingston Township.
- D.) Projects specifically designed for watershed protection, conservation of water or soils or for flood control.
- E.) 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.
- F.) Roadside sales of agricultural products shall be permitted in this district provided fifty (50%) percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Adequate area shall exist adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares.
- G.) Facilities for the storage, sorting, preliminary processing or sale of agricultural products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor.
- H.) Mobile homes and recreational vehicles for temporary residential use and temporary buildings of a nonresidential character may be used or occupied only during residential construction on the premises for a maximum of twelve (12) months from the date of issuance of the zoning permit. Said temporary structure shall be removed no later than ten (10) days after expiration of said twelve (12) month period or no later than thirty (30) days after issuance of occupancy permit, whichever comes first. Provisions shall be made for sanitary waste disposal, solid waste and water supply.
- I.) Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.

Section 15.04 - 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 25 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are

discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the 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.) Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:

- 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the area.
- 2.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or one hundred (100%) percent of the combined floor space in any garage or accessory building.
- 3.) No more than one (1) non-resident employee shall work on said premises.
- 4.) Services may be rendered on the premises or elsewhere.
- 5.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)
- 6.) 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 or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. Development shall follow the Standards for External Impacts as defined in Section 20.15.
- 7.) Waste materials, solid or liquid, shall not be created or imported onto 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 County Department of Health and do not create a burden on adjoining property.

B.) Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities associated with the airfield take place on said premises and the site is in compliance with F.A.A. regulations for a private landing field.

C.) Permanent structures or improvements used for retail sale of agricultural products produced on the premises.

D.) Within this district, Telecommunications Towers shall be subject to the procedures set forth in Section 6.04. An aerial or antenna for the sole purpose of residential use is permitted, considering the maximum height of structure does not exceed 75' and shall not be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract. Construction of towers must include a fall zone to the nearest structure and/or property line greater than the height of the tower and/or length of any supporting cables.

Section 15.05 - Prohibited Uses:

A.) No use not specifically authorized by the express terms of this chapter of the zoning resolution shall be permitted.

- B.) While the outdoor storage/parking of trailers of any type, boats, motor homes, recreational vehicles and buses up to four (4) units is permitted, additional units must be entirely screened (from view) from adjoining properties or roadways by means of a building or fencing (minimum height 6'). Junk motor vehicles and nuisances typically will be addressed outside this Resolution under the authority of the Board of Trustees granted by the Ohio Revised Code.
- C.) No motor home or camper of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- D.) Except as specifically permitted by Sec. 15.03(C) or (H) no mobile home shall be placed or occupied in this district.
- E.) No trailer of any type, no boats, no motor homes, buses, and no equipment of any type shall be parked in front of the front building setback line on any parcel within this district. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this code or the restrictions on the plat or subdivision

Section 15.06 - Development Standards:

All lands and uses within the Agricultural Preservation developed in strict compliance with the following standards:

- A.) **Lot Area** - No parcel of land in this district shall be used for residential purposes which has an area of less than five (5) acres (217,800 square feet). All other uses in this district shall have such lot area prescribed by the article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B.) **Lot Frontage** - Except as set forth in this resolution, all lots or parcels within this zoning district shall have the following minimum lot frontage of 300 feet on a road approved by the Delaware County Engineer.

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 which is equal to that minimum lot frontage requirement. This must be maintained fifty (50) feet forward of the building line. In no case shall the parcel or lot frontage at the right-of-way line be less than sixty (60) feet in width and the width of sixty (60) feet shall not be decreased at any point forward of the building line of the principal residence located on the premises.
- C.) Any parcel of land which at the building setback line is separated or removed from the public road by more than one other parcel of land shall be accessed only by a Common Access Drive (CAD) approved by the Delaware County Regional Planning Commission. Multiple lots with narrow frontage or flag lots must be separated by a lot meeting the required frontage at the right-of-way line. For lots having frontage on streets having extreme curvature, e.g., cul-de-sacs, the lot shall have the minimum width as specified above at the building line.
- D.) **Building Height Limits** - No building in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Barns, silos, grain handling conveyors, church spires, domes, flag poles, elevator shafts, and windmills are exempted from any height regulation and may be erected to any safe height. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line or right of way of said tract. Standards set forth in Section 20.04 shall apply.
- E.) **Building Dimensions (Floor Space Requirements)** - Each single family dwelling hereafter erected in this district shall have a living area of not less than twelve hundred (1,200) square feet. All such living areas shall be exclusive of basements, porches or garages.

- F.) **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 20.10.
- G.) **Side Yard Setback** - Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing, no building or structure shall be located closer than twenty-five (25) feet to any side lot line.
- H.) **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.
- I.) **Maximum Lot Coverage** - On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- J.) **Lot Proportion** - The maximum lot depth to width ratio is 4:1.
- K.) **Site Development** - To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- L.) **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 recommended standards set forth in Article 20 of this Resolution.

No trailer of any type, no boats, no motor homes, buses and equipment of any type shall be parked in front of the front building setback line on any parcel within this district. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by code or the restrictions on the plat or subdivision.

- M.) **Garages** - Each single family dwelling shall provide a minimum one-car garage.
- N.) **Signs** - Except as provided under the provisions of Article 21 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

- O.) **Standards for External Impacts** - As defined in Section 20.15.

ARTICLE 16 – Institutional District (INS)

Section 16.01 – Purpose and Intent:

It is the purpose of the Institutional District to promote, encourage and regulate the development of uses within the district for the preservation and fostering of not-for-profit institutions for the providing of social, cultural, educational and health services insofar as the said uses are conducted in a manner consistent with the low density, agricultural nature of the countryside or developed so as to serve as compatible buffer zones between agricultural and residential districts, commercial or other higher density use areas.

Section 16.02 – Application:

The provisions of the INS district shall apply to proposed uses as defined in this Article. All applications for amendments to the zoning map to rezone lands to this district shall follow the procedural requirements of Article 26 including a Development Plan indicating the features listed in Section 16.06.

Section 16.03 – Permitted Uses:

- A.) **Institutions** providing social, cultural, educational and health services to member agencies, organizations and individuals or to the general public including:
 - 1.) Hospitals;
 - 2.) Elementary and secondary schools;
 - 3.) Colleges, universities and junior colleges;
 - 4.) Religious organizations;
 - 5.) Libraries, museums and art galleries;
 - 6.) Community buildings.
- B.) **Offices** for organizations and associations organized for promotions of membership interests to include:
 - 1.) Business and professional associations and organizations;
 - 2.) Labor unions and similar labor organizations;
 - 3.) Civic, social and fraternal associations;
 - 4.) Political, charitable and other non-profit membership associations not elsewhere classified.
- C.) **Temporary structures** such as mobile offices and temporary buildings of 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 shall be valid for twelve (12) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

Section 16.04 – Conditional Uses:

The following uses may be allowed in an Institutional District subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of this Article and of this Resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are discontinued for a period in excess of two (2)

years. If the property is sold or conveyed to a third party, any previously granted conditionally permitted use shall be void and the subsequent owner(s) shall be required to re-apply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. No conditionally permitted use shall be implemented until a permit of compliance is issued by the Zoning Inspector after approval by the Board of Zoning Appeals.

A.) **Professional Offices.** Professional offices for persons whose professions are directly related to, rationally connected with and beneficial to the institutional services already provided or already approved in the district. Criteria for evaluation shall include, but are not limited to the following:

- 1.) Whether or not it is a rational and beneficial connection to institutional services or uses already permitted or approved in the general vicinity;
- 2.) Whether or not the proposed professional office shall be designed, constructed, operated and maintained so as to be harmonious in appearance with existing or planned uses of the general vicinity;
- 3.) Whether or not the professional office is needed in the specific area to more effectively service the institutional use.

B.) **Convalescent Nursing Centers or Family Care Homes.** Convalescent Nursing centers or Family Care Homes shall be subject to the following:

- 1.) Every room occupied for sleeping purposes within the home shall contain a minimum of eighty (80) square feet of habitable room area for one (1) occupant, and when occupied by more than one (1) individual shall contain at least sixty (60) square feet of habitable room area for each occupant. No such facility shall use living rooms, dining rooms, entry ways, closets, corridors, outside porches or cellars as sleeping rooms;
- 2.) It shall provide not less than twenty-five (25) square feet per person of suitable indoor recreation area and not less than seventy-five (75) square feet of outdoor recreation or open space per person, exclusive of required front and side yards and parking areas, consolidated in a useful configuration and location on the site;
- 3.) 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;
- 4.) All exterior lighting fixtures will be shaded and directed downward wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District;
- 5.) Required Submittal
 - a.) Information explaining the need for the facility, the clientele to be served and the financial resources that will be used to operate the facility;
 - b.) Identification of similar facilities presently located in the area, including the names of individuals who may be contacted concerning the operation of such facilities;
 - c.) Identification of community facilities and social services that will be used by the clientele of the facilities, including the indication from the Administrator of such facilities and services that the clientele can be adequately accommodated;
 - d.) A license or evidence of ability to obtain a license from the appropriate governmental agency. Prior to the issuance of a permanent zoning permit, the applicant shall provide evidence that a valid license has been issued or is obtainable for the proposed conditional use on the subject property. When a license is not required of the applicant by a governmental agency, a written affidavit shall be presented as a part of the application by the governmental agency to which that applicant has accountability stating that a license is not required. The affidavit shall further state and describe the procedures that have been established in lieu of licensing to insure that the

provisions of this section are carried out and the types of controls that the governmental agency can exercise in this regard;

- e.) A copy of the operational and occupancy standards that will be used in establishing the facility;
 - f.) A detailed plan of services and programs to be offered to the clientele of the facility, including the nature of care to be provided, the types of services to be offered and the individuals and/or agencies who will be responsible for administering such care and services;
- 6.) Unless modified by this section, the facility shall comply with all other applicable codes and ordinances prior to the issuance of a zoning permit;
- 7.) Criteria for Evaluation:
- a.) Whether or not the facility is licensed by and/or whether or not it has legal accountability to an established social service agency of local government and if sufficient controls can be exercised to insure continued compliance to the provisions of this section;
 - b.) Whether or not the facility is needed based upon the evidence submitted by the applicant;
 - c.) Whether or not the proposed facility will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or officially planned uses of the general vicinity and that such use will not change the essential character of the neighborhood;
 - d.) Whether or not the proposed facility will be hazardous or disturbing to existing or officially planned future neighborhood uses from the standpoint of noise, lights, congestion of traffic generation which would be incompatible with the neighborhood environment;
 - e.) Whether or not the proposed facility will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - f.) Whether or not the proposed facility will have vehicular approaches to the property which shall be designed so as not to create an interference with traffic on public thoroughfares.

