

*Regional Planning*

**RESOLUTION NO. 2017-6**

**RESOLUTION OF THE BOARD OF BERLIN TOWNSHIP TRUSTEES OF ERIE COUNTY, OHIO, FOR THE PURPOSE OF AMENDING THE ZONING RESOLUTION AS ATTACHED.**

The Board of Berlin Township Trustees of Erie County, Ohio, met this 21st day of August, 2017, in Regular Session with the following members present:

Jeffery Finnen, Tadd Smith, and John Zarvis.

Mr. Smith introduced the following resolution and moved its adoption.

**WHEREAS**, on August 21, 2017 the Board of Berlin Township Trustees after recommendation from the Berlin Township Zoning Commission and Erie Regional Planning Commission amend the Zoning Resolution as attached Article 29 Special Regulations, Section 30F.

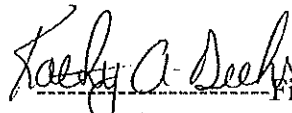
Mr. Finnen seconded the motion for the adoption of said resolution; and the roll being called upon its adoption, the vote resulted as follows:

**Roll Call:** Mr. Smith, yes; Mr. Finnen, yes; Mr. Zarvis, yes.

**Adopted:** August 21, 2017

**CERTIFICATE**

I, Kathy A. Deehr, Fiscal Officer of the Board of Berlin Township Trustees of Erie County, Ohio, hereby do certify that the above is a true and correct copy of resolution adopted by said Board under said date, and as same appears in Berlin Township Minutes.

  
Fiscal Officer  
Board of Berlin Township Trustees,  
Erie County, Ohio

Article 29.30.f Present Amendment

In side and rear yards, plantings, walls, wooden fences and any fences exceeding three (3) feet in height shall be set back from the property line a minimum distance of two (2) feet (measured from the side of the fence facing the property line) to allow for maintenance of the fence "good" side of the erected fence must face the property line.

Revision

Article 29.30.f .

Inside and rear yards, plantings, walls, wooden fences and any fences shall be set back from the property line a minimum distance of two (2) feet (measured from the side of the fence facing the property line) to allow for maintenance of the fence. The "good" side of the erected fence must face the property line.

4/19/2017

Proposed Change

Article 29 Special Regulations

Section 29. 30. F Fences, Walls and Other Protective Barriers

f. In side and rear yards, plantings, walls, wooden fences and any fences shall be set back from the property line a minimum distance of two (2) feet (measured from the side of the fence facing the property line) to allow for maintenance of the fence. The "good" side of the erected fence must face the property line.



# ARTICLE 1

## GENERAL PROVISIONS

### **1.0 Title**

This Resolution shall be known and may be cited to as the "Zoning Resolution of the Township of Berlin", except as referred to herein, where it shall be known as "this Resolution".

### **1.1 Interpretation**

The regulations in the Berlin Township Zoning Code are applicable unless in direct conflict with state and federal law.

In their interpretation and application, the provisions of this Resolution shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this Resolution conflict with the requirements of any other lawfully adopted rules, regulations, ordinances or resolutions, the most restrictive or that imposing the higher standards, shall govern.

### **1.2 Separability**

Should any section or provision of this Resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Resolution as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

### **1.3 Repeal of Conflicting Resolutions**

All Resolutions in conflict with this Zoning Resolution or inconsistent with the provisions of this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect.

### **1.4 Effective Date**

This Resolution shall become effective from and after the date of its approval and adoption, as provided by law.

### **1.5 Incorporation of Maps**

The boundaries of districts established by this Resolution are shown on the official zoning map which is hereby incorporated into the provisions of this Resolution. The zoning map in its entirety, including all amendments shall be as much a part of this Resolution as if fully set forth and described herein.

## **1.6 Identification and Alteration of the Official Zoning Map**

The official zoning map shall be identified by the signature of the township trustees and bearing the seal of the township under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 11 of Resolution No. 95-8 of the Township of Berlin, together with the date of the adoption of this Resolution.

If, in accordance with the provisions of this Resolution, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Board of Trustees. No amendment to this Resolution which involves a matter portrayed on the official zoning map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this resolution. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Resolution and punishable as provided under Article 5.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the Office of the Zoning Inspector shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the planning region.

## **1.7 Replacement of Official Zoning Map**

In the event that the official zoning map becomes, damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Trustees may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the township trustees and bearing the seal of the township under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted by the township".

All prior official zoning maps or any significant parts thereof shall be preserved, together with all available records pertaining to their adoption of amendments.

## ARTICLE 2

### INTENT AND PURPOSES

- 2.0** The purpose of this Resolution is to promote the public health, safety and morals, comfort, property and general welfare. The Board of Township Trustees may, in accordance with a comprehensive plan, regulate by resolution the location, height, bulk, number of stories and size of buildings and other structures, including tents, cabins and trailer coaches; percentages of lot areas which may be occupied; setback building lines; sizes of yards, courts and other open spaces; the density of population; the uses of buildings and other structures, including tents, cabins and trailer coaches; and the uses of land for trade, industry, residence, recreation or other purposes in the unincorporated territory of the Township and for such purposes may divide all or part of the unincorporated territory of the Township into districts or zones of such number, shape and area as the Board determines.
- 2.1** All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones. The comprehensive plan referred to herein means the Comprehensive Development Plan for Erie County, Ohio or subsequent refinements of said Plan which may include greater detailing of land use categories, development goals and policies more relevant to the development of Berlin Township.

## ARTICLE 3

### CONSTRUCTION OF LANGUAGE AND DEFINITIONS

#### **3.0 Construction of Language**

The following rules of construction apply to the text this Resolution:

- 3.1** The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- 3.2** Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- 3.3** The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- 3.4** The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- 3.5** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and", "or", "either ... or", the conjunction shall be interpreted as follows:

"And" indicates that all the connected items, conditions, provisions or events shall apply.

"Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

#### **3.6 Definitions**

For the purpose of this Resolution, certain words and terms are defined as follows:

#### **3.7 Accessory Use (or Structure)**

Accessory Use means a use, object or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principal use, object or structure and which is subordinate to or serves the principal use, object or structure, is subordinate in area to the principal use, object or structure and is customarily incidental to the principal use, object or structure. Among other things, "Accessory Use" includes anything of a subordinate nature attached to or detached from a principal structure or use such as: fences, walls, sheds, garages, parking



places, decks, poles, signs and billboards. Except as otherwise required in this Resolution, an accessory use shall be a permitted use.

**3.8 Agriculture**

The use of land for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry.

**3.9 Airport**

Any runway, land area or other facility designed or used either publicly or privately by any person for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie down areas, hangars and other necessary buildings and open space.

**3.10 Alley**

See Thoroughfare.

**3.11 Alterations**

Is any structural change, additions or modification in construction or type of occupancy or any change in the structural members of a building such as: bearing walls, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

**3.12 Apartment**

Is a room or suite of rooms in a multi-family building arranged and intended as a place of residence for a single family or a group of individuals living together as a single housekeeping unit as herein defined.

**3.13 Apartment Hotel**

Is a building designed for or containing both dwelling units and individual guest rooms or suites of rooms, which building may include any accessory uses hotel as defined herein, provided such uses are accessible only from the lobby.

**3.14 Attic**

The space between the ceiling beams of the top story and the roof rafters.

**3.15 Attic, Habitable**

A habitable attic is an attic which has a stairway as a means of access and egress and in which the ceiling area at a height of 7 1.3 feet (2235

mm) above the attic floor is not more than one-third the area of the floor next below.

**3.16 Auto Service Stations**

A building or buildings, structures and adjoining space used for the sale and dispensing of motor fuel from fixed equipment into the fuel supply tanks of motor vehicles and for the sale and dispensing into or installation on motor vehicles of lubricants and operating supplies and where automotive tires, batteries, parts and accessories may be sold, installed, serviced and adjusted and where, if within a building such services as tire repairing, battery recharging, cleaning and polishing of vehicles, chassis lubrication, motor repairs and adjustments may be rendered.

**3.17 Auto Repair Station**

Is a place where, along with the sale or engine fuels, the following services may be carried out; general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as: body, frame or fender straightening and repair, overall painting and undercoating of automobiles.

**3.18 Basement**

Is the portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except as provided in the definition of story.

**3.19 Block**

Is the property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating), between the nearest such street and railroad right-of-way.

**3.20 Bed and Breakfast Homestay**

Is a private owner-occupied residence with one to three guest rooms. The Bed and Breakfast Homestay must be a subordinate and incidental to the main residential use of the building.

**3.21 Bed and Breakfast Inn**

Is operated primarily as a business, even though the owner may live on the premises. The Inn may offer a maximum of twelve guest rooms and include a restaurant open to the general public, as well as, to overnight guests.

**3.22 Boarding House (Rooming House)**

Is a building other than a hotel, where for compensation and by pre-arrangement for definite periods, meals or lodging and meals are provided for three or more persons, but not exceeding ten sleeping rooms. A rooming house of a furnished rooming house shall be deemed a boarding house for the purposes of the Resolution.

**3.23 Boathouse**

A structure overhanging or appurtenant to Lake Erie, Sandusky Bay and/or a channel or other body of water connecting thereto within which a boat is or may be kept or stored.

**3.24 Boathouse/Residence**

A structure overhanging or appurtenant to Lake Erie, Sandusky Bay and/or a channel or other body of water connecting thereto within which a boat is or may be kept or stored and within which there exists an area which is utilized for human habitation, residence and/or occupancy or is suitable for such use.

**3.25 Boatport**

An open-sided roofed boat shelter usually formed by an extension of the roof from the side or end of a building. Also an open-sided roofed boat shelter independent of any attached structure.

**3.26 Buffering (see also screening)**

A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**3.27 Building**

Any structure, whether temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings or vehicles situated on private property and used for purposes of a building. A building shall not include such structures as billboards, fences, radio towers or structures with interior areas not normally accessible for human use such as: tanks, smokestacks, grain elevators, coal bunkers, oil cracking towers or similar structures.

**3.28 Building, Accessory**

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

**3.29 Building, Height**

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof.

**3.30 Building, Line**

Is a line parallel to the front lot line at the minimum required front setback line.

**3.31 Building, Principal**

A building in which is conducted the main or principal use of the lot on which said building is situated.

**3.32 Business, Convenience**

Commercial establishments which cater to and can be located in close proximity to residential districts without creating undue vehicular congestion, excessive noise or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry pickup facilities and grocery stores, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day-to-day need in the neighborhood.

**3.33 Business, General**

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections and which tend, in addition to serving day-to-day needs of the community, also supply the more durable and permanent needs of the whole community. General business used include, but need not be limited to such activities as supermarkets, stores that sell hardware, apparel, footwear, appliances and furniture, department stores and discount stores.

**3.34 Business, Highway**

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections which tend to serve the motoring public. Highway business uses include, but need not be limited to such

activities as filling stations, truck and auto sales and service, restaurants and motels and commercial recreation.

**3.35 Business, Office Type**

Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic and drafting. Institutional offices of a charitable, philanthropic, religious or educational nature are also included in this classification.

**3.36 Business, Service**

Any profit making activity which renders services primarily to other commercial or industrial enterprises or which services and repairs appliances and machines used in homes and businesses.

**3.37 Business, Wholesale**

Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product or for use by a business service.

**3.38 Cemetery**

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

**3.39 Channel**

A natural or artificial watercourse of perceptible extent, with bed and banks to confine and conduct continuously or periodically flowing water.

**3.40 Child Day Care**

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

**3.41 Child Day Care Center**

Any place in which child day care is provided, with or without compensation, for thirteen (13) or more children at any one time or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation for seven (7) to twelve (12) children at any one time. In counting children for the purposes of this definition, any children under six (6) years of age who are related to a licensee, administrator or employee and who are on the premises shall be counted.

**3.42 Type A Family Day Care Home**

A permanent residence of the administrator in which child day care is provided for four (4) to twelve (12) children at any one time, if four (4) or more children are under two (2) years of age. In counting children for the purposes of this definition, any children under six (6) years of age who are related to a licensee, administrator or employee and who are on the premises of the Type A home shall not be counted. The term "Type A Family Day Care Home" does not include a residence in which the needs of children are administered to, if all such children are siblings of the same immediate family and the residence is their home.

**3.43 Type B Family Day Care Home**

A permanent residence of the provided in which child day care or child day care services are provided for one (1) to six (6) children at one time and in which no more than three (3) children may be under two (2) years of age at any one time. In counting children for the purposes of this definition, any children under six (6) years of age who are related to the provider and are on the premises of the Type B home shall be counted. The term "Type B Family Day Care Home" does not include a residence in which the needs of children are siblings of the same immediate family and the residence is their home.

**3.44 Clinic**

A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured persons and those who are in need of medical and surgical attention, but who are provided with board or room or kept overnight on the premises.

**3.45 Club**

A building or portion thereof or premises owned or operated by a person for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests.

**3.46 Commercial Entertainment Facilities**

Any profit making activity which is generally related to the entertainment field, such as: motion picture theaters, carnivals, night clubs, cocktail lounges and similar entertainment activities.

**3.47 Comprehensive Development Plan**

A plan or any portion thereof, adopted by the planning commission and the legislative authority of the Township of Berlin showing the general location and extent of present and proposed physical facilities including: housing, industrial and commercial uses, major thoroughfares, parks, schools and other community facilities. This plan established the goals, objectives and policies of the community.

**3.48 Conditional Use**

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

**3.49 Conditional Use Permit**

A permit issued by the Zoning Administrator upon approval by the Board of Zoning Appeals to allow a use other than a principally permitted use to be established within the district.

**3.50 Condominium**

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

**3.51 Corner Lot (see lot types)**

**3.52 Cul-de-sac (see thoroughfare)**

**3.53 Dead End Street (see thoroughfare)**

**3.54 Decks**

Decks are primarily made of wood composite material, or vinyl, but could be concrete brick or block. Decks are a raised above ground structure, either attached to a house or freestanding and may require safety railing.

**3.55 Density**

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

1. Gross Density – The number of dwelling units per acre of the total land to be developed.
2. Net Density – The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**3.56 Density Bonus**

An increase in the number of allowable dwelling units per acre granted for some specific reason such as the provision of lower income housing, open space or other such amenities, as provided for in the zoning regulations.

**3.57 District**

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

**3.58 Dwelling**

Any building or structure (except a house trailer or mobile home as defined by Ohio Revised Code 4501.01) which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

**3.59 Dwelling Unit**

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

**3.60 Dwelling, Single Family**

A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

**3.61 Dwelling, Two Family**

A dwelling consisting of two dwelling units which may be either attached side by side or one above the other.



**3.62 Dwelling, Multi-Family**

A dwelling consisting of three or more dwelling units including condominiums with varying arrangement of entrances and party walls. Multi-family housing may include public housing and industrialized units.

**3.63 Dwelling, Industrialized Unit**

An assembly of materials or products comprising all or part of a total structure which, when constructed, is self sufficient or substantially self sufficient and when installed, constitutes a dwelling unit, except for necessary preparations for its placement and including a modular or sectional unit but not a mobile home.

**3.64 Easements**

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

**3.65 Elderly Household**

Not more than three (3) persons, related or unrelated, who occupy a single dwelling unit, of whom one person is elderly.

**3.66 Elderly Housing Facility**

A building or buildings containing twelve (12) or more dwelling units where occupancy is restricted to elderly persons or households. Such facilities may include emergency first aid care, day care, therapy, personal care, nursing facilities, recreational facilities and provide for independent or semi-independent living. For the purposes of this definition, "elderly housing facility" shall not include convalescent homes, nursing homes, group residential facilities or homes for the aged.

**3.67 Elderly Person**

Any person who is 62 years of age or older or any person under 62 years of age who is handicapped such that his physical impairments are of a long term duration and impede his ability to live independently without a suitable housing environment.

**3.68 Essential Services**

The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants or other

similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

### 3.69 **Factory Built Housing**

Factory built housing means a factory built structure designed for long term residential use, the components of which are essentially constructed or assemble prior to its delivery to and installation upon a site. For the purposes of this Resolution, “factory built housing” shall include the following:

1. Manufactured Home – A factory built structure that is manufactured or constructed under the authority of 42 United States Code Section 540 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and whereupon wheels and axles are removed. Manufactured homes must comply with the following minimum standards.
  - a. Exterior Siding – Exterior siding shall be made of non-reflective and non-metallic materials unless approved otherwise. Acceptable siding materials include: vinyl, wood, stucco, brick, stone or other masonry materials or any combination of these materials.
  - b. Color/Texture – Color and texture of exterior materials shall be compatible with the adjacent single family structures.
  - c. Roof Structure – Except for authorized deck areas, all roof structures shall be sloped and provide an eave projection of no less than six (6) inches and no greater than thirty (30) inches.
  - d. Roofing Material – All roofing material shall consist of the following categories: wood, shingle, concrete tile or any other material that the Township deems. Metallic roofing surfaces shall not be permitted on the residential structure or on any garage or carport.
  - e. Minimum Floor Area – The minimum floor area for every dwelling located on a lot in an R Zoning District, which is not a part of a mobile home subdivision, shall be 1,000 square feet, excluding the area of garage or carport.
  - f. Minimum Width – The minimum width of a dwelling located on a lot outside of a mobile home subdivision shall be 20 feet.

- g. Foundations – All manufactured homes shall be placed on a permanent foundation that meets applicable building code requirements such as the floor elevation of the proposed dwelling is reasonably compatible with the floor elevations of surrounding dwelling units.
2. Mobile Home – A transportable, factory built home, designed to be used as a year round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

**3.70 Family**

A person living alone or two or more persons living together as a single housekeeping unit in a dwelling unit as distinguished from a group occupying a rooming house, motel or hotel, dormitory, fraternity or sorority house, provided however, that “family” shall not include more than four (4) persons unrelated to each other by blood, marriage or legal adoption, except for Class I Type B Group Residential facilities.

**3.71 Farm**

Is all of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided however, that land to be considered a farm hereunder shall include a contiguous parcel of five (5) acres or more in area, provided further, farms may considered greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries; but not including establishments keeping fur bearing animals, riding or boarding stable and commercial dog kennels.

**3.72 Vacation Enterprises (Profit or Non-Profit)**

Farms adapted for use as vacation farms, picnicking and sport areas, fishing waters, camping, scenery and nature recreation areas, hunting areas, hunting preserves and watershed projects.

**3.73 Feedlot**

A relatively small, confined land area for fattening or temporarily holding cattle for shipment.

**3.74 Filling**

Is the depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

**3.75 Fireworks**

Fireworks shall mean and include any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, dago bombs, sparklers or other devices of like construction and any devices containing any explosive or flammable compound or any tablet or other device containing any explosive substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of twenty five hundredths (.25) of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for the use of such caps.

**3.76 Flood Plain**

That land, including the flood fringe and the floodway, subject to inundation by the regional flood.

**3.77 Flood, Regional**

Large floods which have previously occurred or which may be expected to occur on a particular stream because of like physical characteristics. The regional flood generally has an average frequency of the one hundred (100) year recurrence interval flood.

**3.78 Floodway**

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

**3.79 Floodway Fringe**

That portion of the flood plain, excluding the floodway, where development may be allowed under certain restrictions.

**3.80 Floor Area of a Residential Building**

The sum of the gross horizontal area of the several floors of a residential building, excluding basement floor areas not devoted to residential use and the area of roofed porches and roofed terraces and garages. All dimensions shall be measured between interior faces of walls.

**3.81 Floor Area of a Non-Residential Building (to be used in calculating parking requirements)**

The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and rooms, storage spaces, display windows and fitting rooms and similar areas.

**3.82 Floor Area, Usable**

Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**3.83 Food Processing**

The preparation, storage or processing of food products. Examples of these activities include: bakeries, dairies, canneries and other similar businesses.

**3.84 Garages, Private**

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

**3.85 Garage, Public**

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

**3.86 Group Residential Facility**

A group residential facility is a community residential facility, licensed and/or approved and regulated by the State of Ohio, which provide rehabilitative or habilitative services. There are two classes of group residential facilities:

**3.87 Class I**

Any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a home for the care or rehabilitation of dependent or pre-delinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A Group Residential Facility contains six (6) or more residents, exclusive of staff. A Class I Type B Group Residential Facility contains five (5) or less residents, exclusive of staff.

**3.88 Class II**

Any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a correctional institutions; and residential rehabilitation centers for alcohol and drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A Group Residential Facility contains six (6) or more residents, exclusive of staff. A Class II Type B Group Residential Facility contains five (5) or less residents, exclusive of staff.

**3.89 Historic Area**

A district or zone designated by a local authority, state or federal government within which the buildings, structures, appurtenances and places are of basic and vital importance because of their association with history or because of their unique architectural style and scale, including materials, proportion, form and architectural detail or because of their being a part of or related to a square, park or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical or architectural motive or purposes.

**3.90 Home Occupation**

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

**3.91 Hotel or Motel and Apartment Hotel**

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

**3.92 Institution**

Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling or other correctional services.

**3.93 Junk Building, Junk Shops, Junk Yards**

Is a place, structure or lot where junk, waste, discarded, salvaged or similar materials such as: old iron or other metal, wood, slush, timber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc. are bought, sold, exchanged, baled, disassembled or handled, including auto wrecking yards, used lumber yards, house wrecking yards and places or yards for use of salvaged house wrecking and structural steel materials and equipment and excluding pawn shops and establishments for the sale, purchase or storage of used cars, salvaged machinery, used furniture, radios, stoves, refrigerators or similar household goods and the processing of used, discarded or salvaged materials as part of manufacturing operations.

**3.94 Kennel**

Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, sold and/or which offers provisions for minor medical treatment.

**3.95 Loading Space, Off Street**

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

**3.96 Location Map (see vicinity map)**

**3.97 Lot**

For the purpose of this Resolution, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on an approved private street and may consist of:

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

**3.98 Lot Coverage**

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

### **3.99 Lot Frontage**

The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, one side of a lot adjacent to streets shall be considered frontage and yards shall be provided as indicated under "yards" in this section.

### **3.100 Lot, Minimum Area of**

The area of a lot is computed exclusive of any portion of the right-of-way of any public or private street.

### **3.101 Lot Measurements**

A lot shall be measured as follows:

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

### **3.102 Lot of Record**

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

### **3.103 Lot Types**

Terminology used in this Resolution with reference to corner lots, interior lots and through lots is as follows:

1. Corner Lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five (135°) degrees.
2. Interior Lot: A lot with only one frontage on a street.
3. Through Lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.



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

**3.104 Major Thoroughfare Plan**

The portion of Comprehensive plan adopted by the Regional Planning Commission indicating the general location recommended for arterial, collector and local thoroughfares within the appropriate jurisdiction.

**3.105 Maintenance and Storage Facilities**

Land, buildings and structures devoted primarily to the maintenance and storage of construction equipment and material.

**3.106 Manufactured Home Park**

Any lot upon which three or more manufactured homes are located for residential use, either free of charge or for revenue purposes, including any roadway, building, structure, vehicle or enclosure used or intended to be used as a part of the facilities of such park.

**3.107 Manufacturing, Heavy**

Manufacturing processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.

**3.108 Manufacturing, Light**

Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as: smoke, noise, odor, or dust; operating and storing within enclosed structures; and generating little industrial traffic and no nuisances.

**3.109 Manufacturing, Extractive**

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

**3.110 Mobile Home**

Any non-self propelled vehicle so designed, constructed, reconstructed or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks or other temporary foundation and used or so construed as to permit its being used as a conveyance upon the public streets and highways and exceeding a gross weight of four thousand five hundred (4,500) pounds and an overall length of thirty (30) feet and not in compliance with the Federal Manufactured Housing Construction and Safety Standards act of 1974.

**3.111 Mobile Home Park**

Any site or tract of land under single ownership, upon which three (3) or more mobile homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of such park.

**3.112 Nonconformities**

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

**3.113 Nursery, Nursing Home**

A home or facility for the care and treatment of babies, children, pensioners or elderly people.

**3.114 Open Spaces**

An area substantially open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools and tennis courts, any other recreational facilities that the planning commission deems permissible. Streets, parking areas, structures for habitation and the like shall not be included.

**3.115 Overlay District**

A district described by the zoning map within which, through superimposition of a special designation, furthermore regulations and requirements apply in addition to those of the underlying districts to which such designation is added.

**3.116 Parking Space, Off Street**

For the purpose of this Resolution, an off street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

**3.117 Patios**

Patios can be attached to a house or detached and are at ground level. Patios are versatile and can take on any shape and can be built with a variety of materials including concrete, pavers, stone, tile, brick, pebbles, rock or pea gravel. Most patios are set on a concrete slab or a sand and pebble base. Patios are to be considered part of landscaping.

**3.118 Performance Bond, Surety Bond or Financial Guarantee**

An agreement by a subdivider or developer with the County for the amount of the estimated construction cost guaranteeing the completion of physical improvement according to plans and specifications within the time prescribed by the subdivider's agreement.

**3.119 Personal Services**

Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors and similar activities.

**3.120 Planned Unit Development**

An area of land in which a variety of housing types and subordinated commercial and industrial facilities are accommodated in a pre-planned environment under more flexible standards, such as lot sizes and setbacks than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles and landscaping plans.

**3.121 Professional Activities**

The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects and engineers and similar professions.

**3.122 Public Service Facility**

The erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owner, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communications, public water and sewage services.

**3.123 Public Uses**

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

**3.124 Public Way**

An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway right-of-way, road, sidewalk, street, subway, tunnel viaduct, walk, bicycle path; or other ways in which the general public or a public entity have a right or which are dedicated, whether improved or not.

**3.125 Quasi Public Use**

Churches, Sunday schools, parochial schools, colleges, hospitals and other facilities of an educational, religious, charitable, philanthropic or non-profit nature.

**3.126 Recreation Camp**

An area of land on which two or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used or intended to be used in connection with providing such accommodations.

**3.127 Recreation Facilities**

Public or private facilities that may be classified as either "extensive" or "intensive" depending upon the scope of services offered and the extent of use. Extensive facilities generally require and utilize considerable areas of land and include, but need not be limited to hunting, fishing and riding clubs and parks. Intensive facilities generally require less land (used more intensively) and include, but need not be limited to miniature golf courses, amusement parks, stadiums and bowling alleys.

**3.128 Research Activities**

Research development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings and no noise, smoke, glare, vibration or odor shall be detected outside of said building.

**3.129 Roadside Stand**

A structure designed or used for the display or sale of agricultural and related products.

**3.130 Right-of-way**

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

**3.131 Satellite Signal Receiver**

“Dish type Satellite Signal Receiving Antennas”, “earth stations” or “ground stations”, whether functioning as a part of a basic service system, direct broadcast satellite system or multi-point distribution service system, shall mean one or a combination of two or more of the following:

- a. A signal receiving device such as a dish antenna whose purpose is to receive communications or signals from earth orbiting satellites or similar sources.
- b. A low noise amplifier (LAN) whose purpose is to boost, magnify, store, transfer or transmit signals.
- c. A coaxial cable whose purpose is to convey or transmit signals to a receiver.

**3.132 Seat**

For purposes of determining the number of off street parking spaces or certain uses, the number of seats is the number of seating units installed or indicated or each twenty-four (24) lineal inches of benches, pews or space for loose chairs.

**3.133 Setback Line**

A line established by the Zoning Resolution, generally parallel with and measured from the lot line, defining the limits of a yard in which no

building, other than accessory building or structure may be located above ground, except as may be provided in said code (see yard).

**3.134 Sewers, Central or Group**

An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community or region.

**3.135 Sewers, On-Site**

A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

**3.136 Sidewalk**

That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

**3.137 Sign**

Any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors or attached to, painted on, or displayed from a building or structure, in order to direct or attract attention to, or to announce or promote an object, person, service, product, event, location, organization or the like, by means of letters, words, designs, colors, symbols, fixtures, images or illuminations.

1. Sign (On Premises) – Any sign related to a business or profession conducted or a commodity or service sold or offered upon the premises where such sign is located.
2. Sign (Off Premises) – Any sign unrelated to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.
3. Sign (Illuminated) – Any sign illuminated by electricity, gas or other artificial light including other reflecting or phosphorescent light.
4. Sign (Lighting Device) – Any light, string of lights or group of lights located or arranged so as to cast illumination on a sign.
5. Sign (Projecting) – Any sign which projects from the exterior of a building.

**3.138 Special District**

A zoning district created to meet the needs of an area experiencing unusual problems or one that is designed to meet special needs.

**3.139 Story**

That part of a building between the surface of a floor and the ceiling immediately above (see basement).

**3.140 Structure**

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

**3.141 Subdivision**

The division of a lot, tract or parcel into two or more lots, tracts or parcels or other divisions of land for sale.

**3.142 Supply Yards**

A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain and similar goods.

**3.143 Swimming Pool**

A pool containing at least four (4) feet of water at any point and maintained by the owner or manager.

1. Private – Exclusively used without paying an additional charge for admission by the resident and guests of a single household, a multi-family development or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.
2. Community – Operated with a charge for admission; a primary use.

**3.144 Thoroughfare, Street or Road**

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

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

2. Arterial Street – A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route.
3. Collector Streets – A thoroughfare, whether within a residential, industrial, commercial or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.
4. Cul-de-sac – A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.
5. Dead End Street – A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
6. Local Street – A street primarily for providing access to residential or other abutting property.
7. Loop Street – A type of local street, each end of which terminates at an intersection with the same arterial or collector street and whose principal radius points of the one hundred and eighty (180°) degree system of turns are not more than one thousand (1,000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.
8. Marginal Access Street – A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets (also called frontage street).

**3.145 Through Lot (see lot types)**

**3.146 Transportation, Director of**

The Director of the Ohio Department of Transportation.

**3.147 Use**

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

**3.148 Variance**

A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.



**3.149 Veterinary Animal Hospital or Clinic**

A place used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for the treatment, observation and/or recuperation. It may also include boarding that is incidental to the primary activity.

**3.150 Vicinity Map**

A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision to use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

**3.151 Walkway**

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

**3.152 Yard**

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

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

**3.153 Zero Lot Line Development**

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

development or a street shall not be less than that required in the zoning district.

**3.154 Zoning Inspector**

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

**3.155 Zoning Permit**

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

## ARTICLE 4

### ADMINISTRATION

#### 4.0 Purpose

This Article sets forth the powers and duties of the Zoning Commission, the Board of Zoning Appeals, the Board of Township Trustees and the Zoning Inspector with respect to the administration of the provisions of this Resolution.

#### 4.1 General Provisions

The formulation, administration and enforcement of this Zoning Resolution is hereby vested in the following offices and bodies within the Township.

1. Zoning Inspector
2. Zoning Commission
3. Board of Zoning Appeals
4. Township Trustees
5. County Prosecutor

#### 4.2 Zoning Inspector

A Zoning Inspector designated by the Board of Township Trustees shall administer and enforce this Resolution. He may be provided with the assistance of such other persons as the Board of Township Trustees may direct.

#### 4.3 Responsibilities of Zoning Inspector

For the purpose of this Resolution, the Zoning Inspector shall have the following duties:

1. Enforce the provisions of this Resolution and interpret the meaning and application of its provisions.
2. Respond to questions concerning applications for amendments to the Zoning Resolution text and the Official Zoning District Map.
3. Issue zoning permits and certificates of occupancy as provided by this Resolution and keep a record of same with a notation of any special conditions involved.
4. Act on all applications upon which he is authorized to act by the provisions of this Resolution within the specified time or notify the applicant in writing of his refusal or disapproval of such application and the reasons therefore. Failure to notify the applicant in case of such refusal or disapproval within the specified time shall entitle the applicant to submit his request to the Board of Zoning Appeals.

5. Conduct inspections of buildings and uses of land to determine compliance with this Resolution and in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of this violation and ordering corrective action.
6. Maintain in current status the Official Zoning District Map which shall be kept on permanent display in the township offices.
7. Maintain permanent and current records required by this Resolution, including but not limited to zoning permits, zoning certificates, inspection documents and records of all variances, amendment and special uses.
8. Make such records available for the use of the Township Trustees, the Zoning Commission, the Board of Zoning Appeals and the public.
9. Review and approve plot plans pursuant to this Resolution.
10. Determine the existence of any violations of this Resolution and cause such notifications, revocation notices, stop orders or tickets to be issued or initiate such other administrative or legal action as needed to address such violations.
11. Prepare and submit an annual report to the Township Trustees and Zoning Commission on the administration of this Resolution, setting forth such information as may be of interest and value in advancing and furthering the purpose of this Resolution. Such report shall include recommendations concerning the schedule of fees.

#### **4.4 Township Zoning Commission**

The Board of Township Trustees of any Township proceeding under Sections 519.01 to 519.99, inclusive, of the Revised Code shall create and establish a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the Township, to be appointed length and so arranged that the term of one member will expire each year. Where there is a county or regional planning commission, the Board may appoint qualified member of such commission to serve on the Township Zoning Commission. Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office or other cause by the Board, upon written charges and after a copy of the charges have been served upon the member so charged at least ten (10) days prior to the hearing, either personally by certified mail or by leaving such copy at his usual place of residence. The members 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.

**4.5 Recommendations of Township Zoning Commission: Organization, Powers and Compensation of Commission**

The Township Zoning Commission shall submit a plan, including both text and maps representing the recommendations of the Zoning Commission, for the carrying out by the Board of Township Trustees for the powers, purposes and provisions set forth in Sections 519.01 to 519.99, inclusive of the Revised Code, including additions to territory in which Township Zoning Resolution is in effect.

The Zoning Commission shall organize, adopt rules for the transaction of its business and keep a record of its actions and determinations. Members of the Zoning Commission may be allowed their expenses or such other compensation, or both, as the board may approve and provide. No township trustee shall be employed by the Zoning Commission of his Township.

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

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

**4.6 Public Hearings on Recommendations; Notice**

Before certifying its recommendations of a zoning plan to the Board of Township Trustees, the Township Zoning Commission shall hold at least one public hearing, notice of which shall be given by one publication in one or more newspapers of general circulation in the township at least thirty days before the date of such hearing. The notice shall state the place and time at which the text and maps of the proposed zoning resolution may be examined.

**4.7 Proposed Zoning Resolution to Regional Planning Commission; Approval; Public Hearing if Resolution Disapproved; Certification of Township Trustees**

Following the hearing provided for in Section 519.06 of the Revised Code, the Township Zoning Commission shall submit the proposed zoning resolution, including text and maps, to the Regional Planning Commission of the county or district in which the township is located, if there is such a Commission, for approval, disapproval or suggestions.

The approval of the Planning Commission shall be conclusively presumed unless, within twenty days after receiving the proposed zoning resolution, it notifies the Zoning Commission to the contrary.

In the event the Planning Commission disapproves of the proposed zoning resolution or suggests any material change, the zoning commission shall hold a public hearing on the resolution, due notice of which shall be given as provided in Section 519.06 of the Revised Code. When the zoning commission has completed its recommendations for a zoning plan, it shall certify the plan to the Board of Township Trustees.

#### **4.8 Changes in Text or Maps; Second Hearing**

No change in or departure from the text or maps, as certified by the Township Zoning Commission, shall be made by the Board of Township Trustees unless it is first resubmitted to the Commission for approval, disapproval or suggestions. Upon receipt of the recommendations of the Township Zoning Commission regarding the proposed changes, the Board of Township Trustees shall hold a second public hearing, at least ten days notice of the time and place of which shall be given by one publication in one or more newspapers of general circulation in the township affected. If such changes are disapproved by the zoning commission, the provision so disapproved must receive the favorable vote of the entire membership of the Board of Township Trustees in order to be adopted.

#### **4.9 Amendments to Zoning Resolution; Procedure; Referendum**

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

Upon the adoption of such motion or the certification of such resolution or the filing of such application, the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than twenty nor more than forty days from the date of the certification of such resolution or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the Township Zoning Commission by one publication in one or more newspapers of

general circulation in the township at least ten days before the date of such hearing.

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, written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least ten 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 rezoned or redistricted to the addresses of such owner appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment.

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 set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the zoning commission that will be conducting the public hearing;
2. A 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 the names of owners of these properties, as they appear on the County Auditor's current tax list;
4. The present zoning classification of property named in the proposed amendment and the proposed zoning classification of such property;
5. The time and place where the motion, resolution or application proposing to amend the zoning resolution will be available for examination for a period of at least ten 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;
8. A statement that after the conclusion of such hearing the matter will be submitted to the Board for its action.

