

# **Delaware County Zoning Resolution**

Marlboro Township

Radnor Township

Thompson Township

Amended April 4, 2013 (Resolution No. 13-353)

Effective May 4, 2013

Prepared by the Delaware County Zoning Commission  
With assistance by the Delaware County Regional Planning Commission  
Accepted by the Delaware County Board of Commissioners



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## **ARTICLE 1 – Title**

### **Section 1.01**

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

## **ARTICLE 2 – Purpose**

### **Section 2.01**

This resolution is enacted for the purpose of promoting public health, safety, comfort and general welfare; to conserve and protect the natural resources and scenic areas; to secure the most appropriate use of land, to facilitate adequate but economical provision for public improvements, all in accordance with existing County or Township plans or plans which may be later adopted and as permitted by the provisions of Chapter 303, Ohio Revised Code.

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

### **Section 3.01**

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

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## **ARTICLE 4 – Definitions**

### **Section 4.01**

All words used in this Zoning Resolution shall, unless otherwise defined herein, be given the precise meaning or significance as that which is normally attributed to such word or as the same is defined in the Ohio Revised Code or if not defined in this Zoning Resolution or the Ohio Revised Code, the current Webster's Dictionary. The words shall be liberally construed to achieve the salutary effect or objectives of this resolution.

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

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

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

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

**Agriculture:** defined in the Ohio Revised Code 303.01.

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

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

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

**Child Day Care Homes - Type A:** a permanent residence of the administrator in which private or publicly-funded child day care, defined in this Section, is provided for seven (7) to twelve (12) children at one time, or a

permanent residence of the provider in which child day care is provided for four (4) to twelve (12) children at one time if four (4) or more are under two (2) years of age.

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

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

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

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

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

**Floodplain:** floodplains are any area susceptible to being inundated by water from any source that has a one (1) percent or greater chance of being equaled or exceeded in any given year. The determination of the hundred-year floodplain elevations are to be determined from federal, state and other acceptable sources, when available, such as the most recent Flood Insurance Study and the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency of the Federal Insurance Administration, the United States Army Corps of Engineers Floodplain Information Reports, United States Geological Survey Flood-Prone Quadrangles, etc. Where such information is not available, then this elevation is determined by professional engineers or others of demonstrated qualifications who shall certify that the technical methods used are in accordance with currently accepted hydrologic and hydraulic engineering techniques. The Floodplain is also referred to as the 100-Year Floodplain or the Base Flood.

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

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

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

**Group Home:** a facility wherein a.) the operator is not legally related to the individuals supervised and is licensed by the State, and wherein b.) one (1) or more individual is provided with room, board, specialized and distinctive care and supervision in a family environment, or where five (5) or more individuals reside and are

provided with room, board, ordinary care and supervision in a family environment. The term “group home” shall include, without limitation by reason of enumeration, receiving homes, and work or wage homes.

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

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

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

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

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

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

- A.) The structure is affixed to a permanent foundation, which means permanent masonry, concrete or locally-approved footing or foundation, and is connected to appropriate facilities;
- B.) The structure, excluding any addition has a width of at least twenty-two (22) feet at one point, a length of at least twenty-two (22) feet at one point, and a total living area, excluding garages, porches or attachments, of at least nine hundred (900) square feet;
- C.) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six (6)-inch minimum eave overhang, including appropriate guttering;
- D.) The structure was manufactured after January 1, 1995;
- E.) The structure is not located in a manufactured home park as defined by section 4781.01 of the Revised Code.

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

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

**Non-Conforming Use:** a specific use that does not conform to the current Regulations for the Zoning District in which it is located. Can be further defined as a Legal Non-Conforming Use if the use of a building and/or land antedates the adoption of these Regulations or subsequent amendment and meets the standards of Article 27.

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

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

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

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

**Public Sanitary Sewer:** a sewer that connects into a treatment system that is owned and operated by a county or municipality; a system where waste is treated at a county or city owned facility.