C.) **Licensed Pre-schools, Day Care Facilities and Children's Nurseries.** All licensed pre-schools, day care facilities and children's nurseries shall be subject to the following:

- 1.) Such proposed facility must be affiliated with or sponsored by an organization existing under one or more of the enumerated permitted institutional uses;
- 2.) Evidence of need for such facility and of benefit to the community must be demonstrated to the satisfaction of the Board of Zoning Appeals;
- 3.) A drop-off area shall be provided at the main entrance to the facility sufficient to accommodate at least four (4) automobiles as well as school bus traffic;
- 4.) All outdoor play areas shall be fenced or walled with an adequate barrier being not less than four (4) feet. If such facility is located adjacent to any residential area, a solid fence, wall, earthen berm or evergreen hedge six (6) feet high shall be constructed or planted along the lot line separating the districts;
- 5.) The maximum percentage of site coverage by all principal and accessory buildings, parking areas and outdoor play areas shall be seventy-five percent (75%).

Section 16.05 – Prohibited Uses:

- A.) Outdoor storage of inoperable and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway. Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') if such building or fencing is otherwise permissible under the provisions of this Resolution which are applicable to this District.

For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.

- B.) No motor home or camper of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- C.) No mobile homes, house trailers, whether occupied or unoccupied, other than by a guest under Section 16.05 (B) shall be parked on any lot.
- D.) Adult Entertainment Facilities - See Article 19.

Section 16.06 – Review Procedure:

- A.) An original and ten (10) copies of the application shall be tendered to the Zoning Commission;
- B.) Applicant shall further attach to the application in text and/or plans, proposed provisions for water, sanitary sewer, surface drainage facilities and outdoor trash container systems showing evidence of reasonableness as to each;
- C.) Applicant shall also attach to the application in text and/or plans, parking areas, walks and other access ways indicating their relationship to the topography;
- D.) Applicant shall further attach to the application in text and/or plans, proposed provision for screening, lighting and noise abatement;
- E.) Applicant shall further attach to the application in text and/or plans, a proposed schedule for development of the site;
- F.) Applicant shall further attach to the application plans drawn to scale showing the location of existing or proposed structures on the site.

Section 16.07 – Development Standards:

- A.) **Lot area.** No parcel of land within the Institutional zoning designation shall be used for institutional purposes or enumerated conditional purposes unless it has a net area (exclusive of existing right-of-ways) of at least the following:

1.)	Hospitals	15 acres
2.)	Elementary and secondary schools	5 acres
3.)	Colleges, universities/ junior colleges	15 acres
4.)	Religious organizations	5 acres
5.)	Libraries, museums, art galleries	5 acres
6.)	Community buildings	5 acres
7.)	Offices for organizations, associations	5 acres
8.)	Professional offices	5 acres
9.)	Convalescent Nursing Centers, Family	5 acres

Care Homes
10.) Pre-schools, Day Care Facilities, 5 acres
Children's Nurseries

- B.) **Lot Frontage** – All parcels shall have at least three hundred (300) feet of minimum lot frontage on the right-of-way line of adjoining public roads or approved easements.
- C.) **Building Setback** – No building or use shall be located closer to center line of the adjacent public or private road than permitted in Section 20.10.
- D.) **Side Yard** –No building, structure or parking areas shall be located closer than twenty-five (25) feet to any side lot line, provided, however, that the right is reserved to the Zoning Commission, Township Trustees or Board of Zoning Appeals to require greater side yard distances in this district if, in its opinion, the public safety or welfare may require it.
- E.) **Rear Yard** –No building, structure or parking area shall be located closer than eighty (80) feet to any rear lot line, provided, however, that the right is reserved to the Zoning Commission, Township Trustees or Board of Zoning Appeals to require greater rear yard distances in this district if, in its opinion, the public safety or welfare may require it.
- F.) **Building Size** - No structure shall contain more than six thousand (6,000) square feet of floor space devoted to any permitted or conditional use.
- G.) **Lot Size** - Minimum lot size shall be 5 acres, and shall be adequate to provide the yard spaces and off street parking as required in this resolution.
- H.) **Lot Proportion** - The minimum lot depth to width ratio is 4:1 and all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off street parking.
- I.) **Building Parcel Coverage** – No more than twenty percent (20%) of the parcel may be covered by buildings. Any portion of the parcel not covered by buildings may be covered by impervious improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and improvements. At least fifty percent (50%) of the parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.
- J.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- K.) **Building Height Limits** – No building or structure shall exceed 35 feet in height, as measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- L.) **Lighting and Noise Standards** – Any activity carried on shall be conducted in such a manner as to minimize noise carrying beyond lot lines. Outdoor artificial lighting shall not be permitted in an Institutional District which directly or indirectly materially illuminates adjacent properties.
- M.) **Roads and Parking Areas** – All roads and parking areas within this district which are generally open to the public shall be paved in accordance with Delaware County requirements.
- N.) **Traffic** – The site shall have adequate access onto a paved state highway, county or township road that is regularly maintained. Traffic plans for ingress and egress and shall be so designed so as to adequately handle the additional traffic generated by the use.
- O.) **Standards for External Impacts** – As defined in Section 20.15.

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ARTICLE 17 – Planned Institutional District (PINS)

Section 17.01 – Purpose:

It is the purpose of the Planned Institutional District to promote, encourage and regulate the development of uses within this district for the preservation and, fostering of institutions providing social, cultural, and educational services.

Section 17.02 – Application:

The provisions of the PINS district shall apply to proposed uses as defined in this Article. All applications for amendments to the zoning map to rezone lands to this district shall follow the procedural requirements of Article 26 including a Development Plan indicating the features listed in Section 17.05.

Section 17.03 – Permitted Uses:

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

- A.) **Institutions** providing social, cultural, educational and health to member agencies, organizations and individuals or to the general public including:
 - 1.) Hospitals
 - 2.) Elementary and secondary schools;
 - 3.) Colleges, universities and junior colleges;
 - 4.) Religious organizations;
 - 5.) Libraries, museums and art galleries;
 - 6.) Community buildings.
- B.) **Offices** for organizations and associations organized for the promotion of memberships interests to include:
 - 1.) Business and professional associations and organizations;
 - 2.) Labor unions and similar labor organizations;
 - 3.) Civic, social and fraternal associations;
 - 4.) Political, charitable and other non-profit membership associations not elsewhere classified.
- C.) **Cemeteries**, providing the same occupies a tract of not less than one hundred (100) acres. No building shall be placed closer to the right-of-way of any approved road than the setback prescribed by Section 20.09 of this Resolution. No burial may be made nearer than fifty (50) feet to the right-of-way of the approved public road adjacent thereto. No burial shall be permitted nearer than twenty five (25) feet to any other property line unless mature natural screen has been established along said property line at least six (6) feet in height in which case burials may be permitted not closer than ten (10) feet to said property line. No mausoleum, crematory, office facility, maintenance building or storage area shall be constructed except as approved by the Zoning Commission and plans for parking areas, public accesses, screening and other improvements shall be furnished as required.
- D.) **Public or Private Schools or Colleges** - Instructional areas, whether improved with buildings or not shall provide adequate parking areas for faculty, staff and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Zoning Commission and shall provide screening adjacent to residential areas. An institution shall occupy a minimum of twenty (20) acres.

- E.) **Churches** or other places of worship, provided they occupy a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.
- F.) **Temporary structures** such as mobile offices and temporary buildings of 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 shall be valid for twelve (12) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

Section 17.04 – Prohibited Uses:

- A.) No use not specifically authorized by the express terms of this article or the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway.

Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') if such building or fencing is otherwise permissible under the provisions of this Resolution which are applicable to this District. For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.

- C.) No motor home or camper of any type may be occupied by the resident or property owner or a guest of the resident or property owner for more than fourteen (14) days during any 90-day period.
- D.) 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.
- E.) Except as specifically permitted in Section 17.03 (F) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- F.) Adult Entertainment Facilities - See Article 19.

Section 17.05 – Review Procedure:

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

- A.) **Application** - The owner or owners of land within the township may request that the zoning map be amended to include such tracts in the Planned Institutional District in accordance with the provisions of this Resolution. The applicant is encouraged to engage in informal consultations with the Zoning Commission and Regional Planning Commission, prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by Officials of the Township or County shall be binding upon either.

B.) **Development Plan** - Ten (10) copies of the development plan shall be submitted to the Zoning Commission with the application, which plan shall include in text and map form the following:

- 1.) The proposed size and location of the Planned Institutional District.
- 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum set back requirements, and other development features including landscaping.
- 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
- 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
- 5.) The proposed traffic patterns showing public land, private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
- 6.) The relationship of the proposed development to existing and probable uses of surrounding areas.
- 7.) Locations of parks and other public facility site, if any.
- 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give officials definitive guidelines for approval of future phases.
- 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
- 11.) Specific statements of divergence from the development standards in Articles 20 or existing Township regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the approved plan shall be complied with.
- 12.) Evidence of the applicant's ability to post a bond if the plan is approved assuring completion for public service facilities to be constructed within the project by the developer.

C.) **Criteria for Approval** - In approving an application for a Planned Institutional District the reviewing authorities shall determine:

- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
- 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
- 3.) If the proposed development advances the general welfare of the township and the immediate vicinity.

D.) **Effect of Approval** - The Development Plan as approved by the Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment.

E.) **Plat Required** - In the Planned Institutional District (PINS), 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. The subdivision plat shall be in accordance with the approved development plan and shall include:

- 1) **Site arrangement**, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
 - 2) **Deed restrictions, covenants, easements and encumbrances** to be used to control the use development and maintenance of the land 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 year after recording of said plat. In no event, however, shall any certificate of compliance be issued for any building until such time as the facilities for the phase in which the building is located are completed.
- F.) **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 17.06 – 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 20 unless variance therefrom is approved.
- B.) **Building Height Limits** - No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- C.) **Building Dimensions** - Buildings may contain such area of floor space as is approved in the development plan.
- D.) **Lot Size** - Minimum lot size shall be 3 acres, and, the lot size shall be adequate to provide the yard spaces and off street parking as required in this resolution.
- E.) **Lot Proportion** - The maximum lot depth to width ratio is 4:1 and all commercial tracts shall have access to approved streets and shall be of such width as to provide required yard spaces and off street parking.
- F.) **Minimum Development Size** - The minimum area for a planned district is 20 acres.
- G.) **Building Parcel Coverage** - No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by horizontal improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and horizontal improvements, with the end result at least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.
- H.) **Landscaping** - All yards, front, side and rear, shall be landscaped in accordance to Article 20 of this Resolution.
- I.) **Site Development** - To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).