If the proposed amendment alters the text of the zoning resolution or rezones or redistricts more than ten parcels of land, as listed on the County Auditor's current tax list, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the Zoning Commission that will be conducting the public hearing on the proposed amendment;
2. A statement indicating that the motion, application or resolution is an amendment to the zoning resolution;

3. The time and place where the text and map of the proposed amendment will be available for examination for a period of at least ten days prior to the public hearing;
4. The name of the person responsible for giving notice of the public hearing by publication;
5. A statement that after conclusion of such hearing the matter will be submitted to the Board of Township Trustees for its action;
6. Any other information requested by the Zoning Commission.

Within five 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 Regional Planning Commission.

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

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

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

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 notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the board that will be conducting the public hearing;
2. A statement indicating that the motion, application or resolution 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 zoning classification of property named in the proposed amendment and the proposed zoning classification of such property;
5. The time and place where the motion, application or resolution proposing to amend the zoning resolution will be available for examination for a period of at least ten days prior to the public hearing;
6. The name of the person responsible for giving motion of the public hearing by publication or by mail or by both publication and mail;
7. Any other information requested by the Board.

If the proposed amendment alters the text of the zoning resolution or rezones or redistricts more than ten parcels of land as listed on the County Auditor's current tax list, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the board that will be conducting the public hearing on the proposed amendment;
2. A statement indicating that the motion, application or resolution is an amendment to the zoning resolution;
3. The time and place where the text and maps of the proposed amendment will be available for examination for a period of at least ten 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.

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

Such amendment adopted by the board shall become effective in thirty days after the date of such adoption unless within thirty days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the township or part thereof included in the zoning plan equal to not less than eight percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at a special election to be held on the day of such next primary or general election. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment resolution, motion or application furnishing the name by which the amendment is known and a brief summary of its contents. In addition to

meeting the requirements of this section, which petition shall be governed by the rules specified in Section 3501.35 of the Revised Code.

The petition shall be filed, accompanied by an appropriate map of the area affected by the zoning proposal, with the Board of Township Trustees, which shall then transmit the petition within two weeks of its receipt to the Board of Elections, which shall determine the sufficiency and validity of the petition. The petition shall be certified to the Board of Elections not less than seventy five days prior to the election at which the question is to be voted upon.

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

#### **4.10 Ratification of Amendments to Township Zoning Plan**

All amendments or supplements to a township zoning plan adopted by a Board of Township Trustees prior to the effective date of this act, except those amendments or supplements which a court of competent jurisdiction has declared unlawful or unreasonable or which are the subject of action now pending in such a court, are hereby ratified and shall be valid amendments or supplements to such zoning plan regardless of the procedure followed with respect to such amendments or supplements prior to their adoption by a Board of Township Trustees, except that no right of appeal on the issue of the unlawful or unreasonable character of an amendment or supplement shall be lost by the provisions of this section.

#### **4.11 Township Board of Zoning Appeals; Compensation and Expenses**

In any township which adopts zoning regulations, the Board of Township Trustees shall appoint a Township Board of Zoning Appeals of five members who shall be residents of the unincorporated territory in the township included in the area zoned. The terms of all members shall be of such length and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Members shall be removable for the same causes and in the same manner as provided by Section 519.04 of the Revised Code. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term. The members may be allowed their expenses or such compensation or both, as the Board of Township Trustees may approve and provide.

The Board of Zoning Appeals may within the limits of the moneys appropriated by the Board of Township Trustees for the purpose, employ

such executives, professional, technical and other assistants as it deems necessary.

#### **4.12 Powers of Township Board of Zoning Appeals**

The Township Board of Zoning Appeals may:

- a. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of Sections 519.02 to 519.25 of the Revised Code, or of any resolution adopted pursuant thereto;
- b. Authorize, upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done;
- c. Grant conditional zoning certificates for the use of land, buildings or other structures if such certificates for specific uses are provided for in the zoning resolution;
- d. Revoke an authorized variance or conditional zoning certificate granted for the extraction of minerals, if any condition of the variance or certificate is violated.

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

In exercising the above mentioned powers, such board may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end has all powers of the officer from whom the appeal is taken.

#### **4.13 Rules, Organization and Meetings of Zoning Appeals Board**

The Township Board of Zoning Appeals shall organize and adopt rules in accordance with the zoning resolution. Meetings of the Board of Zoning

Appeals shall be held at the call of the chairman and at such other times as the board determines. The chairman, or in his absence, the acting chairman, may administer oaths and the Board of Zoning Appeals may compel the attendance of witnesses. All meetings of the Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the Board of Township Trustees and be a public record.

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 administrative officer. Such appeal shall be taken within twenty days after the decision by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals, a notice of appeal specifying the grounds. The officer 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 public hearing of the appeal, give at least ten days notice in writing to the parties in interest, give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least ten days before the date of such hearing and decide the appeal within a reasonable time after it is submitted. Upon the hearing, any person may appeal in person or by attorney.

#### **4.14 Duties of Zoning Inspector, Board of Zoning Appeal, Legislative Authority and Courts on Matters of Appeal**

It is the intent of this Resolution that all questions of interpretation and enforcement shall be first presented to the Zoning Inspector and that such questions shall be presented to the Board only on appeal from the decision of the Zoning Inspector and that recourse from the decisions of the Board shall be to the courts as provided by law. It is further the intent of this Resolution that the duties of the Board of Township Trustees in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Resolution. Under this Resolution, the Board of Township Trustees shall only have the duties of considering and adopting or rejecting proposed amendments or the repeal of this Resolution as provided by law and of establishing a schedule of fees and charges as stated in Section 1351 of this Resolution. Nothing in this Resolution shall be interpreted to prevent any official of the Township from appealing a decision of the Board to the courts as provided in Chapters 2505 and 2506 of the Ohio Revised Code. Any such appeal shall be made within ten (10) days of the Board's written decision.

#### **4.15 Board of Township Trustees**

The powers and duties of the Township Trustees pertaining to the Zoning Resolution are as follows:

1. Approve the appointments of members to the Zoning Commission.
2. Approve the appointments of members to the Zoning Board of Appeals.
3. Initiate or act upon suggested amendments to the Zoning Resolution text or official Zoning District Map. Final action upon a suggested zoning amendment shall be undertaken at a public hearing.
4. Approve appointment of the zoning inspectors and assistants, as may be required.

#### **4.16 Schedule of Fees**

The Board of Township Trustees shall, by Resolution, establish a schedule of fees for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals and other procedures and services pertaining to the administration and enforcement of this Resolution, after considering the recommendations of the Zoning Inspector with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the Office of the Zoning Inspector and may be altered or amended only by the Board of Township Trustees. Until all such appropriate fees, charges and expenses have been paid in full, no action shall be taken on any application, appeal or administrative procedure.

## ARTICLE 5

### ENFORCEMENT

#### 5.0 General

This Article stipulates the procedures to be followed in obtaining permits, certificates and other legal or administrative approval under this Resolution.

#### 5.1 Zoning Permits Required

No building or other structure shall be erected, moved, added to, structurally altered nor shall any building, structure or land be established or changed in use without a permit therefore, issued by the Zoning Inspector. Zoning permits shall be issued only in conformity with the provisions of this Resolution unless the Zoning Inspector receives a written order from the Board of Zoning Appeals deciding on appeal, conditional use or variance or from the Board of Township Trustees approving a Planned Unit Development District, as provided by this Resolution.

#### 5.2 Contents of Application for Zoning Permit

The application for zoning permit shall be made in writing and be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one (1) year or substantially completed within two and one-half (2 ½) years. At a minimum, the application shall contain the following information and be accompanied by all required fees:

1. Name, address and phone number of applicant;
2. Legal description of property;
3. Existing use;
4. Proposed use;
5. Zoning district;
6. Plans in triplicate drawn to scale, showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; and the location and dimensions of the proposed building(s) or alteration;
7. Building heights;
8. Number of off street parking spaces or loading berths and their layout;
9. Location and design of access drives;
10. Number of dwelling units;
11. If applicable, application for a sign permit or a conditional, special or temporary use permit, unless previously submitted;

12. Building elevation and drainage plan.

### **5.3 Approval of Zoning Permit**

Within thirty (30) days after the receipt of an application, the Zoning Inspector shall either approve or disapprove the application in conformance with the provisions of this Resolution. All zoning permits shall, however, be conditional upon the commencement of work within one year. One copy of the plans shall be returned to the applicant by the Zoning Inspector, after the Zoning Inspector shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of plans, similarly marked shall be retained by the Zoning Inspector. The Zoning Inspector shall issue a placard to be posted in a conspicuous place on the property in conformance with the provisions of this Resolution.

### **5.4 Submission to Director of Transportation**

Before any zoning permit is issued affecting any land within three hundred (300) feet of the centerline of a proposed new highway or a highway for which changes are proposed as described in the certification to local officials be the Director of Transportation or any land within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered mail, to the Director of Transportation that he shall not issue a zoning permit for one hundred twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Zoning Inspector that he shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the zoning permit. If the Director of Transportation notifies the Zoning Inspector that acquisition at this time is not in the one hundred twenty (120) day period or of any extension thereof agreed upon by the Director of Transportation and the property owner, the Zoning Inspector shall, if the application is in conformance with all provisions of this Resolution, issue the zoning permit.

### **5.5 Expiration of Zoning Permit**

If the work described in any zoning permit has not begun within one year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Inspector; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within two and one half (2 ½) years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Inspector and written notice thereof shall be given to the persons described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or an extension granted.

## **5.6 Record of Zoning Permits**

The Zoning Inspector shall maintain a record of all zoning permits and copies shall be furnished, upon request and upon payment of the established fee, to any person.

## **5.7 Failure to Obtain Zoning Permit**

Failure to obtain a zoning permit shall be a punishable violation of this Resolution.

## **5.8 Construction and Use to be as Provided as Applications, Plans and Permits**

Zoning permits issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement or construction. Use, arrangement of construction contrary to that authorized, shall be deemed a punishable violation of this Resolution.

## **5.9 Complaints Regarding Violations**

Whenever a violation of this Resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate it and take action thereon as provided by this Resolution.

## **5.10 Entry and Inspection of Property**

The Zoning Inspector is authorized to make inspections of properties and structures in order to examine and survey enforcing the provisions of this Resolution. Prior to seeking entry to any property or structure for such examination or survey, the Zoning Inspector shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the Zoning Inspector shall request the assistance of the County Prosecutor in securing a valid search warrant prior to entry.

## **5.11 Stop Work Order**

Subsequent to his determination that work is being done contrary to this Resolution, the Zoning Inspector shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Inspector, shall constitute a punishable violation of this Resolution.



## **5.12 Zoning Permit Revocation**

The Zoning Inspector may issue a revocation notice to revoke a permit or administrative approval which was issued contrary to this Resolution or based upon false information or misrepresentation in the application.

## **5.13 Notice of Violation**

Whenever the Zoning Inspector or his agent determines that there is a violation of any provision of this Resolution, a warning tag shall be issued and shall serve as a notice of violation. Such order shall:

- a. Be in writing;
- b. Identify the violation;
- c. Include a statement of the reason or reasons why it is being issued and refer to the sections of this Resolution being violated; and
- d. State the time by which the violation shall be corrected.

Service of notice of violation shall be as follows:

- a. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion; or
- b. By certified mail deposited in the United States Post Office addressed to the person or persons responsible at a last known address. If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing which shall be filed by the Zoning Inspector. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure or delivery; or
- c. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

## **5.14 Ticketing Procedure**

If, upon re-inspection following the issuance of a notice of violation, the condition has not been corrected, the person or persons responsible shall be issued a ticket. Such ticket shall:

1. Be served personally;
2. Be in writing;
3. Identify the violation;
4. State the time, date and place for appearance in court; and
5. State the amount of the fine payable in lieu of a court appearance.

If the ticket cannot be served personally, the Zoning Inspector shall request that a summons be issued by the Court.

**5.15 Penalties and Fines**

It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain or structurally alter any building, structure or land in violation of any provision of this Resolution or any amendment thereto. Any person, firm or corporation who violates this Resolution or fails to comply with any of the requirements shall upon conviction thereof be fined not more than one hundred (100) dollars and in addition shall pay all costs and expenses involved in the case. Each day such violation continues after receipt of a violation notice shall be considered a separate offense. The owner or tenant of any building structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

**5.16 Additional Remedies**

Nothing in this Resolution shall be deemed to abolish, impair or prevent other additional remedies as provided by law. In the event of a violation of any provision or requirement of this Resolution, or in the case of an imminent threat of such a violation, the Zoning Inspector, the Prosecuting Attorney or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourse provided by law, institute mandamus, injunction, abatement or other appropriate actions to prevent, remove, abate, enjoin or terminate such violation.

## ARTICLE 6

### NONCONFORMITIES

#### 6.0 Purpose

Within the districts established by this Resolution, or by amendments thereto which may later be adopted, lots, uses of land, structures and uses of structures and land in combination exist which were lawful before this Resolution was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Resolution. The legitimate interest of those who lawfully established these Nonconformities are herein recognized by providing for their continuance, subject to regulations limiting their completion, restoration, reconstruction, extension and substitution. Furthermore, nothing contained in this Resolution shall be construed to require any change in the layout, plans, construction, size or use of any lot, structure or structure and land in combination, for which a zoning permit became effective prior to the effective date of this Resolution, or any amendment thereto. Nevertheless, while it is the intent of this Resolution that such Nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded or used as grounds for any other use(s) or structure(s) prohibited elsewhere in the district without the approval of the Board of Zoning Appeals, except as otherwise specifically provided for in this Resolution.

#### 6.1 Incompatibility of Nonconformities

Nonconformities are declared by this Resolution to be incompatible with permitted uses in the districts in which such uses are located. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Resolution by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located without approval of the Board of Zoning Appeals, except as otherwise specifically provided for in this Resolution.

#### 6.2 Avoidance of Undue Hardship

To avoid undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Resolution and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently.

### **6.3 Certificates for Nonconforming Uses**

The Zoning Inspector may upon his own initiative, or shall upon the request of any owner, issue a certificate for any lot, structure, use of land, use of structure or use of land and structure in combination, that certifies that the lot, structure or use is a valid nonconforming use. The certificate shall specify the reason why the use is a nonconforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use and the extent that dimensional requirements are nonconforming. The purpose of this section is to protect the owners of lands or structures that are or become nonconforming. No fee shall be charged for such a certificate. One copy of the certificate shall be returned to the owner and one copy shall be retained by the Zoning Inspector, who shall maintain as a public record a file of all such certificates.

### **6.4 Substitution of Nonconforming Uses**

So long as no structural alterations are made, except as required by enforcement of other codes or resolutions, any nonconforming use may, upon appeal to and approval by the Board of Zoning Appeals, be changed to another nonconforming use of the same classification or of a less intensive classification or the Board shall find that the use proposed for substitution is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require that additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change and failure to meet such conditions shall be considered a punishable violation of this Resolution. Whenever a nonconforming use has been changed to a less intensive use or becomes a conforming use, such use shall not thereafter be changed to a more intensive use.

### **6.5 Single Nonconforming Lots of Record**

In any district in which single family dwellings are permitted, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Resolution, notwithstanding limitations imposed by other provisions of this Resolution. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width,

or both, of the lot shall conform to the regulations for the district in which such lot is located.

## **6.6 Nonconforming Lots of Record in Combination**

If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Resolution and if all or part of the lots with no buildings do not meet the requirement established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Resolution and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Resolution, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements.

## **6.7 Nonconforming Uses of Land**

Where, at the time of adoption of this Resolution, lawful uses of land exist which would not be permitted by the regulations imposed by this Resolution, the uses may be continued so long as they remain otherwise lawful provided:

1. No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Resolution.
2. No such nonconforming uses shall be moved in whole or part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or specifically provided for in this Resolution.
3. If any such nonconforming uses of land are discontinued or abandoned for more than two (2) years (except where government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Resolution for the district in which such land is located.
4. No additional structure not conforming to the requirements of this Resolution shall be erected in connection with such nonconforming use of land.

## **6.8 Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this Resolution that does not meet the minimum requirements of the district in which the lot is located, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. The Zoning Board of Appeals, after a public hearing, may permit minimal enlargement or alteration of a nonconforming structure, subject to the following:
  - a. The expansion of the nonconforming use will not be contrary to the public interest.
  - b. Where, owing to special conditions, a literal enforcement of the provisions of this Resolution would result in unnecessary hardship.
  - c. There must exist special circumstances or conditions fully described by the applicant and which are such that strict application of the provisions of the Resolution would deprive the applicant of reasonable use of the structure. Mere loss in value shall not justify an approval by the Zoning Board of Appeals; there must be deprivation of beneficial use of the structure.
  - d. The lot area shall be adequate to accommodate the required off street parking for the existing structure and the addition. The design, location and surface of the parking area shall be provided so as to reduce congestion, promote safety and to reduce the impact on the existing neighborhood.
  
2. Any building or structure, existing as a nonconforming use at the time this resolution takes effect, which is damaged or destroyed by fire or the elements, may be reconstructed or restored providing the same is done within two (2) years of the date of said damage or destruction. However, any enlargement or relocation of the nonconforming building or structure proposed to be reconstructed is subject to approval by the Zoning Board of Appeals.

## ARTICLE 7

### PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES

#### 7.0 General

Appeals and variances shall conform to the procedures and requirements of 7.1 to 7.11 inclusive, of this Resolution. The Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

#### 7.1 Appeals

Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Resolution may be taken by any person aggrieved or by any officer or bureau of the legislative authority 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 and with the Board of Zoning Appeals, a notice of appeal specifying the grounds upon which the appeal is being taken. The Zoning Inspector shall transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

#### 7.2 Stay of Proceedings

An appeal stays all actions by the Zoning Inspector seeking enforcement of or compliance with the order or decision appealed from, unless the Zoning Inspector certifies to the Board of Appeals that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Appeals or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Zoning Inspector.

#### 7.3 Variances

A variance may be granted by the Board of Appeals if it concludes that strict enforcement of the resolution would result in unnecessary hardships for the applicant and that, by granting the variance the spirit of the resolution will be observed, public safety and welfare secured and substantial justice done. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this Resolution would result in unnecessary hardship.

## 7.4 Application and Standards for Variances

Except as otherwise permitted in this Resolution, no variance in the strict application of the provisions of this Resolution shall be granted by the Board of Zoning Appeals unless the Board shall find that the written application for the requested variance contains all of the following requirements:

1. Name, address and phone number of applicant(s);
2. Legal description of property;
3. Description or nature of variance requested;
4. A fee as established by resolution;
5. Narrative statements establishing and substantiating that the variance conforms to the following standards:
  - a. The granting of the variance shall be in accordance with the general purpose and intent of the regulations imposed by this Resolution on the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.
  - b. The granting of the variance will not permit the establishment of any use which is not otherwise permitted in the district.
  - c. There must exist special circumstances or conditions, fully described in the finding, applicable to the land or buildings for which the variance is sought, which are peculiar to such land or buildings and do not apply generally to land or buildings in the area and which are such that the strict application of the provisions of this Resolution would deprive the applicant of the reasonable use of such land or building. Mere loss in value shall not justify a variance; there must be deprivation of beneficial use of land.
  - d. There must be proof of hardship created by the strict application of this Resolution. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Resolution; it must be suffered directly by the property in question; and evidence of variances granted under similar circumstances need not be considered.
  - e. The granting of the variance is necessary for the reasonable use of the land or building and the variance as granted in the minimum variance that will accomplish this purpose.
  - f. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire,



endanger the public safety or substantially diminish or impair property values of the adjacent area.

- g. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures or buildings in the same district.

#### **7.5 Additional Conditions and Safeguards**

The Board may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Resolution.

#### **7.6 Public Hearing by the Board of Zoning Appeals**

The Board of Zoning Appeals shall hold a public hearing within a reasonable time after the receipt of an application for an appeal or variance from the Zoning Inspector or an applicant.

#### **7.7 Notice of Public Hearing in Newspaper**

Before conducting the public hearing required in Section 7.06, notice of such hearing shall be given in one or more newspapers of general circulation in the County at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

#### **7.8 Notice to Parties in Interest**

Before conducting the public hearing required in Section 7.6, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the day of the hearing to all parties in interest. The notice shall contain the same information required of notices published in newspapers as specified in Section 7.7.

#### **7.9 Action by the Board of Zoning Appeals**

Within thirty (30) days after the public hearing required in Section 7.6, the Board of Zoning Appeals shall either approve, approve with supplementary conditions or disapprove the request for appeal or variance. The Board of Zoning Appeals shall further make a finding in writing that the reasons set forth in the application justify the granting of the variance that will make possible reasonable use of the land, building or

structure. Appeals from the Board's decision shall be made in the manner specified in Section 4.14.

#### **7.10 Term of Variance**

No order of the Zoning Board of Appeals granting a variance shall be valid for a period longer than twelve (12) months from the date of such order unless the building permit or zoning approval is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

#### **7.11 Authorized Variances**

Variances from the regulations of this Resolution shall not be granted unless the Board makes specific findings of fact, based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed in Section 7.4 and Section 7.5 if applicable, have been met by the applicant. Variances may be granted as guided by the following:

1. To permit any yard or setback less than the yard or setback required by the applicable regulations.
2. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots should not be less than eighty (80%) percent of the required area and width.
3. To permit the same off premises parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
4. To reduce the applicable off street parking or loading facilities required, but generally by not more than thirty (30%) percent of the required facilities.
5. To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance.
6. To increase the maximum distance that required parking spaces are permitted to be located from the use served, but generally not more than forty (40%) percent.
7. To increase the maximum allowable size or area of signs on a lot, but generally by not more than twenty five (25%) percent
8. To increase the maximum gross floor area of any use so limited by the applicable regulations, but generally not more than twenty five (25%) percent.

## ARTICLE 8

### AMENDMENT

#### 8.1 General

Whenever the public necessity, convenience, general welfare or good zoning practices require, the Board of Township Trustees may by resolution, after receipt of recommendation thereon from the Zoning Commission and subject to the procedures provided by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classification of property.

#### 8.2 Initiation of Zoning Amendment

Amendments to this Resolution may be initiated in one of the following ways:

1. By adoption of a motion by the Zoning Commission.
2. By adoption of a resolution by the Board of Township Trustees.
3. By the filing of an application by at least one (1) owner or lessee of property within the area proposed to be changed or affected by said amendment.

#### 8.3 Contents of Application for Zoning Map Amendment

Applications for amendments to the Official Zoning Map adopted as part of this Resolution by Article 11 shall contain at least the following information:

1. The name, address and phone number of applicant.
2. A statement of the reason(s) for the proposed amendment.
3. Present use.
4. Present zoning district.
5. Proposed use.
6. Proposed zoning district.
7. A vicinity map at a scale approved by the Zoning Inspector showing property lines, thoroughfares, existing and proposed zoning and such other items as the Zoning Inspector may require.
8. A list of all property owners and their mailing addresses who are within, contiguous to or directly across the street from the parcel(s) proposed to be rezoned and others that may have a substantial interest in the case, on a lot, but generally by not more than twenty five (25%) percent.
9. A statement on the ways in which the proposed amendment relates to the Comprehensive Plan.

10. A fee as established by resolution of the Board of Township Trustees.

#### **8.4 Contents of Application for Zoning Text Amendment**

Application for amendments proposing to change, supplement, amend or repeal any portion(s) of this Resolution, other than the Official Zoning Map, shall contain at least the following information:

1. The name, address and phone number of the applicant.
2. The proposed amending resolution, approved as to form by the County Prosecutor.
3. A statement of the reason(s) for the proposed amendment.
4. A site plan indicating how the site will be developed.
5. A fee as established by resolution of the Board of Township Trustees.

#### **8.5 Transmittal to Zoning Commission**

Immediately after the adoption of a resolution by the Board of Township Trustees or the filing of an application by at least one (1) owner or lessees of property, said resolution of application shall be transmitted to the Commission.

#### **8.6 Submission to Regional Planning Commission**

Within five (5) days after the adoption of a motion by the Commission, transmittal of a resolution by the Board of Township Trustees or the filing of an application by at least one (1) owner or lessees, the Zoning Commission shall transmit a copy of such motion, resolution or application, together with the text and map pertaining to the case in question, to the Regional Planning Commission. The 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 Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission.

#### **8.7 Other Conditions Proponent to the Approval of Zoning Amendment**

- a. Noise control in residential communities
  1. Before any zoning amendment is approved, affecting residential districts, a consideration for potential noise inflation shall be addressed. In doing so, the Board may require proper noise reduction designs to those proposed uses necessitating such action.

2. Before any zoning amendment is approved changing any parcel to a residential district from any other non-residential district, a consideration for potential noise intrusion from surrounding areas shall be addressed. In doing so, the Board may issue other noise reduction guidelines, thus protecting residents of outside nuisances.
- b. Possible noise reduction requirements and designs may be those that are suggested in the Erie County Landscaping Design Policies handbook.

## **8.8 Submission to Director of Transportation**

Before any zoning amendment is approved affecting any land within three hundred (300) feet of the centerline of a proposed new highway or highway for which changes are proposed as described in the certification to local officials by the Director of Transportation, or within a radius of five hundred (500) feet from the point of intersection of said centerline with any public road or highway, the Commission shall give notice, by registered or certified mail, to the Director of Transportation. The Zoning Commission may proceed as required by law, however, the Board of Township Trustees shall not approve the amendment for one hundred twenty (120) days from the date the notice is received by the Director of Transportation. If the Director of Transportation notifies the Board of Township Trustees that he shall proceed to acquire the land needed, then the Board of Township Trustees shall refuse to approve the rezoning. If the Director of Transportation notified the Board of Township Trustees that acquisition at this time is not in the public interest or upon the expiration of the one hundred twenty (120) day period or any extension thereof agreed upon by the Director of Transportation and the property owner, the Board of Township Trustees shall proceed as required by law.

## **8.9 Public Hearing by Zoning Commission**

The Zoning Commission shall schedule a public hearing after the adoption of their motion, the transmittal of a resolution from the Board of Township Trustees or the filing of an application for zoning amendment. Said hearing shall be not less than twenty (20), nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution or filing of such application.

## **8.10 Notice of Public Hearing in Newspaper**

Before holding the public hearing as required in Section 8.9, notice of such hearing shall be given by the Zoning Commission by at least one (1) publication in one (1) or more newspapers of general circulation in the County at least ten (10) days before the date of said hearing. This notice shall set forth the time and place of the public hearing, the nature of the

proposed amendment and a statement that after the conclusion of such public hearing the matter will be referred to the Board of Township Trustees for further determination.

#### **8.11 Notice to Property Owners by Zoning Commission**

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Zoning Commission by first class mail, at least ten (10) days before the date of the public hearing, to all owners of property within, contiguous to and directly across the thoroughfare from such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by the Board of Township Trustees. The failure to deliver the notice, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in Section 8.10.

#### **8.12 Recommendation by Zoning Commission**

Within thirty (30) days after the public hearing required by Section 8.9, the Zoning Commission shall recommend to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment not be granted. The written decision of the Zoning Commission shall indicate the specific reason(s) upon which the recommendation is based, to include the basis for their determination that the proposed amendment is or is not consistent with the Comprehensive Plan.

#### **8.13 Public Hearing by Board of Township Trustees**

Within thirty (30) days from the receipt of the recommendation of the Zoning Commission, the Board of Township Trustees shall hold a public hearing. Notice of such public hearing in a newspaper of general circulation shall be given by the Board of Township Trustees as specified in Section 8.10.

#### **8.14 Action by Board of Township Trustees**

Within twenty (20) days after the public hearing required by Section 8.13, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Zoning Commission, the unanimous vote of the Township Trustees is required.

**8.15****Effective Date and Referendum**

Such amendment adopted by the Board of Township Trustees shall become effective 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 qualified voters residing in the unincorporated area of the Township or part thereof included in the zoning plan equal to not less than eight (8%) percent of the total vote cast for all candidates for Governor in such area at the last preceding general election at which a Governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area, for approval or rejection, at the next primary or general election.

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.

## ARTICLE 9

### PROCEDURES AND REQUIREMENTS FOR CONDITIONAL USE PERMITS; SUBSTANTIALLY SIMILAR USES; ACCESSORY USES

#### 9.0 Purpose

In recent years, the characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, it is recognized that this Resolution should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facilities requirements and traffic generation. Consequently, conditional use permits are not affected by the transfer of ownership.

#### 9.1 Contents of Conditional Use Permit Application

Any owner, or agent thereof, of property for which a conditional use is proposed shall make an application for a conditional use permit by filing it with the Zoning Inspector, who shall within seven days transmit it to the Board of Zoning appeals. Such application at a minimum shall contain the following information:

1. Name, address and phone number of the applicant;
2. Legal description of the property;
3. Zoning district;
4. Description of existing use;
5. Description of proposed conditional use;
6. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features and such other information as the Board may require;
7. A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent properties and with the Comprehensive Plan, to include an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes and vibration;
8. A list containing the names and mailing addresses of all owners of property within five hundred (500) feet of the property in question;
9. A fee as established by resolution;
10. A narrative addressing each of the applicable criteria contained in Section 9.2.



## 9.2 General Standards For All Conditional Uses

The Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location;

1. Is in fact a conditional use as established under the provisions of Article 9 and appears on the Schedule of District Regulations adopted for the zoning district involved;
2. Will be in accordance with the general objectives or with any specific objective, of the County's Comprehensive Plan and/or zoning resolution;
3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
4. Will not be hazardous or disturbing to existing or future neighboring uses.
5. 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;
6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
8. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
9. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

## 9.3 Public Hearing

The Board of Zoning Appeals shall hold a public hearing within a reasonable time after it receives an application for a conditional use permit submitted by an applicant through the Zoning Inspector.

#### **9.4 Notice of Public Hearing**

Before conducting the public hearing required in Section 9.34, notice of such hearing shall be given in one or more newspapers of general circulation in the County at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the hearing and shall provide a summary explanation of the conditional use proposed.

#### **9.5 Notice to Parties of Interest**

Prior to conducting the public hearing required in Section 9.34, written notice of such hearing shall be mailed by the Chairman of the Board of Zoning Appeals, by first class mail, at least ten (10) days before the date of the hearing to all parties of interest, to include all property owners listed on the application. The notice shall contain the same information as required in Section 9.34 for notices published in newspapers.

#### **9.6 Action by the Board of Zoning Appeals**

Within thirty (30) days after the date of the public hearing required in Section 9.33, the Board shall take one of the following actions:

1. Approve issuance of the conditional use permit by making an affirmative finding in writing that the proposed conditional use is to be located in a district wherein such use may be conditionally permitted, that all conditions for approval of such use in such district have been met and that such use will neither result in significant negative impacts upon nor conflict with surrounding uses. Such written finding may also prescribe supplementary conditions and safeguards as specified in Section 9.37. Upon making an affirmative finding, the Board shall direct the Zoning Inspector to issue a conditional use permit for such use which shall list all conditions and safeguards specified by the Board for approval.
2. Make a written finding that the application is deficient in information or is in need of modification and is being returned to the applicant. Such finding shall specify the information and/or modifications which are deemed necessary.
3. Make a written finding that the application is denied, such finding specifying the reason(s) for disapproval. If an application is disapproved by the Board, the applicant may seek relief through the Court of Common Pleas.

#### **9.7 Supplementary Conditions and Safeguards**

In granting approval for any conditional use, the Board may prescribe appropriate conditions and safeguards in conformance with this Resolution. Any violation of such conditions and safeguards, when made

a part of the terms under which the conditional use is granted, shall be deemed a punishable violation of this Resolution.

## **9.8 Expiration of Conditional Use Permit**

A conditional use permit shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if such conditionally permitted use has not been instituted or utilized within one (1) year of the date on which the permit was issued or if for any reason such use shall cease for more than two (2) years.

## **9.9 Regulation of Accessory Uses**

The provisions of this section shall apply to the location and maintenance of accessory uses in order to promote the public health, safety and welfare. It is the intent of these sections to permit such uses to be established and maintained in a manner which makes them compatible with principal uses and harmonious with uses upon adjacent properties.

## **9.10 Definition**

Accessory use and structure means a subordinate use or structure which is incidental to and in association with a principal use or structure and which is customarily required or provided for the principal use or structure.

## **9.11 Features Noted as Accessory Uses and Structures**

Accessory uses and structures can either be attached to or disattached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, poles and signs.

## **9.12 Accessory Use and Structures as Permitted Uses**

To ensure that confusion is at a minimum, each land use district provides specific regulations for accessory uses and structures. However, as a general indication, all accessory uses and structures are considered to be permitted uses and will be enforced as such.

## **9.13 Certificate for Conditional Use**

- a. The Zoning Inspector shall upon his own initiative or shall upon the request of any owner, issue a certificate for any conditional use properly approved.
- b. The purpose of this section is to protect the owners of lands or structures that are of a conditional nature. No fee shall be charged for such a certificate. One copy of the certificate shall be returned to the owner, one shall be sent to the Erie County Department of Planning and Development and one copy shall be retained by the

Zoning Inspector, who shall maintain as a public record a file, along with an indexed overlay of all such certificate.

**9.14 Public Service Facility**

- a. All permanent buildings shall be constructed and designed so as to conform with the setback and building design of existing uses in the district.
- b. Screening and plantings to buffer any structures other than buildings from adjacent residential uses are required.
- c. Must be licensed by the State Fire Marshal's Office.

**9.15 Church**

A church shall only be conditionally permitted in an Agriculture Residential district in accordance with Article 9 under the following conditions:

- a. The lot area shall be adequate to accommodate the required off street parking requirements of the church.
- b. The church building and parking shall be set back from any adjacent residential property line a minimum of fifty (50) feet.
- c. Parking should not be permitted within fifty (50) feet of any side or rear property line where feasible.
- d. A cemetery shall not be permitted use in conjunction with the church.

**9.16 Cemetery**

A Cemetery shall only be conditionally permitted in an Agriculture Residential district in accordance with Article 9 under the following conditions:

- a. The site shall have direct access to a major thoroughfare which the Board of Zoning Appeals determines is adequate to serve the size of the facility proposed.
- b. Any new cemetery shall be located on a site containing not less than twenty (20) acres.
- c. All buildings, including but not limited to, mausoleums and maintenance buildings, shall not be located within one hundred (100) feet of any property line.
- d. All graves or burial lots shall be set back not less than fifty (50) feet from any property line.

**9.17**

**Attorney, Architect, Accountant, Engineer, Insurance Agency, Real Estate, Tax Preparation Service and Bookkeeping Service Offices and Other Similar Establishments**

Attorney, Architect, Accountant, Engineer, Insurance Agency, Real Estate, Tax Preparation Service and other similar establishments shall only be conditionally permitted in an I-1 district in accordance with Article 9 under the following conditions:

- a. Parking spaces shall be provided as required in this Resolution, provided that the Board of Zoning Appeals may increase the number of required spaces on the basis of the nature of the office and on the basis of generally known parking conditions in the neighborhood.
- b. The design, location and surface of the parking area shall be subject to approval of the Board of Zoning Appeals so as to reduce congestion, promote safety and to reduce the impact on the residential character of the neighborhood.
- c. One sign, not exceeding four (4) square feet in area and mounted flush against the building, shall be permitted.

**9.18**

**Veterinary Clinic and Kennel**

A Veterinary Clinic with Kennel shall only be conditionally permitted in an Agriculture Residential and C-2 district in accordance with Article 9 under the following conditions:

Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view. A screening plan shall be submitted to the Board of Zoning Appeals for approval.

Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.

The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs.

No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.

In addition, the following shall apply:

Animal hospital, veterinarians' offices and commercial animal kennels are permitted within the General Commercial and Industrial Districts, subject to the provision that all buildings, structures and facilities, including runways, are located at least three hundred (300) feet from any property

line in the Agricultural District or any residential district and other pertinent provisions of this Resolution.

Veterinarian Outpatient Clinics shall be designed, constructed and maintained so that sound emitted through exterior walls and roofs enclosing areas where animals are treated or kept during treatment shall not exceed 45 decibels.