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

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

**Sign:** any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. This definition includes back-lighted, translucent panels or strip lighting which serves to identify and attract attention rather than illuminate space for human activity.

**Single Family Dwelling:** detached, individual dwelling units, which accommodate one family related by blood or marriage or up to five (5) unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform to the Building Code of Delaware County, be classified as an Industrialized Unit under the Ohio Basic Building Code, or conform to the Ohio 122nd Legislative Assembly S.B. 142 as codified in Ohio Revised Code 3781.06 definition of permanently sited manufactured housing as defined herein.

**Structure:** anything which is constructed or erected and the use of which requires permanent location on ground or attachment to something having permanent location on ground (this includes but is not limited to dwellings,

accessory buildings, sheds, swimming pools, additions, decks, above ground heating fuel containers, signs) not, however, including wheels; an edifice or building of any kind; any production or piece of work, artificially built up or composed of parts and joined together in some definite manner (this includes but is not limited to portable above-ground swimming pools of a temporary nature, children's play sets).

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

- A.) The free-standing or attached structure is proposed to be constructed on or after the effective date of the Ohio Revised Code amendment to Section 303.211 (i.e. 10/31/96).
- B.) The free-standing or attached structure is proposed to be owned or principally used by a public utility (or functionally equivalent provider) engaged in the provision of telecommunication services.
- C.) The free-standing or attached structure is proposed to be located in an unincorporated area of the County, in an area zoned for residential use. Areas zoned for residential use shall include all land located within the following Zoning Districts: Farm Residence District (FR-1) and Planned Residence District (PRD).
- D.) The height of the proposed structure, whether attached or free-standing, is greater than either the maximum allowable height within the zoning district of residential structures or of such a free-standing structure.
- E.) The free-standing or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

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

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

### **Section 5.01 – Zoning District**

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

FR-1	Farm Residence District
R-2	Low Density Residential District
R-3	Medium Density Residential District
PRD	Planned Residence District
C-1	Neighborhood Office District
C-2	Neighborhood Commercial District
PC	Planned Commercial and Office District
I	Industrial District
PI	Planned Industrial District
A-1	Agricultural Preservation District
INS	Institutional District
PINS	Planned Institutional District
REC	Recreational District
PREC	Planned Recreational District
AE	Adult Entertainment

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

### **Section 5.02 – District Boundaries**

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

### **Section 5.03 – New Territory**

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

### **Section 5.04 – Rules for Interpretation of Boundaries**

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

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

- B.) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C.) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.
- D.) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
- E.) Where the boundary of a district follows a stream, or other body of water, the center line of the body of water shall be deemed to be the boundary of the zoning district unless otherwise indicated.
- F.) Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning of any territory, said metes and bounds description shall control over all of the foregoing.
- G.) Questions concerning the exact location of district boundary lines shall be determined by the Zoning Inspector, subject to the owners' right of appeal to the Board of Zoning Appeals as provided in this Resolution.

**Section 5.05 – Zoning Map**

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



## **ARTICLE 6 – Application of Resolution**

### **Section 6.01 – Conformance Required**

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

### **Section 6.02 – Agriculture**

In accordance with Ohio Revised Code 303.21, nothing contained in this Resolution shall prohibit use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no zoning certificate shall be required for any such use, building or structure. Information may be required to be provided to the Zoning Inspector showing that a proposed use qualifies as an agricultural exemption.

### **Section 6.03 – Limitations on Powers - Public Utilities, Railroads, Alcoholic Beverage Sales, Oil or Gas Drilling, and Telecommunications Towers,**