- J.) **Parking** - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 20 of this Resolution shall, when appropriate, be incorporated.
- K.) **Signs** - Except as provided under the provisions of Article 21 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

- L.) **Exterior Lighting** - All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- M.) **Standards for External Impacts** – As defined in Section 20.15.
- N.) The Kingston Township Zoning Commission and/or the Board of Township Trustees may impose **special additional conditions** relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

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ARTICLE 18 – Recreational District (REC)

Section 18.01 – Purpose and Intent:

The purpose of the Recreational District is to permit the construction and use of private, semi-public and public recreation facilities within the Township (whether or not established and operated for commercial gain), provided the proposed location of such facility recognizes and protects unique natural scenic areas for conservation of open space and for recreational uses. Proposed recreational facilities are encouraged in low-density areas with a fostering of essentially non-urban activities or activities which are not likely to create a nuisance in terms of noise, odor, smoke and the like to adjoining property owners. It is a further purpose of this district to encourage development of recreational activities upon such lands which are participatory in nature. Conversely, large auditoriums, arenas and stadiums for spectator viewing of sporting events are not within the purview of this district.

Section 18.02 – Application:

The provisions of the REC district shall apply to proposed uses as defined in this Article. All applications for amendments to the zoning map to rezone lands to this district shall follow the procedural requirements of Article 26 including a Development Plan indicating the features listed in Section 18.06.

Section 18.03 – Permitted Uses:

- A.) **Public or private hunt clubs** sportsmen's clubs, fishing lakes, campgrounds, or similar recreational uses with buildings and club houses incidental thereto to serve members and/or users of the facility and grounds for games and sports provided that no mechanical amusement equipment be constructed, erected or contained thereon;
- B.) **Public or private golf courses**, to include commercial activities that are carried on in conjunction with golf course club house facilities such as pro shops and eating facilities;
- C.) **Private clubs** (including building and grounds) of a civic, social, business, educational or recreational nature;
- D.) **Recreation buildings, grounds and accessory buildings** in conjunction with playgrounds and athletic fields open to the public with or without charge;
- E.) **Public or private parks, preserves or sanctuaries** intended for public use and enjoyment to include accessory structures such as shelters and picnic areas;
- F.) **Other such public or private uses** that in the opinion of the Zoning Commission would further the intent and purpose of this district on the basis of potential benefit such uses might have upon the conservation of natural environmental assets.
- 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 18.04 – Conditional Uses:

There are no conditionally-permitted uses in this district.

Section 18.05 – Prohibited Uses:

- A.) **Outdoor storage** of inoperable and/or unlicensed motor vehicles, trailers of any type, boats, motor homes, buses, and equipment of any type for a period exceeding fourteen (14) days during any calendar year is prohibited if visible from any adjoining property or roadway. Any vehicle used for promotional purposes shall be parked behind the building and screened from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6') If not enclosed within a building a maximum of three (3)

inoperable and/or unlicensed vehicles may be kept (if screened with fence) on any parcel of land in this district.

For the purposes of these regulations, storage of inoperable, unlicensed or unused vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.

- B.) No individual **motor home or camper** of any type in a campground approved under Section 18.03 may be occupied for more than fourteen (14) consecutive days.
- C.) No seasonal or permanent designated campsites within campgrounds.
- D.) **Adult Entertainment Facilities** - See Article 19.

Section 18.06 – Review Procedure:

- A.) An original and ten (10) copies to the application shall be tendered to the Zoning Commission;
- B.) Applicant shall attach to the application in text and/or plans, proposed provisions for water, sanitary sewer, surface drainage facilities and outdoor trash container systems showing evidence of reasonableness as to each;
- C.) Applicant shall attach to the application in text and/or plans, proposed traffic plans, including streets, parking areas, walks and other access ways indicating their relationship to the topography;
- D.) Applicant shall attach to the application in text and/or plans, proposed provisions for screening, lighting and noise abatement;
- E.) Applicant shall attach to the application in text and/or plans, a proposed schedule for development of the site;
- F.) Applicant shall attach to the application plans shown to scale showing existing or proposed structures and their location on site.

Section 18.07 – Development Standards:

All lands and uses within a Recreation District shall be developed in strict compliance with the following standards:

- A.) **Lot Area** – No parcel of land in this district shall be used for any purpose enumerated, which has an area of less than five (5) acres.
- B.) **Lot Proportion** – The maximum lot depth to width ratio is 4:1.
- C.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- D.) **Density** – No parcel of land in this district shall have upon it more than one (1) main structure (excluding accessory structures clearly incidental to the main structure) per five- (5) acre increment.
- E.) **Lot Frontage** – All lots or parcels within this district shall have at least three hundred (300) feet of minimum lot frontage on the right-of-way line of adjoining public or private roads, or upon approved easements.
- F.) **Building Setback** – No building or use shall be located closer to the center line of the adjacent public or private road than permitted in Section 20.10.
- G.) **Side Yard Setback** – No building, structure or parking area shall be located closer than twenty-five (25) feet to any side lot line, provided, however that the right is reserved to the Zoning Commission, Township Trustees or Board of Zoning Appeals to require greater side yard distances in this district if, in their opinion, the public safety or welfare may require it.

- H.) **Rear Yard Requirement** – No building, structure or parking area shall be located closer than eighty (80) feet to any rear lot line, provided, however, that the right is reserved to the Zoning Commission, Township Trustees or Board of Zoning Appeals to require greater rear yard distances in this district if, in their opinion the public safety or welfare may require it.
- I.) **Maximum Lot Coverage** – On no lot or parcel in this Zoning District shall the main or accessory structures, parking areas, pedestrian areas and other hard-surfaced paved areas occupy more than twenty five (25%) of such lot or parcel.
- J.) **Building Height** – No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 21.04 shall apply.
- K.) **Lighting and Noise Standards** – Any activity carried on shall be conducted in such a manner as to minimize noise carrying beyond lot lines. Outdoor artificial lighting for any intended use shall not be permitted in this district, which directly or indirectly materially illuminates adjacent properties.
- L.) **Roads and Parking Areas** – All roads and parking areas within this district which are generally open to the public shall be paved in accordance with Delaware County Engineer design requirement
- M.) **Traffic** – The site shall have adequate access onto an approved road that is regularly maintained (with traffic plans for ingress and egress) and shall be designed so as to adequately handle the additional traffic generated by the use.
- N.) **Standards for External Impacts** – As defined in Section 20.15.

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ARTICLE 19 – Adult Entertainment District (AE)

Section 19.01 – Purpose:

The purpose of this Section is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of these sections to regulate entertainment businesses, as defined in this resolution, in such a manner as to prevent the erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to existing adult entertainment businesses, residentially zoned areas, schools, churches, park and playgrounds within the township. The following regulation shall apply to adult entertainment business as defined in this Section.

Furthermore, this article is intended to prevent crime, protect the township's retail trade, maintain property values, and generally to protect and preserve the quality of the township's neighborhoods, community life and commercial districts and not to suppress First Amendment rights of free speech.

Each subsection of this section is an independent part thereof and the holding of any section of this Resolution to be unconstitutional, void, beyond the authority of Kingston Township or legally ineffective for any reason shall not affect the validity or constitutionality of any other section of this Resolution.

Section 19.02 – Permitted Uses:

- A.) Adult Entertainment Business.

Section 19.03 – Prohibited Uses:

- A.) No person shall cause or permit the establishment of an adult entertainment business within one thousand (1000) feet of any single, two or multi-family dwelling, church, park, preschool, or school, nor within three thousand (3000) feet of another adult entertainment business. For purposes of this Resolution, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line on which the adult entertainment business is located to the nearest property line or the premises of a single, two or multi-family dwelling, church, park, preschool or school, or other adult entertainment business.

Section 19.04 – Conditional Uses:

There are no conditionally permitted uses in this district.

Section 19.05 – Development Standards:

- 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 20.
- B.) **Building Height Limits** – No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 20.04 shall apply.
- C.) **Building Parcel Coverage** – No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by impervious improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and improvements. At least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.
- D.) **Landscaping** – All yards, front, side and rear, shall be landscaped in accordance to Section 20 of this Resolution.
- E.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).

- F.) **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 20 of this Resolution shall, when appropriate, be incorporated.
- G.) **Signs** – All signs shall comply with the provisions of Article 21.05 (B) of this Resolution.
- H.) **Exterior Lighting** – All exterior lighting fixtures shall be shaded and directed downward whenever necessary to avoid casting direct light upon any adjoining property.
- I.) The Township Zoning Commission and/or the 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.
- J.) **Lot Proportion** – The maximum lot depth to width ratio is 4:1.
- K.) **Lot Size** – Minimum lot size shall be 3 acres, and the lot size required shall be adequate to provide yard spaces and off street parking as required in this resolution.
- L.) **Standards for External Impacts** – As defined in Section 20.15.

ARTICLE 20 - General Development Standards

Section 20.00 – General:

It is the purpose of these development standards to set forth certain general rules to be adhered to regardless of the type or classification of development. They are designed to insure that the general welfare of citizens of Kingston Township are protected and enhanced. These development standards apply throughout the township. If a conflict exists between these standards and more specific standards prescribed in any individual zoning district the specific provisions of the zoning district in question shall prevail. The standards set forth in this Section 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 20.01 – Zoning Certificate Required:

No structure, which exceeds 200 square feet in size, shall hereafter be located, constructed, reconstructed, enlarged or structurally altered nor shall any work be started upon same, nor development begun until a zoning certificate for the same has been issued by the Zoning Inspector, as provided in Section 23.02.

Section 20.02 – Parking and Driveways:

Wherever parking areas are to be provided as required by the provisions of this zoning resolution the following conditions shall apply:

- A.) **Dimensions** - All parking spaces shall be not less than nine (9) feet wide and twenty (20) feet long. Such spaces shall be measured as a rectangle and shall be served by aisle ways of sufficient width to permit easy and smooth access to all parking spaces. Requirements of the Americans with Disabilities Act shall be adhered to.
- B.) **Paving** - Except in the Farm Residence District (FR-1) and the Agricultural Preservation District (A-I) all common parking areas and adjacent aisles or driveways shall be paved with an adequate hard surface (aggregate, asphalt or concrete) compatible to the proposed use.
- C.) **Parking Area Location** - Except in the single family districts (A-1) and (FR-I), no parking lot or parking area shall be located nearer than six (6) feet to the side or rear line of the tract on which the structure is located and parking in front of the main structure may be permitted only if not more than forty (40%) percent of the front set back area outside of the right-of-way is occupied by parking. All parking spaces required in this Section shall be located on the same lot with the building or use served.
- D.) **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 (FR-I) and (A-I)	3 per dwelling unit (includes garages and driveways)
2) All other residential	3 per dwelling unit (includes garages and driveways)
3) Hotels, motels, lodges (without public meeting facilities)	1 per rental unit plus 1 per employee on largest shift plus 1 for every four seats in the dining room or restaurant area
4) Hotels, motels, lodges, exhibition halls and public assembly areas (except churches)	1 per rental unit plus 1 per employee on the largest shift plus 1 per 75 sq. ft. of floor area used for exhibition or assembly purposes plus 1 per 4 seats in restaurant therein
5) Churches or places of public assembly	1 for every three (3) seats or one (1) for every forty-five (45) sq. ft. of assembly area, whichever is greater
6) Hospitals	1-1/2 for every 2 beds plus 1 for each employee on the largest shift
7) Nursing Homes	1 for every 2 beds plus 1 for each employee on the