Building plans submitted for Building Permit Application for Veterinarian Outpatient Clinics shall include a certificate by a registered architect or acoustical engineer that the building will meet the requirements. Existing buildings that are to be used as Veterinarian Outpatient Clinics shall also be certified by a registered architect or acoustical engineer as complying with the requirements. Standards that apply to kennels shall be as follows:

- a. Minimum lot area shall be two (2) acres.
- b. All animal boarding buildings that are not wholly enclosed and any outdoor animal pens, stalls or runways shall be within the rear yard.
- c. All animal boarding buildings that are not wholly enclosed and any outdoor animal pens, stalls or runways shall be a minimum of one hundred (100) feet away from all property lines.
- d. All outdoor running areas shall be enclosed to prevent the escape of animals; all such enclosure shall be a minimum of ten (10) feet from all property lines.
- e. All animal wastes shall be regularly cleaned up and properly disposed of; and
- f. The applicant shall demonstrate a working plan to prevent or alleviate any noise problems emanating from animals boarded at the site.

**9.19 A. Type A Family Day Care Home**

A Type A Family Day Care Home shall only be conditionally permitted in an Agriculture Residential, R-1, R-2 and R-3 district in accordance with Article 9 under the following conditions:

**B. Child Day Care Center**

A Child Day Care Center shall only be conditionally permitted in an Agriculture Residential, C-1, C-2 and C-3 district in accordance with Article 9 under the following conditions:

- a. Outdoor playgrounds, tot lots, exercise areas, etc. shall be fully enclosed by a fence, the height and design which shall be approved by the Board of Zoning Appeals;
- b. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location and

surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop off point for children that will not impede other traffic.

## **9.20 Funeral Home**

A Funeral Home shall only be conditionally permitted in an Agriculture Residential, C-1 and C-2 district in accordance with Article 9 under the following conditions:

- a. The buildings shall be designed so as to conform with the architectural character of the neighborhood.
- b. The applicant shall submit a parking and traffic circulation plan to the Board of Zoning Appeals for approval. The design, location and surface of the parking areas and vehicular approaches shall be subject to approval by the Board of Zoning Appeals so as to reduce congestion, promote safety and reduce the impact on the character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall provide a safe drop off point for visitors and will not impede other traffic.

## **9.21 Boarding Home, Rooming House**

- a. No more than one person shall occupy each sleeping room.
- b. Fire escapes shall be provided as approved by the Board of Zoning Appeals.
- c. Fire exit instructions shall be posted in each sleeping room.
- d. All applicable provisions of the fire code shall be met and certification of such compliance by the appropriate official shall accompany the application.

## **9.22 Bed and Breakfast Homestay or Tourist Home**

A private owner-occupied residence with one to three guest rooms. The bed and breakfast homestay must be subordinate and incidental to the main residential use of the building.

A Bed and Breakfast Homestay or Tourist Home shall only be conditionally permitted in an Agriculture Residential, R-1 and R-2 district in accordance with Article 9 under the following conditions:

Standards that apply to bed and breakfast or tourist homes are as follows:

- a. No modifications to the external appearance of the building (except fire escapes) which would alter its residential character, shall be permitted.
- b. All floors above grade shall have direct means of escape to ground level.
- c. One (1) off street parking space shall be provided for each room available for rent, in addition to those required for the dwelling unit.
- d. All parking areas shall be set back a minimum of twenty five (25) feet from all property lines.
- e. One unit announcement sign shall be permitted exceeding not two (2) feet in area and three and one-half (3 ½) feet in height.
- f. Length of stay shall not exceed fourteen (14) days.

## 9.23 Mini-Storage Buildings

- A. Purpose – This section is to provide for the development of mini-storage buildings in commercial district C-2 and such use shall be a conditional use. For the purpose of this Resolution, a mini-storage building shall mean a structure or group of structures for the dead storage of customer's goods and wares where individual stalls or lockers are rented out to different tenants for storage and where the maximum size of the stall shall be six hundred square feet and not more than four thousand square feet shall be leased to a single tenant.
- B. Not to Restrict Use by Right – Nothing herein shall be deemed to limit warehouse use within an industrial district as elsewhere permitted or provided for by this Resolution.
- C. Conditional Use-Required – The Zoning Board of Appeals may, after the review and recommendation of the Commission, approve a plan for mini-storage buildings upon any tract zoned C-2 when such plan is found to comply with the conditions and requirements hereinafter set forth.
- D. Contents of Plan; Site Review
  1. General requirements
    - a. No lot shall be less than two acres.
    - b. The lot shall abut and gain direct access to a local nonresidential, collector or arterial street as specified in the Major Thoroughfare Plan.
    - c. The plan shall show the existing site along with surrounding land within two hundred (200) feet of its border. Street rights-of-way and easements shall be included. (The area two hundred (200) feet adjacent to the site may be shown by a location map).
    - d. The plan shall be drawn at a scale of one inch equals fifty (50) feet or larger. Said plan shall include all building locations, drives, parking, fencing and signage. A landscape plan shall also be incorporated



as part of the site plan or submitted as a separate sheet. Building elevations shall also be included on the plan along with specification of the colors of buildings and materials to be used.

- e. On-site manager required – No facility herein provided for shall be used or maintained unless or until an on-site manager shall be provided for such facility. Failure to provide such a manager shall be grounds for revocation to the conditional use permit.  
*Effective: April 6, 2016*
- f. No business activity other than rental of storage units shall be conducted on the premises and no outside storage will be permitted.
- g. Outdoor lighting of any kind – All outdoor lights shall be shielded to direct light and glare only onto the mini-warehouse premises and may be of sufficient intensity to discourage vandalism and theft. Said lighting and glare shall be deflected, shaded and focuses away from all adjoining property.
- h. Building setbacks shall be as follows:

Front Yard – Not less than 25 feet on which all parking and internal drives are prohibited.

Side Yard – Not less than 12.5 feet on which all parking and internal drives are prohibited.

Rear Yard – Not less than 12.5 feet on which all parking and internal drives are prohibited, except that where a rear yard if not required adjacent to commercial or industrial zoned land, then no rear yard is required.

- i. The storage facility shall be enclosed by a six foot high, sight-proof fence. Said fence shall be solid or semi-solid and constructed to prevent the passage of debris or light and constructed of either brick, stone, masonry units, wood or similar materials. Chain link fence may be used so long as it has slats installed to prevent the passage of light through the unit. Said fence shall be set back six feet from the side property lines and rear property line. When a rear property line is not required, a lesser setback for a fence can be granted. Fences shall also be set back 25 feet from the front property line.
- j. Landscaping shall be provided in the areas between the property line and the required fencing. Landscaping shall consist of a variety of hardy

evergreen planted material consisting of trees, low-medium and high profile shrubs, together with suitable groundcover such as native grasses, bark, ornamental gravel or a combination thereof. The landscaping shall be designed, placed and maintained in such a manner that no wall, fence, sign or other structure of plant growth of a type that would interfere with traffic visibility shall be permitted or maintained higher than three feet above curb level, within fifteen feet of the intersection of any street right-of-way line or driveway.

- k. Parking shall be provided at a ratio of one space for each 2,000 square feet of gross building area, plus tow spaces for the manager. One additional space shall be provided for each additional employee. Internal drives and parking shall be paved or provided with a hard, dustless surface satisfactory to the Township.
  - l. Building heights shall be limited to one story (not to exceed 14 feet at the eaves).
  - m. Signs shall be limited to one ground pole sign at the entrance to the premises. Not more than thirty-two (32) square feet shall be permitted with a maximum height of ten (10) feet. This provision shall control any and all contrary or conflicting provisions of the sign regulation of Chapter 19.
- E. On-Site Manager Required – No facility herein provided for shall be used or maintained unless or until an on-site manager shall be provided for such facility. Failure to provide such a manager shall be grounds for revocation to the conditional use permit.
- F. Commercial Activity Prohibited – The sale of any item from or at a mini-storage building is specifically prohibited.
- 1. It shall be unlawful for any owner, operator or lessees of any storage warehouse or portion thereof to offer for sale or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units.
- G. Repair of Autos, Boats, Motors and Furniture Prohibited - Because of the danger from fire or explosion caused by the accumulation of vapors from gasoline, diesel fuel, paint, paint remover and other flammable materials, the repair, construction or reconstruction of any boat, engine, motor vehicle or furniture and the storage of any propane or gasoline engine or propane or gasoline storage tank or any boat or vehicle incorporating such components is prohibited

within any structure on a tract of land designated as a residential storage warehouse.

- H. Violations – Any violation of the regulation regarding mini-storage buildings shall be grounds for the revocation of the conditional use permit and shall also be considered to be in violation of this zoning resolution.

## 9.24 Airport

An Airport shall only be conditionally permitted in a C-2 district in accordance with Article 9 under the following conditions:

- a. The area shall be sufficient to meet the Federal Aviation Administration requirements for the class of airport proposed.
- b. There is not existing flight obstruction such as towers, chimneys or other tall structures which would fall within the approach zone to any of the proposed airport runways or landing strips.
- c. There is sufficient distance between the end of each usable landing strip and the airport boundary to satisfy the requirements of the Federal Aviation Administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.
- d. Any building, hangars or other structures shall be at least one hundred (100) feet from any street or lot line.
- e. Adequate space for off-street parking for at least fifty vehicles shall be provided. If, in the opinion of the Board of Township Trustees, off-street parking space for more than fifty vehicles will be required, the Board shall increase this requirement.
- f. The application for authorization of an airport shall be accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of the owners of abutting properties; proposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings and other structures and facilities; the location and height of all buildings, structures, trees and overhead wires falling within the airport approach zone and less than five hundred (500) feet distance from the boundary lines of the airport, other pertinent data such as topography and grading plan, drainage, water and sewage etc.
- g. The plans of the proposed airport shall be reviewed by the Regional Planning Commission. In its review of the proposed airport, the Planning Commission shall make at least the following two (2) finds:

1. The airport is not in conflict with any existing element of the Master Plan;
2. The benefits of and need for the airport are greater than any possible depreciating effects and damages to the neighboring property.

## **9.25 Golf Courses and Driving Ranges**

A Golf Course and Driving Range shall only be conditionally permitted in a CR district in accordance with Article 9 under the following conditions:

- a. All buildings and structures shall be at least thirty (30) feet from all property lines.
- b. A minimum of two off-street parking spaces shall be provided for each driving tee and putting green. Additional spaces shall be furnished for other uses in conjunction with the range.
- c. All drives and parking areas shall be surfaced with a hard, durable material and properly drained.
- d. All lights shall be directed away from site boundary lines.
- e. Fences, planting or sufficient area shall be provided to insure the safety and protection of persons on all adjacent land.
- f. Except in districts where signs are allowed, one non-flashing sign, not to exceed sixty (60) square feet in area, may be provided at the major entrance.
- g. All driving directions shall be away from any street or highway.

## **9.26 Transmitter/Receiver Towers**

Transmitter towers and accessory buildings used only in connection with the operation of the transmission of radio, facsimile or television broadcasting after the plan for the location of such structures and the method of operation shall have been approved by the zoning inspector when in compliance with the following regulations:

1. No building or structure other than the aforesaid accessory buildings shall be located or proposed to be located within a circle having the transmitter tower as its center and a radius equal to twenty (20%) percent of the height of the tower or one hundred (100) feet, whichever is greater.
2. No building or structure other than the aforesaid accessory buildings shall be located in an area twenty (20) feet each side of the radial line between the center of the transmitter tower and each guy anchorage.
3. No tower guy anchor and approved enclosure for the same shall be located closer than thirty (30) feet to any lot line, street line or street line extended if the adjacent lot or parcel is used or intended to be used for residential purposes.

**Cellular Telephone Communications Service**

“In the case of a person that plans to construct a tower in the township in an area zoned for residential use, the person utility shall conform to the provisions set forth in Section 519.211 of the Ohio Revised Code”.

1. In the event the Board of Trustees receives a notice under subsection (B) (3) (a) (iii) or R.C. 519.211 within the time provided by that section requesting that township zoning apply to the proposed telecommunication tower or any Board member has an objection to the proposed location of the tower as provided in subsection (B) (4) (a) of that statute within the time provided by that subsection, then the telecommunications tower shall be considered a conditionally permitted use and shall be permitted only if the Board of Zoning Appeals finds upon application and hearing that in addition to any other conditions which are applied generally to conditionally permitted uses by this resolution that all of the following provisions have been met:
  - a. The base of such tower shall be surrounded by a fence eight (8) feet in height with a locked gate and as close as is practical to the tower.
  - b. The base of said tower and any accessory buildings shall be inside of the fence and shielded by a greenbelt of living plant material well maintained and replanted as necessary in order to provide year around obstruction from the public view.
  - c. No lights shall be permitted on the tower except those specifically required by state or federal law or regulations.
  - d. The site shall be a minimum of three (3) times the height of the tower from the nearest parcel of land used for residential purposes.
  - e. The minimum setback line between the base of the tower and all adjacent properties shall be three (3) times the height of the tower.
  - f. Underground wiring shall be required.
  - g. If the tower is abandoned, it shall be removed within ninety (90) days of its last date of operation.
    1. The owner of the abandoned tower shall be responsible for its removal. If the owner of the abandoned tower defaults in removing the tower in the prescribed time period, the owner of the property upon which the tower stands shall be responsible for removal of the tower. Said property owner shall remove the tower within ninety (90) days of the date of said default by the tower owner.
    2. The person who constructed the tower shall be required to post a bond with the Berlin Township

Trustees in an amount sufficient to cover the cost of removal if the tower should become abandoned.

- h. Appropriate building and electrical permits shall be obtained and all construction shall be in accordance with the appropriate building and electrical codes. If no local codes are in force then state building and electrical codes shall apply.
- i. The applicant shall demonstrate that all intrusive alternatives and locations, including leasing space on the existing towers are not feasible for its operation.
  - 1. The application for the Conditional Use Permit for installation of the tower shall bear signatures of both the Tower Company (applicant) and the owner of the property upon which the proposed tower is planned to be erected.
- j. The applicant shall demonstrate that the proposed tower is necessary because it has been unable to co-locate its radio frequency transmission or reception equipment on any existing tower.
- k. Each tower shall be designed and constructed to accommodate the addition and co-location of a minimum of two (2) additional radio frequency transmission or reception facilities.

## **9.28 Housing for the Elderly**

Housing for the Elderly shall only be conditionally permitted in a R-3 district in accordance with Article 9 under the following conditions:

Housing for the elderly shall not exceed a height of forty (40) feet. All housing for the elderly shall be provided on a site of at least five (5) acres in area and may provide the following:

- a. Townhouse and/or apartment type dwelling units.
- b. Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.
- c. All dwellings shall consist of at least three hundred and fifty (350) square feet per unit (not including kitchen and sanitary facilities).
- d. Total coverage of all buildings, (including dwelling units and related service buildings) shall not exceed thirty five (35) percent of the total site, exclusive of any dedicated public right-of-way.

**9.29 Convalescent and/or Nursing Home**

A Convalescent and/or Nursing Home shall only be conditionally permitted in an R-3 district in accordance with Article 9 under the following conditions:

Convalescent and/or nursing home, not to exceed a height of forty (40) feet when the following conditions are met:

- a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The fifteen hundred (1,500) square feet of land per bed shall provide for landscaping, off-street parking, service drives, loading space, yard requirements and spaces required for accessory uses.
- b. No building shall be closer than forty (40) feet from any property line.

**9.30 Education Facilities**

Education Facilities shall only be conditionally permitted in an Agriculture Residential and CR district in accordance with Article 9 under the following conditions:

Educational facilities such as colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, all subject to the following conditions:

- a. Any use permitted herein shall be developed only on sites of at least forty (40) acres in area.
- b. No building or other use of land, except landscaped passive areas shall be situated within one hundred (100) feet of any private residence not included as part of this site.

**9.31 Firework Sales**

Any business handling fireworks must meet the following provisions:

- a. Any use permitted herein shall be developed only on sites of at least forty (40) acres in area.
- b. No building or other use of land, except landscaped passive areas shall be situated within one hundred (100) feet of any private residence not included as part of this site.

**9.32 Sewage Treatment**

Sewage treatment plants (public or private) provided such facilities are set back a minimum of fifty (50) feet from any adjoining residential property line and are screened from view of any residential property.

**9.33 Public, Parochial Schools**

Public and Non Public Schools shall only be conditionally permitted in an Agriculture Residential and in accordance with Article 9 under the following conditions:

Public, parochial and other private elementary, intermediate and/or high schools offering courses in general education, but not commercial trade schools. No school permitted in this subsection shall be located nearer than one hundred (100) feet to any adjacent zoned single family property. Every school property shall be surrounded by a minimum five foot chain link fence on property sides.

**9.34 Automobile Service Stations**

An Automobile Service Station shall only be conditionally permitted in a C-2 and I-1 district in accordance with Article 9 under the following conditions:

- a. The curb cuts for ingress and egress to a service station shall not be permitted at such locations that will tend to create traffic hazards in the street immediately adjacent thereto. Entrances shall be no less than fifty (50) feet from a street intersection (measured from the road right-of-way) or from adjacent residential districts.
- b. The minimum lot area shall be twenty thousand (20,000) square feet, with minimum lot sides of one hundred fifty (150) feet each and so arranged that ample space is available for motor vehicles which are required to wait for services.
- c. Automobile service stations shall not be located within five hundred (500) feet of any school.
- d. All lighting shall be shielded from adjacent residential districts.

**9.35 Recycling Paper, Glass and Metal Products**

Standards that apply to the recycling of paper, glass and metal products are as follows:

- a. All operations, including collection, shall be conducted within a wholly enclosed building.
- b. There shall be no outdoor storage of materials used or generated by the operation.



- c. The applicant shall explain the scope of operation and any measures used to mitigate problems.
- d. The applicant will ensure regular maintenance of the site to assure the immediate collection of stray debris.

### 9.36 Noncommercial Keeping of Livestock

Noncommercial Keeping of Livestock shall only be conditionally permitted in an Agriculture Residential district in accordance with Article 9 under the following conditions:

Standards that apply to the noncommercial keeping of livestock are as follows:

- A. Minimum lot area shall be as follows:
  - 1. Three (3) acres; additionally, the following list specifies additional area requirements by size of animals kept:
    - a. Group 1: Animals whose average adult weight is less than ten (10) pounds shall be permitted at an animal density of four (4) per acre, with a maximum number of twenty (20) animals.
    - b. Group 2: Animals whose average adult weight is between ten (10) and sixty five (65) pounds shall be permitted at an animal density of two (2) per acre, with a maximum number of twenty (20) animals.
    - c. Group 3: Animals whose average adult weight is greater than sixty five (65) pounds shall be permitted at an animal density of one (1) per acre, with a maximum number of ten (10) animals.
- B. The following lists minimum setbacks imposed upon the placement of any structure used to house noncommercial livestock:
  - 1. Group 1 animals: One hundred (100) feet from any property line.
  - 2. Group 2 animals: One hundred fifty (150) feet from any property line.
  - 3. Group 3 animals: Two hundred (200) feet from any property line.
- C. All structures used to house noncommercial livestock shall be prohibited from placement in the front yard.
- D. All outdoor passive/recreation areas shall be enclosed to prevent the escape of the animals; all such enclosures shall be set back a minimum of ten (10) feet from all property lines.

- E. All animal wastes shall be properly stored and disposed of so as to not be objectionable at the site's property line.
- F. No person shall keep within this township, exotic or dangerous animals including but not limited to lions, tigers, leopards, cheetahs, panthers, cougars, mountain lions, bobcats, bears, wolves, foxes, apes, gorillas, poisonous or constrictor snakes, crocodiles or alligators.

**9.37 Processing of Farm Products**

Processing of Farm Products shall only be conditionally permitted in an Agriculture Residential District in accordance with Article 9 under the following conditions:

Standards that apply to the processing of farm products are as follows:

- a. The processing facility is located on the same lot and accessory to the principle agricultural use of the site.
- b. A majority of the materials to be processed have been grown or raised on the subject property; the remainder of materials have been grown or raised within the township.
- c. No butchering, slaughtering or rendering uses shall be permitted.
- d. No retail sales of the products shall be permitted, except roadside stands.
- e. All processing activities shall be conducted within a wholly enclosed building which is located behind the principle residence building setback line.
- f. No noxious odor, dust, glare, vibration or noise shall be perceptible at the property line.
- g. All off-street parking and loading areas shall be contained behind the principal residence.

**9.38 Car Washes**

A Car Wash shall only be conditionally permitted in C-2 and I-1 District in accordance with Article 9 under the following conditions:

Any automatic or manually operated facility used to accommodate the laundering of automobiles and construed to be of a commercial operation managed to produce a profit.

Standards that apply to car washes are as follows:

- a. Public sewers and water facilities shall be utilized.
- b. Each washing bay shall provide a one hundred foot long onsite stacking lane.
- c. All structures housing washing apparatuses shall be set back fifty (50) feet from any rear property line and twenty (20) feet from any

side lot lines; provided, however, that in the event that the lot fronts on two (2) street right-of-way lines, then the setback requirements on the one (1) street frontage shall be reduced to fifty (50) feet and the setback on the other street frontage shall be reduced to eighty (80) feet.

### 9.39 **Neighborhood Convenience Store**

A Neighborhood Convenience Store shall only be conditionally permitted in R-3, C-1, C-2 and C-3 district in accordance with Article 9 under the following conditions:

Commercial establishments constructed with the sole intent of servicing local multi-family (R-3) residential developments. Following arrangements shall demonstrate the functions of neighborhood convenience stores:

- a. A neighborhood convenience commercial center may be provided as part of a minimum two hundred (200) unit R-3 Zone development proposal. For each two hundred (200) units proposed, a minimum of one half (1/2) acre of neighborhood commercial use, up to a maximum of one and one-half (1 ½) acres may be constructed.
- b. The granting of this conditional use is tied to the actual construction of a minimum of one hundred (100) dwelling units, plus the road system serving the entire two hundred (200) dwelling units.
- c. Such neighborhood convenience commercial uses shall be located at the intersection of an arterial or collector road the primary entrance to the proposed R-3 District development. Direct vehicular access to the neighborhood convenience commercial center shall be limited to the street within the proposed residential development. Furthermore, commercial parking lot shall be set back a minimum of one hundred (100) feet from the arterial or collector street right-of-way line along the site's frontage.
- d. The proposed neighborhood convenience commercial center shall be designed, oriented and constructed to serve the daily needs of the R-3 District development residents. No automobile related uses, arcade or adult related uses shall be permitted.
- e. The proposed neighborhood convenience commercial center shall be integrated with the R-3 District development and will be linked by safe and convenenate pedestrian walkways.
- f. No neighborhood convenience commercial center shall be located within one thousand (1,000) feet of another neighborhood convenience commercial center.
- g. Such commercial center shall be set back a minimum of one hundred (100) feet and screened from adjoining residences.
- h. No outdoor storage shall be permitted. Dumpsters shall be enclosed by a six foot high sight-tight fence.

- i. One (1) freestanding sign for the entire neighborhood convenience commercial center shall be permitted along the R-3 District development's street, not along the site's frontage. Such sign shall be no larger than thirty two (32) square feet and will be set back at least seventy five (75) feet from arterial or collector street right-of-way along the site's frontage. In addition, the sign shall be set back at least ten (10) feet from any other street right-of-way and one hundred (100) feet from any residence.
- j. All other design standards prescribed in Local Commercial District (LC) shall apply to the proposed neighborhood convenience store(s).

#### **9.40 Night Clubs**

A night club shall only be conditionally permitted in an I-1 district in accordance with Article 9 under the following conditions:

A bar, restaurant, coffee house or similar establishment where a dance floor or entertainment is provided.

Standards that apply to night clubs and taverns are as follows:

- a. No part of the subject property shall be located within three hundred (300) feet of any residentially zoned lands.
- b. The applicant shall furnish evidence that the proposed use will not be detrimental to the use of adjoining properties owing to hours of operation, light and/or litter.
- c. The applicant shall furnish evidence as to how the use will be controlled as to not constitute a nuisance due to noise or loitering outside the building.
- d. A working plan for the cleanup of litter shall be furnished and implemented by the applicant.

#### **9.41 Retail Sales Outlet**

- a. Retail outlets should be incorporated into planned commercial shopping centers which would integrate the design and dimensions of structures, parking areas and access points with those of existing uses.
- b. The grouping of retail outlets together and controlling access points onto arterial roads will minimize potential conflicts with through traffic.

**Wind Turbines** *(Adopted 7/15/09)*

Berlin Township recognizes the importance of clean, sustainable and renewable energy sources. To that end, Berlin Township permits the installation and use of residential wind turbines under the following regulations to ensure that the safety and welfare of all township residents is met.

- I. Wind turbines shall be **permitted by issuance of a Conditional Use Permit** in all districts under the following conditions:
  - A. The maximum height of any turbine shall be one hundred (100) feet. For purposes of this particular zoning item, maximum height shall be considered the total height of the turbine system including the tower, and the maximum vertical height of the turbines blades. Maximum height therefore shall be calculated by measuring the top of a prop at maximum vertical rotation to the ground. For wind turbine generators mounted on buildings or other structures, the maximum height shall not exceed one hundred (100) feet. Maximum height for wind turbine generator's mounted on buildings and other structures shall be considered from maximum vertical height of the turbine blades to the ground at the foundation of the building or other structure.
  - B. Setbacks: The following shall apply in regard to setbacks. Any turbine erected on a parcel of land shall establish a "clear fall zone" from all neighboring property line. The clear fall zone shall be not less than the maximum height of the wind turbine generator plus ten (10) feet. Building mounted wind turbine generators shall maintain a clear fall zone of one hundred (100) percent of the distance from the mounting location to the maximum height of the wind turbine generator's blade plus ten (10) feet. 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. Guy wire anchors shall maintain at least ten (10) feet from existing property lines and other structures.
  - C. Aesthetics: The following provisions shall be applied to the aesthetics issue of wind turbines:

The turbine including prop blades, turbine cowling, and tower shall be painted or coated white, gray or sky blue. Logos or other identification markers, other than those of the manufacturer, shall not be permitted anywhere on the turbine.
  - D. Maintenance: Wind turbines must be maintained in good working order. Turbines that become inoperable for more than twenty-four (24) months must be removed by the owner within sixty (60) days of issuance of zoning violation. Removal includes removal of all apparatus, supports, and/or other hardware associated with the existing turbine.
  - E. Noise Level: The noise level of the turbine as measured at the closest property line shall not exceed sixty (60) decibels.

- F. Capacity: The wind powered turbine generator shall service only one (1) property. The number of wind turbine generators shall be limited to one (1) per property, except lots of fifty (50) acres or more shall be limited to two (2) wind turbine generators.

## II. Permits

- A. A zoning permit shall be required before construction can commence on an individual wind turbine system.
- B. As a part of the permit process, the applicant shall investigate with the Erie Regional Planning Commission, whether or not additional height restrictions apply to the related proposed location of the unit.
- C. Applicant shall then provide the Township Zoning Inspector with the following items and/or information when applying for the permit:
  - 1. Location of all public and private airports in relation to the location of the turbine, as well as any FAA restrictions that may be applicable to the turbine installation.
  - 2. An engineering report that shows:
    - a. The total size and height of the unit.
    - b. The total size and depth of the unit's concrete mounting pad.
    - c. An average decibel rating for the proposed turbine unit.
    - d. A list and/or depiction of all safety measures that will be on the unit including anti-climbing devices.
    - e. Data specifying the kilowatt size and generating capacity of the proposed unit.
  - 3. 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 properties.
  - 4. Evidence of a "clear fall zone" with manufacturers' recommendation must be attached to the engineering report.
  - 5. Color of the unit, as well as the location and size of the manufacturers identifying logos shall be included in the plan.
  - 6. A dismantling plan that outlines how the unit will be dismantled shall be required as part of the permit application.

## DEFINITIONS

- 1. **Maximum Height** means the distance measured from ground level to the blade extended at its highest point or to the top of the tower, whichever is the highest.
- 2. **Small Wind Energy Conversion System** means a wind energy conversion system consisting of wind turbine, a tower and associated control or conversion electronics which will be used primarily to reduce on-site consumption of electrical power.

3. **Wind Turbine Rotor** means that portion of the windmill which includes the blades, hub and shaft.
4. **Wind Turbine Tower** means the supporting structure on which the rotor, turbine and accessory equipment are mounted.
5. **Wind Turbine** means a wind energy conversion system which converts wind energy into electricity, through the use of a wind turbine generator or rotor and includes the turbine, rotor, blade, tower, base and pad transformer, if any, and includes wind energy conversion systems designed to mount directly on the roof of existing buildings including residences.
6. **Application** means the person or entity filling an application for a conditional use permit under this Article.

### 9.43 Off Road Vehicle Racing Track

An off road vehicle race track shall only be permitted in a C-3 Commercial Recreational District in **accordance with Article 9 under the following conditions:**

- A. **Acreage:** The parcel size for the development of an Off Road Vehicle Racing Track shall be seventy-five (75) acres or greater and connected with a major road that would have sufficient capacity to handle the traffic that would be anticipated. Access ways shall be paved with asphalt or a recycled product. The parking areas may be grass. Specified parking areas shall be provided for recreational vehicles (RV's), off-road vehicle trailers, tow vehicles and spectator and participant parking. There shall be no overnight parking. Sanitary facilities shall be provided as well as a safe viewing area for spectators. Adequate trash containers shall be provided on the site. The site will be periodically cleaned of debris so that wind-blown litter does not accumulate on adjacent properties.
- B. **Screening and Buffers:** screening and buffers must be in compliance with the provisions of Article 28, Section 28.18 (1-6).
- C. **Noise Level:** The noise level for off road vehicles as well as sound from loudspeakers shall not exceed eighty (80) decibels at all property lines.
- D. **Lighting:** A Site Lighting Plan that shows all lighting, including security lighting, shall show how lighting fixtures will be placed, shielded, and oriented so there is no more than 0.5 foot candle of lighting at each property line. All lighting fixtures shall be directed downward and shielded in order to prevent light pollution from impacting the surrounding areas.
- E. **Maintenance:** The track shall be maintained in good physical repair and in accordance with Off Road Vehicle Requirements for track

operation and maintenance. Also, the track shall be irrigated during races to eliminate dust that could be created.

- F. Drainage: Applicants shall be in compliance with the provisions in Article 27, county drainage regulations and EPA storm water run-off standards.

**DEFINITIONS:**

**Off-Road Vehicles:** Any All-Terrain vehicle that is motor-propelled or contains a motor to assist the operation of said vehicle and which vehicles are commonly referred to as “dirt bikes,” “mini bikes,” “trail bikes,” “motorized sports bikes,” “Go Karts,” “All Terrain Vehicles (ATV’s),” “Trikes,” “Quads,” “snowmobiles,” “dune buggies,” and “golf carts,” and etc., which vehicles by their nature are intended to be operated in dirt, sand, up and down hills, along trails and in similar type areas.

**Race Track:** any area of land where motorized off-road vehicles operate simultaneously, or under timed conditions, at any speed.

**Race:** The operation of off-road vehicles either simultaneously or under timed conditions, at any speed on the same parcel of land.

**Sanitary Facilities:** Means Porta Johns or a permanently constructed restroom facility that meet the Erie County Health Department Code.

**9.44**

**CAMPGROUNDS**

Campgrounds shall only be permitted in C-3 Commercial Recreational District in accordance with Article 9 and shall comply with the requirements of the Ohio Administrative Code Chapter 3701 promulgated by the Ohio Public Health Council in accordance with Chapter 3733 of the Ohio Revised Code subject to the following:

**Acreage:** The parcel size for the development of a campground shall be twenty-five (25) acres or greater and have direct access to a public road with two hundred (200) feet of frontage for proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of recreational campers into and out of the campground. No camper lot will have direct access to a public roadway.

**Density:** Each camp site shall be provided a minimum area of one thousand (1,000) square feet. Camp sites shall contain a stabilized vehicle parking pad composed of concrete or gravel. Recreational campers shall be separated from each other and other park buildings and structures by fifteen (15) feet.

**Screening and Buffer:** Screening and buffer must be in compliance with provisions in Article 28, Section 28.18 (1-6).



**Maintenance:** the grounds, buildings and structures shall be maintained in good physical repair. Centralized garbage collection facilities shall be provided and set back one hundred (100) feet from any property line. Such facilities shall be screened from adjoining property. Adequate trash containers will be provided and periodic cleaning of debris will be done so that wind-blown litter does not accumulate on adjacent property.

**Sanitation:** Campgrounds shall meet the requirements of the Ohio Sanitary Code by the Public Health Council under the authority of the Ohio Revised Code Section 3733.01.

**Setbacks:** All campsites, buildings and recreational areas shall be located at least fifty (50) feet from any side or rear property line and at least one hundred (100) feet from any public road.

**Drainage:** Applicants shall be in compliance with the provisions in Article 27, county drainage regulations and EPA storm water run-off standards.

**On-Site Manager:** During operation the campground shall have an office in which shall be located the person responsible for operation of the campground.

**Internal Road System:** Roadways within the campground shall be hard surfaced and a minimum of twenty (20) feet in width with no dead ends. Parking shall be prohibited on all internal roads.

**Signs:** All signs shall be in compliance with Article 31 of the Zoning Resolution of the Township of Berlin.

**Tent:** An area for tents may be provided away from the improved sites. Such area shall not be less than five (5) acres. Each camp site shall provide a minimum of one thousand (1,000) square feet. One parking space shall be provided per site.

#### **DEFINITIONS:**

**Campgrounds:** Means a tract of land that has designated sites to recreational campers or recreational campers and tents.

**Recreational Campers:** Includes but limited to items commonly referred to as camper trailers, travel trailers, motor homes, fold-down or pop-up trailers, or fifth-wheel trailers typically used as a sleeping place.

**Tents:** A portable shelter typically used as a sleeping place.

# ARTICLE 10

## OFFICIAL ZONING FORMS

### APPLICATION FOR ZONING PERMIT

Berlin Township, Ohio

The undersigned applies for a zoning permit for the following use, said permit to be issued on the basis of the information contained within this application. The applicant hereby certifies that all information and attachments to this application are true and correct. The applicant is required, in addition to the information requested on this form to submit plans, in triplicate and drawn to scale, showing the actual dimensions and shape of the lot, exact sizes and locations of existing buildings on the lot and the location and dimensions of the proposed buildings or alterations.

- 1. Erie Co. Tax Parcel number of lot to be built upon: \_\_\_\_\_
- 2. Name of Owner: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: Home \_\_\_\_\_ Work \_\_\_\_\_
- 3. Existing Use: \_\_\_\_\_
- 4. Property Presently Zoned As: \_\_\_\_\_
- 5. Proposed **use and cost** of building, addition, accessory building, etc.:

Check mark here if proposed structure is for:

**Personal use** \_\_\_\_ **Farm use** \_\_\_\_ **Business use** \_\_\_\_ **Industrial use** \_\_\_\_

Residence \$ \_\_\_\_\_ Single family Yes/No No. of Units \_\_\_\_\_

New Construction \$ \_\_\_\_\_ Business \$ \_\_\_\_\_

Remodeling Addition \$ \_\_\_\_\_ Industry \$ \_\_\_\_\_

Accessory Building \$ \_\_\_\_\_

Sign \$ \_\_\_\_\_ Size of sign \_\_\_\_\_

Wind turbine \$ \_\_\_\_\_ Height at tip of blades \_\_\_\_\_

Swimming Pool \$ \_\_\_\_\_ Other (explain) \_\_\_\_\_

***If the proposed use is for commercial or industrial purpose, attach a detailed description of the nature of the business or industry. It is the property owner's responsibility to obtain a permit from the Ohio Department of Commerce for a change in use or new construction.***

Contact the Ohio Department of Commerce at 614-644-2622.

10.1 (cont)

- 6. Percentage of Lot to be Occupied: \_\_\_\_\_
- 7. Lot: Width \_\_\_\_\_ Lot Depth \_\_\_\_\_ Lot Area \_\_\_\_\_
- 8. Square Feet of Construction Area: Residence \_\_\_\_\_  
 Garage \_\_\_\_\_ Basement \_\_\_\_\_ Accessory Building \_\_\_\_\_  
 Commercial Bldg \_\_\_\_\_ Industrial \_\_\_\_\_ Deck \_\_\_\_\_
- 9. Building Heights: Stories \_\_\_\_\_ Feet \_\_\_\_\_
- 10. Yard Dimensions: Front \_\_\_\_\_ Rear \_\_\_\_\_  
 One Side \_\_\_\_\_ Sum of Side Yards \_\_\_\_\_
- 11. Accessory Building Dimensions: Height \_\_\_\_\_ Side of Dimensions \_\_\_\_\_
- 12. Number of Off-Street Parking Spaces to be Provided: \_\_\_\_\_
- 13. Number of Off-Street Loading Berths to be Provided: \_\_\_\_\_
- 14. On a separate sheet attach a sketch of proposed structure showing dimensions and location of structure on lot in relation to other buildings/structures. Include other supplemental requirements or conditions that will be met or explain any points you feel need clarification.