- A.) Nothing contained in this Resolution shall affect the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building or structure of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business. The term “public utility” does not include a person that owns or operates a solid waste facility or a solid waste transfer facility, other than a publicly owned solid waste facility or a publicly owned solid waste transfer facility, that has been issued a permit under Chapter 3734 of the Revised Code or a construction and demolition debris facility that has been issued a permit under Chapter 3714 of the Revised Code. The term “operation of its business” shall not be deemed to include general offices or other uses not related directly to provision of utility services.
- B.) Sections [303.01](#) to [303.25](#) of the Revised Code confer power on a Board of County Commissioners or Board of Zoning Appeals with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901, 4903, 4905, 4909, 4921, and 4923 of the Revised Code. However, this division confers no power on a Board of County Commissioners or Board of Zoning Appeals with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants.
- C.) Sections [303.01](#) to [303.25](#) of the Revised Code confer no power on any county Zoning Commission, Board of County Commissioners, or Board of Zoning Appeals to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.
- D.) Exception: all applicable regulations contained within this Resolution shall apply where authority is granted by the Ohio Revised Code.

**Section 6.04 – Telecommunications Towers**

Ohio Revised Code 303.211 allows regulation of Telecommunication Towers under certain conditions. The following is a summary of the authority as defined in ORC 303.211 and does not confer additional authority to the county commissioners or Zoning Commission.

- A.) “Telecommunications Tower” means any free-standing structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:
  - 1.) The structure is proposed to be constructed on or after October 31, 1996.
  - 2.) The structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services.
  - 3.) The structure is proposed to be located in an unincorporated area of the County, in an area zoned for residential use.
  - 4.) The height of the proposed structure, whether attached or free-standing, is greater than either the maximum allowable height within the zoning district of residential structures or of such a free-standing structure.
  - 5.) The structure is proposed to include radio frequency transmission or reception equipment.
- B.) The Revised Code confers no power with respect to the maintenance or use of such a tower or any change or alteration that would not substantially increase the tower’s height.
- C.) Any person who plans to construct a telecommunications tower shall provide both of the following by certified mail:
  - 1.) Written notice to the Board of Township Trustees of the Township in which the tower is proposed to be constructed and to each owner of property, as shown on the county auditor’s current tax list, whose land is contiguous to or directly across a street or roadway from the property on which the tower is proposed to be constructed, stating all of the following:
    - a.) The person’s intent to construct the tower;
    - b.) A description of the property sufficient to identify the proposed location;
    - c.) That, no later than fifteen days after the date of mailing of the notice, the Board of Township Trustees or any property owner may give written notice to the Board of County Commissioners requesting that zoning authority apply to the proposed location of the tower.

If any notice is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery of the notice does not invalidate the notice.
  - 2.) Written notice to the Board of County Commissioners of the information above, as well as verification that notice to the trustees and adjacent property owners.
- D.) If the County Commissioners receive notice from the Township Trustees or a property owner within the time specified or if a member of the Board of County Commissioners makes an objection to the proposed location of the telecommunications tower within fifteen days after the date of mailing of the notice sent, the County Commissioners shall send the person proposing to construct the tower written notice that the tower is subject to the power conferred by and in accordance with this Section. The notice shall be sent

no later than five days after the earlier of the date the board first receives such a notice from the Township Trustees or a property owner or the date upon which a member of the County Commissioners makes an objection. Upon the date of mailing of the notice to the person, the zoning regulations shall apply to the tower. If no notice is received and there are no objections, zoning shall not apply to the proposed tower.

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

1.) Conditional Use - Application and Requirements – An application for conditional use shall be filed with the Board of Zoning Appeals. The application shall include:

- a.) A locator map which shall contain the following:
  - i.) The location of all the applicant's existing facilities within (1) mile of the proposed tower.
  - ii.) The general location of planned future facilities within (1) mile of the proposed tower.
  - iii.) For each location of the existing facilities within (1) mile of the proposed tower, list the type and size, the type of equipment, the space available for additional equipment a site plan depicting any parcels on which any existing or proposed tower is/will be.

b.) A site plan:

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

c.) A written certification from a Professional Engineer stipulating:

- i.) that the tower's design is structurally sound and in compliance with all codes;
- ii.) that the equipment on the tower and at the site complies with all current FCC regulations;
- iii.) that the tower will accommodate co-location of additional antennas for future use, with a statement as to the number of antennas capable of being accommodated or an explanation as to why the tower will not be constructed to accommodate co-location; and
- iv.) height and fall zone drawing.