	largest shift
8) Museums, libraries, etc.	1 for each 400 sq. ft. of area open to public plus 1 for each employee on largest shift
9) Primary or elementary schools	1/teacher, 1/administrator, and 1 for every 4 seats in auditorium or place of assembly
10) Secondary schools, colleges, trade schools, etc.	6 for each classroom plus 1 for each four (4) seats in auditorium or place of assembly
11) Establishments for sale and consumption on the premises of alcoholic beverages, food, and refreshments, or for take home food services	1 parking space for each: A. 30 square feet of gross floor area in a restaurant; B. 140 square feet of gross floor area in a carry-out restaurant; C. 40 square feet of gross floor area or 2 seating accommodations, based on maximum seating capacity, whichever is greater, in a combination restaurant; D. 2 seating accommodations, based on maximum seating capacity in a sit-down Restaurant; Plus 1 parking space for each 2 employees on shift of largest employment in any type restaurant.
12) Offices	1 for each 400 sq. ft. of floor area plus 1 for each employee
13) Mortuaries or Funeral Homes	1 parking space for each 4 seats in the main chapel or public assembly area based on maximum seating capacity, plus 1 parking space for each funeral vehicle and employee, or in the case of no fixed seats, 1 parking space for each 50 square feet of floor area in parlors or service rooms, or 1 parking space for each 4 persons based on designed capacity of building, whichever is greater, plus 1 parking space for each funeral vehicle or employee.
14) Retail Stores	1 for every two hundred (200) sq. ft. of floor space
15) All warehousing	20 plus 1 for each two (2) employees plus 1 for each vehicle maintained on premises.

- F.) **Handicapped Parking** - Parking facilities serving buildings and facilities required to be accessible to the physically handicapped shall have conveniently located designated spaces provided as required by the Americans with Disabilities Act.

Section 20.03 – Driveway Construction:

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

- A.) All driveways (any use) - the following specifications are required for all driveways, regardless of the use served:
- 1.) No construction of any driveway shall commence until the applicant demonstrates that all the following specifications in this Section will be met by securing a driveway permit from the Township Fiscal Officer.
 - 2.) Driveway should not have a grade down from the public road pavement level exceeding eight percent (8%) or up at a grade of two percent (2%) within 15' of the edge of the pavement.
 - 3) Driveway should not, at any point over its entire length, contain a grade exceeding ten percent (10%).
 - 4) At the point the driveway intersects the public road the same shall have such radius and drain pipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway or a 15' radius.

- 5) 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.
 - 6.) If any driveway crosses a drainage swale, stream or ditch the same shall be bridged by pipe or such structure as required to permit the unobstructed passage of all surface water generated by a 5 year storm. Any pipe shall be of sufficient length to extend not less than three (3) feet beyond the toe of the slope of the fill over said pipe unless a properly designed headwall is install to protect the end of such pipe. Any bridge or structure spanning a stream or ditch shall be designed by a Professional Engineer with HS 15 loading. No bridge should be less than 12 feet in width. If the driveway serves a commercial or industrial use the bridge shall be not less than 18 feet in width.
 - 7.) If a fill is placed over any drainage structure or placed to alter the grade of any driveway the vertical slopes on said fill shall be no steeper than a three to one slope. All fill areas shall be scalped of vegetation and excavated to load bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and shall be compacted to a density of 100% 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.
 - 8.) Drainage ditches, except in residential districts, shall be constructed as necessary parallel to said driveway and shall be graded to maintain flow to a good and sufficient outlet. Siltation control shall be placed in any ditch and such siltation shall not flow to roadside ditches along public roads.
 - 9.) All curves in the driveway shall be of sufficient radius (not less than 50 feet) to permit unhindered passage of public safety vehicles including fire vehicles and all other vehicles reasonably expected to utilize the same.
 - 10.) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed for a total width of 12' and a height of 15'.
- B.) Residential driveways. In addition to the conditions imposed by Section 20.03 (A) above, the following standards are required for driveways serving residential structures or uses:
- 1.) Driveways serving individual residential structures shall not be less than 10 feet in width and shall be constructed over an 8" aggregate base.
 - 2.) If the driveway serves two (2) or more residences (not including apartment structures) the same shall be 12 feet in width and shall be constructed over an 8" aggregate base.
 - 3.) If any residential driveway is over 500 feet in length widened passing areas at least 15 feet in width shall be provided at reasonable intervals, not more than 300 feet distant from each other, to permit the free passage of traffic over said drive.
- C.) Commercial, public facility and apartment complex driveways. In addition to the conditions addressed in Section 20.03(A) above, the following standards shall apply to driveways serving all commercial parking lots for five (5) or more vehicles and apartment complexes containing ten (10) or more units and served by a common parking area:
- 1.) Driveways shall be not less than twenty (20) feet in width and adequate in width to permit easy access to parking spaces.
 - 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 paved and may be of any Ohio Department of Transportation approved materials.
- 4.) 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 driveways serving the lot, one of which is more than one hundred (100) feet and the other not less than forty (40) feet from said intersection.
- 5.) All driveways should 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.

Section 20.04 – Height Limitations:

The building height limitations set forth in this resolution shall not apply to church spires, domes, chimneys, cooling towers, elevator shafts, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers, tanks, water towers or necessary mechanical appurtenances which may be erected to any safe and lawful height. Windmills, aerials, antenna or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract. When a commercial tower is erected on a tract, the 360-degree fall setback to any structure(s), shall be equal to the tower height plus twenty-five (25) feet.

Section 20.05 – Sanitary Sewer Requirements and Pollution Control:

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

Section 20.06 – Water Impoundments:

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

- A.) Adjacent to all class "A" and "B" roadways no impoundment shall be located closer than fifty (50) feet to the right-of-way. For all other roads, no impoundment shall be located closer than twenty-five (25) feet to the right-of-way or fifty-five (55) feet of the center line of the road, whichever is greater.
- B.) No impoundment shall be located in the front yard in any district except the FR-I or A-I district except upon issuance of a conditional use permit pursuant to Article 23 of this resolution or as approved in plans of development or approved subdivision plats.
- C.) All permanently-installed swimming pools (in-ground or above-ground), or the entire property upon which it is located, shall be walled or fenced to prevent uncontrolled access by individuals from the street or from adjacent properties. Said fence or wall shall be in accordance with the Building Code of Delaware County.
- D.) Temporary or inflatable pools shall be located and protected to prevent accidental entry, either with a removable ladder or with a fence or wall in accordance with the Building Code of Delaware County.

Section 20.07 – Landscaping:

All uses and improvements in the Township should pay close attention to maintenance of proper landscaping as soon as possible after completion of construction of the principle structures or improvements. Maintenance of ground cover at all times is encouraged to prevent erosion.

Section 20.08 – Drainage:

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

Section 20.09 – Flood Plain Restrictions:

Certain limited areas under this resolution lie within the flood plain of the Big Walnut Creek, Little Walnut, Alum Creek or their tributaries. Inundation of those areas during periods of high water can impose great loss of property value unless controls are imposed to insure that land uses within those areas consider such risks and minimize the impact of such flooding. In an effort to control such uses, in the best interest of the Township, the following regulations shall be imposed.

- A.) The County Building Department maintains on file, for public examination, current maps, delineating the boundaries within the County of all lands designated 100-year “flood plain” by the Federal Emergency Management Agency (F.E.M.A.)
- B.) Open space uses shall be permitted within the flood plain to the extent that they are permitted within the zoning district controlling use of said land and provided they do not require structures, fill or storage of material or equipment or violate the County’s “Flood Plain Management Regulations”.
- C.) Uses shall be limited to those permitted within the County’s “Flood Plain Management Regulations”.

Section 20.10 – Setback Regulations:

No building or use (except parking areas) shall be located closer to the centerline of adjoining streets, roads, highways or approved private roadways than the distances set forth in the table or chart set forth in this Section. 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 - U.S. or State Routes
- B) CLASS B - Any other through public street or county road or township roads or any private roadway approved by County Engineer connecting two or more public roads.
- C) CLASS C – Dead-end roads ending at a cul-de-sac or approved turn around when the lot configuration or approved plan precludes future extension of said roadway or any branch therefrom to create a connecting street between two or more existing or future streets or roads.

Minimum Setback Distances

All distances are measured from the centerline of the existing or proposed roadway to the nearest use or improvement, except parking areas or signs which may be located within the set back area as regulated by Article 20 of this resolution.

USE CLASSIFICATION	ROAD CLASSIFICATION		
	Class A	Class B	Class C
FR-I-Residential	130	90	90
PRD - Residential	As approved by Development Plan		
C-I- Neighborhood Office	130	80	60
C-2- Neighborhood Commercial	130	80	60
PC- Planned Commercial and office	As approved by Development Plan		
INS-Institutional	130	130	100
PINS-Planned Institutional	As approved by Development Plan		
REC- Recreation	130	130	100
A-I - Agricultural	130	90	90
AE – Adult Entertainment	130	130	130

Section 20.11 – Installation of Satellite Signal Receiving Earth Stations:

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

- A.) No permit for installation of a disk or dish shall be required for a dish measuring 1 meter (39.37 inches) in diameter or less. For any dishes greater than 1 meter (39.37 inches) in diameter a permit fee as prescribed by the Township Trustees shall be paid to the Zoning Inspector and permit forms shall be executed as prescribed.
- B.) No installation may be made forward of the front building line of the principal structure and no antenna or dish shall be placed nearer than 20 feet (20') to any property line.
- C.) No disk or dish having a diameter of greater than 1 meter (39.37 inches) may be located on the roof of any residential structure or accessory building on a residential or agricultural lot. The top of disk or dish may not be more than 12 feet (12') above the ground level.
- D.) No disk or dish having a diameter of greater than 1 meter (39.37 inches) shall be installed on the roof or other mounting more than 6 feet above ground level in a commercial district unless the mounting of the same is designed to withstand a wind force of 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 disk or dish shall be permitted within the Township which exceeds twelve feet (12') in diameter unless the same is specifically approved as part of the development plan in the Planned Office/Commercial District.