**Note:** This permit shall be void if work is not started within one year or completed in 2 ½ years.

**Owner's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

----- FOR OFFICIAL USE ONLY -----

Date Received: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_

Date of Action on Application: \_\_\_\_\_ Approved: \_\_\_\_\_

Denied: \_\_\_\_\_ Reason for denial: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10.2

Zoning Inspector: \_\_\_\_\_

OFFICE OF ZONING DEPT.  
**BERLIN TOWNSHIP**

---

40 EAST MAIN ST. • BERLIN HEIGHTS, OHIO 44814 • PH. 419-588-2004

**ATTACHMENT A  
TO  
ZONING CERTIFICATE**

**ACKNOWLEDGEMENT OF APPLICANT**

The undersigned understands that the Board of Trustees of Berlin Township make no representation that the land for which the zoning certificate is issued is suitable as a building site. The Board of Trustees of Berlin Township make no representations whatsoever about the condition of the land pertaining to any quality of the property including, but not limited to, drainage capacity.

The trustees further make no representations that their road drainage tiles will be available to or capable of draining the property that is referenced in this zoning certificate.

Read and Understood

\_\_\_\_\_  
Applicant

**APPLICATION FOR ZONING AMENDMENT**

\_\_\_\_\_, Ohio

Application No. \_\_\_\_\_

1. Name of Applicant: \_\_\_\_\_

Agent: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

2. Locational Description: Subdivision Name \_\_\_\_\_

Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_

Block \_\_\_\_\_ Lot No. \_\_\_\_\_

3. Legal Description

Contents of Legal Description shall be obtained by acquiring a signed deed or a signed statement disclosing such information as would be found on a deed.

4. Survey Sketch

The property in question shall be surveyed by a registered surveyor and is as set forth on the accompanying sketch two (2) copies of which shall show the following pertinent information:

- a. North pointer on sketch
- b. Dimensions on all lines and bearings shown where necessary
- c. All lines shall be labeled to aid in checking parcel descriptions, such as county line, township line, section line, lot line, center line or any other line which may require identifications
- d. Proposed area of parcel subject to requested rezoning
- e. Sketch shall bear surveyor's seal

5. Existing Use: \_\_\_\_\_

6. Present Zoning District: \_\_\_\_\_

7. Proposed Use: \_\_\_\_\_

8. Proposed Zoning District: \_\_\_\_\_

10.3 (cont.)

- 9. Supporting Information: Attach the following items to the application:
  - a. A list of all property owners and their mailing addresses within, contiguous to and directly across the street from the proposed rezoning.
  - b. A statement of how the proposed rezoning relates to the comprehensive plan.
  - c. The proposed amendment to the zoning map or text in resolution form, approved as to form by the Township legal advisor.

Date: \_\_\_\_\_ Applicant: \_\_\_\_\_

\*\*\*\*\*

For Official Use Only

Date Filed: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_

Date of Notice in Newspaper: \_\_\_\_\_

Date of Notice to Adjacent Property Owners (if required): \_\_\_\_\_

Date of Meeting of Regional Planning Commission: \_\_\_\_\_

Recommendation of Regional Planning Commission:

\_\_\_\_\_  
\_\_\_\_\_

Recommendation of Township Zoning Commission

\_\_\_\_\_  
\_\_\_\_\_

Date of Notice in Newspaper: \_\_\_\_\_

Date Meeting of Zoning Commission: \_\_\_\_\_

Recommendation of Zoning Commission:

\_\_\_\_\_  
\_\_\_\_\_

Date of Notice in Newspaper: \_\_\_\_\_

Date of Hearing by Township Trustees: \_\_\_\_\_

Recommendation of Township Trustees:

\_\_\_\_\_  
\_\_\_\_\_

**APPROVED ZONING CHANGE FORM**

TO: Regional Planning

FROM: Township Clerk

SUBJECT: Approved Zoning Change

1. Approved change of zoning district

From: \_\_\_\_\_

To: \_\_\_\_\_

2. Locational Description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Attached legal description:

4. Attached platted map:

Please attach map to page

5. Effective date of zoning change: \_\_\_\_\_

\_\_\_\_\_  
Township Clerk



**NOTICE OF ZONING ACTION  
TO ADJOINING PROPERTY OWNER**

Dear Adjoining Property Owner:

A request (a) to rezone (b) for a conditional use (c) for a variation has been filed with the \_\_\_\_\_ by \_\_\_\_\_.

The property in question is located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The request, if granted, would permit the applicant to use the property in the following manner:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Board of Appeals will hold a public hearing on this application on:

\_\_\_\_\_, 20 \_\_\_\_, at \_\_\_\_ a.m.  p.m.  in \_\_\_\_\_.

All persons desiring to object should file a written objection thereto before such hearing with the undersigned Board and should appear at the hearing to present their objection.

If represented by counsel, the petitioner and the Board of Appeals must be notified not less than seven (7) days prior to the date of the hearing that said counsel will be present to object.

**PETITION FOR ZONING REFERENDUM**

Note: If the proposal is identified by a particular name or number, or both, these should be inserted here: \_\_\_\_\_.

A proposal to amend the zoning map of the unincorporated area of Berlin Township, Erie County, Ohio adopted \_\_\_\_\_, 20\_\_\_\_ (followed by brief summary of the proposal).

To the Board of Township Trustees of Berlin Township, Erie County, Ohio:

We, the undersigned, being electors residing in the unincorporated area of Berlin Township, included within the \_\_\_\_\_ Zoning Plan, equal to not less than eight percent of the total vote cast for all candidates for Governor in the area at the preceding general election at which a Governor was elected, request the Board of Township Trustees to submit this amendment of the zoning resolution to the electors of Berlin Township residing within the unincorporated area of the Township included in the Berlin Township Zoning Resolution, for approval or rejection at a special election to be held on \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ pursuant to Section 519.12 of the Ohio Revised Code.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Township

\_\_\_\_\_  
Precinct

\_\_\_\_\_  
County

\_\_\_\_\_  
Date of Signing

**STATEMENT OF CIRCULATOR**

\_\_\_\_\_ declares under penalty of election

Name of Circulator

falsification that he is an elector of the State of Ohio and resides at the address appearing below his signature hereto; that he is the circulator of the foregoing part containing \_\_\_\_\_, \_\_\_\_\_; that he witnessed the affixing of

Number Signatures

every signature; that all signers were to the best of his knowledge and belief qualified to sign; and that every signature is to the best of his knowledge and belief the signature of the person whose signature it purports to be.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

Township and Zip Code

10.7

**REVOCATION OF ZONING PERMIT**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

You are hereby advised that for the reason that:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Zoning Permit No: \_\_\_\_\_ issued on \_\_\_\_\_, 20 \_\_\_\_, is hereby revoked and declared to be null and void.

Further alteration or change in the use of any kind and or building must cease until a valid zoning permit has been obtained. Further alteration or change is punishable under Section 5.15 of the Zoning Resolution.

Please contact this office so we may discuss this matter.

\_\_\_\_\_, Ohio

\_\_\_\_\_  
Zoning Inspector

-----  
For Official Use Only

Date Received: \_\_\_\_\_ Fee Paid: \$ \_\_\_\_\_

Date of Action of Application: \_\_\_\_\_

Approved  Denied

If denied, reason for denial:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Zoning Inspector

10.8

**APPLICATION FOR TEMPORARY USE PERMIT**

\_\_\_\_\_, Ohio

Application No: \_\_\_\_\_

The undersigned applies for a temporary use permit for the use and time period specified, such permit to be issued on the basis of information contained within this application. The applicant hereby certifies that all information herein and attachments hereto are true and correct.

1. Locational Description: Attach a graphic description of the property on which the temporary use is proposed to occur, to include a site plan depicting the yard(s), setback(s), parking facilities and sanitary facilities and the location of the temporary use proposed.

2. Name of Owner: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_  
Home Business

3. Existing Use: \_\_\_\_\_

4. Property Presently Zoned As: \_\_\_\_\_

5. Description of Proposed Temporary Use:  
\_\_\_\_\_  
\_\_\_\_\_

6. Date(s) of Proposed Temporary Use: \_\_\_\_\_

7. Name of Applicant/Organization: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_  
Home Business

Vendor's License Number: \_\_\_\_\_ (attach photocopy)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

10.9

**NOTICE OF ZONING VIOLATION**

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby advised that you are in violation of the Berlin Township Zoning Resolution. The nature of this violation is as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are further informed that unless this violation is corrected or otherwise made to comply by \_\_\_\_\_, 20 \_\_\_\_, you will be subject to the penalty as provided by Section 5.15 of the Berlin Zoning Resolution.

Please contact this office so that we may discuss the violation.

\_\_\_\_\_, Ohio  
Zoning Commission

\_\_\_\_\_  
Zoning Inspector

10.10

**NONCONFORMING CERTIFICATE**

Certificate No. \_\_\_\_\_ Date: \_\_\_\_\_

Name of Property Owner: \_\_\_\_\_

Description of Property: House Number: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Extent and type of nonconformity:

---

---

---

---

Reason why use is nonconforming:

---

---

---

---

Dimensional aggregates of nonconformity:

---

---

---

---

10.11

**APPLICATION FOR REASONABLE ALTERATION OR ENLARGEMENT  
OF A NONCONFORMING STRUCTURE**

Applicant Information:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Legal Description of Property: House Number: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Please describe the existing development and how this development would be altered:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please indicate the prevailing reasons for requesting an enlargement or alteration of the existing structure:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10.12

**APPLICATION FOR APPEAL  
BOARD OF ZONING APPEALS**

\_\_\_\_\_, Ohio

Application No. \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_  
Home Business

Issue Addressed: Zoning Code Violation  
Zoning Permit Denial Permit No. \_\_\_\_\_

The undersigned requests a review of the decision made by the Zoning Inspector on \_\_\_\_\_, 20 \_\_\_\_\_. It is the applicant's contention that the following error was made in the determination of the Zoning Inspector:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Applicant

-----  
For Official Use Only

Date Filed: \_\_\_\_\_

Date of Notice to Parties in Interest: \_\_\_\_\_

Date of Notice in Newspaper: \_\_\_\_\_



Date of Public Hearing: \_\_\_\_\_

10.12 (cont)

Fee Paid: \$ \_\_\_\_\_

Decision of Board of Zoning Appeals: Approved  Denied

If approved, the following conditions and safeguards were prescribed:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

If denied, reason for denial:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Board of Zoning Appeals Chairman

**Note: One (1) copy to be filed with the Zoning Inspector  
Two (2) copies to be filed with the Zoning Appeals**

10.13

**APPLICATION FOR VARIANCE  
BOARD OF ZONING APPEALS**

\_\_\_\_\_, Ohio

Application No. \_\_\_\_\_

Name of Applicant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_  
Home Business

1. Locational Description: Subdivision Name: \_\_\_\_\_

Section: \_\_\_\_\_ Township: \_\_\_\_\_

Range: \_\_\_\_\_ Other Designation: \_\_\_\_\_

Block: \_\_\_\_\_ Lot Number: \_\_\_\_\_

**Note:** If not in a platted subdivision, attach a legal description.

2. Nature of Variance: Describe generally the nature of the variance

\_\_\_\_\_

In addition, plans in triplicate and drawn to scale must accompany this application showing dimensions and shapes of the lot, the size and locations of existing buildings or alterations and any natural or topographic peculiarities of the lot in question.

3. Justification of Variance: In order for a variance to be granted, the applicant must prove to the Board of Zoning Appeals that the following items are true: (please attach these comments on a separate sheet)

- a. Special conditions exist peculiar to the land or building in question.
- b. That a literal interpretation of the resolution would deprive the applicant of rights enjoyed by other property owners.



Date of Notice to Newspapers: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

10.15

**CONDITIONAL USE CERTIFICATE**

Certificate No. \_\_\_\_\_

Date: \_\_\_\_\_

Name of Property Owner: \_\_\_\_\_

Description of Property: House Number: \_\_\_\_\_ Lot Number: \_\_\_\_\_

Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

**SUBJECT USES**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A conditional use certificate for the: Structure  Use

Is hereby: Granted  Denied

If denied, suggested action:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Zoning Inspector

10.16

**DRIVEWAY PERMIT APPLICATION  
BERLIN TOWNSHIP**

Application No. \_\_\_\_\_ Road: \_\_\_\_\_

Owner(s) Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Contractor (if known): \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Location of Planned Driveway: \_\_\_\_\_ miles  
North  South  East  West  of intersection with \_\_\_\_\_ and on the  
North  South  East  West  side of the road

House Number (if known): \_\_\_\_\_

Planned construction dates: \_\_\_\_\_  
Starting on: \_\_\_\_\_ and completed by: \_\_\_\_\_

Note: *(90 days is normal limit; notify inspector two working days prior to installation)*

New or Existing Driveway? Yes  No

Residential  Field  Other  \_\_\_\_\_

Width requested \_\_\_\_\_ ft. (12 ft. is normal for residential drive)  
Planned length and size of pipe if needed \_\_\_\_\_ ft of \_\_\_\_\_ inch \_\_\_\_\_ type  
*(minimum length and size is 30 ft of 12 in)*

Material for driveway apron: Stone  Asphalt  Concrete  Other

Is a manhole or catch basin in the way of the driveway? Yes  No   
Number of driveways to be on the property \_\_\_\_\_  
Will the driveway cross an existing tile? Yes  No

10.17

### TRAFFIC CONTROL AND INDEMNIFICATION

If this permit is granted, I/we agree to comply with all the conditions, restrictions and regulations of Berlin Township and to protect traffic according to the Ohio Manual of Uniform Traffic Control Devices during all phases of construction.

Except for negligent acts of the township, the applicant shall assume all liability for and save the township, its trustee, agent and employees and their successors in interest harmless from any and all liability and claims for damage arising out of the work to be done herein and the continued use by the applicant.

Applicant(s) Owners: \_\_\_\_\_ Date: \_\_\_\_\_

Applicant(s) Owners: \_\_\_\_\_ Date: \_\_\_\_\_

### APPROVAL:

This application is subject to the conditions below and is approved when signed by an authorized representative of Berlin Township.

Conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant hereby agrees to the additional conditions and has complied with those conditions which can be complied with prior to issuance of the permit:

Owner(s) \_\_\_\_\_ Date: \_\_\_\_\_

Owner(s) \_\_\_\_\_ Date: \_\_\_\_\_

Permit Issued By: \_\_\_\_\_ Date: \_\_\_\_\_

Township Representative

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Inspected By: \_\_\_\_\_ Date: \_\_\_\_\_

10.18

### BERLIN TOWNSHIP POND APPROVALS

Name of Owner: \_\_\_\_\_

Street Address: \_\_\_\_\_

Village: \_\_\_\_\_

1. Erie County Health Department  
420 Superior St. ~ Sandusky, Ohio 44870  
Septic system, well location to water edge

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
County Sanitarian

2. Erie County Engineer (Highway)  
2700 Columbus Ave. ~ Sandusky, Ohio 44870  
Overflow outlet if it impacts a county road

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
County Engineer (Drainage)

3. Erie County Soil and Water Conservation District  
2900 Columbus Ave. ~ Sandusky, Ohio 44870  
Pond and overflow design

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

4. Erie County Regional Planning  
2900 Columbus Ave. ~ Sandusky, Ohio 44870  
Pond location and flood plain determination

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

#### Owner's Responsibility

Any and all liability for accidents, injuries, deaths and damage to public and/or private property caused by the construction or continued presence of this pond is that of the current property owner of the land it occupies.

I, as property owner, accept responsibility to repair and/or re-route existing drainage and not to cause damage to affect existing drainage systems.

Signed: \_\_\_\_\_  
Property Owner

Date: \_\_\_\_\_

**ARTICLE 11**

**ZONING DISTRICTS AND BOUNDARIES INTERPRETATION**

**11.0 Statement of Purpose**

The purpose of this Article is to establish zoning districts in order to realize the general purposes set forth in the preamble of this Resolution, to provide for orderly growth and development and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

**11.1 Establishment of Districts**

The unincorporated portions of Berlin Township are hereby divided into districts or zones as shown on the Zoning Map, which accompanies this Resolution. They are as follows:

Conservation/Recreation .....	CR
Agriculture/Residential District .....	Ag./Res.
Single Family Serviced Residential .....	R-1
	R-1A
Two Family .....	R-2
Multi-Family .....	R-3
Professional and Business Offices .....	P-B-O
Local Commercial .....	C-1
General Commercial .....	C-2
Commercial Recreation .....	C-3
Service Industrial .....	I-1
Light Industrial .....	I-2
Heavy Industrial .....	I-3
Mineral Aggregate .....	MG
Planned Unit Development .....	P.U.D.
Floodplain, Floodway and Wetland Overlay District ..	F.F. & W.

**11.2 Zoning District Map**

The districts established in Section 11.1, as shown on the Official Zoning Map, which, together with all data, references, explanatory material and notations thereon, are hereby officially adopted as part of this Resolution



and hereby incorporated by reference herein, thereby having the same force and effect as if herein fully described in writing.

### **11.3 Zoning Map Legend**

There shall be provided on the Official Zoning Map a legend which shall list the name of each zoning district and indicate the symbol for that district. A color, combination of colors or black and white patterns may be used in place of symbols to identify the respective zoning districts in such legend.

### **11.4 Identification of Official Zoning Map**

The Official Zoning Map shall be properly identified by the signature of Township Trustees, as attested by the Township Clerk and bearing the official seal. The Map shall be maintained by the Zoning Administrator and shall remain on file in the Office of the Clerk. The Official Zoning Map shall control whenever there is an apparent conflict between the district boundaries as shown on the Map and the description as found in the text of this Resolution. The Official Zoning Map shall be a reproducible document and copies shall be made available to the public upon request and upon payment of a fee as established by resolution.

### **11.5 Interpretation of District Boundaries**

The following rules shall be used to determine the precise location of any zoning district boundary unless such boundary is specifically indicated on the Official Zoning Map:

1. Where district boundaries are so indicated as approximately following the center lines of thoroughfares or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way;
2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot line shall be construed to be said boundaries;
3. 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 Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map;
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line;

5. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Township unless otherwise indicated;
6. Where district boundaries are so indicated that they follow or approximately follow the limits of any municipal corporation, such boundaries shall be construed as following such limits;
7. Whenever any street, alley or other public way is vacated by official Board of Township Trustees action, the zoning district adjoining each side of such street, alley or public way shall automatically be extended to the center of such vacation and all areas within that vacation shall thenceforth be subject to all regulations appropriate to the respective extended districts.

All questions and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals.

## ARTICLE 12

### CONSERVATION/RECREATION DISTRICT (CR)

#### 12.0 Statement of Purpose

The Conservation/Recreation District is designed to encourage the development of land for "open space" recreational activities or preserve natural resources; a secondary purpose is that of protecting the public health, safety, comfort and welfare and reducing financial burdens imposed on the community and its individuals by restricting the use of those areas in the township which may be subject to periodic flooding or which constitute water retention or recharge areas. This district is not intended to encourage retail commercial operations.

#### 12.1 Permitted Uses

Land located in the CR District shall be used for the following purposes only:

- a. Agriculture, including incidental agricultural structures.
- b. Botanical gardens and arboretums.
- c. Forest preserves, wildlife reservations and ecological sanctuaries.
- d. Parks and playgrounds.
- e. Zoological gardens.
- f. Accessory uses and buildings, incidental to and on the same zoning lot as a principal use, as follows:
  1. Agricultural buildings and structures.
  2. Administration buildings or field houses.

#### 12.2 Conditional Uses

The following conditional uses may be allowed, subject to Article 9:

- a. Cultural facilities, including: libraries, museums and similar cultural institutions.

- b. Educational facilities (refer to 9.30).
- c. Golf courses, tennis centers and similar open recreational activities (refer to 9.25).
- d. Municipal facilities.
- e. Nurseries, for the growing and sale of trees and shrubbery.
- f. Accessory uses and buildings, incidental to and on the same lot as a principal use.
- g. Recreational and social facilities.

**12.3 Development Standards**

No permitted or conditional use shall be allowed in this district which is not provided with at least two (2) acres of lot area and two hundred (200) feet of lot width.

**12.4 Setback from Property Lines**

No building or structure in the CR district shall be located closer than fifty (50) feet from any property line.

**12.5 Height Limitations**

No building or structure shall exceed thirty (30) feet in height.

**12.6 Required Parking**

As specified in Article 30.

**12.7 Signs**

As specified in Article 31.

**12.8 Site and Landscape Plan Review**

For all uses permitted in the CR District, a site plan shall be submitted in accordance with the provisions of Article 27, Section 27.19.

**12.9 Screen/Buffering**

Screening or buffering in compliance with the provisions of Article 27, Section 27.18

## ARTICLE 13

### AGRICULTURAL/RESIDENTIAL DISTRICT (AG./RES.)

#### 13.0 Statement of Purpose

The primary purpose of this zoning district is to preserve land containing agricultural value while providing for rural type residential development where agricultural land abuts public roads. As the number of non-farm residents in an area grows, the more difficult it is to engage in typical farm practices and it becomes more arduous to protect the rural character associated with these areas. Therefore, the following reasons are given to support the purpose for which this zoning district is intended to accomplish.

1. This district shall permit a degree of non-farm housing without unduly contributing to uncontrolled residential expansion into rural areas.
2. The Ag./Res. District lessen the impacts of non-farm residences on the rural environment by reducing the possible mixture of farm and non-farm dwellings.
3. The regulations in this section Agricultural/Residential District are applicable unless in direct conflict with state and federal law.

#### 13.1 Principal Permitted Uses

In the Ag./Res. District, no person shall hereafter use any land, building or structure and no person shall erect any building or structure except in accordance with the following provisions:

1. Agriculture, horticulture and viticulture.
2. Single family dwellings, both farm and non-farm related.
3. Accessory uses and structures incidental to the above permitted uses including, but not limited to the following:

- a. Roadside stands for the sale of agricultural products grown on the site, subject to the following:
  1. The structure shall be set back at least forty (40) feet from the street right-of-way.
  2. Off-street parking shall be provided for all employees and customers.
  3. A minimum of 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.
  4. Farms.
  5. Type B family day care home.
  6. Publicly owned and operated libraries, parks and recreation facilities.
  7. Accessory uses customarily incidental to above permitted uses.

### **13.2 Conditionally Permitted Uses**

The following uses shall be permitted by the Township Board of Zoning Appeals pursuant to Article 9.

1. Cemeteries of at least ten (10) acres in size and other facilities incidental thereto (refer to 9.16).
2. Nursery schools and day care nurseries and child care centers, subject to Article 9.
3. Type A family day care home, subject to the provisions of Article 9.
4. Churches and other facilities normally incidental thereto, subject to Article 9 (refer to 9.15).
5. Public, parochial and other private elementary intermediate and/or high schools offering courses in general education, but not commercial trade schools (refer to 9.33). Private parks, country clubs, golf courses and golf driving ranges.
6. Bed and breakfast homestay.
7. Publically owned and operated libraries, parks and recreation facilities (refer to 9.22).
8. Public stables and riding academies of at least ten (10) acres in size.
9. Temporary buildings for use incidental to construction work for a period not to exceed one (1) year, subject to renewal.
10. Airports, airfield runways, hangars, beacons and other facilities involved with aircraft operations, subject to the provisions of Article 9.
11. The raising of fur bearing animals, subject to the following conditions:

- a. The commercial raising of fur bearing animals including mink, chinchillas, rabbits, fox, guinea pigs and similar animals, shall be located on a continuous parcel of forty (40) acres or more in area. All outdoor runs or breeding areas shall be set back from the front property line a minimum of one hundred (100) feet and the rear property line a minimum of one (100) feet.
  - b. The commercial raising of domestic or laboratory animals such as cats, dogs, mice, rats or other similar animals, shall be located on a parcel of property not less than ten (10) acres in area. All outdoor runs or breeding areas shall be enclosed on all sides by a wall or fence.
12. Colleges, universities and other such institutions of higher learning, public and private, offering courses in general, technical or religious education, all subject to the following conditions:
- a. Any use permitted herein shall be developed only on sites of at least forty (40) acres in area and shall not be permitted on any portion of a recorded subdivision plat.
  - b. No building or other use of land except passive landscaped areas shall be situated within one hundred (100) feet of any private residence not included as part of this site.
13. Transmitter/Receiver Towers, subject to the provisions of Article 9 (refer to 9.30).
14. Government public buildings and/or recreation areas and other uses incidental thereto, subject to the provisions of Article 9.
15. Veterinary Clinic and Kennel (refer to 9.18).
16. Child Day Care (refer to 9.19).
17. Family Day Care (refer to 9.19).
18. Funeral Home (refer to 9.20).
19. Non Commercial Keeping of Livestock (refer to 9.36).
20. Process of Farm Products (refer to 9.37).

**13.3 Development Standards**

- a. Minimum area: 1.5 acres
- b. Minimum frontage: 200 feet
- c. Minimum Front Yard: 50 feet
- d. Minimum Side Yard: 35 feet
- e. Minimum Rear Yard: 50 feet

- f. Minimum Setback for Corner Lots:  
½ the required front yard setback
- g. Setback on Cul-de-sacs: Refer to Section 28.19
- h. Maximum Height: 35 feet
- i. Maximum Lot Depth: Lot width times 3.5
- j. Minimum Floor Area: 1,200 square feet

### 13.3.1 Supplemental Development Standards

- a. Restrictions to minimum lot area-lot minimum area shall be greater than 1.5 acres if the lot encompasses flood plain, waterways, drainage ditches, utility easements (buried or above ground) and/or has topography having a terrain slope exceeding a one (1) foot fall in three (3) feet of distance. For the afore described lot the dwelling location on said lot shall contain a minimum of 1.25 contiguous acres which are not otherwise intersected by flood plain, waterways, drainage ditches or utility easements and whose topography does not have any terrain slope exceeding a one (1) foot fall in three (3) feet of distance.

### 13.4 Required Parking

As specified in Article 30.

### 13.5 Signs

As specified in Article 31.

### 13.6 Accessory Structures

1. Where the accessory structure is attached to a main building, it shall be subject to and must conform to all regulations of this Resolution applicable to the main building.
2. Except as otherwise provided herein, no accessory building or structure or use shall be erected or carried on in the required front yard.
3. A detached private garage or other accessory structure may be erected and used in the interior side or rear yard provided that:
  - a. When such accessory structure is located in the rear or side yard, a minimum side and rear yard of five (5) feet shall be maintained. If the structure is one thousand five hundred (1,500) square feet or greater, then the minimum side and rear yard shall be fifteen (15) feet. *If the structure is single story, detached, does not exceed one hundred and twenty*



*(120) square feet of floor space, does not have a permanent foundation, has no plumbing installed, and is used as a tool or storage shed, playhouse, or similar use, it is exempted from required zoning permit. A zoning permit shall be required for all other structures.*

*Effective: April 6, 2016*

- b. In no case shall an accessory structure be located closer than fifteen (15) feet to any street line or alley.

*Effective: April 6, 2016*

4. An accessory building shall be a minimum distance of ten (10) feet from any main building(s).
5. No accessory structure shall be used for human habitation.
6. No accessory structure shall be used for commercial or industrial purposes.
7. Accessory structures shall not cover more than thirty five (35%) percent of the required rear yard.
8. Accessory structures must be subordinate in area to the principal use.
9. The maximum height of any accessory structure shall be twenty-five (25) feet. *Effective: April 6, 2016*
10. Private swimming pools, refer to Section 30.10.
11. Driveways, parking and/or maneuvering areas are considered accessory structures and shall not encroach upon the minimum side yard setback areas as set forth in 13.6.3(a) of this resolution.

## **13.7**

### **Home Occupation as a Conditionally Permitted Use**

1. The home occupation may be permitted to be conducted in a structure accessory to the residence, provided the application so specified.
2. Outside storage related to the home occupation may be permitted, if totally screened from adjacent residential lots, provided the application so specifies.
3. Not more than thirty (30%) percent of the gross floor area of any residence shall be devoted to the proposed home occupation.
4. The external appearance of the structure in which the use is to be conducted shall not be altered and not more than one sign no larger than two (2) square feet shall be mounted flush to the wall of the structure.
5. Minor or moderate alterations in accordance with Article 30 may be permitted to accommodate the proposed use, but there shall be no substantial construction or reconstruction.
6. No equipment process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances.

7. No more than two (2) additional parking places may be proposed in conjunction with the home occupation, yard shall not be located in a required front yard.

### **13.8 Water Retention Pond as a Conditionally Permitted Use**

Definition: Water Retention Pond – Man made water retention basin, constructed by fully excavating a site or by excavating and damming a site. A pond not included in this definition is a detention/retention pond constructed in conjunction with a residential, commercial or industrial development for storm water control as required by the Erie County Storm Water/Erosion Control Regulations.

1. A minimum lot size of ten (10) acres is required to have a water retention pond.
2. The following conditions for water retention ponds shall be met:
  - a. Soil retention plans and pond approvals shall be submitted with the application (required).
  - b. A pond or portion of a pond shall not be constructed within the 100 year flood plain or within a floodway.
  - c. Maximum total water surface area of all ponds shall not exceed 20% of the lot land area.
  - d. The pond shall be a minimum of eight (8) feet deep over 35% of the pond surface area.
  - e. The pond sides slope shall be a minimum of three (3) foot horizontal to one (1) foot vertical.
  - f. A natural water source must be available except where a subsurface drain source, excluding septic drainage, exists.
  - g. There shall be a minimum setback from property line of seventy five (75) feet from the front lot line and thirty (30) feet from side and rear lot lines. Measurement of the front lot line setback shall be from the edge of the road right-of-way to the waters edge. For corner lots, both front lot lines shall have a minimum setback of seventy five (75) feet. Measurement of the side and rear lot line setbacks shall be from the property line to the waters edge.
  - h. Ponds located on lots having improvements (ie. building) shall not be located in front yards.
  - i. No surface water shall be diverted to flow onto existing right-of-ways or adjoining property as a result of the construction and design of the pond.
  - j. Pond construction by mounding above grade on the upland side shall not be permitted.
  - k. If the pond is constructed utilizing any mounding of dirt around it, the toe of said mound shall end at least ten (10) feet from the property line and the slope of said mound shall have a maximum slope of three to one.

## 13.9

### Accessory Uses

Definition: Garden Pond – Small, artificially created body of water constructed for the purpose of adding landscape features to the dwelling site.

1. Garden pond permitted as an accessory use in accordance with the following:
  - a. Maximum water surface area shall not exceed seventy five (75) square feet.
  - b. Maximum water depth shall not exceed twenty four (24) inches.
  - c. Water in the garden pond shall be continuously aerated.
  - d. There shall be a minimum setback of twenty (20) feet from all property lines, as measured to the waters edge.

## ARTICLE 14

### R-1 R-1A SINGLE FAMILY SERVICED RESIDENTIAL

#### 14.0 Purpose

The purpose of this District is to provide a single family residential development in areas served by public water and community sewage disposal facilities. The District offers reduced area requirements in serviced areas.

#### 14.1 Principal Permitted Uses

In the R-1 District, no person shall hereafter use any land, building or structure and no person shall erect any building or structure except in accordance with the following provisions:

1. Single family dwellings.
2. Publicly owned and operated schools, libraries, parks, parkways and recreation facilities.
3. Type B family day care home.
4. Accessory uses customarily incidental to the above permitted uses.

#### 14.2 Development Standards

		<b>R-1</b>	<b>R-1A</b>
a.	Minimum Area	20,000 sq. ft.	11,250 sq. ft.
b.	Minimum Frontage	100 ft.	75 ft.
c.	Minimum Front Yard	60 ft.	30 ft.
d.	Minimum Side Yard	25 ft.	20 ft.
e.	Minimum Rear Yard	50 ft.	40 ft.
f.	Minimum Setback for Corner Lots:	1.2 the required front yard setback	
g.	Maximum Height	35 ft.	35 ft.
h.	Maximum Lot Depth	Lot width times 3.5	
i.	Minimum Floor Area	1,200 sq. ft.	1,000 sq. ft.

### 14.3 Required Parking

As specified in Article 30

### 14.4 Signs

As specified in Article 31.

### 14.5 Accessory Buildings

1. Where the accessory structure is attached to a main building, it shall be subject to and must conform to the main building.
2. Except as otherwise provided herein, no accessory building or structure or use shall be erected or carried on in the required front yard.
3. A detached private garage or other accessory structure may be erected and used in the interior side or rear yard provided that:
  - a. When such accessory structure is located in the rear or side yard, a minimum side and rear yard of five (5) feet shall be maintained. If the structure is one thousand five hundred (1,500) square feet or greater, then the minimum side and rear yard shall be fifteen (15) feet. *If the structure is single story, detached, does not exceed one hundred and twenty (120) square feet of floor space, does not have a permanent foundation, has no plumbing installed, and is used as a tool or storage shed, playhouse, or similar use, it is exempted from required zoning permit. A zoning permit shall be required for all other structures. Effective: April 6, 2016*
  - b. In no case shall an accessory structure be located closer than fifteen (15) feet to any street line or alley. *Effective: April 6, 2016*
4. An accessory building shall be a minimum distance of ten (10) feet from any main building(s).
5. No accessory structure shall be used for human habitation.
6. No accessory structure shall be used for commercial or industrial purposes.
7. Accessory structures shall not cover more than thirty five (35%) percent of the required rear yard.
8. Accessory structures must be subordinate in area to the principal use.
9. The maximum height of any accessory structure shall be twenty-five (25) feet. *Effective: April 6, 2016*
10. Private swimming pools, refer to Section 29.9

11. Driveways, parking and/or maneuvering areas are considered accessory structures and shall not encroach upon the minimum side yard setback areas as set forth in 14.5.3 (a) of this resolution.

#### **14.6 Home Occupation as a Permitted Use**

A home occupation shall be permitted use if it complies with the following requirements:

1. The external appearance of the structure in which the use is conducted shall not be altered and not more than one sign no larger than two square feet shall be mounted flush to the wall of the structure.
2. No external alterations, construction or reconstruction of the premises to accommodate the use shall be permitted.
3. There shall be no outside storage of any kind related to the use and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street.
4. Not more than twenty five (25%) percent of the gross floor area of the dwelling shall be devoted to the use.
5. No equipment, process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances.
6. No additional parking demand shall be created.

#### **14.7 Conditionally Permitted Uses**

The following uses shall be permitted by the Township Board of Zoning Appeals pursuant to Article 9.

1. Family Day Care (refer to 9.19)
2. Bed and Breakfast/Tourist Home (refer to 9.22).

## ARTICLE 15

### R-2 TWO FAMILY RESIDENTIAL DISTRICT

#### 15.0 Statement of Purpose

The R-2 District is designed to provide for a one and two family residential environment on relatively small lots with supporting ancillary uses in areas of the Township which contain public water and sanitary sewer systems.

#### 15.1 Principal Permitted Uses

The following provisions apply in all R-2 Districts. In an R-2 District no person shall hereafter use any building or structure except in accordance with the following provisions:

1. All uses principally permitted in R-1, R-1A, R-1B Districts unless otherwise provided.
2. Two family dwellings.
3. Publicly owned and operated libraries, parks and recreation facilities.
4. Type B family day care home.
5. Accessory uses customarily incidental to the above permitted uses.

#### 15.2 Development Standards

- |    |                                  |                                      |
|----|----------------------------------|--------------------------------------|
| a. | Minimum Area:                    | 14,000 square feet per unit.         |
| b. | Minimum Frontage:                | 80 feet                              |
| c. | Minimum Front Yard:              | 35 feet                              |
| d. | Minimum Side Yard:               | 10 feet                              |
| e. | Minimum Rear Yard:               | 40 feet                              |
| f. | Minimum Setback for Corner Lots: | ½ of the required front yard setback |
| g. | Maximum Height:                  | 35 feet                              |
| h. | Maximum Lot Depth:               | Lot width times 3.5                  |

- i. Minimum Floor Area: 900 square feet per family

### 15.3 Required Parking

As specified in Article 30.

### 15.4 Signs

As specified in Article 31.