2.) Conditional Use Procedure by Board of Zoning appeals on Receipt of Application - Consistent with the zoning code, the BZA shall provide notice of, conduct a public hearing and render a decision on the conditional use requested in the application.

3.) General Requirements for all Telecommunications Towers in Residential Zones

- i.) The applicant or tower provider shall demonstrate that the proposed tower location in a residential area is essential to service the applicant's service area and that there are no alternative sites in commercial, industrial or exclusively agricultural areas. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall

- structures” shall include smoke stacks, water towers, electric transmission towers, existing antenna support structures or other telecommunications towers, utility buildings and structures over 48 feet in height.
- ii.) Maintenance: Towers and related structures must be maintained in good working order.
  - iii.) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower’s use is discontinued.
- 4.) Development Standards for all Telecommunications Towers in Residential Districts.
- a.) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.
  - b.) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 100 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
    - i.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 115 feet;
    - ii.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 130 feet; and
    - iii.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 145 feet.
  - c.) Clear Fall Zone: Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.
    - i.) The tower base shall not be placed closer than the height of the tower plus forty feet from a unit on a lot contiguous to or directly across the street from the tower’s lot.
    - ii.) A tower base shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.
    - iii.) The tower base shall be located no closer to a street right-of-way than 50 feet.
  - d.) Ancillary Requirements:
    - i.) Reasonable and safe access and circulation shall be provided to the tower.
    - ii.) Security fencing shall be provided to prevent uncontrolled access to the tower site.
    - iii.) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment.
    - iv.) The tower shall be of a monopole design.
    - v.) No advertising is permitted anywhere on the tower.
    - vi.) Where located on property not owned by the operator, the applicant shall present documentation that the owner of the property has approved the application
    - vii.) The applicant shall submit a signed statement indicating that he/she agrees to allow for the potential co-location of other antenna facilities to the extent possible.

- viii.) An antenna may be attached to a nonresidential building permitted in the district as long as it meets the other requirements within this code.
  - ix.) Any structures for equipment shelter shall be shown on the site plan and be architecturally compatible with the surrounding area.
- F.) Towers on Township or County Property - A tower may be sited on county-owned or township-owned property not zoned for residential use with the prior consent of the County Commissioners or Township Trustees, respectively, obtained through resolution.
- G.) After obtaining a conditional use permit, a tower may be located on county-owned or township-owned property zoned for residential use with the prior consent of the County Commissioners or Township Trustees, respectively, obtained through resolution.

**Section 6.05 – Buildings Under Construction and New Construction**

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

**Section 6.06 – Issued Zoning Certificates**

Any new proposed construction for which a zoning certificate is issued shall have been started within six (6) months of issuance of said permit and the ground story framework, including structural parts of a second floor shall have been completed within one (1) year after the issuance of the zoning certificate; provided, however, that any project or building originally contemplated to be constructed in phases or for a period longer than one (1) year may be completed in phases or during such extended time if in accordance with a timetable placed on file with the County Zoning Inspector with the original request for the certificate.

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

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

### **Section 7.01 – Purpose**

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

### **Section 7.02 – Application**

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

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

### **Section 7.03 – Permitted Uses**

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

- A.) Single-family dwellings (limited to one single-family dwelling per parcel, tract or lot), inclusive of dwellings which are Permanently-Sited Manufactured Homes as defined in Article 4).
- B.) Accessory buildings and accessory uses including private garages. Accessory buildings are permitted to be constructed prior to the primary structure being constructed.
- C.) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.
- D.) Agriculture, as defined in Ohio Revised Code 303.21, subject to the following restrictions:
  - 1.) Roadside sales of agricultural products shall be permitted in this district provided however, that at least fifty (50%) percent of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Adequate area shall exist adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares. No permanent buildings or structures shall be placed without permission of the Board of Zoning Appeals and issuance of conditional use permit.
  - 2.) Facilities for the storage, sorting, preliminary processing or sale of agricultural products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor.
  - 3.) Temporary mobile homes or dwelling for migrant worker(s). Provisions shall be made for sanitary waste disposal, solid waste and water supply, to the satisfaction of the authority having jurisdiction over such facilities.
  - 4.) Information may be required to be provided to the Zoning Inspector showing that a proposed use qualifies as an agricultural exemption.