Section 20.12 – Lighting Regulations:

- A.) General Requirements: All lighting shall be controlled in such a way as to not shine up into the sky or onto any neighboring properties. Examples of ways in which this may be accomplished are:
 - 1.) Use of fully shielded fixtures.
 - 2.) Directing light fixtures downward rather than upward.
 - 3.) Shielding the light in such a way that the light-emitting portion of the fixture cannot be seen at a reasonable distance.
- B.) Specific Requirements except in areas zoned A-1 and FR-1:
 - 1.) Where used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots, only fully shielded cut-off style outdoor light fixtures shall be utilized.
 - 2.) In non-residential areas where lighting is used for signs, decorative effects or recreational facilities, such as for building, landscape or ball 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 fixtures shall be turned off between 11:00 P.M. and sunrise, EXCEPT when used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots.
 - 4.) All illuminated signs for commercial purposes shall be turned off between 11:00 P.M. and sunrise, EXCEPT that signs may be illuminated while the business facility is open to the public. All forms of flashing, rotating, moving or digital lights shall be prohibited.
 - 5.) All outdoor light pole fixtures shall not exceed a maximum height of thirty (30) feet.
 - 6.) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of this Resolution.
- C.) Exemptions: The following types of lights are exempt from the requirements of this section, not including the maximum height limitations:
 - 1.) All lighting in areas designated as A-1 and FR-1;

- 2.) All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps;
- 3.) All low-voltage lighting rated twenty-four (24) volts or less and holiday lighting;

Section 20.13 – Fences:

A fence is any freestanding structure designed to prevent movement across a boundary or provide privacy or create a decorative landscaping feature. Fences include either a solid, opaque design or a stockade, lattice or chain link design. Unless otherwise regulated in this resolution or in an approved Development Plan, all fencing shall conform with the following guidelines:

- A.) No fence shall be located in the right-of-way of any road.
- B.) Unless otherwise regulated, fences shall not be subject to side and rear yard setbacks.
- C.) Stone, masonry or other material built higher than forty-two (42) inches shall be considered fencing, and must meet the fence location requirements. Entry features to private properties are excluded from this regulation.
- D.) No portion of any fence shall exceed eight (8) feet in height.
- E.) Opaque fences placed in front of the rear building line of the principal building on the lot shall be limited to a maximum height of four (4) feet in height.
- F.) In Planned Residential Districts, no fence shall be built in front of the rear building line of the principal building on the lot unless otherwise allowed in the approved Development Plan.
- G.) Decorative fencing as part of an approved, cohesive landscaping design plan in a subdivision project is exempt from these regulations.

Section 20.14 – Model Homes:

A Model Home is defined as a residential-type structure used as a sales office by a builder/developer 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:

- A.) Hours of Operation: Business hours shall be limited to the hours of 8:00 a.m. to 9:00 p.m.
- B.) 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.
- C.) Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed during the preliminary development plan approval process. 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.
- D.) 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.
- E.) **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. The structure's status as a model home may be renewed after five (5) years. 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.

- F.) No building equipment or materials may be stored at the model home.
- G.) 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.
- H.) Construction of a Model Home shall not commence before the builder/developer has secured a Zoning Permit from the Zoning Inspector and a Building Permit from the Delaware County Building Department.

Section 20.15 – Standards for External Impacts:

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

- A.) **Fire and Explosion Hazards** - All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B.) **Glare, Heat and Exterior Light** - Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other activity, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- C.) **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.
- D.) **Vibrations and Noise** - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- E.) **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.
- F.) **Electrical Interference** - No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- G.) **Waste materials, solid or liquid** - Shall not be created on or imported onto 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.

Section 20.16 – 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. Flexibility will be allowed for large planned developments providing large open spaces as buffers and for sites with extensive existing vegetation.

- 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.

Where a buffer is required, it shall be planted with a continuous 6-foot-high planting. This may be achieved with one (or a combination of several) of the following: a hedge, fence, wall or earth mound. If an earth mound is used, it is not required to span the entire width of the buffer as defined below and shall be designed with slopes that prevent erosion. In every case, the buffer area shall include the number of trees as referenced in the fourth column below:

1.) Property perimeter requirements (see notes below table)

When the use below is proposed as a new development and...	...adjoins the use below...	...the minimum landscaping, within a buffer zone of this average width (with 3 ft. as the least dimension) is required... (see c. below)	...which will contain this material, to achieve opacity required.
A proposed Planned Residential development	Any other residential zone	6 ft. along all common boundaries, including existing street frontage	1 tree per 40 feet of boundary.
A proposed Residentially-zoned development	Any Commercial or Office use	15 ft. along all common boundaries, including existing street frontage	1 tree per 40 feet of boundary.
A proposed Residentially-zoned development	Any Industrial use	20 ft. along all common boundaries, including existing street frontage	1 tree per 30 feet of boundary.
A proposed Commercial or Office Use	Any residential zone	15 ft. along all common boundaries, including existing street frontage	1 tree per 40 feet of boundary.
A proposed Office or Commercial Use	Any Industrial Use	15 ft., along all common boundaries, including street frontage	1 tree per 40 feet of boundary.
Any proposed use (agriculture exempted)	A freeway, arterial street, utility substation, junk yard, sewage plant or similar use	20 ft. for residential zones and 15 ft. for all other zones adjacent to freeway or arterial	1 tree per 30 feet of boundary.

- a.) Grass or natural ground cover shall be planted on all portions of the easements not occupied by other landscape material.
- b.) Any fractions that result from the calculations above must be rounded up to the nearest whole number. Trees do not have to be equally spaced, but may be grouped.
- c.) The least dimension for any commercial or industrial zone shall be six feet with three feet as the least dimension for any other district.

B.) Vehicular Use Area Perimeter Requirements:

A vehicular use area (VUA) is any open or unenclosed area containing more than 1,800 square feet of area and/or used by six or more of any type of vehicle, including parking lots, loading and unloading areas, mobile home parks, and sales and service areas. Driveways are considered to be vehicular areas whenever they are adjacent to public streets or roads or other vehicular use elements described previously in this paragraph.

- 1.) Every effort shall be made to screen headlights from shining into any adjacent uses by using the following standards.
 - a.) Where a buffer is required, it shall be planted with a continuous 3-foot-high planting. This may be achieved with one (or a combination of several) of the following: a hedge, fence, wall or earth mound. If an earth mound is used, it is not required to span the entire width of the buffer and shall be designed with slopes that prevent erosion. In every case, the buffer area shall include the number of trees as referenced below:
 - i.) All vehicular use areas shall include a 4 foot minimum landscaped buffer around the perimeter of the area where cars face adjacent property and where the area is along a street or service road. Such buffer shall include at least 1 tree per 40 feet of boundary between the VUA and the adjacent use.
 - ii.) Vehicular Sales and Service Areas shall include a 4 foot buffer along any street or service road. Such buffer shall include 1 tree per 50 feet of boundary plus 1 shrub per 10 feet of boundary.
 - iii.) Grass or natural ground cover shall be planted on all portions of easements not occupied by other landscape material.
 - b.) 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 the street, unless the authority building the street has fully met all requirements on the street right-of-way.
 - c.) Requirement conflicts: Whenever a parcel or activity falls under two or more of the categories listed in the tables the most stringent requirements shall be enforced.
 - d.) Landscape buffer zone conflicts: The required landscape buffer zone may be combined with a utility or other easement as long as all of the landscape requirements can be provided in addition to, and separate from, any other easement. Care or other objects shall not overhang or otherwise intrude upon the required landscape buffer zone more than two and one-half feet, and wheel stops or curbs shall be required.
- 2.) 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.
- 3.) Landscaping and 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, no landscape material nor parked vehicles, except for required grass or ground cover, shall be permitted. The sight triangle is defined in the following sections.

 - a.) Driveway intersection triangle: intersection of driveways with streets, the sight triangle shall be established by locating the intersection of the street curb or edge with the driveway edge, and by measuring from this point a distance of ten feet along the driveway to a point a distance of twenty feet along the street curb to a point and connecting these points.
 - b.) Street intersection sight triangle: At the street intersections, the sight triangle shall be formed by measuring at least thirty-five feet along curb lines or edge of pavement and connecting these points.
- 4.) 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 6000 square feet of area, or twenty or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping may be peninsular or island types.

5.) **Landscape area:**

For every 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 64 square feet with a four-foot 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 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 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.

6.) **Minimum Number of 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 tree per 5000 square feet of ground coverage and a total tree planting equal to one 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 tree for every 5000 square feet of ground coverage and, a total tree planting equal to ten inches plus one half 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 tree for every 5000 square feet of ground coverage and a total tree planting equal to twenty-five inches plus one-half inch in tree trunk size for every 4000 square feet over 50,000 square feet in ground coverage,
- d.) **Trees shall have a clear trunk** of at least five feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two feet in height.

C.) Landscaping for Service Structures

Service structures shall be screened, with height requirements based on the tallest of any grouped structures.

- 1.) **Location of screening:** A continuous planting hedge and/or earthen mound, shall be used to 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 at least equal to the height of the enclosed structure at full growth. Such screening material may count towards the fulfillment of required interior or perimeter landscaping.
- 2.) **Curbs to protect screening material:** Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regular occurring basis, a curb shall be provided 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 expansions to existing developments shall provide landscaping in addition to the required perimeter landscaping. Interior landscaping shall consist primarily of new tree planting or the preservation of hedges within the development site.

- 1.) Preservation of existing landscaping materials: All trees having a trunk diameter of six inches or greater as measured twenty-four inches from ground level preserved unless such trees are exempted as follows:
 - a.) Trees within public right-of-way or utility easements or a temporary construction approved by the County Engineer.
 - b.) Trees within the ground coverage of proposed structures or within twelve feet of the perimeter of such structures.
 - 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, diseased, over-mature, which interfere with utility lines, or are an inappropriate or undesirable species for that specific location.

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

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

2.) Tree planting requirements:

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

USE	Requirements
PRD districts	There shall be tree plantings equal to one-half inch in tree trunk size for every 150 square feet in ground coverage by a single-family structure. Such plantings shall be required within the property lot lines of each structure.
Business and Community Shopping Uses per Lot	In addition to the requirements of section 23.03 (B) 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 or fraction thereof landscaping areas shall contain trees, planting beds, hedges, fences, walls, earth mound, benches or other material designed and located in a manner complimentary to the overall architecture to the surrounding buildings.
Office-Institutional Uses	In addition to the requirements of subsection (B), 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, or fraction thereof
Industrial Uses	In addition to the requirements of subsection (B), 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.

- b.) Parking Lots: see Section 20.16 (B) above;
- c.) No new tree planting shall be required if existing trees and the aggregate trunk sizes of such trees meet or exceed the requirements as set forth in this Article and providing that such trees are evenly distributed throughout the developed area and not confined either to out-of-the-way dense clusters or to the perimeter of developed area. The minimum tree size for such tree plantings shall be no less than one and one-half inch in trunk diameter. For new development or construction, if new tree plantings are required for conformance to the landscaping requirements of this Article, the applicant or owner shall indicate on the landscape plan the location and size of

such tree plantings. If such trees landscape plan is approved, the applicant or owner shall plant such trees as may be required within one year or the next planting season after issuance of a zoning permit.

E.) Plan Submission and Approval

Whenever a property is affected by these 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 plan. All other landscape plans shall be approved by the Township Zoning Inspector.