### 15.5 Accessory Buildings

1. Where the accessory structure is attached to a main building, it shall be subject to and must conform to all regulations of this Resolution applicable to the main building.
2. Except as otherwise provided herein, no accessory building or structure or use shall be erected or carried on in the required front yard.
3. A detached private garage or other accessory structure may be erected and used in the interior side or rear yard provided that:
  - a. When such accessory structure is located in the rear or side yard, a minimum side and rear yard of five (5) feet shall be maintained. If the structure is one thousand five hundred (1,500) square feet or greater, then the minimum side and rear yard shall be fifteen (15) feet. *If the structure is single story, detached, does not exceed one hundred and twenty (120) square feet of floor space, does not have a permanent foundation, has no plumbing installed, and is used as a tool or storage shed, playhouse, or similar use, it is exempted from required zoning permit. A zoning permit shall be required for all other structures. Effective: April 6, 2016*
  - b. In no case shall an accessory structure be located closer than fifteen (15) feet to any street line or alley. *Effective April 6, 2016*
4. An accessory building shall be a minimum distance of ten (10) feet from any main building(s).
5. No accessory structure shall be used for commercial habitation.
6. No accessory structure shall be used for commercial or industrial purposes.
7. Accessory structures shall not cover more than thirty five (35%) percent of the required rear yard.
8. Accessory structures must be subordinate in area to the principal use.



9. The maximum height of any accessory structure shall be twenty-five (25) feet. *Effective: April 6, 2016*
10. Private swimming pools, refer to Section 30.10.
11. Driveways, parking and/or maneuvering areas are considered accessory structures and shall not encroach upon the minimum side yard setback areas as set forth in 14.5.3 (a) of this resolution.

## **15.6 Home Occupation as a Conditionally Permitted Use**

A home occupation shall be permitted use if it complies with the following requirements:

1. The external appearance of the structure in which the use is conducted shall not be altered and not more than one sign no larger than two (2) square feet shall be mounted flush to a wall of the structure.
2. No external alterations, construction or reconstruction of the premises to accommodate the use shall be permitted.
3. There shall be no outside storage of any kind related to the use and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street.
4. Not more than twenty five (25%) percent of the gross floor area of the dwelling shall be devoted to the use.
5. No equipment, process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances.
6. No additional parking demand shall be created.
7. Home occupation use is not permitted in two (2) family dwellings.

## **15.7 Conditionally Permitted Uses**

The following uses shall be permitted by the Township Board of Zoning Appeals pursuant to Article 9.

1. Family Day Care (refer to 9.19).
2. Bed and Breakfast/Tourist Home (refer to 9.22).

## ARTICLE 16

### R-3 MULTI-FAMILY RESIDENTIAL DISTRICT

#### 16.0 Statement of Purpose

The R-3 District is designed to provide for a multiple housing environment with townhouses and garden apartments constituting the principal type dwelling accommodations. The District must be adequately supported with necessary public utilities.

#### 16.1 Principal Permitted Uses

In an R-3 District, no person shall hereafter use any building or structure except in accordance with the following provisions:

1. Multiple family dwelling units, including apartments, townhouses and rowhouses.
2. Hospitals, provided the following conditions are met:
  - a. All such hospitals shall be developed only on sites consisting of at least ten (10) acres in area.
  - b. The proposed site shall have at least one property line abutting a Regional, Major or Secondary Thoroughfare as shown in the Erie County Comprehensive Development Plan. All ingress and egress to the off-street parking area for guests, employees, staff, as well as, any other uses of the facilities, shall be directly from a said thoroughfare.
  - c. In the event one or more boundaries of the proposed site lies opposite or contiguous to R-1 residential district, the minimum distance between any hospital structure or accessory use in the residential district boundary shall be at least one hundred (100) feet for buildings containing two (2) stories or less. For buildings above two (2) stories, the building shall be set back from the initial one hundred (100)

- foot setback an additional one (1) foot for each foot of additional height above two (2) stories.
- d. The minimum distance from any street right-of-way line shall not be less than forty (40) feet.
  - e. The minimum distance from any non-residential interior lot line shall not be less than twenty five (25) feet.
  - f. Ambulance and delivery areas shall be obscured from all residential view with a wall of least six (6) feet in height and said wall shall be further subject to the requirements of Chapter 20, "General Provisions".
3. Housing for the elderly shall be on a site of more than five (5) acres in area and may provide for the following:
- a. Cottage type dwellings and/or apartment type dwelling units.
  - b. Common services containing, but not limited to, central dining rooms, recreational rooms, central lounge and workshops.
  - c. All dwellings shall consist of at least three hundred and fifty (350) square feet per unit (not including kitchen and sanitary facilities).
  - d. Total coverage of all buildings (including dwelling units and related service buildings) shall not exceed thirty five (35%) percent of the total site exclusive of any dedicated public right-of-way.
4. Convalescent and/or nursing home, not to exceed a height of two (2) stories when the following conditions are met:
- a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home, there shall be provided not less than fifteen hundred (1,500) square feet of open space. The fifteen hundred (1,500) square feet of land per bed shall provide for landscaping, off-street parking, service drives, loading space, yard requirements and space required for accessory uses.
  - b. No building shall be closer than forty (40) feet from any property line.
5. Boarding house (rooming house).
6. Accessory buildings and uses customarily incidental to any of the above uses.

## **16.2 Site and Landscape Plan Review**

For all uses permitted in the R-3 District, a site plan shall be submitted in accordance with the provisions of Article 27, Section 27.19.

**16.3 Screening**

Screening or buffering in compliance with the provisions of Article 28, Section 28.18.

**16.4 Lot, Yard, Area and Building Requirements**

- a. Minimum Lot Area: 1 acre
- b. Minimum Lot Width: 150 feet
- c. Minimum Side Yard: 15 feet
- d. Minimum Rear Yard: 40 feet
- e. Maximum Density: 4 units/acres
- f. Maximum Height: 40 feet

**16.5 Required Parking**

As specified in Article 30.

**16.6 Signs**

As specified in Article 31.

**16.7 Accessory Buildings**

- 1. Where the accessory building is structurally attached to a main building; it shall be subject to and must conform to, all regulations of this Resolution applicable to the main building.
- 2. Except as otherwise provided herein, no accessory building or structure or use shall be erected or carried on in the front yard.
- 3. A detached private garage or other accessory building may be erected and used in the interior side or rear yard provided that:
  - a. When such accessory building is located in the rear yard, a minimum side and rear yard of three (3) feet shall be maintained.
  - b. In no case shall an accessory building be located closer than twenty (20) feet to any street line.
- 4. An accessory building shall be a minimum distance of ten (10) feet from any main building(s).
- 5. No accessory structure shall be used for commercial or industrial purposes.
- 6. Private swimming pools, refer to Section 29.9.

**16.8 Development Standards for Multi-Family Dwellings**

Purpose:

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The special provisions set forth herein are intended to provide design criteria for multi-family dwellings. It is the express purpose of these provisions to establish design criteria and to provide for implementation of these provisions by zoning commission review of the site plan.

#### Design Criteria: General

It is the intent that multi-family dwellings where they are permitted, shall constitute groupings making efficient economical, comfortable and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas.

#### Design Criteria: Detailed

- a. Each dwelling unit should be provided with reasonable visual and acoustical privacy. Fences, walks and landscaping shall be provided for the protection and aesthetic enhancement of the development and privacy of the occupants, screening of objectionable views or uses and reduction of noise.
- b. Walks should be provided for convenient and safe access to all living units from streets, driveways, parking courts or garages and for convenient circulation and access to all facilities.
- c. The appearance and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; and additional new plant material shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectionable features. The planting plan shall be submitted with the site development plan.
- d. Existing trees, shrubs, evergreens and ground cover shall be retained to the extent that they enhance the project, are effective as a screen planting or are useful in protecting slopes.
- e. Adequate recreation facilities for the residents of the project should be provided in locations easily accessible to the living units and where they do not impair the view and privacy of living units.
- f. Attractive outdoor sitting areas should be provided, appropriate in size, type and number to the need of the residents.
- g. Well equipped playgrounds of adequate size and number shall be provided, where it is anticipated that children will occupy the premises.
- h. All public streets located within any multi-family development shall meet the construction specifications set forth in the subdivision regulations.
- i. The Zoning Commission shall act to insure that any private drives, parking areas or other vehicular ways used for common access for two (2) or more residents will be suitably paved and maintained as a condition of approval of the project.

- j. All dwelling units shall be so positioned as to assure that availability of adequate fire protection. The fire department shall adjudge the adequacy of protection.
- k. All facilities shall be designed so as to be handicapped accessible.

**16.9 Conditionally Permitted Uses**

The following uses shall be permitted by Township Board of Zoning Appeals pursuant to Article 9.

- 1. Housing for Elderly (refer to 9.28).
- 2. Convalescent (refer to 9.29).
- 3. Neighborhood Convenience Store (refer to 9.39).

## ARTICLE 17

### MANUFACTURED HOME PARK (R-MH)

#### 17.0 Statement of Purpose

The provisions of this Section provides for the location and regulation of manufactured home parks in order to foster their development and maintenance as an integral and stable part of the community.

#### 17.1 Establishment Procedures

Manufactured home parks shall be located only in the Manufactured Home Park District (R-MH) and shall be developed according to the standards and regulations stated. The procedure to amend the official zoning map to establish the R-MH District shall be that procedure for amendments, specified in Article 8.

#### 17.2 Principal Permitted Uses

Principal permitted uses are as follows:

1. Mobile homes
2. Mobile home parks
3. Parks, playfields, playgrounds and other recreational facilities
4. Accessory building and uses customarily incidental to the above principle permitted uses.

#### 17.3 Prohibited Uses

Individual mobile homes shall be prohibited in all districts except as provided in this section. A permit may be issued by the Zoning Inspector for a period not to exceed one (1) year to a construction company for the use of a trailer as a field office.

**17.4 Site and Size Requirements**

Minimum site size for manufactured home parks shall be ten (10) acres.

**17.5 Maximum Density**

Maximum density shall be seven (7) units per acre.

**17.6 Minimum Setback Requirements**

A minimum setback of fifty (50) feet from all property shall be required for all buildings and structures.

**17.7 Approval Procedures**

Manufactured home parks shall be located only in the Manufactured Home Park District (R-MH) and shall be developed according to the standards and regulations stated and referenced in this section.

**17.8 General Standards for Manufactured Home Parks**

The Zoning Commission shall review the particular facts and circumstances of each proposed manufactured home park development in terms of the following standards and shall find adequate evidence that such development meets these standards:

1. The proposed park will be served adequately by essential public facilities and services such as highways, streets, drainage, refuse disposal, schools, police and fire protection or that the persons or agencies proposing the establishment of the park shall be able to provide any such services adequately;
2. The vehicular approaches to the proposed park property will be so designed as not to create traffic interference or congestion on surrounding public streets or roads;
3. The establishment of the proposed park will not result in the damage, destruction, or loss of any natural, scenic or historic features of major importance;
4. The establishment of the proposed park shall not be demonstrably detrimental to the value of surrounding properties or to the character of the adjacent neighborhoods.

**17.9 Manufactured Home Park Requirements**



All manufactured home parks shall comply with the requirements of Ohio Administrative Code Chapter 3701 promulgated by the Ohio Public Health Council in accordance with Chapter 3733 of the Ohio Revised Code.

## ARTICLE 18

### C-1 LOCAL COMMERCIAL DISTRICT

#### 18.0 Statement of Purpose

The C-1 District is intended for retail business and service uses which are needed to serve the nearby residential area. The intent of this District is also to encourage the concentration of local business areas to the mutual advantage of both the consumers and merchants and thereby promote the best use of land at certain strategic locations.

#### 18.1 Principal Permitted Uses

1. Shops for the sale of baked goods, beverages, including liquor outlets (not to be consumed on the premises), books, confections, drugs, flowers, foodstuffs, including meats, gifts, hardware, hobby equipment, jewelry, notions, paint, periodicals, sundry, small household articles and tobacco except that shopping centers shall comply with provisions in Section 11.04
2. Personal service establishments performing services on the premises, such as barber and beauty shops, watch and shoe repair, tailor shops, locksmith and similar establishments.
3. Laundry or dry cleaning customer outlets, coin operated laundromat and self serve dry cleaning center. Dry cleaning or laundry plants serving more than one customer service outlet shall be prohibited.
4. Professional offices of doctors, lawyers, dentists, chiropractors and similar professions.
5. Accessory buildings and uses customarily incidental to the above Principal Permitted Uses.
6. Church and other buildings for purpose of religious worship.

#### 18.2 Required Conditions

1. All business establishments shall deal directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
2. All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.

### 18.3 Conditionally Permitted Uses

The following use shall be permitted by the Township Board of Zoning Appeals.

1. Planned Shopping Center when used in this context means a commercial development which has been designed, developed and operated as a unit and can satisfy the following criteria: a site of three to five acres; six to fifteen stores; and a floor area of 10,000 to 50,000 square feet; and which further satisfies the following development standards:
  - a. A planting strip at least ten (10) feet wide shall be provided around the entire perimeter of the site, except for driveways onto the public street system. A wall not less than five (5) feet high may be required along those property lines which abut a residential district.
  - b. No main or accessory building shall be situated less than fifty (50) feet from any perimeter property line.
  - c. A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.
  - d. All signs shall be affixed to the face of the building and shall be of a uniform design throughout, except for one ground pole sign advertising the name of the shopping center.
  - e. On site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
  - f. Internal landscaping shall be provided in parking lots containing twenty five (25) spaces or more.
  - g. The maximum grade of off-street parking shall be three (3%) percent.
  - h. A site plan must be submitted subject to provisions of Article 28.
2. Child day care center (refer to 9.19).
3. Residential use in conjunction with commercial use in the common structure.
4. Transmitter/Receiver Towers, subject to the provision of Article 9.
5. Funeral home (refer to 9.20).
6. Neighborhood convenience store (refer to 9.39).

**18.4 Site and Landscape Plan Review**

For all uses permitted in the C-1 District, a site plan shall be submitted to the Township Zoning Commission for its review and recommendations. The Zoning Commission in its review of the site plan shall have regard to the provisions of this Resolution. The Commission may require certain modifications in terms of the location of buildings, parking and driveways and may require screening landscaping techniques to ameliorate potential nuisance problems with adjoining districts of uses or to lessen the transmission of noise from the public street system. A site plan must be submitted in accordance with the provisions of Article 28, Section 28.19.

**18.5 Screening/Buffering**

To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward and shall be permanently maintained.

Screening or buffering must also be in compliance with the provisions of Article 28.18.

**18.6 Development Standards**

- a. Minimum Area: 1 acre
- b. Minimum Frontage: 150 feet
- c. Minimum Front Yard: 50 feet
- d. Minimum Side Yard: 20 feet
- e. Minimum Rear Yard: 30 feet
- f. Minimum Setback for Corner Lots: ½ the required front yard setback
- g. Maximum Height: 35 feet
- h. Maximum Coverage: 40%

**18.7 Required Parking**

As specified in Article 30.

**18.8 Signs**

As specified in Article 31.

## 18.9 Accessory Structures

1. Accessory structures shall not exceed the principal structure in area and/or height.
2. No accessory structure or aggregate of accessory structures shall cover more than ten (10) percent of the total lot area.
3. A single accessory structure shall not exceed 2,500 square feet in area and/or thirty-five (35) feet in height.
4. An accessory structure shall be a minimum of thirty (30) feet from any main structure.
5. No accessory structure shall be located between the street line and the front yard setback line.
6. No accessory structure shall be located within thirty (30) feet of any lot line, street line or alley.
7. Accessory structure use must be incidental to the use of the principal structure and shall not house separate business.
8. No accessory structure shall be used for human habitation.

**ARTICLE 19**  
**GENERAL COMMERCIAL DISTRICT**  
**(C-2)**

**19.0 Statement of Purpose**

The C-2 District is designed to accommodate all types of businesses, including but not limited to, those uses intended to serve passing motorists, those uses requiring large sites and major shopping centers. The C-2 District uses are typified by having a majority of the following characteristics:

1. They are large space users.
2. Their customers do not make frequent purchases.
3. They combine retail, wholesale, service and repair in various ways.
4. Their market is regional as contrasted to local.
5. Their market area is partially dependent upon extending services to other business uses and not necessarily household oriented.

**19.1 Principal Permitted Uses**

In a C-2 District, no person shall hereafter use any building, structure or land and no person shall erect any building or structure except in accordance with the following provisions:

1. All principal uses permitted in the C-1 District except that shopping centers shall be subject to the regulations of Article 19.
2. Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer; or establishment doing radio or home appliance repair, photographic reproduction and similar service establishments that require a retail adjunct.
3. All retail business establishments conducted within a completely enclosed building except those listed separately as conditional uses in this District.

4. Wholesale business establishments conducted within a completely enclosed building.
5. Dormitories, fraternities, clubs, lodges, social or recreational buildings.
6. Sales establishments, such as for real estate and insurance conducted within a completely enclosed building, except those listed separately as conditional uses in this District.
7. Repair shops conducted within a completely enclosed building except those listed separately as conditional uses in this District.
8. Public buildings and uses.
9. Business schools and colleges or private trade schools operated for profit.
10. Offices.
11. Restaurants or other places serving food and beverages.
12. Theaters, assembly halls, concert halls or similar places of assembly, conducted completely within an enclosed building.
13. Hotels and motels.
14. Accessory structures and uses customarily incidental to the above permitted uses.

## 19.2 Conditionally Permitted Uses

The following uses shall be permitted by the Township Board of Zoning Appeals pursuant to Article 9 subject to the conditions imposed herein and subject further to the procedure, where applicably indicated in Article 9.

1. Automobile service stations and repair garages (refer to 9.34).
2. Automotive dealership.
3. Recreation vehicle sales and service, including boats, snowmobiles, travel trailers, campers, tents and accessory equipment peculiar to the above, motor vehicle sales and service; and farm implement sales and service.
4. Any business of a drive-in nature or so called open front store or open air business, subject to the following conditions:
  - a. A setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
  - b. Ingress and egress points shall be located at least fifty (50) feet from the right-of-way of the intersection of any two (2) streets.
  - c. All lighting shall be shielded from adjacent residential districts.
  - d. A completely obscuring wall at least six (6) feet high shall be provided when abutting or adjacent to any residential district.
5. Open air commercial amusements provided that such uses would not have an adverse effect on surrounding properties and that they

be appropriately screened from adjacent properties so as to reduce potential noise, glare and vehicular and pedestrian traffic congestion.

6. Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building and provided further that all abutting or adjacent property is non-residentially zoned (refer to 9.18).
7. Travel trailer parks and accessory structures and uses customarily incidental to the park, all subject to the provisions of Article 9.
8. Bowling alley, billiard hall, indoor archery range or indoor skating rink or similar forms of indoor recreation when located at least one hundred (100) feet from any front, rear or side yard of any residential lot in an adjacent residential district.
9. Planned Shopping Center when used in this context means a commercial development which has been designed, developed and operated as a unit and can satisfy the following criteria: a site exceeding ten (10) acres; at least twenty (20) stores and a floor area of at least 50,000 square feet.
  - a. A planting strip at least ten (10) feet wide shall be provided around the entire perimeter of the site except for driveways onto the public street system. A wall not less than five (5) feet high may be required along those property lines which abut a residential district.
  - b. No main or accessory building shall be situated less than one hundred (100) feet from any residential district boundary and public street except that such buildings may be situated within twenty (20) feet of a non-residential district boundary.
  - c. A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.
  - d. On site pedestrian and vehicle circulation shall be designed to limit traffic hazards.
  - e. Internal landscaping shall be provided in parking lots containing twenty five (25) spaces or more.
  - f. The maximum grade of off-street parking shall be three (3%) percent.
  - g. A site plan must be submitted subject to the provisions of Section 27.
10. Transmitter/Receiver Towers, subject to the provisions of Article 9.
11. Child Day Care Center (refer to 9.19).
12. Funeral Home (refer to 9.20).
13. Mini Storage (refer to 9.23).
14. Airport (refer to 9.24).
15. Car Wash (refer to 9.38).
16. Neighborhood Convenience Store (refer to 9.39).

### **19.3 Development Standards**

- a. Minimum Area: 1.5 acre
- b. Minimum Frontage: 200 feet
- c. Minimum Rear Yard: 20 feet
- d. Minimum Side Yard: 20 feet
- e. Maximum Height: 50 feet  
(buildings above two (2) stories of forty (40) feet shall have sprinkler systems in accordance with state and local fire codes)
- f. Minimum Setback for Corner Lots: ½ the required front yard setback

### **19.4 Site and Landscape Plan Review**

For all uses permitted in the C-2 District, a site plan shall be submitted to the Township Zoning Commission for its review and recommendations. The Zoning Commission in its review of the site plan, shall have regard to the provisions of this Resolution. The Commission may require certain modifications in terms of the location of buildings, parking and driveways may required screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. A site plan must be submitted in accordance with the provisions of Article 28, Section 28.19.

### **19.5 Screening/Buffering**

To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward and shall be permanently maintained. A minimum of a one hundred (100) foot buffer shall be provided adjacent to Residential Districts.

Screening or buffering must also be in compliance with the provisions of Article 28, Section 28.18.

### **19.6 Required Parking**

As specified in Article 30.



**19.7 Signs**

As specified in Article 31.

**19.8 Accessory Structures**

1. Accessory structures shall not exceed the principal structure in area and/or height.
2. No accessory structure or aggregate of accessory structures shall cover more than ten (10) percent of the total lot area.
3. a single accessory structure shall not exceed 2,500 square feet in area and/or thirty-five (35) feet in height.
4. An accessory structure shall be a minimum of thirty (30) feet from any main structure.
5. No accessory structure shall be located between the street line and the front yard setback line.
6. No accessory structure shall be located within thirty (30) feet of any lot line, street line or alley.
7. Accessory structure use must be incidental to the use of the principal structure and shall not house separate business.
8. No accessory structure shall be used for human habitation.

**ARTICLE 20**  
**C-3 COMMERCIAL RECREATION DISTRICT**

**20.0 Statement of Purpose**

To provide a commercial recreation district in appropriate locations to encourage planned development of the waterfront and recreational facilities of the community. Boathouses and associated residential communities should develop as a Planned Unit Development.

**20.1 Principal Permitted Uses**

In all C-3 Districts no person shall use any building, structure or land and no person shall erect any building or structure except in accordance with the following provisions:

1. Marina, including sales of gasoline, oils and accessory parts, service of boats and motors, docking and berthing space and supporting facilities to dry dock and store boats and motors when not in use.
2. Retail and service uses when primarily accessory to the marina, which may include, but is not limited to a restaurant, cocktail lounge, marine parts and recreation equipment, such as aqualungs, water skis and similar recreation equipment.
3. Hotel and/or motel either separately or in conjunction with a marina.
4. Marine sales and service.
5. Boathouses.
6. Golf courses.

**20.2 Conditionally Permitted Uses**

The following uses shall be permitted by the Township Board of Zoning Appeals pursuant to Article 9.

1. Seasonal residences, provided they are connected to a public supply of water and are tied into public sanitary sewer system or other means of disposal of sanitary effluent as approved the by

County Board of Health to insure that pollutants will not get into the waterways of Erie County.

2. Amusement park.
3. Horse racing track
  - a. Minimum Area: 250 acres
  - b. Must have access to State Highway system (adjacent to state system)
  - c. Must be located as not to negatively impact an existing residential neighborhood
  - d. No principal building, accessory building, no parking areas, loading or maneuvering areas shall be located less than five hundred (500) feet from the boundary of any residential zone.
4. Riding academies and stables
5. Boathouse/Dwelling
6. Open amusement
  - a. An area used for but not limited to miniature golf, batting cages, outdoor concerts, archery courses and fishing.
7. Off Road Vehicle Race Track
  - a. Applicants shall provide the Zoning Inspector with a site plan as specified under Article 28.9
  - b. Refer to the conditions of an Off Road Vehicle Race Track under Article 9.43.
8. Neighborhood Convenience Store (refer to 9.39).
9. Campgrounds (refer to 9.44).

### **20.3 Site and Landscape Review**

A site plan must be submitted in accordance with the provisions of Article 28, Section 28.19.

### **20.4 Screening/Buffering**

To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year round evergreen screening. Screening as provided herein,

shall not be less than six (6) feet in height, shall be provided from the grade of the property upward and shall be permanently maintained.

Screening or buffering must also be in compliance with the provisions of Article 28, Section 28.18.

**20.5 Development Standards**

- a. Minimum Area: 1 acre
- b. Minimum Frontage: 150 feet
- c. Minimum Front Yard: 25 feet
- d. Minimum Side Yard: 10 feet
- e. Minimum Rear Yard: 25 feet
- f. Minimum Setback for Corner Lots: 25 feet
- g. Maximum Height: 40 feet

**20.6 Required Parking**

As per Article 30.

**20.7 Signs**

As per Article 31.

**ARTICLE 21**  
**PROFESSIONAL AND BUSINESS OFFICE DISTRICT**  
**(P.B.O.)**

**21.0 Statement of Purpose**

The P.B.O. District is designed to encourage the grouping of similarly related land uses. Past practices which witnessed the intermixing of all commercial uses have been found undesirable because the uses were not necessarily related. This brought about numerous pedestrian and automobile conflicts. A greater dependency upon the automobile was created in which greater shopping movement was encouraged. Centralizing office activities facilitates pedestrian movement and convenience in terms of satisfying activity demands with the minimum physical movement. For this reason, clustering of office uses as distinct from retail activity is seen as desirable.

**21.1 Principal Permitted Uses**

In a P.B.O. District, no person shall hereafter use any building, structure or land and no person shall erect any building or structure except in accordance with the following provisions:

1. Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained in Section 20.1, Required Conditions.
2. Medical offices, including clinics.
3. Other uses similar to the above uses, as determined by the Zoning Board of Appeals.

**21.2 Required Conditions**

No interior display shall be visible from the exterior of the building and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not

exceed twenty five (25%) percent of the usable floor area of either the first or second story or in the basement. The outdoor storage of goods of materials shall be prohibited. Warehousing of indoor storage of goods or material, beyond that normally incidental to the above permitted uses, shall be prohibited.

### **21.3 Site and Landscape Plan Review**

For all uses permitted in the P.B.O. District, a site plan shall be submitted to the Township Zoning Commission for its review and recommendations. The Zoning Commission in its review of the site plan, shall have regard to the provisions of this Resolution. The Commission may require certain modifications in terms of the location of buildings, parking and driveways may require screening and landscaping and driveways may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. A site plan must be submitted in accordance with the provisions of Article 28, Section 28.19.

### **21.4 Screening/Buffering**

To assist in the prevention of the transmission of light and noise from within any commercial district into any abutting residential district, screening shall be required where such district abuts or is contiguous to any residential district, without an intervening alley or other public way. Such screening shall be provided within the commercial district, but not within a public street or alley, along the entire contiguity of said districts. Screening shall be of opaque or translucent materials resistant to deterioration by natural causes, or it shall be of such plant materials as will provide a year round evergreen screening. Screening as provided herein, shall not be less than six (6) feet in height, shall be provided from the grade of the property upward and shall be permanently maintained.

Screening or buffering must also be in compliance with the provisions of Article 28, Section 28.18.

### **21.5 Development Standards**

- |    |                                  |                    |
|----|----------------------------------|--------------------|
| a. | Minimum Area:                    | 20,000 square feet |
| b. | Minimum Frontage:                | 100 feet           |
| c. | Minimum Front Yard:              | 25 feet            |
| d. | Minimum Side Yard:               | 10 feet            |
| e. | Minimum Rear Yard:               | 25 feet            |
| f. | Minimum Setback for Corner Lots: | 25 feet            |
| g. | Maximum Height:                  | 50 feet            |

### **21.6 Required Parking**

As specified in Article 30.

**21.7 Signs**

As specified in Article 31.

**ARTICLE 22**  
**I-1 SERVICE INDUSTRIAL**

**22.0 Statement of Purpose**

The I-1 District is designed to provide for a mixed light industrial, office and commercial district which will provide services to the motoring public and to the adjacent industrial districts when provided as a part of an industrial park. This zoning designation will generally be located along state highways and arterial roads which provide good visibility for the proposed uses.

**22.1 Principal Permitted Uses**

1. Processing of semi-manufactured products
2. Light manufacturing not required outdoor storage
3. Assembly of manufactured products
4. Warehousing
5. Wholesale distribution centers
6. Office buildings
7. Data processing centers
8. A bank
9. A restaurant
10. Commercial or technical schools or training centers
11. Research and development facilities
12. Merchandise service shops
13. Motels and hotels
14. Specialized commercial uses including plumbing, electrical and building supply shops
15. Fraternal and athletic clubs
16. Church and other buildings for purpose of religious worship
17. Places of assembly
18. Light machinery, truck and automobile rentals
19. Automobile dealership

**22.2 Conditionally Permitted Uses**

The following uses shall be permitted by the Township Zoning Board of Appeals pursuant to Article 9, subject to the conditions imposed herein:

1. Retail Sales Outlets subject to the following:
  - a. Retail Outlets should be incorporated into planned commercial shopping centers which would integrate the design and dimension of structures, parking areas and access points with those of existing uses.
  - b. The grouping of retail outlets together and controlling access points onto arterial roads will minimize the potential conflicts with through traffic.
2. Professional Offices (refer to 9.17).
3. Automobile Service Station (refer to 9.34).
4. Car Washes (refer to 9.38).
5. Night Clubs (refer to 9.40).

### **22.3 Site and Landscape Plan Review**

For all uses permitted in the I-1 District, a site plan shall be submitted to the Township Zoning Board of Appeals for its review and recommendations. The Board of Appeals in its review of the site plan, shall have regard to the provisions of Section 28.21. The Commission may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to minimize potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. A site plan must be submitted in accordance with provisions of Article 28, Section 28.19.

### **22.4 Screening/Buffering**

Screening or buffering in compliance with the provisions of Article 28. A minimum of a one hundred (100) foot buffer shall be provided adjacent to Residential Districts.

### **22.5 Development Standards**

- |    |                                  |          |
|----|----------------------------------|----------|
| a. | Minimum Area:                    | 1 acre   |
| b. | Minimum Frontage:                | 150 feet |
| c. | Minimum Front Yard:              | 50 feet  |
| d. | Minimum Side Yard:               | 10 feet  |
| e. | Minimum Rear Yard:               | 20 feet  |
| f. | Minimum Setback for Corner Lots: | 50 feet  |
| g. | Maximum Height:                  | 40 feet  |



No principal building, accessory building or parking areas, loading or maneuvering areas shall be located less than one hundred (100) feet from the boundary of any residential zone.

**22.6 Required Parking**

As specified in Article 30.

**22.7 Signs**

As specified in Article 31.

**22.8 Accessory Buildings**

1. No accessory building shall be used for human habitation.
2. No accessory building shall be located between the street line and any setback line established by this Resolution.
3. No accessory building shall be located in any side yard required by this Resolution.
4. No accessory building shall be located within two (2) feet of any lot line, except that two adjoining property owners may erect an accessory building with a common party wall.
5. No accessory building shall cover more than ten (10%) percent of the lot area.

**22.9 Industrial Performance Standards**

1. Odor: The emission of obnoxious odors of any kind shall not be permitted.
2. Gases, Smoke, Dust, Dirt and Fly Ash: The emission of gases, smoke, dust, dirt and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable State and County health laws as pertaining to air pollution and smoke abatement.
3. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives shall comply with all regulations of the Township Fire Department and with all State rules and regulations. Further, all storage tanks for flammable liquid materials above ground shall be located not less than one hundred fifty (150) feet from all property lines and shall be completely surrounded by earth embankments, dikes or other type of retaining wall which will contain the total capacity of all tanks so enclosed.

Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greatest depth to the bottom of the buried tank.

## **22.10 Prohibition of Outside Storage and Land Use**

1. All uses of land except as herein provided shall take place within a wholly enclosed structure, except that this shall not be construed to include the parking of motorized vehicles.
2. An area not to exceed ten (10%) percent of the lot may be for the purpose of storing manufactured products and materials awaiting processing provided such area is completely enclosed by a solid fence with no apertures of a height equal to the height of the highest point of stored materials and products.

### **ARTICLE 23 LIGHT INDUSTRIAL (I-2)**

## **23.0 Statement of Purpose**

The I-2 District permits certain industries which are of a light manufacturing character to locate in planned areas of the Township. So that such uses may be integrated with land uses, such as commercial and residential uses, limitations are placed upon the degree of noise, smoke, glare, waste and other features of industrial operations so as to avoid adverse effects. It is further intended that these light industrial uses act as a transition between heavier industrial uses and non-industrial uses and not necessarily required railroad access or major utility facilities.

## **23.1 Principal Permitted Uses**

1. All principal uses permitted in Article 22 Service Industrial (I-1)
2. Light and medium industrial uses including manufacturing, processing, automobile and truck assembly and manufacturing
3. Metal stamping
4. Processing of semi-manufactured products
5. Warehousing
6. Wholesale distribution centers
7. Professional or industrially-oriented offices
8. Data processing centers
9. Research and development facilities
10. Building supply yards
11. Truck and machinery rental, sales and servicing
12. Contractors' yards
13. Transport terminals
14. Equipment repair and servicing shops
15. Recreational uses

16. Church and other buildings for purpose of religious worship
17. Dyeing or cleaning plants
18. Machine shops
19. Retail outlets accessory to the main industrial use

### **23.2 Site and Landscape Plan Review**

For all uses permitted in the I-2 District, a site plan shall be submitted to the Township Zoning of Appeals for its review and recommendations. The Board of Appeals in its review of the site plan, shall have regard to the provisions of Section 28.21. The Board may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. A site plan must be submitted in accordance with the provisions of Article 28, Section 28.19.

### **23.3 Screening/Buffering**

Screening or buffering in compliance with the provisions of Article 28. A minimum of a one hundred fifty (150) foot buffer shall be provided adjacent to Residential Districts.

### **23.4 Development Standards**

- |    |                                |          |
|----|--------------------------------|----------|
| a. | Minimum Area:                  | 1 acre   |
| b. | Minimum Width:                 | 100 feet |
| c. | Minimum Front Yard:            | 60 feet  |
| d. | Minimum Rear Yard:             | 50 feet  |
| e. | Minimum Side Yard:             | 20 feet  |
| f. | Minimum Setback on Corner Lot: | 50 feet  |
| g. | Maximum Height:                | 40 feet  |

### **23.5 Required Parking**

As specified in Article 30.

### **23.6 Signs**

As specified in Article 31.

### **23.7 Accessory Buildings**

1. No accessory building shall be used for human habitation.
2. No accessory building shall be located between the street line and any setback line established by this Resolution.
3. No accessory building shall be located in any side yard required by this Resolution.

4. No accessory building shall be located within twenty (20) feet of any lot line.
5. No accessory building shall cover more than ten (10%) percent of the lot area.
6. Minimum of thirty (30) feet between accessory building and the main building.

### **23.8 Industrial Performance Standards**

1. Noise: Shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.
2. Odor: The emission of obnoxious odors of any kind shall not be permitted.
3. Gases, Smoke, Dust, Dirt and Fly Ash: The emission of gases, smoke, dust, dirt and fly ash shall in no manner be unclear, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformity with all applicable State and County health laws as pertaining to air pollution and smoke abatement.
4. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with all regulations of the Township Fire Department and with all State rules and regulations. Further, all storage tanks for flammable liquid materials above ground shall be located not less than one hundred fifty (150) feet from all property lines and shall be completely surrounded by earth embankments, dikes or other type of retaining wall which will contain the total capacity of all tanks so enclosed.

Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greatest depth to the bottom of the buried tank.

### **23.9 Prohibition of Outside Storage and Land Use**

1. All uses of land except as herein provided shall take place within a wholly enclosed structure, except that this shall not be construed to include the parking of motorized vehicles.
2. An area not to exceed ten (10%) percent of the lot may be used for the purpose of storing manufactured products and materials awaiting processing provided such area is completely enclosed by a solid fence with no apertures of a height equal to the height of the highest point of stored materials and products.