- E.) Mobile homes and recreational vehicles for temporary residential use and temporary buildings of a non-residential character may be used or occupied only during residential construction on the premises for a maximum of eighteen (18) months from the date of issuance of the zoning permit. Said temporary structure shall be removed no later than thirty (30) days after expiration of said eighteen (18) month period or no later than thirty (30) days after issuance of occupancy permit, whichever comes first. Provisions shall be made for sanitary waste disposal, solid waste and water supply, to the satisfaction of the authority having jurisdiction over such facilities..
  
- F.) Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.
  
- G.) Limited Home Occupations of the building occupant (& limited to only a building occupant) carried on solely within the confines of the dwelling unit and provided:
  - 1.) Appearance of structure shall not be altered or the occupation within the residence shall not be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials of construction, lighting or signs. The home occupation shall be clearly incidental and secondary to the use of the unit for dwelling purposes.
  - 2.) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
  - 3.) There shall be no outside storage of any kind related to the home occupation.
  - 4.) Deliveries, other than those associated with the residential use of the property, are prohibited.
  - 5.) Traffic, other than that associated with the residential use of the property, is prohibited.
  - 6.) Commercial vehicles limited to one (1); being a two axle, pickup, van, panel or light truck and which has operating characteristics similar to those of a passenger car shall be allowed per one (1) dwelling unit.
  - 7.) Not to exceed 20% floor area of the principal dwelling.
  - 8.) No employees other than the building occupant(s).
  
- H.) Adult Family Homes and Adult Residential Facilities (Type A) as defined in Article 4.
  
- I.) Class B Child Day Care as provided in ORC 5104.054.
  
- J.) Board of Developmental Disabilities Residential Facilities for one (1) to eight (8) persons.
  
- K.) Religious Land Uses – a Church, place of worship, place of religious assembly, religious institution, or parsonage provided:
  - 1.) Parking, landscaping, lighting and signage conform to standards within this resolution.



- 2.) There is adequate area for water supply and wastewater disposal if located on site, or the religious land use shall connect to centralized water and centralized sanitary sewer.
  - 3.) All aspects of public health, safety, and welfare are provided for (meets building code, life safety code, electrical code, etc.)
  - 4.) All structures shall conform to the area, setbacks, and frontage standards provided for in Section 7.06.
- L.) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment.

**Section 7.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year of approval by the Board of Zoning Appeals or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with condition imposed.

No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Expanded Home Occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
- 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
  - 2.) Only one sign, not larger than six (6) square feet per side and four (4) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
  - 3.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or one hundred (100%) percent of the combined floor space in any detached garage or accessory building.
  - 4.) No more than two (2) non-resident employees shall work on said premises.
  - 5.) Services may be rendered on the premises or elsewhere.
  - 6.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given

for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)

- 7.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other electronic device used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
  - 8.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.
- B.) Private landing fields for aircraft for use by the owner of the property and guests provided that no commercial activities take place on said premises and the site is in compliance with all F.A.A. regulations.
  - C.) Child Care Facilities provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.
  - D.) Public playgrounds, play fields, and picnic areas with adequate off street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
  - E.) Group homes or residential care facilities in which not more than eight (8) persons are provided with room, board, specialized care, rehabilitative services and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions shall be imposed by the Board of Zoning Appeals.
    - 1.) No exterior alterations of the structure shall be made which depart from the residential character of building. All new structures shall be compatible in residential design with the surrounding neighborhood.
    - 2.) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
    - 3.) No Group Home should be located within a one (1) mile radius of another such facility in a given neighborhood.
  - F.) Permanent structures or improvements used for roadside sale of agricultural products produced on the premises.