- 1.) Plan Content: The contents of the plan shall include the following:
 - a.) Plot plan, drawn to an easily readable scale no smaller than one inch equal twenty feet; showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings and other structures, vehicular use areas including parking stalls, driveways, service areas square footage, etc., location of structures on adjoining parcels, water outlets and landscape materials, including botanical names and common names, installation sizes, on center planting dimensions where applicable, and qualities for all plants used and all existing trees.
 - b.) Typical elevations and/or cross sections as may be required:
 - c.) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, general orient plan so that north is to top of plan and zoning district.
- 2.) Zoning Permit and Certificate of Occupancy: Where landscaping is required, no zoning permit shall be issued until the required landscaping plan has been submitted and approved and no certificate of occupancy shall be issued until landscaping is completed as certified by an on-site inspection by the Zoning Inspector, unless a performance bond, or irrevocable letter of credit from a banking institution, has been posted. If the required landscaping has not been completed and a temporary certificate of occupancy is issued, a performance bond or irrevocable letter of credit from a banking institution shall be posted at that time.
- 3.) Posting of a Bond or Irrevocable Letter of Credit: After an irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within six months after the date of posting the bond or irrevocable letter of credit. A one-month extension of the planting period may be granted by the Zoning Inspector upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant material. No more than three such one-month extensions may be granted. 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 20.17 – Personal Items for Sale on Property:

Residents may place a vehicle, boat, trailer or equipment owned by them on their property adjacent to the roadway (not in the road right-of-way) and post one “for sale” sign in, on or immediately adjacent to the item. At any one time, no more than two items may be advertised for sale and residents are limited to the sale of four items total per calendar year. Each item may only be displayed for a period of 30 days in a 60-day period.

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ARTICLE 21 – Sign and Billboard Regulation

Section 21.01 – Purpose:

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

Section 21.02 – Permits:

Except for principal building identification signs as defined in Section 21.03, the erection or location of any sign within the township shall require a permit unless otherwise specified within this Article. Each application for a permit to erect a temporary or permanent sign shall be accompanied by a drawing showing the design proposed, the size, style, and color of letters, lines and symbols, and method of illumination. In addition, the details and specification for construction shall be described including the exact location of the sign in relation to the building(s) and property.

- A.) **Fees:** The applicant for a permit shall pay such fee as is prescribed by the Township Trustees. Such fees shall be prescribed annually by the Trustees.
- B.) **Term of Permit:** The zoning permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.
- C.) **Inspection:** All signs and billboards erected within the townships are subject to inspection, whether a permit is required or not prior to erection. The Zoning Inspector is hereby authorized to enter upon any property or premises to ascertain compliance with the provisions of this Resolution. Such inspection may be made at any reasonable time and the Zoning Inspector may order the removal of any sign or billboard that is not maintained in accordance with the provisions of this resolution.
- D.) **Cancellation of Permit:** In the event that the owner of any sign or property fails to comply with the terms of this zoning resolution said permit may be revoked upon compliance with the following terms:
 - 1.) **Notice:** The Zoning Inspector shall notify the owner of any deficiency or violation of this regulation. Notice shall be served personally or by certified 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 25 of this resolution dealing with revocation of the Conditional 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.
 - 2.) **Removal of Signs:** The Zoning Inspector may cause the removal of any sign illegally placed within the right-of-way of any road within the township. The Zoning Inspector shall store said sign and shall notify the owner thereof of its location, by certified mail. If the owner of any sign fails to claim same with thirty (30) days after mailing of notice by the Zoning Inspector said sign may be destroyed.

Section 21.03 – Permanent Site Street Address Signs:

In order to protect the public health, safety, and welfare, by providing a consistent identification system for emergency personnel, each new principle building within the Township shall be identified with a street address sign. Each such identification shall be exempt from permitting fees and shall be constructed in accordance with the following regulations

- A.) The sign shall be placed upon erection of a mailbox to serve the principle building, located on the support structure of the mailbox;
- B.) Such sign shall be a minimum of 18 inches by 6 inches and shall be of a green reflective material;
- C.) The address shall be displayed in numeral form;

- D.) Numerals shall be a minimum of three (3) inches in height and visible on both sides of the sign;
- E.) Numerals shall be of a white, light-reflective material;
- F.) Surface of sign shall be erected perpendicular to the public road, highway, street or thoroughfare serving the location such that it is visible from both directions;
- G.) If no mailbox exists at the end of the driveway, such sign shall be located on either end of the driveway culvert pipe or as close to the driveway as possible while allowing for the turning radius of automobiles, delivery trucks and emergency vehicles that may serve the site.
- H.) Addresses on Common Access Drives shall be provided at the CAD's intersection with the public street and at each driveway connection to the CAD as regulated by the Subdivision Regulations of the RPC.

Section 21.04 - Permitted Signs, No Permit Required:

The following signs shall be permitted in the township subject to the regulations set forth in this Section. 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 or Identifying the Builder or Contractor of the Premises** on which the sign is located: Not more than one sign shall be displayed on any lot or parcel. Such signs shall not be illuminated and shall not exceed six square feet of area per side with not more than two sides. All signs shall be removed upon completion of the building and/or renovation project and within fifteen (15) days of the sale, lease or rent of a lot, parcel or property.
- B.) **Vehicular Signs:** Directional or other incidental signs pertaining to vehicular or pedestrian control (i.e. STOP, ONE WAY, SPEED LIMIT, YIELD, etc.) on private property shall be permitted provided said signs are located outside the right-of-way of any public road, do not exceed two square feet of area per side and do not interfere or obstruct visibility when entering or leaving said property.
- C.) **Name and Address of Occupant:** of residence in FR-1 District provided that such sign is located outside the right-of-way of any public road. Said sign shall not be higher than three feet above the ground and not more than one sign shall be permitted.
- D.) **Political Signs** - The erection of political signs shall be permitted in any district covered by this resolution provided that said signs:
 - 1.) Are located outside the right-of-way limits of the road and do not interfere with visibility of vehicular traffic entering or leaving the highway.
 - 2.) Are erected or posted not more than ninety (90) days prior to the election and are removed within fifteen (15) days following primary elections by the losing candidates and within fifteen (15) days following the general election by both winning and losing candidates.
 - 3.) Are capable of posting and removal without destruction of public or private property.
 - 4.) Designate the name and address of the person charged with removal of the sign.
 - 5.) Signs shall not be placed on public utility poles or public property.
- E.) **Temporary Signs** announcing special public or institutional events. 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. There shall be no more than three (3) events per year per organization. Such sign shall designate the name of the person charged with the duty of removing said sign.
- F.) **Signs Approved in Planned Districts:** Permitted as part of the Development Plan approval process, provided that the construction of the approved sign is in strict compliance with the approved plan.

- G.) **Farm Signs:** Denoting the name and address of the occupants, the produce or products for sale on the premises and membership in organizations. Not more than one (1) sign may be permitted and it shall be located outside the road right-of-way. Advertising signs may not exceed thirty-two (32) square feet of area per sign and all other signs shall be limited to eight (8) square feet per side.
- H.) Flags, emblems and insignia of any governmental agency or political subdivision.
- I.) Historical signs, commemorative plaques, or corner-stones placed by recognized historical agencies, provided that such signs are less than nine (9) square feet in area and are not illuminated.
- J.) Yard or Moving Sales: One (1) sign advertising the sale of personal property at a garage, yard, porch or moving sale may be temporarily erected on the same lot as the sale provided such sign is no larger than four (4) square feet, and is not illuminated.
- K.) **Signs Approved as Part of Conditional Use Permit:** provided such signs are constructed in strict compliance with the imposed conditions.
- L.) **Personal Item Sale Signs:** Residents may post one "for sale" sign in, on or immediately adjacent to personal items for sale on their property as defined in Section 20.17. Signs must be located outside the right-of-way.

Section 21.05 – Permitted Signs - Permit Required:

The following signs shall be permitted in areas clearly delineated in this Section and subject to the following regulations:

- A.) **Outdoor Advertising:** 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 districts.
 - 1.) No billboard shall exceed three-hundred (300) sq. ft. in area per side nor have more than two sides.
 - 2.) No billboard shall exceed thirty-five (35) feet in height nor have a length in excess of four times the height of the sign face.
 - 3.) All billboards shall be located behind the building set-back lines established for the district in which the sign is located and shall be located no closer than 1,200 feet from the closest inhabited building.
- B.) **Commercial Identification Signs:** Are to be free-standing, building-mounted or ground signs identifying or advertising commercial or industrial uses on the premises. If the signs are located within a planned commercial zone or are erected pursuant to a conditional use permit, the location of said signs must be in strict compliance with the plan or permit in addition to any restrictions imposed in this Section.
 - 1.) Each principal commercial business, office, warehouse or industrial structure shall be entitled to one (1) identification sign. Such sign may be a free-standing, building-mounted or ground sign.
 - 2.) In a commercial use with multiple tenants:
 - a.) One (1) free-standing or ground sign may be erected to identify the overall development. The total sign area shall not exceed 100 square feet except as authorized by the Board of Zoning Appeals.
 - b.) Each separate commercial business, office, warehouse or industrial use within the principal structure shall be entitled to one (1) identification sign, either a building-mounted or window sign. Such window signs may occupy up to twenty-five percent (25%) of the total area of the window but in no case shall such sign exceed ten (10) square feet in area.
 - 3.) No sign shall have a surface area of greater than forty (40) square feet per side.

- 4.) No sign shall be located closer than twenty-five (25) feet to the right-of-way line of the adjoining thoroughfare.
 - 5.) Setbacks from the side lot line shall be in accordance with development standards for the district in which the sign is located.
- C.) Permanent Identification Signs for Residential Subdivisions: may be permitted subject to the following.
- 1.) Such signs shall be limited to one (1) per entrance along major thoroughfares and shall not obstruct the visibility of any intersection.
 - 2.) Such signs shall contain only the name of the subdivision that they identify, shall not exceed six (6) feet in height, and shall be landscaped.
 - 3.) The applicant shall submit a plan for the ongoing maintenance of such signs, identifying the responsibilities of the applicant, the public, the landowner, or other parties.
 - 4.) The size of each sign shall be compatible with the residential character of the area. The maximum size of such sign shall not exceed twenty (20) square feet per side.
- D.) 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.

Section 21.06 – Prohibited Signs:

The following signs shall be prohibited in areas under this Zoning Resolution:

- A.) Signs mounted upon the roof of any building or structure.
- B.) Signs not otherwise specifically authorized by this resolution.
- C.) Flashing lights, string of lights, and “A” frame signs, or air-activated attraction devices, including streamers.
- D.) Signs or advertising erected and maintained on trees or painted or drawn upon rocks or other natural features.
- E.) Except for identification signs on agricultural buildings, no sign or billboard shall be painted directly upon the roof of any building or structure.
- F.) No sign shall be attached to any fence within the right-of-way of any road and no sign shall be attached to any board or wooden fence regardless of location without the permission of the owner of the fence.
- 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.) Signs or parts thereof, which move or give the illusion of movement.
- I.) Changeable copy shall be prohibited on any sign except those for public uses, including churches, public parks, schools and other academic uses, publicly-owned and operated buildings and facilities, and other recreational facilities.
- J.) Portable signs that can be moved from one location to another without any change in their structural components or members, including trailer signs are prohibited.