### **23.10 Conditionally Permitted Uses**

1. Sexually Oriented Businesses
-

- A. As used in this section, the following definitions shall apply:
1. "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.
  2. "Adult arcade" means any place to which the public is permitted or invited wherein coin operated or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".
  3. "Adult bookstore" or "adult video store" means a commercial establishment which utilized fifteen (15%) percent or more of its retail selling area for the purpose of sale or rental for any form of consideration, any one or more of the following:
    - a. Books, magazines, periodicals or other printed matter or photographs, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities: or "specified anatomical areas"; or
    - b. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".
  4. "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
    - a. Persons who appear in a state of nudity; or
    - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
    - c. Film, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified anatomical areas".
  5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

6. "Adult motel" means a hotel, motel or similar commercial establishment which:
  - a. Offers accommodations to the public for any form of consideration; provide patrons with closed circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproduction which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
  - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
  - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
  
7. "Adult theater" means a theater, concert hall or establishment which regularly features persons who appear in a state of nudity for live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".
  
8. "Escort agency" means a person or business association who furnishes, offers to furnish or advertise to furnish escorts as one of its primary business purposes for a fee, tip or other compensation.
  
9. "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, photographed or similarly depicted by other persons who pay money or any other form of consideration.
  
10. "Sexual encounter center" means a business or commercial enterprise that as one of its primary purposes, offers for any form of consideration:
  - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.
  
11. "Specified anatomical areas" means human genitals in the state of sexual arousal.
  
12. "Specified sexual activities" means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
  - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
  - c. Masturbation, actual or simulated; or
  - d. Excretory functions as part of or in connection with any of the activities set forth in a through c.
- B. Only within the I-2 Light Industrial District shall sexually oriented businesses be permitted and only if the Township Board of Appeals determines that each of the following conditions have been met:
1. That the parcel of land upon which the sexually oriented business is located at a minimum of one thousand (1,000) feet from the nearest parcel of land containing a school, church or residence.
  2. That the parcel of land upon which the sexually oriented business is located at a minimum of five hundred (500) feet from any other parcel of land containing sexually oriented business.
  3. Article 9 governing conditional zoning permits and Article 28.

**ARTICLE 24**  
**HEAVY INDUSTRIAL**  
**(I-3)**

**24.0 Statement of Purpose**

The I-3 District is to permit certain industrial uses to locate in desirable areas of the Township, which uses are primarily of a manufacturing, assembling and fabricating character, including large scale or specialized industrial operations requiring good access by road and/or railroad, and needing special sites or public utility services. Reasonable regulations apply to uses in this District, so as to permit the location of industries which will not cause adverse effects on residential and commercial areas in the Township.

**24.1 Principal Permitted Uses**

The following provisions apply in all I-3 Districts. In no I-3 District, no person shall hereafter use any building or structure except in accordance with the following provisions:

1. Light, medium and heavy industrial uses including manufacturing, processing, metal stamping and automobile and truck assembly
2. Cleaning and dyeing plants
3. Underground bulk liquid storage
4. Transport terminals, including railway yards
5. Recycling depots and recycling operations
6. Concrete and paving establishments
7. Building or contracting yards
8. Industrially oriented offices
9. Material storage facilities
10. Warehousing.



11. Retail sales outlets accessory to the main use
12. Equipment repair and servicing shops
13. Machine shops

## **24.2 Site and Landscape Plan Review**

For all uses permitted in the I-3 District, a site plan shall be submitted to the Township Zoning Board of Appeals for its review and recommendations. The Zoning Board of Appeals in its review of the site plan, shall have regard to the provisions of Section 28.19. The Board may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system.

## **24.3 Screening/Buffering**

Screening or buffering in compliance with the provisions of Article 28. A minimum of a two hundred (200) foot buffer shall be provided adjacent to Residential Districts.

## **24.4 Development Standards**

- |    |                     |          |
|----|---------------------|----------|
| a. | Minimum Lot Area:   | 3 acres  |
| b. | Minimum Lot Width:  | 300 feet |
| c. | Minimum Front Yard: | 80 feet  |
| d. | Minimum Rear Yard:  | 50 feet  |
| e. | Minimum Side Yard:  | 30 feet  |
| f. | Maximum Height:     | 50 feet  |

## **24.5 Required Parking**

As specified in Article 30.

## **24.6 Signs**

As specified in Article 31.

## **24.7 Accessory Buildings**

1. No accessory building shall be used for human habitation.
2. No accessory building shall be located between the street line and any setback line established by this Resolution.
3. No accessory building shall be located in any side yard required by this Resolution.
4. No accessory building shall be located within two (2) feet of any lot line, except that two adjoining property owners may erect accessory buildings with a common party wall.

5. No accessory building shall cover more than ten (10%) percent of the lot area.

## 24.8 Industrial Performance Standards

1. Noise: Shall be muffled so as not to become objectionable due to intermittence, beat frequency or shrillness.
2. Odor: The emission of obnoxious odors of any kind shall not be permitted.
3. Gases, Smoke, Dust, Dirt and Fly Ash: The emission of gases, smoke, dust, dirt and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformity with all applicable State and County health laws as pertaining to air pollution and smoke abatement.
4. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives, shall comply with all regulations of the Township Fire Department and with all State rules and regulations. Further, all storage tanks for flammable liquid materials above ground shall be located not less than one hundred fifty (150) feet from all property lines and shall be completely surrounded by earth embankments, dikes or other type of retaining wall which will contain the total capacity of all tanks so enclosed.

Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greatest depth to the bottom of the buried tank.

5. Open Storage: All storage of building materials, sand, gravel, stone, lumber, equipment and other supplies, shall be located within an area not closer than one hundred and fifty (150) feet from any street right-of-way line. The storage of lumber, coal or other combustible material shall not be less than twenty (20) feet from any interior lot line and a roadway shall be provided, graded, surfaced and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets and on all sides which abut any residential districts, by a solid eight (8) foot masonry wall sufficient to serve as a permanent retaining wall. Junk yards, when permitted, shall be entirely enclosed on all sides by said wall.

**ARTICLE 25  
MINERAL AGGREGATE DISTRICT  
(MG)**

**25.0 Statement of Purpose**

It is the intent of this District to ensure the orderly extraction of mineral aggregate resources while minimizing the negative environmental, social and aesthetic impacts of mineral extraction.

The Mineral Aggregate District and regulations are established in order to achieve, among others, the follow purposes:

1. To provide Quarrying District in appropriate areas for the removal of natural resources; and
2. To protect adjacent residential areas by establishing yards and buffer areas at the boundaries; and
3. To regulate the noise, vibration, dust, explosions and other objectionable influences so as not to endanger the health and safety of the surrounding neighborhoods.

For the purposes of this Resolution, the following definitions apply:

- a. Mineral aggregates shall mean topsoil, subsoil, sand gravel, shale, limestone, dolostone, sandstone and other mineral materials suitable for construction, industrial, manufacturing and maintenance purposes, but does not include metalliferous minerals, fossil fuels or non-aggregate industrial minerals; and
- b. Borrow pits refer to extraction areas used to supply mineral aggregates on a temporary basis for uses in public projects and operated by public authorities or their agents.

**25.1 Principal Permitted Uses**

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Mineral aggregate extraction and uses accessory to mineral aggregate extraction such as crushing, screening, washing and stockpiling of mineral aggregates.

## **25.2 Conditionally Permitted Uses**

Conditional uses may be permitted by the Township Board of Appeals pursuant to Article 9 and other subject further to the terms and conditions herein provided:

1. Asphalt plants, ready mix concrete plants, aggregate transfer stations and similar related uses subject to the following:
  - a. Such aggregate uses shall be adequately buffered to protect adjacent land uses and shall meet the industrial pollution control standards and any other standards of the authorities having jurisdiction.
  - b. Production of the principal product or operation of accessory plants shall not be permitted less than three hundred and fifty (350) feet from a residential district.

## **25.3 Performance Standards**

Uses permitted by this Article shall be subject to and in conformance with Ohio Revised Code Section 1514.02. A copy of the surface mining permit application required by Ohio Revised Code Section 1514.01(A) and any amendments thereto proposed by the State of Ohio or applicant shall be provided as a site plan for the surface mining operation. In addition to the requirements stipulated in Ohio Revised Code Section 1514.01(A), the following regulations shall apply to all operations covered under this Article.

1. Noise
  - a. All blasting and quarrying operations (except loading) shall be limited between the hours of 6 o'clock a.m. and 8 o'clock p.m., except in emergencies.
2. Air Pollution
  - a. Control measures shall be implemented on a continuing basis, during times of operation, to control dust on entrance roadways, in equipment operation and throughout the mining site. The Zoning Inspector may require additional control measures during periods of high wind or very dry weather.
3. Visual Impact

Ten (10) foot high screens shall be established to minimize the visual impact of the active mining or processing area from adjacent public road right-of-way except in those instances where prohibited by other governmental rules and/or regulations or where deemed to be impractical by the Zoning Inspector. Screens formed of overburden or top soil saved for future reclamation may be placed in the setback area (24.03-8) provided appropriate vegetative cover is established.

4. Transportation

- a. Points of ingress and egress associated with extraction and/or processing sites shall be located as approved by the County Engineer or the Ohio Department of Transportation as appropriate.
- b. The applicant shall include with his submittal, a map describing the proposed major access roads to be utilized for ingress and egress for the extraction operation.

5. Surface Water

- a. The hydrographs and quality of water leaving the site of an extraction activity meet the Ohio EPA standards.
- b. During mining and reclamation, drainage shall be controlled so as to prevent the causing of flooding, landslides and flood hazard adjoining lands resulting from the mining operations. Upon completion of mining, ponds shall be left in such condition as to avoid their constituting a hazard to adjoining lands.

6. Groundwater

- a. During mining and reclamation, contamination of underground water supplies shall be prevented. Backfilling or grading of any nature up to a level of ten (10) feet above the water level shall be accomplished with materials approved by the Zoning Inspector and the Ohio Environmental Protection Agency. Materials contaminating to groundwater shall not be used for filling or grading at any time. Upon completion of reclamation, any lake or pond located within the site boundaries shall be of quality equal to that existing for groundwater on adjacent property.
- b. The storage of fuels and chemicals and equipment service facilities required by uses permitted in Section 26.1 shall be located where they are least likely to contaminate groundwater as determined by the Zoning Inspector.

7. Vibration and Blasting

- a. The operation of stationary and mobile equipment shall not cause vibrations in excess of that permitted by applicable federal and state law.
- b. Blasting shall be done in accordance with the applicable laws of the State of Ohio and shall be carried out by persons certified to be knowledgeable and competent in the sizing and placing of the explosive to be used for blasting.
- c. When the blasting area is within one thousand (1,000) feet to an existing residential structure the maximum hours of blasting operation shall be sunrise to sunset.

8. Slope Stability

- a. The sides of excavation sites shall be set back a minimum of fifty (50) feet from the property line with a sufficient slope of excavation to insure the lateral support of surrounding property with the following provisions:
  - 1. The reclaimed sides of excavation sites shall be set back a minimum of fifty (50) feet from the right-of-way of all public streets or roads.
- b. Final slopes shall be graded, contoured or terraced, wherever needed, sufficient to achieve soil stability and control landslides, erosion and sedimentation. Highwalls will be permitted if they are compatible with the future uses specified in the site plan and measures taken to insure public safety. Where ponds, impoundments or other resulting bodies of water are intended for recreational use, banks and slopes shall be established that will assure safe access to such bodies of water. Where such bodies of water are not intended for recreation, measures to insure public safety shall be included and one egress provided.

9. Soil Erosion Sedimentation Control

- a. The area of land affected shall be resoiled, wherever needed, with topsoil or suitable subsoil, fertilizer, lime or soil amendments, as appropriate, in sufficient quantity and depth to raise and maintain a diverse growth of vegetation adequate to bind the soil and control soil erosion and sedimentation.

A diverse vegetative cover of grass and legumes or trees, grasses and legumes capable of self regeneration and plant

succession wherever required by the site plan shall be established.

10. Other Requirements

- a. Government boundary, section corner and other government survey monuments that were removed by the operator as a result of the mining shall be replaced where practical.
- b. Mining and reclamation shall be carried out in the sequence and manner set forth in the site plan and reclamation measures shall be performed in a timely manner. All reclamation of an area of land affected shall be completed no later than three years following the active mining of such area, unless a showing satisfactory to the Zoning Board of Appeals is made that the future use of such area requires a long period for completing reclamation.
- c. During mining, store topsoil or fill in quantities sufficient to complete the backfilling, grading, contouring, terracing and resoiling that is specified in the plan. Stabilize the slopes of and plant each soil bank to control soil erosion and sedimentation wherever substantial damage to adjoining property might occur.

**25.4 Amendments to the Resolution**

1. In considering applications to amend this Resolution to designate an area as Mineral Aggregate Extraction , consideration shall be given to the following:
  - a. The impact on adjacent land uses and residents;
  - b. The impact on the physical environment;
  - c. The capabilities of the subject lands for agriculture and other land uses;
  - d. The impact on the transportation system;
  - e. The need for additional mineral aggregates;
  - f. The possible effect on the water table or surface drainage pattern;
  - g. The manner in which the operation will be carried out;
  - h. The nature of reclamation work that is proposed; and
  - i. Such other matters as the Township deems necessary.
2. Applications to amend this Resolution in order to designate an area as Mineral Aggregate Extraction shall be accompanied by the following information:
  - a. The location , true shape, topography, contours, dimensions, area and description of the lands proposed as a new area of

- b. mineral aggregate extraction or the area proposed for expansion of an existing area of aggregate extraction;
- b. The use of all land and the location and use of all buildings and structures lying within a distance of five hundred (500) feet of any of the boundaries of the lands set aside for the purposes of the operation;
- c. The pattern, quality and estimated quantity of the mineral aggregate resources within the property;
- d. The location, height, dimensions and use of all existing or proposed buildings or structures;
- e. Existing and anticipated final grades of excavation contours where necessary and excavation setbacks;
- f. Engineering plans showing the proposed drainage system;
- g. Proposed entrances, exits and routes to be used by gravel trucks;
- h. To the extent possible, plans showing the ultimate area of aggregate extraction, progressive and ultimate road plan, any water diversion or storage facilities, location of stockpiles for stripping and products, tree screening and berming, progressive and ultimate rehabilitation and where possible, intended use and ownership of the land after aggregate extraction has ceased;
- i. The extent of adjacent property holdings intended for future mineral aggregate extraction;
- j. Additional information such as hydrology, wildlife, vegetation or soil studies which may be required due to special concerns related to a specific site; and
- k. Any other information as deemed necessary by the Township.

## **25.5 Site and Landscape Plan Review**

For all uses permitted in the MG District, a site plan shall be submitted to the Township Zoning Board of Appeals for its review and recommendations. The Board of Appeals in its review of the site plan, shall have regard to the provisions of Section 29.19. The Board may require certain modifications in terms of the location of buildings, parking and driveways and may require screening and landscaping techniques to ameliorate potential nuisance problems with adjoining districts or uses or to lessen the transmission of noise from the public street system. The information as required by Section 28.19 (2) must be submitted with the site plan. A site plan must be submitted in accordance with the provisions of Article 28.

## **25.6 Screening/Buffering**

Screening or buffering in compliance with the provisions of Article 28, Section 28.18.



**25.7 Development Standards**

1. Every main or accessory building shall be set back at least seventy five (75) feet from a public road.
2. Production of principal product or operation of accessory plants, shall not be permitted less than three hundred and fifty (350) feet from a residential district.

**25.8 Required Parking**

As specified in Article 30.

**25.9 Signs**

As specified in Article 31.

**25.10 Accessory Buildings**

1. No accessory building shall be located between the street line and any setback line established by this Resolution.
2. No accessory building shall be located in any side yard required by this Resolution.
3. No accessory building shall be located within fifty (50) feet of any lot line.
4. No accessory building shall cover more than ten (10%) percent of the lot area.

## ARTICLE 26

### PLANNED UNIT DEVELOPMENT REGULATIONS

#### **26.0 Planned Unit Development Regulations**

Article 26 of this Resolution shall apply to the location and maintenance of Planned Unit Developments as herein defined.

#### **26.1 Statement of Purpose**

It is the responsibility of these Sections to promote the public health, safety and welfare by providing for the regulation of planned unit developments. It is the intent of these regulations to provide maximum opportunity for orderly development which benefits the community as a whole by offering a greater choice of living environments, a wider range of development plans featuring more complementary blending of land uses, to include community facilities and open space and more unified approach with respect to the mixture of uses and their adaptation to topographical and geological features, recreational opportunities and transportation needs.

#### **26.2 Definition**

“Planned Unit Development” of PUD shall mean a development which may integrate residential, commercial and industrial facilities in a pre-planned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains additional requirements such as building design principles and landscaping plans.

### **26.3 Interpretation**

Whenever the requirements of Article 26 appear to be in conflict with other Sections of this Resolution or with those of other existing resolutions, the provisions of these Sections shall prevail.

### **26.4 PUD District Designation**

Subsequent to the review of the Township Trustees, the designation "Planned Unit Development District" may be applied to any residential, commercial or industrial developments. Upon approval of the final development plan, the Official Zoning Map shall be so amended. The designation shall only apply to property at the election of the property owner.

### **26.5 Uses Permitted in a PUD District**

Residential, commercial, manufacturing public and quasi-public uses may be separate or combined PUD Districts, provided that the proposed will not adversely impact upon adjacent property or the public health, safety and general welfare and that the location of uses in the PUD are specified in the final development plan. The Planned Unit Development may be comprised of one use or a combination of uses, as indicated above. There is no minimum area required for a Planned Unit Development.

The amount of land devoted to commercial and/or manufacturing use in a residential-commercial-manufacturing or residential-commercial development shall be determined by the Commission and approved by the Township Trustees.

### **26.6 Disposition of Open Space**

The required amount of common space land reserved under a Planned Unit Development shall either be held in corporate ownership by owners of the project area, for the use of each owner who buys property within the development, or be dedicated to a property owners' association who shall have title to the land which shall be retained as common open space for parks, recreation and related uses. The legal articles relating the organization of the property owners' association is subject to review and approval by the Township Zoning Commission and shall provide adequate provisions for the perpetual care and maintenance of all common areas. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication unless such land or right-of-way is usable as a trail or similar purpose and has been approved by the Commission. The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development.

The Township Zoning Commission in conjunction with the Township Trustees may require land to the amount of three (3%) percent of the land included in the planned unit development be conveyed to the Township for park purposes. In lieu of the conveyance for park purposes, the Commission may in conjunction with the Township Trustees, require the subdivider to pay cash in lieu of land to be used for improvements to parkland in the immediate area. The terms and amount of payment shall be determined in negotiation between the subdivider and the Township Trustees.

#### **26.7 Utility Requirements**

Underground utilities, including telephone, cable television and electrical systems, are required within the limits of all planned unit developments. Appurtenances to these systems which can be effectively screened may be exempt from this requirement if the Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

#### **26.8 Special PUD Lot Requirements**

The lot requirements for planned unit development approved by the Commission may vary from requirements of the districts included in this Zoning Resolution.

#### **26.9 Arrangement of Commercial/Manufacturing Uses**

When planned unit development districts include district and/or industrial uses, buildings and establishment shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with streets. Planting screens or fences shall be provided on the perimeter of the commercial and/or manufacturing areas. The plan of the project shall provide for the integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding areas.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Commission.

#### **26.10 Procedures for Approval of Planned Unit Development Districts**

Planned Unit Development Districts shall be approved in accordance with the procedure in Sections 26.11 to 26.32. The designation of major PUD

will be considered a change of zoning and must meet all the applicable provisions of the Zoning Resolution.

## **26.11 Pre-Application Meeting**

The developer shall meet with the Zoning Inspector prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Resolution and the criteria and standards contained herein and to familiarize the developer with zoning and other applicable regulations.

## **26.12 Preliminary Development Plan Application Requirements**

An application for preliminary planned unit development approval shall be filed with the Zoning Inspector, as representative for the Zoning Commission, by at least one owner of property for which the planned unit development is proposed. The procedure for approval shall be the same as an amendment to the Zoning Resolution, as detailed in Article 8. The filing of a preliminary development plan under this section shall constitute the election by the property owner to submit the property described in the plan to the provisions of this Chapter and shall constitute an application for rezoning the property to the Planned Unit Development District (PUD). All plans prepared and submitted must be prepared by a registered engineer, surveyor or architect. At a minimum, the application shall contain the following information filed in triplicate:

1. Name, address and phone number of applicant;
2. Name, address and phone number of registered surveyor, registered engineer and/or urban planner assisting in the preparation of the preliminary development plan;
3. Legal description of property;
4. Present use(s);
5. Present zoning district;
6. Identification of any area within a floodplain;
7. A vicinity map at a scale approved by the Zoning Inspector showing the property lines, streets, existing and the proposed zoning and such other items as the Zoning Administrator may require;
8. A preliminary development plan at a scale of 1" = 20' showing topography at ten (10) foot intervals; location and type of residential, commercial and industrial land uses; layout and dimensions and names of existing and proposed streets; rights-of-way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone and natural gas; and such other characteristics as the Commission may deem necessary; general location of buildings;
9. Proposed schedule for the development of the site;

10. Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two years;
11. A fee as established by Resolution passed by the Township Trustees;
12. A list containing the names and mailing addresses of all owners of property within five hundred (500) feet of the property in question;
13. Verification by at least one owner of property that all information in the application is true and correct to the best of his/her knowledge.

The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the stated intent of these planned unit development requirements.

### **26.13 Criteria for Commission Recommendation**

Before making its recommendation, the Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

1. The proposed development can be initiated within two (2) years of the date of approval.
2. The streets proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
3. Any proposed commercial or industrial development can be justified at the location proposed.
4. Any exception from standard district requirements is warranted by design and other amenities incorporated in the final development plan, in accordance with these planned unit development requirements and the need to provide a variety of housing opportunities with regard to type and price.
5. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
6. Proposed design shall consider the removal or minimal natural coverage and in all cases reflect conservatory measure relating to open space.
7. The PUD will not be hazardous or disturbing to existing or future neighboring uses.
8. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
9. The PUD will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection,

- drainage structures, refuse disposal or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
10. The PUD will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
  11. The PUD will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors. The Zoning Commission may require studies such as a traffic study to be provided to ensure the concerns noted above can be addressed.
  12. The PUD will encourage development as close as possible to existing settlements to keep the cost of providing service down.
  13. The PUD will provide adequate access for emergency vehicles and for those persons providing emergency services.
  14. The PUD will provide adequate security lighting for pedestrian circulation paths, vehicular use areas and exterior portions of buildings.
  15. The design of the PUD will encourage the use of the existing road system presently maintained by the authority having jurisdiction to minimize the additional maintenance expense of new development and to ensure that new development is adequately served by the transportation network.
  16. The PUD will be consistent with the intent and purposes of this Resolution.

## **26.14 Development Policies**

1. Density
  - a. The maximum density for a proposed residential development shall be based on site specific review, but shall be based on the compatibility with adjacent uses;
  - b. Where increased densities are located adjacent to existing building, the building setback should be increased to minimize any adverse impacts of the proposed development.
2. Height Criteria
  - a. Architectural Compatibility: The heights of all buildings are encouraged to be compatible with their vicinity.
  - b. General Character: The heights of the buildings should be in general compliance with district regulations for a similar type of land use.

- c. Scenic Values: Buildings should be of such heights so as not to destroy or degrade the scenic values of surrounding areas.
- d. Views: Buildings shall not be of such height so as to block, destroy or degrade the scenic values as seen from other private places that exist or are likely to exist in the future.
- e. Light and Air: Buildings shall not be of such heights so as to deny light and air to surrounding properties.

**26.15 Site Design**

Statement of Policy: The township hereby finds that it is in the public interest for all sites within the community to be designed, arranged and developed in a safe, efficient and aesthetically pleasing manner. The arrangement of all functions, uses and improvements should reflect the natural capabilities and limitations of the site, as well as, the characteristics and limitations of the adjacent property. The various structures, use areas, functions and elements of the site design should be integrated by design into a unified whole, except in those cases where separation is appropriate to a particular interrelationship. Taking into consideration the basis character of the site and the nature of the proposed uses, the development should be visually harmonious as perceived from both within and without.

- 1. Integration and Separation: It is encouraged that those elements and functions of the site that are basically compatible with one another be integrated by design to the degree of their compatibility and separated to the degree of their compatibility.
- 2. Privacy: It is encouraged that all sites be arranged so as to provide privacy for the occupants of both the site and surrounding areas.
- 3. Aesthetics: It is recommended that the site be developed in such a way so as to be visually harmonious when viewed either internally or externally. The degree of existing character of the site and the basic nature of the proposed uses.
- 4. Vistas: It is encouraged that the site be developed in such a way so as to preserve or enhance vistas, particularly those seen from public places.

**26.16 Placement of Structures**

- 1. Clear Vision Area: No structure or foliage shall extend into a clear vision area between the height of three (3) feet and seven (7) feet measured from the top of the curb or where no curb exists, from the established street center line grade. The clear vision areas shall be as follows:
  - a. Intersection of driveway and public rights-of-way: A triangle having two sides ten (10) feet long and running along the



driveway and public right-of-way, said length beginning at their intersection and the third side formed by a line connecting the two ends.

- b. Intersection of two public rights-of-way: A triangle having two sides thirty (30) feet long and running along each public right-of-way, said length beginning at their intersection and the third side formed by a line connecting the two sides.

2. Placement of Structures:

- a. Adverse Effects: No structure shall be placed in such a way so as to adversely affect adjacent ownerships. Adverse effects shall include, but not be limited to, the removal of lateral support, the creation of hazard, nuisance, danger or inconvenience, unreasonable loss of light and air or loss of privacy.
- b. Snow Storage Areas: Buildings shall be placed in such a manner as to allow for snow storage easements adjacent to public rights-of-way. Snow storage easements shall be dedicated where appropriate.

**26.17 Amendment Procedure**

Upon receipt of a preliminary development plan which complies with the provisions of this Chapter, the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than twenty (20) nor more than forty (40) days from the date of the filing of such plan. Notice of such hearing shall be given by the Township Zoning Commission by one publication in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing.

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

If the proposed plan intends to rezone or redistrict ten (10) or fewer parcels of land as listed on the County Auditor's current tax list, the published and mailed notices shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the zoning commission that will be conducting the public hearing;

2. A statement indicating that the plan is an amendment to the zoning resolution;
3. A list of the addresses of all properties to be rezoned or redistricted by the proposed plan and the names of owners of these properties, as they appear on the County Auditor's current tax list;
4. The present zoning classification of property name in the proposed plan and a statement that it is proposed to be rezoned to Planned Unit Development District (PUD);
5. The time and place where the plan proposing 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;
8. A statement that after the conclusion of such hearing the matter will be submitted to the Board for its action.

If the proposed plan rezones or redistricts more than ten (10) parcels of land, as listed on the County Auditor's current tax list, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the Zoning Commission that will be conducting the public hearing on the proposed plan;
2. A statement indicating that the plan is an amendment to the zoning resolution;
3. The time and place where the text and map of the proposed plan 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. A statement that after conclusion of such hearing the matter will be submitted to the Board of Township Trustees for its action;
6. Any other information requested by the Zoning Commission.

Within five (5) days after the filing of such plan, the Township Zoning Commission will transmit a copy thereof together with text and map pertaining thereto to the Erie Regional Planning Commission.

The Erie Regional Planning Commission shall recommend the approval or denial of the proposed plan 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 plan.

The Township Zoning Commission shall, within thirty (30) days after such hearing, recommend the approval or denial of the proposed plan or the

approval of some modification thereof and submit such recommendation together with such application, the text and map pertaining thereto and the recommendation of the Regional Planning Commission thereon to the Board of Township Trustees.

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

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, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the board that will be conducting the public hearing;
2. A statement indicating that the 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 plan and of the names of owners of these properties, as they appear on the County Auditor's current tax list;
4. The present zoning classification of property named in the proposed plan and a statement that it is proposed to be rezoned to the Planned Unit Development District (PUD);
5. The time and place where the plan proposing 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 Board.

If the proposed amendment rezones or redistricts more than ten (10) parcels of land as listed on the County Auditor's current tax list, the published notice shall set forth the time, date and place of the public hearing and shall include all of the following:

1. The name of the board that will be conducting the public hearing on the proposed amendment;
2. A statement indicating that the plan is an amendment to the zoning resolution;
3. The time and place where the text and maps of the proposed plan 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.

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

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 approval of the plan, there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the township or part thereof included in the zoning plan equal to not less than eight (8%) percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Township Trustees to submit the plan to the electors of such area for approval or rejection at a special election to be held on the day of such next primary or general election. Each part of this petition shall contain the number and the full and correct title, if any, of the zoning plan furnishing the name by which the plan is known and a brief summary of its contents. In addition to meeting the requirements of this section, each petition shall be governed by the rules specified in Section 3501.38 of the Revised Code.

The petition shall be filed, accompanied by an appropriate map of the area affected by the zoning proposal, with the Board of Township Trustees, which shall then transmit the petition within two (2) weeks of its receipt to the Board of Elections, which shall determine the sufficiency and validity of the petition. The petition shall be certified to the Board of Elections not less than seventy five (75) days prior to the election at which the question is to be voted upon.

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

## **26.18 Submission of Final Development Plan**

After approval of the preliminary development plan in accordance with Section 24.18, the developer shall submit a final development plan to the Zoning Inspector. The final development plan shall be in general conformance with the preliminary development plan. Eight (8) copies of the final development plan shall be submitted to the Zoning Inspector. Seven (7) copies shall be forwarded to the Erie Regional Planning Commission for their review and comments. Copies will be forwarded

from the Director of Regional Planning to the applicable agencies for comments.

## 26.19 Final Development Plan Application Contents

An application for approval of the final development plan shall be filed with the Zoning Inspector by at least one owner of property for which the planned unit development is proposed. Each application shall be signed by the owner, attesting to the truth and exactness of all information supplied on the application for the final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction on the project has not begun within two (2) years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

1. A survey of the proposed development site, showing the dimensions and bearings of the property lines; area in acres; topography; and existing features of the development site, including major wooded areas, structures, streets, easements, utility lines and land uses.
2. All the information required on the preliminary development plan; the location and sizes of lots; location and proposed density of dwelling units; non-residential building density; and land uses considered suitable for adjacent properties.
3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; a tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated non-residential population; anticipated construction timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements, whenever the applicant propose any exception from standard zoning district requirements or other Resolutions governing development.
4. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone and natural gas installations; waste disposal facilities; street improvement; and the nature and extent of earth work required for site preparation and development. The utility plans must be according to the county standards and approved by the County Engineer and the County Sanitary Engineer.
5. Site plan, showing building(s), various functional use areas, circulation and their relationship.
6. Preliminary building plans.
7. Landscaping plans.
8. Deed restrictions, protective covenants and other legal statements or devices to be used to control the use, development and

- maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained.
9. A fee as established by this Resolution.

## **26.20 Action by Township Trustees**

The Trustees shall either approve, approve with supplementary conditions or disapprove the final plan as submitted. If the application is approved as submitted or approved with conditions, the Trustees shall direct the Zoning Inspector to issue zoning permits in accordance with the approved plan and any conditions thereto attached. The final development plan shall further be considered as an integral part of the rezoning amendment and no change from or substantive alteration in such planned unit development shall be permitted without repetition of the procedures in these Sections.

## **26.21 Supplementary Conditions and Safeguards**

In approving any planned unit development application, the Trustees may prescribe appropriate conditions and safeguards in conformity with this Resolution. Any violation of such conditions or safeguards, which have been made a part of the terms under which the final development plan has been approved, shall constitute a violation of this Resolution and be punishable as such.

## **26.22 Expiration and Extension of Approval Period**

The approval of a final development plan for a planned unit development district shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after approval is granted, the approved final development plan shall be void.

An extension of the time limit or modification of the approved final development plan may be approved if the Trustees find that such extension is not in conflict with the public interest. No zoning amendment passed during the time period granted for the final approved final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## **26.23 Changes in the Planned Unit Development**

A Planned Unit Development shall be developed only according to the approved and recorded final plan and all supporting data. The recorded final plan and supporting data, together with all recorded amendments shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of premises (including the internal use

of buildings and structures) and location of structures in the Planned Unit Development, as set forth therein.

1. Major Changes: Changes which alter the concept or intent of the Planned Unit Development including increases in the density, change in location and types of non-residential land use, increases in the height of buildings, reductions of proposed open space, more than a fifteen (15%) percent modification in proportion of housing types, changes in road standards or alignment, utilities, water, electricity and drainage or changes in the final governing agreements, provisions or covenants, may be approved only by submission of a new preliminary plan and supporting data and following the "preliminary approval" steps and subsequent amendment of the final Planned Unit Development Plan.
2. Minor Changes: The Zoning Inspector may approve changes in the Planned Unit Development which do not change the concept or intent of the development, without going through the "preliminary approval" steps. Minor changes are defined as any change not defined as a major change.

#### **26.24 Public Hearing by Commission**

Within thirty (30) days after submission of the final development plan, the Commission shall hold a public hearing. Notice and public inspection of the application shall be as specified in Section 26.25.

#### **26.25 Recommendation by Commission**

Within sixty (60) days after receipt of the final development plan, the Commission shall recommend that the final development plan be approved as presented, approved with supplementary conditions or disapproved and shall transmit all papers constituting the record and the recommendations to Township Trustees.

#### **26.26 Public Hearing by Township Trustees**

After receiving the recommendation from the Township Zoning Commission, the Township Trustees shall hold a public hearing on the PUD final development plan within a reasonable time.

#### **26.27 Notice of Public Hearing by Township Trustees**

Before holding its public hearing, notice of such hearing shall be given by at least one publication in one or more newspapers of general circulation at least fifteen (15) days before the hearing. The notice shall set forth the time and place of the public hearing, the nature and a general description

and summary of the planned unit development and a statement that all papers relating to the planned unit development are on file with the Clerk and open for public inspection.

Also, written notice of the hearing on the planned unit development shall be mailed by the Clerk by first class mail, at least fifteen (15) days before the date of the public hearing to all owners of property within five hundred (500) feet of the proposed planned unit development and to such others as may be determined should receive such notice. Notices to individual property owners should contain the same information as required of notices published in the newspaper.

#### **26.28 Action by Township Trustees**

After the public hearing, the Trustees shall either approve, approve with supplementary conditions or disapprove the application as submitted. If the application is approved as submitted or approved with conditions, the Trustees shall direct the Zoning Inspector to issue zoning permits in accordance with the approved plan and any conditions thereto attached.

The final development plan shall further be considered as an integral part of the rezoning amendment and no change from or substantive alteration in such planned unit development shall be permitted without repetition of the procedures in these Sections.

In the event that the Township Trustees deny or substantially modify the final development plan as recommended by the Commission, any resulting final development plan for said planned unit development shall not be effective unless approved unanimously by the Trustees.

#### **26.29 Supplementary Conditions and Safeguards**

In approving any planned unit development application, both the Zoning Commission and the Trustees may prescribe appropriate conditions and safeguards in conformity with this Resolution. Any violation of such conditions or safeguards, which have been made a part of the terms under which the final development plan has been approved, shall constitute a violation of this Resolution and be punishable as such.

#### **26.30 Expiration and Extension of Approval Period**

The approval of a final development plan for a planned unit development district shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plat and development of the project. If no construction has begun within two (2) years after approval is granted, the approved final development plan shall be void and the land shall revert to the district regulations of the time limit or modification of the approved final development plan may be approved if



the Board of Zoning Appeals finds that such extension is not in conflict with the public interest. No zoning amendment passed during the time period granted for the final approved final development plan shall in any way affect the terms under which approval of the planned unit development was granted.

## **26.31 Changes in the Planned Unit Development**

A Planned Unit Development shall be developed only according to the approved and recorded final plan and all supporting data. The recorded final plan and supporting data, together with all recorded amendments shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Unit Development, as set forth therein.

1. Major Changes: Changes which alter the concept or intent of the Planned Unit Development including increases in the density, changes in location and types of non-residential land uses, increases in the height of buildings, reductions of proposed open space, more than a fifteen (15%) percent modification in proportion of housing types, changes in road standards or alignment, utilities, water, electricity and drainage, or changes in the final governing agreements, provisions or covenants, may be approved only by submission of a new preliminary plan and supporting data and following the "preliminary approval" steps and subsequent amendment of the final Planned Unit Development Plan.
2. Minor Changes: The Zoning Commission may approve changes in the Planned Unit Development which do not change the concept or intent of the development, without going through the "preliminary approval" steps. Minor changes are defined as any change not defined as a major change.