- G.) Exploration, drilling, production and storage of oil and gas produced on site. Minimum 250' from nearest property line. Must meet all State, local and Federal Agency requirements.
- H.) Conversion of existing residential structures to permit occupancy by more than one family.
- I.) One permanent mobile home to be occupied by full time farm labor only and provided that said mobile home is installed in compliance with rules and regulations established by the Delaware General Health District. Not more than one mobile home shall be located on any farm within Townships under County Zoning.
- J.) Telecommunications Towers subject and pursuant to Section 6.04.

**Section 7.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this chapter of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, and/or unlicensed motor vehicles, watercraft and recreational vehicles, for a period exceeding seven (7) days is prohibited if visible from any adjoining property or roadway. Inoperable, unlicensed, or unused vehicles may be permitted if entirely screened (from view) from adjoining properties or roadway by means of a building or fencing (min. height of 6', max. height of 8'). If not enclosed within a building, a maximum of three (3) inoperable, unused or unlicensed vehicles may be kept (if screened with fence) on any parcel of land in this district. For the purposes of these regulations, storage of inoperable, and/or unlicensed vehicles shall not be permitted between the principal structure and a street unless stored within a permitted accessory structure.
- C.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than thirty (30) days in a calendar year.
- D.) Except as conditionally permitted in Section 7.04 herein no mobile home shall be placed or occupied in this district.
- E.) No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which use was other than that of a storage building, shall be used as a storage building.
- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.
- G.) No trailer of any type, no boats, no motor homes, buses, and no equipment of any type shall be parked in front of the front building setback line on any parcel within this district for more than seven days. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- H.) Subject to the procedures set forth in Ohio Revised Code 303.211, no telecommunications tower, aerial, antenna or tower shall be permitted in this district. Exception: an aerial or antenna for the sole purpose of residential use, considering the maximum height of structure does not exceed 75' and shall not be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.

**Section 7.06 – Development Standards**

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

- A.) Lot Area - No parcel of land in this district shall be used for residential purposes which has an area of less than 85,000 square feet (1.951 acres). All other uses in this district shall have such lot area prescribed by the article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.
- B.) Lot Frontage - Except as hereinafter set forth all lots or parcels within this zoning district shall have the following minimum lot frontage on a road approved by Delaware County.

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

Lots or parcels having less than the above listed minimum frontages on the right of way line of the adjoining approved road or street must have a lot width which is equal to that minimum lot frontage requirement. This must be maintained fifty (50) feet forward of the building line. In no case shall the parcel or lot frontage at the right-of-way line be less than sixty (60) feet in width and the width of sixty (60) feet shall not be decreased at any point forward of the building line of the principal residence located on the premises.

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

- C.) Building Height Limits - No building in this district shall exceed thirty-five (35) feet in height measured from the average finish grade elevation at the front foundation wall to the highest point of the roof. Church spires, domes, flag poles and elevator shafts are exempted from any height regulation and may be erected to any safe height. No windmills, aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- D.) Building Dimensions (Floor Space Requirements) - Each single family dwelling hereafter erected in this district shall have a finished habitable area of not less than nine hundred and fifty (950) square feet. All such living areas shall be exclusive of basements, porches or garages.
- E.) Building Set Back - No building or use shall be located closer to the line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- F.) Side Yard Set Back - Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing under Sec. 7.04 herein, no building or structure shall be located closer than twenty-five (25) feet to any side lot line.

- G.) Rear Yard Requirement - No principal dwelling shall be located closer than eighty (80) feet to the rear line of any lot and no accessory building or structure shall be located closer than fifteen (15) feet to said rear lot line.
- H.) Maximum Lot Coverage - On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- I.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 25 of this Resolution.
- J.) Signs - Except as provided under the provisions of this article for home occupations or as controlled by Article 26 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

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

### **Section 8.01 – Purpose**

There is created in Townships under County Zoning a Low Density Residential District intended to provide areas for single family suburban type residential development at low density on land which is generally vacant at the time of development. These areas are intended to provide space for new residential development on lands which are served with public water and public sanitary sewer.