Section 21.07 – General Regulations:

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

- A.) **Location:** No sign shall be located within the right-of-way of any public or private road within the township nor placed on any utility pole. Said sign or signs shall be located in strict compliance with this resolution and/or in strict compliance with the approved development plan or restrictions imposed by the Board of Zoning Appeals.
- B.) **Lighting:**
- 1.) No sign shall be illuminated to a level which causes unreasonably high light levels on adjacent residential lots or residences.
 - 2.) All lighting, indirect or internal, shall consist of constant illumination which is uniform in intensity. All lighting shall be properly directed so as to not create a nuisance to surrounding properties because of glare.
 - 3.) No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent roadways or right-of-ways thereby creating a hazard to vehicular traffic.
 - 4.) No flashing, rotating or moving light source shall be permitted on any sign within this township.
- C.) **Height:** No sign in excess of fifteen (15) feet in height shall be erected unless engineering data is supplied showing the structure to be able to withstand a wind force of eight-five (85) MPH. No signs shall be erected to a height greater than thirty-five (35) feet.
- D.) **Sight Interference:** No sign shall be permitted which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on roadways or rights-of-way. Signs shall not be located or designed so as to interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal or device.
- E.) Signs shall not make use of the words "Stop," "Look," "Danger," or other similar words that may mislead or confuse drivers.
- F.) **Maintenance:** All signs or billboards constructed or erected within the township shall be maintained in good repair and in a proper state of preservation.
- G.) All signs shall include the name and address of the individual responsible for the placement of the sign.
- H.) **Abandoned Signs:** If any sign or billboard shall become abandoned, such sign or billboard is declared a public nuisance by reason that continued lack of use results in a lack of reasonable and adequate maintenance, thereby causing deterioration and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any of the following criteria:
- 1.) Any sign or billboard associated within an abandoned non-conforming use.
 - 2.) Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least one hundred and eighty (180) consecutive days. Seasonal businesses are exempted from this determination.
 - 3.) Any sign or billboard that is not maintained in accordance with this resolution.

When the Zoning Inspector finds, upon investigation, that a sign or billboard has been abandoned, he/she shall notify the owner of said sign, together with the owner of the land on which the sign is located by certified mail, of his findings. Such notice shall advise the owner that the sign has been declared abandoned and must be removed within thirty (30) days from the date of mailing of said notice. The owner may appeal such decision to the Board of Zoning Appeals as provided in Article 25 of this resolution.

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

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

Section 21.08 – Non Conforming Signs or Billboards:

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

Any sign or billboard that does not conform to the provisions of this Resolution 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 Resolution. Should any replacement or relocation take place without being brought into compliance, the sign or billboard shall exist illegally.

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

- A.) The size and structural shape shall not be changed or altered.
- B.) The copy may be changed provided that the change applies to the original non-conforming use associated with the sign or billboard. The copy area shall not be enlarged. Any subsequent owner or user shall bring the sign or billboard into compliance.
- C.) In the case where damage occurs to the sign or billboard to the extent of fifty percent (50%) or more of either structure or 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 sixty (60) days.

ARTICLE 22 – Non-Conforming Uses

Section 22.01 – 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 22.02 – 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 fifty (50) 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 25; provided, however, such restoration shall be commenced within ninety (90) days of such calamity and diligently continued until completed. For the purposes of this section “value” shall be defined as the reproduction cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines for the structure.

Section 22.03 – Enlargement:

No non-conforming building or use may be reconstructed, extended, enlarged, expanded, or substituted except upon the granting of a conditional use permit or variance issued by the Board of Zoning Appeals in accordance with the provisions of Article 25 and this section.

Exception: a single family dwelling or accessory building may be expanded or enlarged so long as its use is not changed and said expansion or enlargement complies with the minimum setback requirements.

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 occupied 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 with 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 22.04 – 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 25. 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.

ARTICLE 23 – Zoning Inspector, Zoning Certificates and Applications

Section 23.01 – 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 existing zoning map. The compensation for such Zoning Inspector shall be set and paid by the Township Trustees.

Section 23.02 – Zoning Certificate Required:

No structure, which exceeds 200 square feet in size, shall hereafter be located, constructed, reconstructed, enlarged or structurally altered nor shall any work be started upon same, nor development begun until a zoning certificate for the same has been issued by the 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. Structures which do not require a Zoning Certificate as defined above must be built in conformance with the Kingston Township Zoning Resolution including setback requirements.

Section 23.03 – Procedures for Obtaining Zoning Certificate:

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

Section 23.04 – Conditions of Certificate:

No zoning certificate shall be effective for more than eighteen (18) months 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 23.05 – This section intentionally left blank

Section 23.06 – This section intentionally left blank

Section 23.07 – Zoning Certificate (Change of Use):

No change of use shall be made in any building or part thereof now or hereafter located, constructed, reconstructed, enlarged or structurally altered except for agricultural purposes, without a zoning certificate being issued wherefore by the 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 23.08 – Non-Conforming Uses:

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

Section 23.09 – Records:

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

Section 23.10 – Complaints:

The Zoning Inspector shall investigate all complaints received alleging violations and shall provide a copy of his findings to the Township Trustees. (The Inspector may require that all such complaints be submitted in writing.) If violations are evident, the Zoning Inspector shall take the appropriate action to bring the use into compliance. A written notice by certified 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.

Section 23.11 – Fees:

At the time of adoption of this zoning resolution, the Township Trustees shall establish a fee schedule. These fees will be effective immediately and may be amended at the Township Trustees annual organizational meeting.

ARTICLE 24 – Zoning Commission

Section 24.01 – Township Zoning Commission:

The Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The commission shall be composed of five (5) members who reside in the unincorporated areas of the Township to be appointed by the Board. The Board of Township Trustees may appoint two alternate members to the township Zoning Commission, An alternate member shall take the place of an absent regular member at any meeting of the township Zoning Commission, according to procedures prescribed by resolution by the board of township trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. The terms of the regular or alternate members shall be five (5) years and so arranged that the term of one member will expire each year. The Board may appoint qualified members of the Delaware County Regional Planning Commission to serve on the Township Zoning Commission. Each member or alternate 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 board, upon written charges being filed with the board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the board and shall be for the unexpired term.

Section 24.02 – Compensation and Expenses:

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

Section 24.03 – 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 in this resolution.

The Township Zoning Commission may, within the limits of the monies appropriated by the 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.

The Zoning Commission may request the Regional Planning Commission to prepare or make available to the Zoning Commission a zoning plan, including text and maps, for the unincorporated areas under township zoning or any portion of the same.

Section 24.04 – 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 may be compensated at rates set from time to time by the Township Trustees. The Township Clerk may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

Section 24.05 – Meeting and Agenda of Township Zoning Commission:

The Zoning Commission shall meet as necessary in the Township Hall or other Public building within the township.

Section 24.06 – 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. Said minutes shall be open for public inspection during commission meetings and normal business hours.

ARTICLE 25 – Board of Zoning Appeals

Section 25.01 – 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 Township Trustees and who shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The board of township trustees may appoint two alternate members to the township board of zoning appeals, An alternate member shall take the place of an absent regular member at any meeting of the board of zoning appeals, according to procedures prescribed by resolution by the board of township trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. The terms of all regular or alternate members shall be five (5) years and so arranged that the term of one member will expire each year. Each regular or alternate 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 non-performance of duty, misconduct in office, or other cause by the board of trustees, upon written charges being filed with the board of trustees, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by Township Trustees and shall be for the unexpired term.

Section 25.02 – Organization:

The Board of Zoning Appeals shall organize, electing a chair and vice-chair, 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 Chair, and at such other times as the Board of Zoning Appeals may determine. The Chair, or the acting Chair, 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 and shall be a public record. Attendance of three (3) members shall constitute a quorum. 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 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. Township Trustees and the Zoning Inspector shall be notified in advance of all meetings conducted by the board.

Section 25.03 – Compensation and Expenses:

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

Section 25.04 – Powers of the Board:

The Township Board of Zoning Appeals has the following functions:

- 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 Chapter 519.02-519.25 of the Revised Code, or of any resolution adopted pursuant thereto, including this Resolution;
- B.) To authorize, upon appeal, in specific cases, such variances from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done;
- C.) 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 (an “area variance”). Under no circumstance shall the

Board of Zoning appeals grant an area variance to allow a use not permissible under the terms of this resolution in the District involved.

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 area variance shall be granted by the Board unless it finds that, based upon the relevant facts and circumstances, that applicant has established by a preponderance of the evidence that the applicant has encountered practical difficulties and that a strict application of an area zoning requirement, e.g. frontage, setback is inequitable.

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

- 1.) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
 - 2.) Whether the variance is substantial.
 - 3.) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties or the comprehensive plan for the community would suffer a substantial detriment as a result of the variance.
 - 4.) Whether the variance would adversely affect the delivery of governmental services.
 - 5.) Whether the property owner purchased the property with knowledge of the zoning restriction.
 - 6.) Whether the owner's predicament feasibly can be obviated through some method other than a variance; and
 - 7.) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- C.) To **grant conditional zoning certificates** for the use of land, buildings, or other structures if such certificates are provided for in the zoning resolution.
- D.) **Revoke an authorized conditional zoning certificate** granted for the extraction of minerals, if any condition of the certificate is violated.

The board shall notify the holder of the conditional use 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 so requested. 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 or, by his attorney or other representative, or may present the position in writing. The holder 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 certificate is in addition to any other means of zoning enforcement provided by law.

In exercising the above mentioned powers A through D, such board 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 is within the powers of the officer whose decision was appealed, and to that end has all powers of the officer from whom the appeal is taken.

Section 25.05 – 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 therefore. The application for appeal shall be received a minimum of twenty one (21) days prior to the hearing date. 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 at least ten (10) days written notice to the parties in interest, give notice of such public hearing by one publication in a newspaper of general

circulation within the County 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 25.06 – Procedure for Application of Variance:

The following procedures shall apply to applications for variances:

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 application shall be received a minimum of twenty-one (21) days prior to the hearing date. The Board of Zoning Appeals shall give written notice by ordinary mail at least ten (10) days prior to the hearing to the applicant and all owners of land within five hundred (500) feet of the exterior boundaries of the land for which a variance is requested. An application for a variance shall be advertised at least once, ten (10) days in advance of the time set for the public hearing, in a newspaper of general circulation within the Township. The notice shall state the time and place of the public hearing, and the nature of the proposed appeal or variance.

B.) **Hearing and Decision** - At such hearing the applicant shall present a statement and adequate evidence, in such form as the Township Board of Zoning Appeals may require.