**ARTICLE 27  
FLOODPLAIN, FLOODWAY AND WETLAND OVERLAY DISTRICT  
(F.F. & W.)**

**27.0 Statement of Purpose**

The F.F. Overlay District is designed to protect those lands which are subject to predictable inundation's at frequent intervals. Such regulations as herein established, while permitting reasonable economic use of affected properties, will protect the public health and reduce potential financial obligations on the Township and its individuals by frequent and periodic floods. By restricting the use of flood lands, areas are reserved for the impoundment of water with a consequent stabilized stream flow which promotes and maintains the streams' ecological environment.

**27.1 Boundaries Further Defined**

The floodplain and floodway districts are hereby established "overlay districts", meaning that these districts are overlaid upon the districts and the land so enclosed may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in this district. The floodplain and floodway district are hereby established as shown in Appendix "A" to the Zoning Map, which accompanies this Resolution.

As used in this Article, the terms floodplain and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts whose boundaries are established on the map identified in this Section, which boundaries are intended to correspond to the actual physical location of floodways and floodplains. (These overlay districts thus differ from other zoning districts whose boundaries are

established solely according to planning or policy rather than physical criteria). The floodplain area is the same as delineated in the Floodplain Building Regulations, as provided by the Erie Regional Planning Commission.

In any area that is located outside a designated floodplain, but where a stream is located, no building or fill may be located within a distance of the stream bank equal to five (5) feet the width of the stream at the top of the bank or twenty (20) feet on each side, whichever is greater.

## **27.2 Artificial Obstructions Within Floodplain**

1. No artificial obstruction may be located within any floodway, except as provided in Section 21.25 and with issuance of a floodplain permit from the Erie Regional Planning Commission.
2. For purposes of this section, an artificial obstruction is any obstruction, other than a natural obstruction that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood-carrying capacity of a stream. A natural obstruction includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the floodway by a non-human cause.

## **27.3 Permissible Uses Within Floodways**

Notwithstanding this provision of this Resolution, no use of land within a floodway may be permitted unless the proposed use is listed in the underlying district and in the following list:

1. General farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm and other similar agricultural, wildlife and related uses.
2. Ground level loading areas, parking areas, rotary aircraft ports and other similar ground level area uses.
3. Lawns, gardens, play areas and other similar uses.
4. Golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, parks, hiking or horseback riding trails, open space and other similar private and public recreational uses.

## **27.4 Limitations on Uses Within Floodways and Floodplains**

1. Any development within the District should meet the following criteria:
  - a. The proposed development is consistent with the need to minimize flood damage, and

- b. All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage, and
  - c. Adequate drainage is provided to minimize or reduce exposure to flood hazards, and
  - d. All necessary permits have been received from Erie Regional Planning Commission and those agencies from which approval is required by federal or state law.
2. No building may be constructed and no substantial improvement of an existing building may take place within any floodway. With respect to mobile home parks that are nonconforming because they are located within a floodway, mobile homes may be relocated in such parks only if they comply with the provisions of Subsection (7).
3. No new residential building may be constructed and no substantial improvement of a residential building may take place within any floodplain unless the lowest floor (including the basement) of the building or improvement is elevated to or above the base flood level.
  - a. Residential accessory structures shall be allowed within floodplains provided they are firmly anchored to prevent flotation.
  - b. Anchoring of any accessory buildings may be done by bolting the building to a concrete slab or by over the top ties. When bolting to a concrete slab, one-half (1/2") inch bolts six (6) feet on center with a minimum of two (2) per side shall be required. If over the top ties are used, a minimum of two (2) ties with a force adequate to secure the building is required.
4. No new residential building may be constructed and no substantial improvements of a non-residential building may take place within any floodplain unless the lowest floor (including the basement) of the building or improvement is elevated or flood-proofed to or above the base flood level. Where flood-proofing is used in lieu of elevation, a registered professional engineer or architect shall certify that any new construction or substantial improvement has been designed to withstand the flood depths, pressure, velocities, impact and uplift forces associated with the base flood at the location of the building and that the walls below the base flood level are substantially impermeable to the passage of water.
5. For purposes of this section, "substantial improvement" means for a building constructed prior to the effective date of this chapter, any repair, reconstruction or improvement of a building, the cost of which equals or exceed fifty (50%) percent of the market value of the structure either (i) before the improvement or repair is started or (ii) if the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" occurs when the

first alteration on any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not however, include with (i) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to insure safe living conditions, or (ii) any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.

6. No zoning, special use or conditional permit may be issued for any development within a floodplain until the permit issuing authority has reviewed the plans to assure that any new construction or substantial improvements shall be:
  - a. Designed (or modified) and adequately anchored to prevent flotation collapse or lateral movement of the structure.
  - b. Constructed with materials and utility equipment resistant to flood damage.
  - c. Constructed by methods and practices that minimize flood damage.
  
7. Notwithstanding any other provision of this Section, no mobile home may be located or relocated within that portion of the floodplain outside of the floodway, unless the following criteria are met:
  1. Ground anchors for tie downs are provided.
  2. The following tie down requirements are met:
    - a. Over the top ties are required at each of the four (4) corners of the mobile home, with one (1) additional tie per side at an intermediate location, for mobile homes less than fifty (50) feet long. Two (2) additional ties per side are required for mobile homes more than fifty (50) feet long.
    - b. Frame ties are required in conjunction with each over the top tie.
    - c. All components of the anchoring must be carrying a force of 4,800 pounds.
  3. Lots or pads are elevated on compacted fill or by any other method approved by the administrator so that the lowest habitable floor of the mobile home is at or above the base flood level.
  4. Adequate surface drainage and easy access for mobile home hauler is provided.
  5. Load bearing foundation supports such as piers or pilings must be placed on stable soil or concrete footings no more than ten (10) feet apart and if the support height is greater

- than seventy two (72") inches, the support must contain steel reinforcement.
6. Dumping or backfilling with any material excavation in any manner is prohibited unless:
    - a. Through compensating excavation and shaping of the floodplain, the flow and impounding capacity of the floodplain will be maintained or improved and will not cause an increase in the flood hazard or damage from floods and will not allow water to collect in pools that will stagnate.
    - b. No significantly measurable reduction in the flow or impoundment capacity of the floodplain thereby results.
    - c. Where there is dumping, backfilling or excavation in any manner, adequate site plans and engineering drawings shall be submitted to effectively show the final results of such action.

## **27.5 Site and Landscaping Plan Review**

For all development in the F.F. District, a site plan shall be submitted to the Township Zoning Commission for its review and recommendations. The Zoning Commission, in its review of the site plan, shall have regard the provisions of Article 27.

## **27.6 Reference to Flood Plain Permit**

Floodplain permits are required in accordance with the requirements of the Flood Damage Prevention and Flood Plain Building Regulations, Resolution No. 81-31. Applications for permits must be made through the Erie County Department of Planning and Development.

## **27.7 Wetlands**

Wetlands are areas inundated or saturated by surface or ground water at a frequency or duration sufficient to support and under normal circumstances support a prevalence or vegetation adapted for life in saturated soil conditions. Size is not a limitation. Areas smaller than an acre are regulated by the Army Corps of Engineers.

## **27.8 Permits Required**

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403): Under this law you will need a permit from the Corps of Engineers for any structure or work that takes place in, under or over a navigable water or wetland adjacent to navigable waters of the United States.

## **27.9 Wetland Zone Mapping**

This section allows for the incorporation of wetland maps into the zoning resolution. Although all wetlands cannot be delineated without site specific analysis, the overlay district will delineate wetlands where the determination has been made. Permits shall be obtained through the Army Corps of Engineers, as appropriate.

## **27.10 Erie Soil and Water Conservation Regulations**

Berlin Township Trustees and Berlin Township Zoning Commission will provide, through the Erie Soil and Water Conservation District, with the Erie Regional Planning Commission and the U.S. Soil Conservation Service acting in an advisory capacity, such necessary land use information as the Township may request.

1. LAND SUBJECT TO FLOODING OR CONTAINING POOR DRAINAGE OR OTHER SOIL PROBLEMS:
  - a. The Township reserves the right to disapprove any subdivision or building on soils which are subject to periodic flooding or which have extremely poor drainage conditions, severe slopes or high shrink swell. However, if the subdivider or builder agrees to make such improvements as will make the area completely safe for occupancy, the building may be approved, subject, however, to the approval of the Erie County Board of Health and the Berlin Township Zoning Inspector. The extent of critical soil problems will be provided in the soil survey data supplied by the Soil Conservation Service.
  
2. EASEMENT ALONG STREAMS:
  - a. Whenever any stream or natural surface drainage course is located in the area of construction, the subdivider or builder shall, in accordance with Section 6137.12 of the Ohio Revised Code, provide an easement of such total width as will be represented by the sum of the width of the drainage course as measured horizontally from vertical bank to vertical bank at each side of the course and land extending seventy five (75) feet from the sides of the drainage course on both sides. This easement is for the purpose of widening, deepening, relocating or protecting the stream for drainage or public use.
  
3. GRADING:

- a. The building shall have a planned surface water drainage system. It will be graded so that the surface and gutter discharge water will not be directed onto adjoining lots or onto the surface or right-of-way of the adjoining public roadway.

4. DRAINAGE PLAN REQUIRED:

- a. A zoning permit application for construction of a dwelling shall be accompanied by a drainage plan which will indicate the course of drainage and outlets for surface and roof gutter water, as well as, topographical data (elevations) of the building subject to approval of the Township Zoning Inspector prior to issuance of the zoning permit.

5. DRAINAGE IMPROVEMENTS:

- a. The subdivider or builder shall construct all necessary facilities including underground pipe, inlets, catch basins or open drainage ditches, as determined by the Berlin Township Zoning Inspector and the Erie Regional Planning Commission, to provide for the adequate disposal of subsurface and surface water and maintenance of natural drainage courses. The velocity of flow in an open ditch shall not exceed four (4) feet per second in soil ditches or six (6) feet per second in turf gutters. Paved gutters will be required if velocities of flow are greater than those specified or if it is otherwise likely that destructive erosion will result. Drainage ditches shall not be permitted to discharge into any sanitary sewer facility.

6. VARIANCES

- a. Where topography and other physical conditions make full compliance with the design standards, an undue hardship upon the owner, the owner may refer the problem of compliance to the Township Trustees and Zoning Board of Appeals for recommendations as to permissible variances.
- b. The opinion of the Zoning Board of Appeals and Township Trustees as to whether or not these flooding, poor drainage or other soil problems as above set out exist shall be determined by the signatures of three (3) members of the Zoning board of Appeals and two (2) Township Trustees placed upon the application for said construction.



**ARTICLE 28  
SUPPLEMENTARY DISTRICT REGULATIONS**

**28.0 General**

The purpose of supplementary district regulations is to set specific conditions for various uses, classifications of uses or areas wherein problems may occur, in order to alleviate or preclude such problems and to promote the harmonious exercise of property rights without conflict.

**28.1 Conversions of Dwellings to More Than One Unit**

A residence may not be converted to accommodate an increased number of dwelling units unless all of the following conditions are met:

1. The conversion is in compliance with all other local codes and resolutions and any applicable State or Federal regulations;
2. The district within which the residence is located is so regulated as to allow such an increase in dwelling units;
3. The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district;
4. The lot area per family equals the lot area requirements for new structures in that district;
5. The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district;
6. The conversion is in compliance with all other relevant codes and resolutions.

**28.2 Principal Building Per Lot**

No more than one principal building or structure may be constructed upon any one lot for the purposes of this Resolution. Rear dwellings shall be prohibited and shall be considered non-conforming uses subject to the requirements of Article 6 of this Resolution.

### **28.3 Reduction of Area or Space**

No lot, yard, parking area or other space shall be reduced in area or dimension if such reduction has the effect of making the lot, yard, parking area or other space less than the minimum required by this Resolution. Furthermore, any lot, yard, parking area or other space which is already less than the required minimum shall not be reduced further. However, nothing in this section shall be interpreted to limit the power of the Board of Zoning Appeals in the granting of variances under this Resolution.

### **28.4 Construction in Easements**

Easements for installation, operation and maintenance of utilities and drainage facilities are reserved as shown on each plat when recorded or otherwise established. Within these easements, no permanent building or structure shall be placed or permitted which may damage or which may interfere with the installation, operation and maintenance of such utilities or which may change the normal direction of flow of drainage channels within the easement. The easement area of each lot and any improvements within it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or a utility is responsible.

### **28.5 Parking and Storage of Vehicles and Trailers**

No commercial vehicles, to include commercial tractors, automobiles, trucks, buses, house trailers, semi-trailers, shall be parked or stored on any property within a residential zoning district other than in a completely enclosed building, except those commercial vehicles conveying the necessary tools, materials and equipment to a premises where labor using such tools, materials and equipment is to be performed during the actual time of parking. No automotive vehicles or trailers of any type without current license plates shall be parked or stored on any residential property other than in a completely enclosed building. A maximum of one boat or one unoccupied recreational vehicle may be stored in the rear yard of any residentially zoned property if it has a current license, meets the requirements of this Resolution for accessory structures and is screened according to the requirements of this Resolution.

### **28.6 Required Refuse Collection Areas**

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The refuse collection areas provided by all commercial, industrial and multi-family residential uses for the collection of trash, garbage and other refuse shall be enclosed on three (3) sides by a solid wall or fence of at least four (4) feet in height, unless within an enclosed building or structure. Provisions shall be made for regular and adequate vehicular access to such areas for collection purposes, as determined necessary by the Zoning Inspector. In addition, the following requirements shall be met:

1. The storage of hazardous or toxic materials or wastes shall not be permitted without documented approval of the Ohio Environmental Protection Agency.
2. Materials or wastes which might cause fumes or dust or otherwise constitute a fire hazard or which may attract rodents or insects, shall be stored only in closed containers constructed of impervious materials.
3. Storage areas in residential districts shall utilize such additional screening as required in this Resolution.

#### **28.7 Junk**

The accumulation or storage of junk, junk vehicles, disabled or inoperative machinery or equipment, vehicles or machinery parts, rags or any other discarded objects or debris defined as junk in the Ohio Revised Code shall be prohibited, outside of an approved junk yard, in order to protect residents from conditions conducive to the infestation and breeding of vermin, insects and rodents.

#### **28.8 Supplemental Yard and Height Regulations**

In addition to the regulations specified in other sections of this Resolution, Sections 28.9 to 28.14 inclusive shall be used for clarification and interpretation.

#### **28.9 Setback Requirements for Buildings on Corner Lots**

The minimum required width of a side yard abutting a street shall be one-half (1/2) the minimum required front yard depth for the district. Parking within this side yard is prohibited.

#### **28.10 Fence and Wall Restrictions in Front Yards**

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of two and one-half (2 ½) feet and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the height of two and one-half (2 ½) feet and ten (10) feet.

**28.11 Yard Requirements for Multi-Family Dwellings**

Multi-family dwellings shall be considered as one (1) building for the purpose of determining front, side and rear yard requirements. The entire group as a unit shall require one front, one rear and two side yards as specified for dwellings in the appropriate requirements for the appropriate district as though it were on an individual lot.

**28.12 Exceptions to Height Regulations**

The height limitations contained in the District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structure will constitute a hazard to the safe landing and take off of an aircraft at an established airport.

**28.13 Architectural Projections**

Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

**28.14 Visibility at Intersections**

On a corner lot at the intersection of two streets in any district, nothing shall be installed, erected, placed, planted or allowed to grow in such manner as to impede vision materially between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lot and a line joining along said street lines fifty (50) feet from the point of intersection. On a corner lot at the intersection of two alleys or at the intersection of an alley and a street, within any district, nothing shall be installed, erected, placed, planted or allowed to grow in such manner as to impede vision materially between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline grades of the intersecting alleys or of the intersecting alley and street in the area bounded by the right-of-way lines of such corner lot and a line joining points along said alley lines or alley and street lines, twenty five (25) feet from the point of intersection.

**28.15 Objectionable, Noxious or Dangerous Uses, Practices or Conditions**

No use shall be permitted or authorized to be established which, when conducted in compliance with the provisions of this Resolution and any additional conditions and requirements prescribed, is or may become hazardous, noxious or offensive due to emission of odor, smoke, fumes,

cinders, dust, noise, gas, vibration, electrical interference, refuse matter, water carried wastes or which will interfere with adjacent landowners (sic) enjoyment of the use of their lands, except that any use permitted by this Resolution may be undertaken or maintained if acceptable measures and safeguards to reduce any dangerous or objectionable conditions to acceptable limits, as established in this section, are properly exercised. Specifically, the occupation or use of any land or building in any district shall be in violation of this Resolution if one or more of the following conditions is found to exist at any time:

1. The use or storage of flammable or explosive materials is not adequately protected by fire fighting and fire protection equipment or by such safety devices as are normally required for such activities;
2. Activities involving the use and storage of flammable and explosive materials are not removed from adjacent facilities or activities to a distance compatible with the potential danger involved;
3. Radioactivity or air pollution is present in violation of the regulations or the Ohio Environmental Protection Agency.
4. Hazardous wastes are present in violation of the regulations of the Ohio Environmental Protection Agency;
5. Objectionable noise as determined by the Zoning Inspector due to volume, frequency or beat is present;
6. Vibration discernible by the Zoning Inspector without instruments is present on an adjoining lot or property;
7. Direct or reflected glare is present which is visible from any street or from any property not within a manufacturing district;
8. Erosion caused by wind or water is carrying objectionable substances onto any adjacent lot or property;
9. Water pollution or contamination is present in violation of the regulation of the Ohio Environmental Protection Agency.

## **28.16 Enforcement Provisions**

Any occupancy, use, conditions, or circumstances existing in violation of Section 28.17 of this Resolution shall constitute a violation of this Resolution and be subject to the enforcement procedures contained in Article 5.

## **28.17 Temporary Uses**

The following regulations are necessary to govern certain uses which are of a non-permanent nature. For such uses requiring temporary zoning permits, at least seven (7) days before the instigation of such use an application for a zoning permit shall be made to the Zoning Inspector, which shall contain a graphic description of the proposed use and a site

plan, with sufficient information to determine the yard, setback, parking and sanitary facility requirements for the proposed temporary use.

The following uses are deemed temporary uses and shall be subject to the specified regulations and time limits which follow as well as the regulations of any district in which they are located:

1. Real estate offices, excluding mobile homes for such use, which shall contain no living accommodations, shall be permitted within any district for any new subdivision for a period of one (1) year, except conditions warrant. Such offices shall be removed upon the completion of the sales of the lots therein or upon the expiration of the zoning permit, whichever occurs first.
2. Temporary buildings, offices and equipment and storage facilities required in conjunction with construction activity may be permitted within any district for a period of one (1) year, except that six (6) month extensions may be granted if construction is substantially under way. Such uses shall be removed immediately upon completion of the construction or upon expiration of the zoning permit, whichever occurs first.
3. Temporary sales and services may be permitted within parking areas within any commercial district. A zoning permit valid for a period not to exceed four (4) consecutive days shall only be issued three (3) times within any twelve (12) month period to any individual or organization. The application for the temporary zoning permit shall be accompanied by written permission of the property owners and shall be prominently displayed at the site. The Zoning Inspector shall not issue a permit for such temporary use if he determines that it encroaches upon more than twenty five (25%) percent of the required parking area and minimum of twenty five (25) spaces for car washes.
4. To allow for temporary housing as in a mobile home, on the dwelling building lot, for the purpose of reconstructing a home due to damage from fire or other disasters. A zoning permit valid for a period of one year shall be permitted within any zoning district. The landowner must present a written letter from the Erie County Health Department, verifying the hook up to the existing septic/sewer system from the temporary housing is acceptable. Such uses shall be removed immediately upon completion of the construction or upon expiration of the zoning permit.

## **28.18 Screening/Buffering**

A landscaped area may be required to screen and protect neighboring properties and passing motorists from the view of facilities, buildings and parking areas of the site development, as warranted. Landscaped areas are subject to the following:

1. Screening shall be provided for one or more of the following purposes:
  - a. A visual barrier to partially or completely obstruct the view of structures or activities.
  - b. An acoustic screen to aid in absorbing or deflecting noise.
  - c. A physical barrier to contain debris and litter.
2. Screening may consist of one of the following or a combination of two or more, as determined by the Zoning Inspector or Board of Zoning Appeals, in the event of an appeal, variance or conditional use:
  - a. A solid masonry wall;
  - b. A solidly constructed decorative fence;
  - c. A louvered fence;
  - d. A dense vegetative planting;
  - e. A landscaped mounding.
3. Height of screening shall be in accordance with the following:
  - a. Visual screening walls, fences, plantings or mounds shall be a minimum of five and one-half (5 ½) feet high in order to accomplish the desired screening effect, except in required front yards where maximum height shall be not greater than two and one-half (2 ½) feet. Plantings shall be a minimum of four (4) feet in height at the time of planting.
  - b. A dense vegetative planting with a minimum height of four (4) feet at planting and a mature height of at least five and one-half (5 ½) feet or greater or a solidly constructed decorative fence, shall be permanently maintained along the mutual boundary of an accessory parking area and adjacent land zoned for residential uses, except for the portion of such boundary located within a required front yard.
4. Screening for purposes of absorbing or deflecting noise shall have a depth of at least twenty five (25) feet of dense planting or a solid masonry wall in combination with decorative plantings. The height shall be adequate to absorb noise as determined by the applicant in relation to the nature of the use. Additional screening shall be required if the initial screening is found to be inadequate.
5. Whenever required, screening is adjacent to parking area or driveways, such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles.

6. All screening shall be trimmed, maintained in good condition and free of advertising or other signs, except for directional signs and other signs for the efficient flow of vehicles.

## 28.19 Site Plan Review *(Adopted 7/15/09)*

### A. Purpose

It is the intent of this section to protect the health, safety, convenience and general welfare of the inhabitants of the Township. The Site Plan Review regulates the development of structures and sites in a manner which considers the following concerns and where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- a. The balancing of landowners' rights to use their land with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (e.g. noise, smoke, fumes, dust, odor, glare, storm water runoff etc.);
- b. The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas or roads;
- c. The adequacy of waste disposal methods and protection from pollution of surface or groundwater; and
- d. The protection of historic and natural environmental features on the site under review and in adjacent areas.

### B. Projects Requiring Site Plan Review

No permit for the construction, exterior alteration, occupancy or change in use of any building shall be given and no existing use shall be established or expanded in floor area except in conformity with a site plan approved by the Zoning Commission. Site Plan Review shall also be required for the resumption of any use discontinued for more than two (2) years or for the expansion of any existing use. Required approval include proposals for commercial, industrial, office, multiple dwelling residential developments, municipal, institutional, utility, fraternal or recreational purposes.

### C. Exemptions From Site Plan Review

Site Plan Review shall not be required for:

- a. The construction or enlargement of any single family or two family dwelling or building accessory to such dwelling;



- b. The construction or alteration of any building used exclusively for agriculture, horticulture or floriculture;
- c. Construction or alteration providing for not more than two hundred (200) square feet total floor area after construction;
- d. Customary home occupations, as defined by the zoning by laws.

D. Procedure

- 1. An application on Site Plan Review under this section shall be filed with the Zoning Commission ten (10) days prior to a scheduled meeting, seven (7) copies each of the site plan documents. A copy of the site plan shall be submitted to the Clerk to be kept on file.
- 2. The Zoning Commission shall deliver its decision in writing to the Zoning Inspector within thirty (30) days after determining that the application is complete, to allow the issuance of a zoning permit.
  - a. Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this Resolution;
  - b. Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this Resolution; or
  - c. Approval of the site plan subject to any conditions, modifications and restrictions as required by the Zoning Commission which will ensure that the project meets the Standards for Review.

E. Submission Requirements

The site plan shall include the following data, details and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan with notations explaining the reasons for any omissions.

The Zoning Commission may, based on the size and complexity of the development, require site plans prepared by a registered professional engineer, architect or landscape architect at a scale of one (1) inch equals twenty (20) feet, on standard 24" x 36" sheets, with continuation on 8 ½" x 11" sheets as necessary for written information.

Items Required for Submission Include:

1. Survey plan of the development area.
2. Name of the project, boundaries and location map showing site's location, north arrow and scale of the plan.
3. Name and address of the owner of record, developer and seal of the engineer, architect or landscape architect.
4. Names and addresses of all owners of record of abutting parcels and those within three hundred (300) feet of the property line.
5. All existing lot lines, easements and rights-of-way. Include area in acres or square feet, abutting land uses and the location and use of structures within three hundred (300) feet of the site.
6. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area.
7. The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping, walls and fences. Location, type and screening details for all waste disposal containers shall also be shown.
8. The location, height, intensity and bulk type (e.g. fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
9. The location, height, size, materials and design of all proposed signage.
10. The location of all present and proposed utility systems including:
  - Sewage or septic system;
  - Water supply system;
  - Telephone, cable and electrical systems; and
  - Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.

The Zoning Commission may also request the submission to the County Engineer storm run off calculations for large or environmentally sensitive developments.

11. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run off, excessive raising or lowering of the water table and flooding of other properties, as applicable
12. A landscape plan showing all existing natural land features, trees, forest cover and water sources and all proposed changes to these features including size and type of plant

- material. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
13. Zoning district boundaries of adjacent properties shall be drawn and identified on the plan.
  14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred (100) feet of the site.

The Zoning Commission may require a detailed traffic study for large developments or for those in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
  - b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
  - c. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as, road capacity levels shall also be given.
15. For new construction or alterations to any existing building, a table containing the following information must be included:
    - a. Area of building to be used for a particular use such as retail operation, office, storage etc.;
    - b. Maximum number of employees;
    - c. Maximum seating capacity, where applicable; and
    - d. Number of parking spaces existing and required for the intended use.
  16. Elevation plans when required by the Zoning Commission:

F. Standards for Review

The Zoning Commission shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Detailed design guidelines and performance standards shall be adopted by the Zoning Commission to guide decisions with respect to these objectives and to help ensure consistency in the review of all applications.

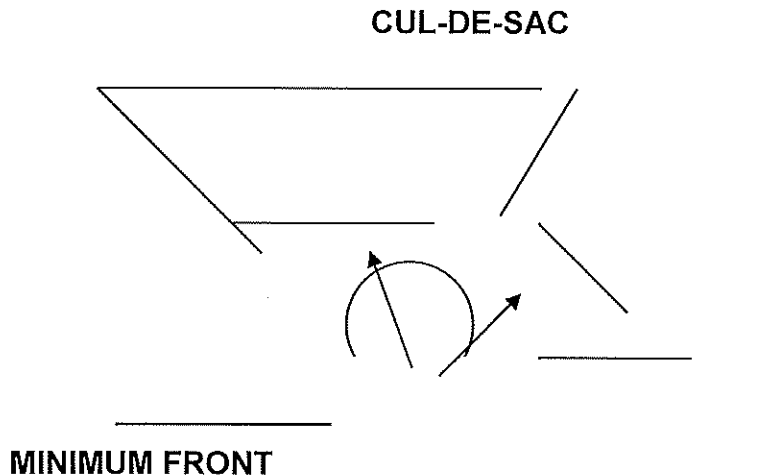
1. Legal  
Conformance with the provisions of the regulations of the Township and all applicable rules and regulations of state and federal agencies.
2. Traffic

Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.

3. Parking  
Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting and internal traffic control.
4. Pollution Control  
Adequacy of methods for sewage and refuse disposal and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
5. Nuisances  
Protection of abutting properties and Township amenities from any undue disturbances caused by excessive or unreasonable noise, smoke, vapors, dust, odors, glare, storm water runoff, hazardous materials etc.
6. Existing Vegetation  
Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
7. Amenities  
The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings and the retention of open space and agricultural land.

## 28.20 Setback on Cul-de-sacs

Each lot or parcel on a cul-de-sac, curved street or dead end street shall meet the minimum lot width requirement of the required front setback of the zone.



## SETBACK

### 28.21 Access

No person shall erect any building or structure on a lot or use any lot in any zone unless such lot has frontage on a duly dedicated public street. Nothing in this Section shall prevent the use of an existing dwelling on a lot having access to a public road via a private road subject to the provisions of the existing district in which the lot is located.

### 28.22 Setback Requirements on Non-Conforming Residential Lots Established Prior to the Adoption of this Resolution

For non-conforming residential lots recorded prior to the approval of this zoning resolution, the following side yard setbacks shall apply:

- a. For lots greater than one hundred (100) feet, up to and including one hundred fifty (150) feet frontage, the required setback shall be twenty five (25) feet.
- b. For lots with frontage of up to and including one hundred (100) feet, the required setback shall be twenty (20) feet.

### 28.23 Septic Mounds

Septic mounds are considered to be structured and, their location on a lot in all districts, except R-1 and R-2 in which they are prohibited is regulated by Township Zoning. The septic mound shall not be located in the required front yard. The toe of the septic mound, on its lot line facing side, shall have a minimum setback of ten feet (10') from the side yard lot line and/or ten feet (10') from the rear yard lot line. Requirements of this resolution may be appealed if the Board of Health requirements can be met only through application of a reduced setback distance and/or relocation.

**ARTICLE 29**  
**SPECIAL REGULATIONS**

**29.0 General**

It is the purpose of these special regulations to promote the public health, safety and welfare and to establish regulations affecting uses and practices which, were they to be established and maintained without any guidance or restrictions or control, tend to result in dangerous situations threatening the safety of citizens, to contribute to circumstance undermining the morals of the youth of the community or to generate conflicts in uses or practices upsetting the harmony of the community and impinging upon the property rights of others.

**29.1 Regulation of Satellite Dish Antennas**

Sections 29.2 to 29.5 inclusive shall apply to the location and construction of dish type satellite signal receiving antennas as herein defined.

**29.2 Purpose**

It is the purpose of Sections 29.05 to 29.30 inclusive to regulate the location and construction of dish type satellite signal receiving antennas within the township in order to protect the public health, safety and welfare of the residents, particularly with respect to the maintenance of utility easements and fire safety accesses, the prevention of the accumulation of noxious weeds and debris, the safety considerations associated with windloads and the reasonable accommodation of the aesthetic concerns of neighboring property owners.

**29.3 Definitions**

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The following definitions shall apply in the interpretation of this Resolution:

"Dish shall mean that part of a satellite signal receiving antenna which is shaped like a saucer or dish, whether it is spherical, parabolic or similar in shape.

"Dish type satellite signal receiving antennas" to include earth stations or ground stations, whether functioning as part of a basic service system, direct broadcast satellite system or multi-point distribution service system, shall mean one or a combination of two or more of the following:

- a. A signal receiving device such as a dish antenna whose purpose is to receive communications or signals from earth orbiting satellites or similar sources.
- b. A low noise amplified (LAN) whose purpose is to boost, magnify, store, transfer or transmit signals.
- c. A coaxial cable, whose purpose is to convey or transmit signals to a receiver.

"Receiver" shall mean the apparatus whose purpose is to obtain a signal from a cable or like source and transform it to a television signal.

#### **29.4 Zoning Permit Required**

No firm or corporation shall undertake the construction, erection or installation of any satellite dish without a zoning permit issued in accordance with the provisions of this Resolution. In addition to the requirements of Article 31 of this Resolution, the application for such permit shall include the following:

1. A description of the type of earth station proposed;
2. A plot plan of the lot, premises or parcel of land showing the location of the proposed earth station and all other buildings thereon;
3. Plans depicting the specifications and elevations of the proposed earth station;
4. Details of the method of assembly and construction of the proposed earth station;
5. A fee as required for the review of plans and specifications and the inspection of construction.

#### **29.5 Ground Mounted Satellite Dish Antennas**

Ground mounted satellite dish antennas are considered as accessory structures and are permitted as accessory uses in all districts. In addition to the provisions of this Resolution pertaining to accessory structures, the following provisions shall apply to ground mounted satellite dishes:

1. The maximum diameter of any ground mounted satellite dish shall not exceed twelve (12) feet;
2. The maximum height of any ground mounted satellite dish shall not exceed fifteen (15) feet at its highest point above the finished grade;
3. The satellite dish apparatus shall be painted a color which complements its environment and shall bear no advertisement, lettering, picture or visual image;
4. The apparatus shall not be located in a side yard or a front yard;
5. The site of the apparatus shall be screened with shrubbery and/or landscaped as proposed in the zoning permit application;
6. The apparatus shall be mounted upon a solid concrete slab and shall be constructed in such manner that it will withstand wind forces of up to seventy five (75) miles per hour;
7. Only metal supports of galvanized construction shall be used;
8. Any guy wires attached to a satellite dish apparatus shall be enclosed by an approved fence.
9. Any driving motor shall be limited to 110 volt maximum power and shall be encased in a protective guard;
10. All wiring between the apparatus and any other structure shall be placed underground in approved conduit;
11. The apparatus shall be bonded to an approved eight (8) foot grounding rod.

#### **29.6 Variance on Locational Characteristics**

An applicant may request a variance from the accessory building requirements and the required height restrictions in compliance with the procedures of Article 7 of this Resolution. In addition to all requirements of these sections, the applicant shall submit clear and convincing evidence that the requested variance is necessary in order for the satellite dish antenna to have a direct line of sight or unobstructed view of the satellite. In any case where the provision applies, the variance granted by the Board of Zoning Appeals shall be the minimum variance required to achieve the necessary direct line of sight to assure that the antenna can properly function.

#### **29.7 Drug Paraphernalia Establishments as Prohibited Uses**

Drug Paraphernalia Establishments as herein defined are and shall be prohibited uses within all districts within this Township. Any person who establishes, operates or maintains a drug paraphernalia establishment or instigates or participates in such action, shall be in violation of this Section and shall be guilty of a misdemeanor of the first degree, in addition to any other penalties specified in this Resolution.

#### **29.8 Regulations of Swimming Pools as Accessory Uses Purpose**

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It is the purpose of Section 29.10 to promote the public health, safety and welfare through the regulation of swimming pool facilities which are constructed, operated or maintained as an accessory use.

### **29.9 Private Swimming Pools**

No private swimming pool, exclusive of portable swimming pools with a diameter of less than twelve (12) feet or with an area of less than one hundred (100) square feet or farm ponds, shall be allowed in any residential district or commercial district except as an accessory use and shall comply with the following requirements:

1. The pool is intended to be used and is used solely for the enjoyment of the occupants of the property on which it is located and their guests.
2. The pool must be located in the rear yard and shall not be located closer than twelve (12) feet to any property line or easement.
3. The swimming pool or the entire property upon which it is located, shall be walled or fenced in such a manner as to prevent uncontrolled access by children from the street and from adjacent properties. No such fence shall be less than six (6) feet in height and it shall be maintained in good condition with a gate and lock.

### **29.10 Community or Club Swimming Pools**

A community or club swimming pool shall be any pool constructed by an association of property owners or by a private club or association, for use and enjoyment by members and their families. Such swimming pools shall comply with the following requirements:

1. The pool is intended solely for and is used solely for the enjoyment of the members and families and guests of members of the association or club under whose ownership or jurisdiction the pool is operated.
2. The pool and accessory structures thereto, including the area used by the bathers, shall not be located closer than seventy five (75) feet to any property line or easement.
3. The swimming pool, its accessory facilities and all of the area used by the bathers shall be so walled or fenced as to prevent uncontrolled access by children from the street or adjacent properties. The said fence or wall shall not be less than eight (8) feet in height and maintained in good condition with a gate and lock and screened from adjacent properties. The area surrounding the enclosure shall be suitably landscaped with grass, hardy shrubs and trees and maintained in good condition.
4. Exterior lighting shall be so shaded or directed that it does not cast light directly upon adjacent properties.

5. Such pool facilities shall not be operated prior to 8:00 a.m. in the morning of and after 10:00 p.m. in the evening.

## **29.11 Regulation of Long Term Parking Facilities as Accessory Uses**

Sections 29.12 to 29.14 inclusive shall apply to the location and operation of any long term parking facility as an accessory use.

### Purpose

It is the purpose of Section 29.12 to regulate long term parking facilities constructed, operated or maintained as accessory uses in order to promote the public health, safety and welfare.

## **29.12 Conditional Use Permit Required**

No person shall establish, operate or maintain on any premises as an accessory use a parking facility where any vehicles, to include tractors, trailers, boats, campers, recreational vehicles, buses, trucks or automobiles are to be parked for a continuous period exceeding six (6) days without obtaining a conditional use permit for such accessory use.