Zero discharge, land application sewage systems are not permitted within this district.

### **Section 8.02 – Application**

All lands under County Zoning which are to be used for single family lots of less than one acre but at least 20,000 square feet in area shall be controlled by the provisions of this article of the Zoning Resolution unless the owner thereof elects to apply the provision Article 10 of this resolution. New application of the R-2 designation requires a rezoning, which is a legislative act subject to referendum.

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

### **Section 8.03 – Permitted Uses**

Within any Low Density Residence District (R-2) the following uses, developed in accordance with all other provisions of this resolution, shall be permitted:

- A.) Single family dwellings. (Limited to one single dwelling per parcel, tract or lot).
- B.) Accessory buildings and accessory uses including private garages.
- C.) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.
- D.) Temporary structures such as trailer and construction office buildings of a non-residential character may be used incident to construction work within the project. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit or no later than thirty (30) days after project completion.
- E.) Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.

### **Section 8.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or

structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

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

- 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
- 2.) One sign, not larger than six (6) square feet per side and four (4) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
- 3.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or one hundred (100%) percent of the combined floor space in any detached garage or accessory building not to exceed 1000 square feet.
- 4.) No more than one (1) non-resident employee shall work on said premises.
- 5.) Services may be rendered on the premises or elsewhere.
- 6.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)
- 7.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other electronic device used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- 8.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.

B.) Conversion of existing residential structures to permit occupancy by more than one family.



- C.) Child Care Facilities provided that the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.
- D.) Churches or other places of worship provided it occupies a lot of not less than five (5) acres plus one acre for each 100 permanent seats over 300 in the main assembly area.
- E.) Playgrounds, Play fields, and Picnic Areas with adequate off street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
- F.) Group homes or residential care facilities in which not more than eight (8) persons are provided with room, board, specialized care, rehabilitative services and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions shall be imposed by the Board of Zoning Appeals.
  - 1.) No exterior alterations of the structure shall be made which depart from the residential character of building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
  - 3.) No Group Home should be located within a one (1) mile radius of another such facility in a given neighborhood.
- G.) Permanent structures or improvements used for roadside sale of agricultural products produced on the premises.
- H.) Parking lots or storage yards for boats and recreational vehicles provided such area is owned or controlled by neighborhood or community associations and use is limited to residents of the subdivision served.

**Section 8.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this chapter of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, watercraft and recreational vehicles, for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any parcel within this district for a period exceeding twenty-four (24) hours. If a dwelling is located on said lot the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.

- D.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than thirty (30) days in a calendar year.
- E.) Except as specifically permitted in Sec. 8.03(D.) herein no mobile home shall be placed or occupied in this district.
- F.) Subject to the procedures set forth in Ohio Revised Code 303.211, no telecommunications tower, aerial, antenna or tower shall be permitted in this district. Exception: an aerial or antenna for the sole purpose of residential use, considering the maximum height of structure does not exceed 75' and shall not be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- G.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 8.06 – Development Standards**

All lands and uses within the Low Density Residence District (R-2) shall be developed in strict compliance with the standards hereinafter established:

- A.) Lot Area - Residential lots which are served with an approved central water and sewer systems serving all lots may be developed for such use if they have a lot area of not less than 20,000 square feet. All other parcels, not so serviced, shall contain the lot areas prescribed by the provisions of Article 7 of this Zoning Resolution.
- B.) Lot Frontage - All lots or parcels developed within this district having an area of less than one (1) acre shall have a minimum lot frontage of one hundred (100) feet on an adjoining approved street or road. All other lots or parcels shall have the minimum lot width prescribed in Article 7.06 of this resolution and all measurements of such width shall be in conformity with that article.
- C.) Building Height Limits - No buildings in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Church spires, domes and flag poles are exempted from any height regulation and may be erected to any safe height. No windmills, aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract.
- D.) Building Dimensions (Floor Space Requirements) - Each single family dwelling hereafter erected in this district shall have a living area of not less than nine hundred and fifty (950) square feet. All such living areas shall be exclusive of basements, porches or garages.
- E.) Building Set Back - No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- F.) Side Yard Set Back - Except as modified by the Board of Zoning Appeals in approving zero lot lines or common wall housing under Sec. 8.04(G.) herein, no building or structure shall be located closer than twenty (20) feet to any side lot line.
- G.) Rear Yard Requirement - No principal dwelling shall be located closer than sixty-five (65) feet to the rear line of any lot and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.