Within a reasonable period of time after the public hearing the Board of Zoning Appeals shall either approve, disapprove or approve with supplementary conditions.

In granting 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 25.07 – Procedure on Application for Conditional Use Permit:

The owner of any land or building within a zoning district within the areas under Township Zoning 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 plat plans and/or drawings as necessary.

B.) **Hearing** - The application shall be transmitted to the Board of Zoning Appeals who shall cause a public hearing to be held.

C.) **Notice** - Notice of the application for Conditional Use permit and the hearing thereon shall be given to the applicant and all property owners within five hundred (500) feet of the premises on which the use is planned. Notice shall be given by ordinary mail at least ten (10) days prior to the hearing. 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 reasonable conditions as it deems necessary to insure 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, lighting or odors.
- 6.) The use will be consistent with the objectives of this Zoning Resolution and the Comprehensive Plan.

Failure to comply with the terms of a conditional use permit shall be regarded as a violation of this Resolution and the sanctions may include revocation of such permit after due process.

Section 25.08 – Decision of Board:

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

Section 25.09 – Record:

The township may, at its discretion, employ a stenographer to appear at any BZA hearing and provide an official hearing transcript. If no stenographer is present, the notes of the Zoning Secretary of the Board of Zoning Appeals shall serve as the sole transcript of such hearing. Copies of the official hearing transcript may be obtained by the applicant or other interested parties from the Zoning Office according to the township fee schedule. If the applicant desires to have a stenographer present and the decision has been made by the Township not to employ a stenographer, then the stenographer fee shall be paid by the applicant with a copy of the transcript provided by the applicant to the Township at no cost.

Section 25.10 – Fees to Accompany Notice of Appeal or Application for Variance or Conditional Use:

For all actions of the Board of Zoning Appeals, 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.

ARTICLE 26 – Amendments

Section 26.01 – Amendments:

This article is intended to be a restatement of Section 519.12 of the Revised Code of Ohio and is adopted in this resolution for the convenience of the citizens of Kingston Township. Any amendments to Section 519.12 adopted by the Ohio Legislature shall be considered as having also amended this Article correspondingly. Amendments to the zoning resolution including text amendments and amendments to rezone or redistrict one or more parcels of land in the Township may be initiated by motion of the Township Zoning Commission, by the passage of a resolution therefor by Board of Township Trustees or by filing of an application therefor 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. The Board of Township Trustees may require that the owner or lessee of property filing an application to amend the zoning resolution to pay a fee therefore to defray the cost of advertising, mailing, county recorder filing, and other expenses. If the Township Trustees require such a fee, it shall be required generally, for each application,. The Board of Township Trustees shall upon the passage of such a resolution certify it to the Township Zoning Commission.

Section 26.02 – Zoning Commission:

- A.) 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 to be held by it 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. Published and mailed notices of such hearing shall be given by the Township Zoning Commission as follows:
 - 1.) Published notice shall be used for all types of proposed amendments. The **published notice** shall be made 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.
 - 2.) Mailed notice will in addition be used, if the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the county auditor's current tax list. The mailed notice shall be mailed by the Zoning Commission, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within and contiguous to and directly across the street from such area proposed to be re-zoned or re-districted to the addresses of such owners appearing on the county auditor's current tax list. If the owner's address on the current tax list appears to be the address of a mortgagee or real estate tax payment service, the notice to the owner shall go to the actual postal address of the owner unless such address is not ascertainable. The failure of delivery of such notice shall not invalidate any such amendment or supplement.
- B.) **Notice Contents – Amendments to Rezone or Redistrict Ten or Fewer Parcels:** If the proposed amendment intends to **rezone or redistrict ten (10) or fewer parcels of land**, as listed on the county auditor's current tax list, published and mailed notice shall be used and the published and mailed notices shall include time, date, and place of the public hearing as well as the following:
 - 1.) Statement that the Kingston Township Zoning Commission will be conducting the public hearing;
 - 2.) Statement indicating that the motion, resolution, or application is an amendment to the zoning resolution;
 - 3.) A list of the addresses of all properties to be rezoned or redistricted by the proposed amendment and of the names of owners of these properties as they appear on the county auditor's current tax list;
 - 4.) The present classification of the property named in the proposed amendment and the proposed classification of such property;
 - 5.) Time and place where the motion, resolution, or application proposed to amend the zoning resolution will be available for examination for a period of at least ten (10) days prior to the public hearing;
 - 6.) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail;

- 7.) Any other information requested by the Zoning Commission; and,
 - 8.) A statement that after the conclusion of such hearing, the matter will be submitted to the Board of Township Trustees for its action.
- C. **Notice Contents - Text Amendments or Amendments to Rezone or Redistrict More Than Ten Parcels** - If the proposed amendment alters or amends the text of the zoning resolution, or rezones or redistricts more than ten parcels of land, as listed in the county auditor's current tax list, published notice only shall be used and the published notice shall include time, date, and place of the public hearing as well as the following:
- 1.) Statement that the Kingston Township Zoning Commission will be conducting the public hearing;
 - 2.) Statement indicating that the motion, resolution, or application is an amendment to the zoning resolution;
 - 3.) Time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing;
 - 4.) The name of the person responsible for giving notice of the public hearing by publication;
 - 5.) Any other information requested by the Zoning Commission; and,
 - 6.) A statement that after the conclusion of such hearing, the matter will be submitted to the Board of Township Trustees for its action.
- D) Regional Planning Input. 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 Delaware County Regional Planning Commission.

The Delaware County 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.

- E) Transmittal to Trustees. The Township Zoning Commission shall, within thirty (30) days after it has 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 Regional Planning Commission thereon to the Board of Township Trustees.

Section 26.03 – Board of Trustees:

- A.) **Trustees to Set Hearing.** The Board of Township Trustees shall, upon receipt of such recommendation from the Township Zoning Commission, 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. Published and mailed notices of such hearing shall be given by the Board of Township Trustees as follows:
- 1) Published notice shall be used for all types of proposed amendments. The **published notice** shall be made 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.
 - 2) Mailed notice will in addition be used, if the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the county auditor's current tax list. The **mailed notices** shall be be mailed by the Board of Township Trustees, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within and contiguous to and directly across the street from such area proposed to be re-zoned or re-districted, to the addresses of such owners appearing on the county auditor's current tax list. If the owner's address on the current tax list appears to be the address of a mortgagee or real estate tax payment service, the notice to the owner

shall go to the actual postal address of the owner unless such address is not ascertainable. The failure of delivery of such notice shall not invalidate any such amendment or supplement.

B.) Published and Mailed Notices of The Board of Township Trustees' Hearing Shall Include:

If the proposed amendment intends to **rezone or redistrict ten or fewer parcels of land**, as listed on the county auditor's current tax list, the published and mailed notices shall include time, date, and place of the public hearing as well as the following:

- 1) That the Kingston Township Board of Trustees will be conducting the public hearing;
- 2) Statement indicating that the motion, resolution, or application is an amendment to the zoning resolution;
- 3) A list of the addresses of all properties to be rezoned or redistricted by the proposed amendment and of the names of owners of these properties as they appear on the county auditor's current tax list;
- 4) The present classification of the property named in the proposed amendment and the proposed classification of such property;
- 5) Time and place where the motion, resolution, or application proposed to amend the zoning resolution will be available for examination for a period of at least ten (10) days prior to the public hearing;
- 6) The name of the person responsible for giving notice of the public hearing by publication or by mail, or by both publication and mail;
- 7) Any other information requested by the Trustees.

If the proposed amendment **alters or amends the text of the zoning resolution or rezones or redistricts more than ten parcels of land**, the published notice shall include time, date, and place of the public hearing as well as the following:

- 1) That the Board of Trustees will be conducting the public hearing;
- 2) Statement indicating that the motion, resolution, or application is an amendment to the zoning resolution;
- 3) Time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten (10) days prior to the public hearing;
- 4) The name of the person responsible for giving notice of the public hearing by publication;
- 5) Any other information requested by the Board of Trustees.

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

D.) Such amendment adopted by the board shall become effective in thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated areas of the Township or part thereof included in the zoning plan equal to not less than eight (8) percent of the total votes cast for all candidates for governor in such area at the most recent general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of 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.

E.) No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes 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.

F.) All procedures thereafter shall be in strict compliance with the requirements of Chapter 519 of the Revised Code of Ohio.

- G.) Within five (5) working days after an amendment's effective 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 Planning Commission.

The Board shall file all amendments, including text and maps, that are in effect on or after January 1, 1992, in the office of the County Recorder within thirty (30) working days after the effective date. The Board shall also file a duplicate of the same documents with the Regional Planning Commission, within the same period.

The failure to file any amendment, or any text and maps, or duplicates of any of these documents, with the office of the County Recorder or the Delaware County 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 26.04 – 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 Board of Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application.

Section 26.05 – Record:

The Township may, at its discretion, employ a stenographer to appear at any Zoning Commission hearing and provide an official hearing transcript. If no stenographer is present, the notes of the Zoning Secretary for the Zoning Commission or Fiscal Officer for the Board of Trustees shall serve as the sole transcript of such hearing. Copies of the official hearing transcript may be obtained by the applicant or other interested parties from the Zoning Office according to the township fee schedule. If the applicant desires to have a stenographer present and the decision has been made by the township not to employ a stenographer, then the stenographer fee shall be paid by the applicant with a copy of the transcript provided by the applicant to the township at no cost.

ARTICLE 27 – Enforcement

Section 27.01 – Violations:

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

Section 27.02 – Remedies:

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

Section 27.03 – Penalty:

Whoever violates the provisions of this Zoning Resolution and amendments hereto or Chapter 519 of the Ohio Revised Code, shall be fined not more than five hundred dollars (\$500) for each offense or the maximum fine as provided by law, whichever is greater.

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ARTICLE 28 – Severability and Repeal

Section 28.01 – 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 attest or prejudice in any way the validity of this Zoning Resolution in any other instance.

Section 28.02 – Repeal:

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

Section 28.03 – Repeal of Conflicting Resolution:

To the extent there were other zoning laws in effect in any part of this Township before the adoption of this Resolution, they are considered repealed as of the date this Resolution first became law. Any suits at law or in equity concerning the application or interpretation of this Resolution and/or all prosecutions resulting from violation of this Resolution pending in any of the Courts of the State of Ohio or of the United States, pending at the time of adoption of any amendment hereto shall not be deemed abated or abandoned by reason of the adoption of any such amendment to this Zoning Resolution but shall be prosecuted to their finality the same as if such amendment to this Zoning Resolution had not been adopted. Any and all violations of the existing Zoning Resolution, 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. Provided, nothing in this Section or Resolution shall be intended to limit the power of the Trustees to settle litigation under Ohio Revised Code Section 505.07 nor the binding effect of a consent decree or court approved settlement agreement that has been approved by a court pursuant to said Revised Code Section 505.07.

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