## **29.13 Permit Requirements**

In addition to complying with all other provisions of this Resolution, particularly the requirements of Article 9, the applicant for the conditional use permit shall give evidence that the premises proposed for such use complies with the following conditions:

1. That no boundary of the proposed outside parking area is within fifty (50) feet of a residential district boundary.
2. That the proposed parking area will not prevent access to adjacent properties by fire safety equipment.
3. That the proposed parking area will be screened in such a manner that the vehicles thereon parked will not be visible from the ground level of any adjacent residential properties.
4. That fencing and lighting of the facility will be sufficient to provide for its reasonable security.
5. That no service work, maintenance work, repair work, painting work or other vehicular work shall take place on the premises.

## **29.14 Regulation of Home Occupations**

### Purpose

It is the purpose of this section of the Resolution to promote the public health, safety and welfare through the regulation of home occupations. It is further the intent of this section to allow limited non-residential uses in residential structures which are compatible with the residential character of their surroundings.

**29.15 Definition**

“Home Occupation” means an accessory use which is an activity, profession, occupation, service, craft or revenue enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling and is conducted entirely within the dwelling unit without any significant adverse effect upon the surrounding neighborhood. Activities such as teaching, tutoring, tax consulting services at any one time, with the exception of certified or uncertified Type B Family Day Care Homes, which constitute a residential use and not an accessory use.

**29.16 Regulation of Group Residential Facilities**

Purpose

It is the purpose of this Section to regulate the location, operation and maintenance of group residential facilities in order to promote the public health, safety and welfare. It is the intent of this Section to provide for the assimilation of these facilities in stable and suitable neighborhoods so that the living environments of their residents are conducive to their rehabilitation.

**29.17 Definition**

“Group Residential Facility” shall mean any community residential facility, licensed and/or approved and regulated by the State of Ohio, which provide rehabilitative or habilitative services. There are two classes of Group Residential Facilities:

Class I: Any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a home for the care or rehabilitation of dependent or predelinquent children, the physically handicapped or disabled or those with development disabilities or mental illnesses. A Class I Type A group residential facility contains six (6) or more residents, exclusive of staff. A Class I Type B group residential facility contains five (5) or less residents exclusive of staff.

Class II: Any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional

institutions; and residential rehabilitation centers for alcohol and drug users, provided detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains six (6) or more residents, exclusive of staff. A Class II Type B group residential facility contains five (5) or less residents, exclusive of staff.

## **29.18 Conditional User Permit Required**

A Class I Type B group residential facility is permitted by right in any residential district. No other group residential facility shall be established, operated or maintained on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Article 9 of this Resolution. In addition to said provisions, such group residential facilities shall comply with the following conditional use criteria:

1. Evidence is presented that the proposed facility meets the certification, licensing or approval requirements of the appropriate state agency.
2. Evidence is presented that the proposed facility meets local fire safety requirements for the proposed use and level of occupancy.
3. Evidence is presented that the proposed facility will not generate an unreasonable increase in traffic volume or required special off-street parking.
4. Such facilities shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
5. No such facility may be located within six hundred (600) feet of another such facility.
6. No signs shall be erected by such facility for purposes of identification except a permitted street address sign.
7. The exterior of all such facilities shall not be altered in character but shall be compatible with other residential dwellings. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.
8. Such facility shall be reasonably accessible, by virtue of its location or transportation provided by the applicant, to medical, recreational and retail service required by its residents and to employment opportunities, if applicable and shall be in a relatively safe and stable neighborhood.
9. The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, to include a structured procedure whereby their grievances may be filed and resolved.
10. The applicant shall provide documentation indicating the need for the facility, the specific clientele it will serve and the location and type of similar facilities operated by the applicant.

## **29.19 Zoning of Group Residential Facilities**

Group residential facilities shall be conditionally permitted uses as follows:

Class I	Type A	R-3
Class I	Type B	Permitted by right in all residential Districts
Class II	Type A	R-3
Class II	Type B	R-3

**29.20 Variance to Distancing Requirement**

The Board of Zoning Appeals may grant a variance with respect to the distancing requirement contained in Article 7 if the applicant clearly demonstrates that the proposed location has unique advantage with respect to proximity to employment opportunities, social services, public transportation or similar amenities.

**29.21 Uniformity With Respect to Granting of Conditional Use Permits**

The granting of conditional use permits for the establishment of Group Residential Facilities shall be uniformly and equitably done, irrespective of considerations beyond the scope of these regulations.

**29.22 Regulation of Factory Built Housing; Design and Appearance Standards**

This Section shall apply to the construction and maintenance of factory built housing in all districts other than the manufactured home park district (R-MH).

**29.23 Purpose**

It is the purpose of Section 29.24 inclusive of this Resolution to promote the health, safety and welfare of the community by establishing regulations governing the siting, construction and maintenance of factory built housing. It is further the intent of these Sections to permit a wider range of housing opportunities while assuring the compatibility of a variety of housing types within certain residential districts.

**29.24 Definitions**

“Factory Built Housing” means a factory built structure designed for long term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. For the purposes of this Resolution, “factory built housing” shall include manufactured home and mobile home.

**29.25 Siting Requirements**

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Any factory built housing proposed to be located in any district shall comply with the following requirements:

1. The structure shall be installed upon and properly attached to a foundation system that provides adequate support of the structure's vertical and horizontal loads and transfers these and other imposed forces, without failure, from the structure to the undisturbed ground below the frost line.
2. All hitches, axles, wheels and conveyance mechanisms shall be removed from the structure.
3. The structure shall be so oriented on the site that its long axis is parallel with the street and it shall have an entranceway facing the street, except where diagonal placement and the addition of a garage, carport or other accessory structure may be permitted by subdivision regulation and yard requirement.
4. The site shall be suitably landscaped with adequate screening devices as elsewhere required.
5. The siting of the structure shall comply with all yard and setback requirements in effect for the district for which it is proposed.
6. The siting of the structure shall comply with all parking requirements in effect for the district for which it is proposed.
7. The site shall be serviced by utilities in such manner as required by Resolution.

#### **29.26 Zoning of Factory Built Housing**

Mobile homes shall be permitted only in approved mobile home parks. Manufactured homes and modular homes which meet the design and appearance standards contained in Section 29.27 shall be permitted accordingly.

#### **29.27 Single Family Design and Appearance Standards**

Single family residential homes, whether of modular, manufactured or site built construction, shall comply with the following design and appearance standards:

1. The structure shall be in conformance with the siting requirements contained in Section 29.25.
2. The structure and any accessory structures or uses will conform to all other regulations in effect for the district in which it is located.

#### **29.28 Uniformity With Respect to Granting of Variances**

The granting of variances from the requirements of this Resolution with respect to the siting of single family home structures, their design or appearance, shall be uniformly and equitably done.

## 29.29 **Massage Establishments**

Massage Establishments includes any place of business where a person offers massages in exchange for anything of value or in connection with the provisions of another service.

No person, firm, partnership, corporation or other entity shall operate a massage establishment within the unincorporated territory of Berlin Township. This prohibition does not apply to the practice of any limited branch of medicine or surgery in accordance with R.C. 4731.15 and 4731.16 or the practice of providing a therapeutic massage by a licensed physician, a licensed chiropractor, a licensed podiatrist, a licensed nurse or any other health professional licensed, certified or registered to practice in the State of Ohio.

## 29.30 **Fences, Walls and Other Protective Barriers**

### General:

- a. The erection, construction or alteration of any fence, wall or other type of protective barrier shall be approved by the Zoning Inspector as to their conforming to the requirement of the zoning district wherein they are required because of land use development and to the requirements of this Section.
- b. No fence, wall, structure or planting shall be erected, established or maintained on any corner lot which will obstruct the view of a drive or a vehicle approaching the intersection, excepting that shade trees would be permitted where all branches are not less than eight (8) feet above the road level. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended. This shall not prohibit the establishment of shrubbery thirty (30) inches or less in height.

### Residential

- a. Side and Rear Fences: Fences constructed within a side or rear yard shall not be higher than six feet six inches except as provided herein:
- b. Planting, Fences and Walls in Front Yard: No fence, wall or hedge shall rise over three (3) feet in height on any required front yard. No fence, wall or hedge planting shall interfere with visibility from a driveway.
- c. Fences on recorded lots having a lot area in excess of five (5) acres and a frontage of at least two hundred (200) feet and acreage or

parcels not included within the boundaries of a recorded plat, in all residential districts are excluded from these regulations.

- d. Fences on lots or record shall not contain barbed wire, electric current or charge of electricity.
- e. Fences which enclose public or institutional parks, situated within an area developed with the recorded lots shall not exceed eight (8) feet in height, measured from the surface of the ground and shall not obstruct vision to an extent greater than twenty five (25%) percent of their total area.
- f. In side and rear yards, plantings, walls, wooden fences and any fences shall be set back from the property line a minimum distance of two (2) feet (measured from the side of the fence facing the property line) to allow for maintenance of the fence. The "good" side of the erected fence must face the property line.

*(Adopted 8/21/17)*

### Commercial

- a. Fences in commercially zoned districts shall be limited to a height of eight (8) feet and be of sturdy construction, of uniform design, painted and/or otherwise well maintained.
- b. Fences in commercially zoned districts shall be set back at least twenty five (25) feet from the road right-of-way.
- c. The use of barbed wire on fences in a commercial district shall require approval of the Zoning Board of Appeals and the following conditions shall be met:
  - 1. Barbed wire may be used on a security fencing, but shall be limited to three (3) strands.
  - 2. Barbed wire shall not project beyond the property line.
  - 3. Barbed wire shall not be used less than eight (8) feet from grade.

### Industrial

- a. Fences in industrially zoned districts shall be limited to a height of eight (8) feet and be of sturdy construction, of uniform design and painted and/or otherwise well maintained.
- b. Fences in industrially zoned districts shall be set back at least twenty five (25) feet from the road right-of-way.
- c. Barbed wire may be used on security fencing in the Industrial District, subject to the following regulations:
  - 1. Barbed wire shall be limited to three (3) strands.
  - 2. Barbed wire shall not project beyond the property line.
  - 3. Barbed wire shall not be used less than six (6) feet from grade.



## ARTICLE 30

### OFF-STREET PARKING AND LOADING FACILITIES

#### 30.0 Applicability

All uses on individual lots, shall be required to provide off-street parking facilities in compliance with this Article. *Effective: April 6, 2016*

#### 30.1 Purpose

It is the express purpose of this Article to implement the following objectives:

- a. To minimize the impact of vehicular traffic, entering or exiting any parking lot, upon the public street by controlling the number and location of access driveways.
- b. To facilitate and encourage safe and convenient pedestrian movement in appropriate areas of a parking lot and elsewhere.
- c. To enhance the amenity, safety and appearance of uses, landscaping, screening, sidewalks and other similar requirements.
- d. To maximize the safety and convenience of vehicular circulation, both within the subject property and on the township's road network.
- e. To enhance compatibility between land uses.

#### 30.2 Off Street Parking Design Standards

All off-street parking facilities including entrances, exits, maneuvering areas and parking spaces shall be in accordance with the following standards and specifications:

1. Parking Space Dimensions: Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet

exclusive of access drives or aisles and shall be of usable shape and condition.

2. Access: There shall be adequate provision for ingress and egress to all parking spaces. Where the lot or parking spaces do not provide direct access to a public street or alley, an access drive shall be provided with a dedicated easement of access as follows:
  - a. For one single, two or three family residential dwellings, the access drive shall be a minimum of nine (9) feet in width.
  - b. For all other residential uses and all other uses, the access drive shall be a minimum of eighteen (18) feet in width.
  - c. All parking spaces, except those required for single, two or three family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.
3. Setbacks: The location of off-street parking facilities for more than five (5) vehicles may be located in required yards as specified elsewhere in this Resolution notwithstanding the requirements specified in the Official and Supplementary Schedules of District Regulations and Dimensional Requirements. In no case, however, shall the parking area be located closer than three (3) feet to any street or alley.
4. Screening: In addition to the setback requirements specified in this Resolution for off-street parking facilities for more than five (5) vehicles, screening shall be provided on each side of a parking area that abuts any Residential District. Screening shall comply with the requirements of Section 28.18 of this Resolution.
5. Paving: All required parking spaces, except for uses within any district if said parking area is at least seven hundred (700) feet from any residential district, together with driveways and other circulation areas shall be hard surfaced with a pavement having an asphalt or concrete binder, provided however, that variances for parking related to school auditoriums, assembly areas, sports fields and other Community meeting or recreation areas may be granted, provided that paved areas shall be provided for daily use parking areas. Where paving is not required, proper dust control measure shall be undertaken and maintained.
6. Drainage: All parking spaces, together with driveways, aisles and other circulation areas shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area and shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto the public streets. Adequate arrangements shall be made to insure acceptable diversion to an adequate storm drainage system.
7. Barriers: Wherever a parking lot extends to a property line, fencing, wheel stops, curbs or other suitable part or any part of a parked vehicle from extending beyond the property line.

8. Visibility: Access of driveways for parking areas shall be located in such a way that any vehicle entering or leaving such parking area shall be clearly visible for a reasonable distance by any pedestrian or motorist approaching the access or driveway from a public or private street or alley.
9. Marking: All parking areas for twenty (20) or more spaces shall be marked with paint lines, curb stones or in some other manner approved by the Zoning Inspector and shall be maintained in a clearly visible condition.
10. Maintenance: Any owner of property used for parking areas shall maintain such areas in good condition without holes and free of all dust, trash or other debris.
11. Signs: Where necessary due to multiple curb cuts, the entrances, exits and intended circulation pattern of the parking area shall be clearly marked.
12. Lighting: Any lights used to illuminate a parking lot shall be so arranged as to direct the light away from the adjoining property in any residential district.
13. Speed Bumps:
  - a. Speed bumps, constructed as part of access drives or parking lots, shall be marked with permanent yellow diagonal stripes.
  - b. The speed bumps shall be in the form of mounds or depressions in the pavement and shall be designed to restrain motor vehicle speed.
  - c. There shall be a warning sign posted at each entrance to parking areas having speed bumps.
14. Separation From Streets and Sidewalks: Parking spaces shall be guarded by curbs or other protective devices which are arranged so that curbs cannot project into street, sidewalks or walkways. A curb cut shall be provided for wheelchair access.

### 30.3 Handicapped Parking

Parking facilities serving buildings and facilities required to be accessible to the physically handicapped shall have conveniently located designated spaces provided as follows:

Total Spaces in Lot/Structure	Number of Designated Accessible Spaces
Up to 100	One space per 25 parking spaces
101 to 200	4 spaces plus one per 50 spaces over 100
201 to 500	6 spaces plus one per 75 spaces over 200
Over 500	10 spaces plus one per 100 spaces over 500

### **30.4 Joint Parking Lots**

The joint or collective provision of required off-street parking areas shall comply with the following standards:

1. All required parking spaces shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not further than five hundred (500) feet from the building served.
2. Not more than fifty (50%) percent of the parking spaces required for theaters, bowling alleys, dance halls, night clubs, taverns and similar uses and up to one hundred (100%) percent of the parking spaces required for churches, schools, auditoriums and similar uses may be provided and jointly used by banks, offices, retail stores, repair shops, service establishments and similar uses that are not normally open, used or operated during the same hours as the uses with which such spaces are jointly or collectively used.
3. In any case where the required parking spaces are not located on the same lot with the building or use served or where such open spaces are collectively or jointly provide and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approves as to form by legal counsel and filed with the application for a zoning permit.

### **30.5 Modification of Requirements**

The provisions of this Article may be subject to modification by the Board of Appeals after considering the following criteria:

- a. The location and nature of the proposed use or expansion of an existing use.
- b. The projected generation of trips to and from the use and the average length per unit.
- c. The impact of potential parking congestion to surrounding uses.
- d. The number of people expected to be employed in the operation or added to the operation.
- e. The area which is accessible to the public compared to the area used for warehousing or storage.
- f. The area available for parking expansion.
- g. The purposes listed in this Article.

### **30.6 Prohibited Uses; Temporary Uses**

Automobile parking lots are for the sole purpose of accommodating the passenger vehicles of persons associated with the use which requires them. Parking lots shall not be used for the following and/or loading purposes:

- a. The sale, display or storage of automobiles or other merchandise, except those activities typical to an automobile filling station.
- b. Parking vehicles accessory to the use.
- c. Performing services, including service to vehicles.
- d. Any other purposes except permitted as follows:
  - 1. Carnivals, circuses, fairs, exhibitions or other similar events, so long as they do not continue longer than five (5) days.
  - 2. Sales and display of seasonal decorations (Christmas, etc.) so long as the use would be permitted by right within the underlying district, the use will not continue longer than forty five (45) days, adequate measures have been taken to address the purposes of this Article and a temporary use permit has been obtained.
  - 3. Temporary placement of a mobile home during times of emergency, as declared by the Township Board of Appeals.
  - 4. The placement of donation or recycling collection facilities, provided that such collection facilities are sufficiently enclosed to prevent the scattering of debris, the materials collected are removed at regular intervals and the total size of the facility is less than two hundred (200) square feet.
  - 5. At no time shall temporary uses consume more than ten (10%) percent the total parking lot area.

**30.7 Parking of Disabled Vehicles**

The parking of a disabled vehicle within a residential district for a period of more than one (1) week shall be prohibited, except that such vehicle may be stored in an enclosed garage or other accessory building, provided that no business shall be conducted in connection there-with while such vehicle is parked or stored.

**30.8 Schedule of Required Parking Spaces**

For the purpose of this Resolution, the following parking space requirements shall apply, except within the central business district and the number of parking spaces required for uses not specifically mentioned shall be determined by the Board of Zoning Appeals.

Type of Use	Minimum of One Parking Space for Each
Residential Uses	
Single family or two family dwelling	Two for each unit

Apartments, townhouses or multi-family dwellings	Two for each unit
Mobile homes	Two for each unit
Elderly housing parking	Three for each four dwelling units and one per regular shift employee

Type of Use	Minimum of One Parking Space for Each
Commercial Uses	
Animal hospitals and kennels	One for each four hundred (400) square feet of floor area and one for each two employees
Motor vehicle repair station	One for each four hundred (400) square feet of floor area and one for each employee
Motor vehicle salesroom	One for each four hundred (400) square feet of floor area and one for each employee
Car washing facilities	One for each employee
Banks, financial institutions, post offices and similar uses	One for each two hundred (200) square feet of floor area and one for each employee
Barber and beauty shops	Three for each barber or beauty operator
Carry out restaurants	One for each two hundred (200) square feet of floor area and one for each two employees
Drive in restaurants	One for each one hundred twenty five (125) square feet of floor area and one per each employee
Hotels and motels	One for each sleeping room plus one space for each two employees
Boarding, rooming, tourist bed and breakfast	One for each sleeping room
Furniture, appliance, hardware, machinery or equipment sales and service and wholesale establishments	Two plus one additional space for each two hundred (200) square feet of floor area over 1,000 square feet
Consumer and trade service uses not otherwise specified	One for each employee
Funeral homes, mortuaries and similar type uses	One for each fifty (50) square feet of floor area in slumber rooms, parlors of service rooms

Laundromats	One for every two washing machines
Administrative, business and professional office uses	One for each two hundred(200) square feet of floor area
Sit down restaurants, taverns, night club and similar uses	One for each three persons of capacity
Retail stores	One for each one hundred fifty (150) square feet of floor area
Shopping centers	One parking space per two hundred (200) square feet of gross floor area

All other types of business or commercial uses permitted in any commercial district – one for each one hundred fifty (150) square feet of floor area.

Type of Use	Minimum of One Parking Space for Each
<b>Manufacturing Uses</b>	
All types of manufacturing, storage and whole uses permitted in any manufacturing district	One for every employee (on the largest shift for which the building is designed) and one for each motor vehicle used in the business
Cartage, express, parcel delivery and freight terminals	One and one-half (1 ½) for every one employee (on the largest shift for which the building is designed)

Type of Use	Minimum of One Parking Space for Each
<b>Recreation and Entertainment Uses</b>	
Bowling alleys	Four for each alley or lane; one for each three persons of capacity of the area used for restaurant, cocktail lounge or similar use; and one for each three employees
Dance halls, skating rinks	One for each one hundred (100) square feet of floor area used for the activity; one for each three persons of capacity in a restaurant, snack bar or cocktail lounge; and one for each three employees
Outdoor swimming pools; public, community or club	One for each ten persons of capacity and one for each three persons of capacity for a restaurant
Auditoriums, sports arenas, theaters and similar uses	One for each four seats

Type of Use	Minimum of One Parking Space for Each
<b>Recreational</b>	

Miniature golf courses	One for each hole and one for each employee
Private clubs and lodges	One for each ten members
Tennis facilities, racquetball facilities or similar uses	Two for each playing area; one for each employee; and one for each one hundred (100) square feet of other activity area
Marina	Three spaces for every two dock slips

Type of Use	Minimum of One Parking Space for Each
Institutional Uses	
Churches and other places of religious assembly	One for each eight seats in main assembly room or one for each classroom, whichever is greater
Hospitals	One for each three beds
Sanitariums, homes for the aged, nursing homes, rest homes, similar uses	One for each three beds
Medical and dental clinics	One for every one hundred (100) square feet of floor area
Libraries, museums and art galleries	Ten and one for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet

Type of Use	Minimum of One Parking Space for Each
Public, Parochial or Private Uses	
Elementary schools and kindergartens	Four for each classroom; one for every four seats in auditoriums or assembly halls; and one for each additional non-teaching employee
High school and middle schools	One for every ten students or one for each teacher and employee, or one for every four seats in auditoriums, assembly areas or sports fields, whichever is greater
Business and technical schools	One for each two students
Child care centers, nursery schools and similar uses	Four for each classroom

### 30.9 Off-Street Storage Areas for Drive in Services



Establishments which by their nature create lines of customers waiting to be served within automobiles shall provide off-street storage areas in accordance with the following requirements:

1. Photo pickups, restaurants, drive-thru beverage docks and other similar commercial establishments that can normally serve customers in three (3) minutes or less shall provide no less than five (5) storage spaces per window. Drive-in restaurants and other similar uses which require an additional stopping point for ordering shall provide a minimum of three (3) additional storage spaces for each such stopping point.
2. Other commercial establishments such as banks, savings and loan offices or other similar facilities with service or money windows shall provide no less than four (4) storage spaces per window.
3. Self serve automobile washing facilities shall provide no less than three (3) storage spaces per stall. All other automobile washing facilities shall provide a minimum of six (6) storage spaces per entrance.
4. Motor vehicle service stations shall provide no less than two (2) storage spaces for each accessible side of a gasoline pump island. Gasoline pumps shall not be located closer than fifteen (15) feet to any street right-of-way line.

### **30.10 Off-Street Loading Space Requirements**

In any district, in connection with every building or part thereof, hereafter erected and having a gross floor area of three thousand (3,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with the building, at least one off-street loading space and one additional loading space for each ten thousand (10,000) square feet or fraction thereof of gross floor area so used in excess of three thousand (3,000) square feet.

### **30.11 Off-Street Loading Design Standards**

All off-street loading spaces shall be in accordance with the following standards and specifications:

1. Loading Space Dimensions: Each loading space shall have minimum dimensions not less than twelve (12) feet in width, sixty five (65) feet in length and a vertical clearance of not less than fourteen (14) feet.
2. Setbacks: Notwithstanding other provisions of this regulation and the Official and Supplementary Schedules of Permitted Uses and

Dimensional Requirements, off-street loading spaces may be located in the required rear or side yard of any district provided that not more than ninety (90%) percent of the required rear or side yard is occupied and no part of any loading space shall be permitted closer than fifty (50) feet to any residential district nor closer than five (5) feet from any street or alley.

3. Screening: In addition to the setback requirements specified above, screening shall be provided on each side of off-street loading space that abuts any residential district. Screening shall comply with the requirements of Section 28.18 of this resolution.
4. Access: All required off-street loading spaces except have access from a public street or alley in such a manner that any vehicle leaving the premises shall be traveling in a forward motion.
5. Paving: All required off-street loading spaces except for uses within any district if said loading spaces are at least two hundred (200) feet from any residential district, together with driveways, aisles and other circulation areas, shall be surfaced with an asphaltic or portland cement binder pavement in order to provide a durable or dust free surface. Where paving is not required, proper dust control measures shall be undertaken and maintained.
6. Drainage: All loading spaces, together with driveways, aisles and other circulation areas, shall be designed to prevent the excess drainage of surface water onto adjacent properties, walkways or onto the public streets. Arrangements shall be made to insure acceptable diversion to an adequate storm water drainage system.
7. Lighting: Any lights used to illuminate a loading area shall be so arranged as to reflect the light away from adjoining property.

## **ARTICLE 31**

### **SIGNS**

#### **31.0 General**

The purpose of this Article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more visually attractive economic and business climate, enhance and protect the physical appearance of the community and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising clutter, distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development by permitting signs which are compatible with their surroundings.

#### **31.1 Governmental Signs Excluded**

For the purpose of this Resolution "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function or required by any law, ordinance or governmental regulation.

#### **31.2 General Requirements for All Signs and District**

The regulations contained in this section shall apply to all signs and all use districts.

1. Any illuminated sign or lighting device shall employ only light emitting a light of constant intensity and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be

- directed or beamed upon a public thoroughfare, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance;
2. No sign shall employ any parts or elements which revolve, rotate, wheel, spin or otherwise make use of motion to attract attention, subsections (1) and (2) of this section shall not apply to any sign performing a public service function indicating time, temperature, stock market quotations or similar services;
  3. All wiring, fittings and materials used in the construction, connection and operation of electrically illuminate signs shall be in accordance with the provisions of the local electrical code in effect, if any;
  4. No projecting sign shall be erected or maintained from the front or face of a building a distance of more than two (2) feet, including those projecting from the face of any theater, hotel or motel marquee;
  5. No sign shall be placed on the roof of any building, except those signs whose supporting structure is screened so the sign appears to be a continuation of the face of the building;
  6. No portable or temporary sign shall be placed on the front or face of a building or on any premises, except as provided in section 31.6 herein;
  7. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving devices. Such devices, as well as, strings of lights, shall not be used for the purpose of advertising or attracting attention when not part of a sign;
  8. No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than twenty (20%) percent of the window surface;
  9. No sign of any classification shall be installed, erected or attached in any form, shape or manner to a fire escape;
  10. All signs hung and erected shall be plainly marked with the name and telephone number of the person, firm or corporation responsible for maintaining the sign;
  11. Should any sign be or become unsafe or be in danger of falling, the owner thereof or the person maintaining the same shall, upon receipt of written notice from the Zoning Inspector, proceed at once to put such sign in a safe and secure condition or remove the sign;
  12. No sign shall be placed in any public right-of-way except publicly owned signs, such as traffic control signs and directional signs. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter, shall be permitted on any property;
  13. All signs shall be so designed and supported as to carry the weight of the sign and shall comply with the local building code in effect;
  14. All signs shall be secured in such a manner as to prevent significant movement due to wind;

15. No advertising signs shall be attached to or supported by a tree, utility pole, trash receptacle, bench, vending machine or public shelter;
16. No sign shall contain words, images or graphic illustration of an obscene or indecent nature;
17. No sign shall be attached in such a manner that it may interfere with any required ventilation openings;
18. No sign shall be located on a vacant lot, except for the purpose of advertising the lot for sale or lease or for such purpose as the notification of present danger or the prohibition of trespassing;
19. No sign shall be located nearer than eight (8) feet vertically or four (4) feet horizontally from any overhead electrical wires, conductors or guy wires;
20. No vehicle or trailer may be parked on a business premises or a lot for the purpose of advertising a business, product, service, event, object, location, organization or the like.

### **31.3 Permit Required**

1. No person shall locate or maintain any sign or cause a sign to be located or maintained unless all provisions of this Article have been met. To assure compliance with these regulations, a sign permit issued pursuant to this Resolution shall be required for each sign unless specifically exempted in this Article.
2. A sign initially approved for which a permit has been issued shall not be modified, altered or replaced, nor shall design elements of any building or lot upon which such sign is maintained be modified, altered or replaced if any such design element constituted a basis for approval of such sign unless a new or amended permit is obtained consistent with these regulations.

### **31.4 Signs Permitted in All Districts Not Requiring a Permit**

1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, shall not exceed twenty (20) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet;
2. Professional name plates not to exceed four (4) square feet in area;
3. Signs denoting the name and address of the occupants of the premises, not to exceed two (2) square feet in area.

### **31.5 Signs Permitted in Commercial and Manufacturing Districts Requiring a Permit**

The regulations set forth in this section shall apply to signs in all commercial and manufacturing districts and such signs shall require a permit.

1. In a commercial or manufacturing district, each business shall be permitted one flat or wall on premises sign. Projection of wall signs shall not exceed two (2) feet measured from the face of the main building. The area of all permanent on premises signs for any single business enterprise may be an area equivalent to one and one-half (1 ½) square feet of sign area for each lineal foot of building width or part of a building occupied by such enterprise, but shall not exceed a maximum area of one hundred (100) square feet.
2. In a commercial or manufacturing district, two off premises signs with a total area not exceeding one hundred thirty (130) square feet may be permitted at a single location. No single off premises sign shall exceed one hundred thirty (130) square feet, nor shall off premises signs visible to approaching traffic have a minimum spacing of less than two hundred (200) feet. Off premises signs shall conform to all applicable yard and height regulations for the appropriate zoning district, except that such signs intended to be viewed from an elevated highway shall be not more than twenty (20) feet above the level of the roadway at its nearest point. Off premises wall signs shall have all structural and supporting member concealed from view.

### **31.6 Temporary Signs**

Temporary signs not exceeding fifty (50) square feet in area, announcing special public or institutional events the erection of a building, the architect, the builders or contractors may be erected for a period of sixty (60) days plus the construction period. Such temporary signs shall conform to the general requirements listed in section 31.2, the setback requirements listed in sections 31.12 to 31.16 and in addition, such other standards deemed necessary to accomplish the intent of this Article as stated in section 31.

### **31.7 Free Standing Signs**

Free standing on premises signs not over thirty (30) feet in height, having a maximum total sign area of one hundred (100) square feet per display area and located not closer than ten (10) feet to any street right-of-way line and not closer than thirty (30) feet to any adjoining lot line may be erected to serve a group of business establishments. There shall be only one free standing sign for each building, regardless of the number of businesses conducted in said building.

### **31.8 Wall Signs Pertaining to Non-Conforming Uses**

On premises wall signs pertaining to a non-conforming use shall be permitted on the same premises of such use, provided the area of such sign does not exceed twelve (12) square feet.

### **31.9 Political Signs**

No political sign shall be posed in any place or in any manner that is destructive to public property upon posting or removal. No political sign shall be posted in a public right-of-way nor shall any sign be posted on a utility pole. No political sign shall be posted more than sixty (60) days before an election. All candidates for public office, their campaign committees or other persons responsible for the posting on public property of campaign material shall remove such material within two (2) weeks following election day.

### **31.10 Portable Signs**

Any sign not permanently affixed to the ground or to a building, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, produce, service or entertainment, when the vehicle is to be parked as to attract the attention of the motoring pedestrian traffic.

### **31.11 Portable Sign Requirements and Guidelines**

Portable signs must conform to the following requirements and guidelines:

- a. A portable sign shall not be located or parked within ten (10) feet of any street, alley or other public right-of-way line. Nor shall any portable sign be located or parked within the designated sight triangle for any street or driveway intersection.
- b. Electrical plugs, extension cords and other supplementary electrical illumination materials shall be weather proofed, securely attached and conspicuously located in order not be susceptible to possible health endangering incidents. Inspection and approval by a qualified electrician is mandated.
- c. Appearance of portable signs shall conform with all other regulations set forth herein.
- d. No portable sign shall be operable after the said time of ninety (90) days is expended. In addition, no permit shall be granted if applicant has held in operation a portable sign of aforesaid time period twice within the same year.
- e. The maximum allowable size of a portable sign shall be thirty two (32) square feet.

### **31.12 Sign Setback Requirements**

Except as modified in sections 31.12 to 31.16, on premises signs where permitted shall be set back from the established right-of-way line of any thoroughfare at least ten (10) feet. No off premises sign shall be erected in front of the required setback line for the appropriate zoning district.

**31.13 Increased Setback**

For every square foot by which any on premises sign exceeds fifty (50) square feet, the setback shall be increased on one-half (1/2) foot, but need not exceed one hundred (100) feet.

**31.14 Setbacks for Off Premises Signs**

If a setback line is not established for the appropriate zoning district, off premises signs shall be set back a minimum of twenty (20) feet from the right-of-way line.

**31.15 Setbacks for Public and Quasi-Public Signs**

Real estate signs and bulletin boards for a church, school or any other public, religious or educational institution may be erected not less than ten (10) feet from the established right-of-way line of any street or highway provided such sign or bulletin board does not obstruct traffic visibility at street or highway intersections.

**31.16 Sight Triangle**

At the intersection of any two streets or the intersection of any private driveway and street there shall be an optical triangle with respective dimensions where within which no sign shall be located or parked. The dimensions of such sight triangle are as follows:

- a. Street to Street Intersection:  
All signs shall not be located within a triangle formed by lines drawn between points of said front line and side lot lines of a lot twenty five (25) feet from their intersection, providing the normal sight within a vertical height band of two and one-half (2 ½) to six (6) feet above curb level is not obstructed except for poles, posts or tree trunks.
- b. Driveway to Street Intersection:  
All signs shall not be located within a triangle formed by lines drawn between points on said front lot line and driveway edges of a lot fifteen (15) feet from their intersection, providing the normal sight within a vertical band of two and one-half (2 ½) to six (6) feet above curb level is not obstructed except for poles, posts or tree trunks.

**31.17 Special Yard Provisions**



On premises signs where permitted shall be erected or placed in conformity with the side and rear yard requirements of the district in which located, except that in any residential district, on premises signs shall not be erected or placed within twelve (12) feet of a side or rear lot line. If the requirements for a single side yard in the appropriate zoning district is more than twelve (12) feet, the latter shall apply.

### **31.18 Limitation**

For the purpose of this Article, outdoor advertising off premises signs shall be classified as a business use and be permitted in all districts zoned for manufacturing or business or lands used for agricultural purposes. In addition, regulation of signs along interstate and primary highways shall conform to the requirements of Ohio Revised Code Chapter 5516 and the regulations adopted pursuant thereto.

### **31.19 Non-Conforming Signs and Structures**

Advertising signs and structures in existence prior to the effective date of this Resolution which violate or are otherwise not in conformance with the provisions of this Article shall be deemed non-conforming. All such legal non-conforming signs and structures shall be maintained in accordance with this Article. The burden of establishing the legal non-conforming status of any advertising sign or structure shall be upon the owner of the sign or structure.

### **31.20 Loss of Legal Non-Conforming Status**

A legal non-conforming sign shall immediately lose its legal non-conforming status and therefore must be brought into conformance with this Article or be removed, if the sign is altered in copy (except for changeable copy signs) or structure; or if it is enlarged, relocated or replaced; or if it is part of an establishment which discontinues operation for ninety (90) consecutive days; or if it is structurally damaged to an extent greater than one-half (1/2) of its estimated replacement value. Similarly, any legal non-conforming advertising structure so damaged must be brought into compliance or be removed.

### **31.21 Violations**

In case any sign shall be installed, erected, constructed or maintained in violation of any of the terms of this Resolution, the Zoning Inspector shall notify in writing the owner or lessees thereof to alter such sign so as to comply with this Resolution. Failure to comply with any of the provisions of this Article shall be deemed a violation and shall be punishable under section 5.17 of this Resolution. Political signs posted in violation of section 31.9 of this Resolution are subject to removal by the Zoning

Inspector five (5) days after written notice of violation of section 31.9 has been given.

**31.22 Aesthetic Criteria**

In all districts, design and representation shall be inclined to unite the foreboding characteristics of the district. Aesthetic criteria shall be as follows:

1. Color:
  - a. Colors used shall match the background or trim color of the principal building.
  - b. If more than one sign is permitted, colors on the signs shall coordinate with each other to present a unified image.
  
2. Materials:

Materials used shall be designed so as to be compatible with the architecture of the building and character of the district.
  
3. Information:

Information provided on the sign shall clearly indicate the name of the business and a simple product idea.
  
4. Landscaping:
  - a. Light sources shall be concealed from view by the incorporation of shrubs or other type of sightful ground cover.
  - b. A sightful land cover shall girdle the diameter of a freestanding post.