- H.) Maximum Lot Coverage - On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- I.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 25 of this Resolution.
- J.) Signs - Except as provided under the provisions of this article for home occupations or as controlled by Article 22 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

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**ARTICLE 9 – Reserved**

Article 9 - Reserved

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

### **Section 10.01 – Purpose**

The County, recognizing that with increased urbanization and population growth comes increased demands for well-organized residential areas which take into account unique natural features, contemporary land use concepts, and a balanced residential environment, hereby provides for the Planned Residence District intending hereby to promote the variety and flexibility of land development for residential purposes that are necessary to meet these demands while still preserving and enhancing the health, safety and general welfare of the inhabitants of the County.

Planned residential development districts are limited to areas served by public sanitary sewer and public water.

### **Section 10.02 – Application**

The provisions of this chapter of the Zoning Resolution may apply to lands under County Zoning, regardless of the size. The owner of any parcel shall submit an application for change in the zoning under the provisions of this article despite the fact that the planned densities or size of the tract do not exceed the permitted densities or acreages set forth in Articles 7 or 8 of this resolution. The Board of County Commissioners or the Zoning Commission may, in their discretion, require that an application be filed under this Article if approval under this Article serves the best interest of the community in assuring quality development. The Planned Residence District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 303.022(A).

### **Section 10.03 – Permitted Uses**

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

- A.) Residential structures of any type, either single-family or multi-family, including but not limited to detached, semi-detached, attached, modular, mobile, cluster, patio, common wall or any reasonable variation on the same theme.
- B.) Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the Planned Residence District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to the major thoroughfares as to permit access without burdening residential streets.
- C.) Temporary structures such as trailers and construction office buildings of a non-residential character may be used incident to construction work on the project. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 31 of this resolution.
- D.) Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.

**Section 10.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with condition(s) imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
  - 1.) The home occupation shall be carried on solely within the confines of the residential structure.
  - 2.) Only one sign, not larger than six (6) square feet per side and four (4) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
  - 3.) The home occupation shall occupy not more than twenty (20%) percent of the total floor area of the dwelling unit.
  - 4.) No more than one (1) non-resident employee shall work on said premises.
  - 5.) Services may be rendered on the premises or elsewhere.
  - 6.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)
  - 7.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other electronic device used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
  - 8.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.



- B.) Kindergarten or Child Care Facilities provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. All such facilities shall possess all approvals and/or licenses as required by state or local agencies.
- C.) Group homes or residential care facilities in which not more than eight (8) persons are provided with room, board, specialized care, rehabilitative services and supervision in a family environment. All such facilities shall possess all approvals and/or licenses as required by state or local agencies. In addition to all other conditions deemed necessary the following conditions shall be imposed by the Board of Zoning Appeals.
  - 1.) No exterior alterations of the structure shall be made which depart from the residential character of building. All new structures shall be compatible in residential design with the surrounding neighborhood.
  - 2.) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District.
  - 3.) No Group Home should be located within a one (1) mile radius of another such facility.
- D.) Parking lots or storage yards for boats and recreational vehicles provided such area is owned or controlled by neighborhood or community association and use is limited to residents of the subdivision served.
- E.) Public or Private Golf Courses, Country Clubs, fishing lakes, or similar recreational uses with all buildings and club houses incident thereto including restaurants to serve members and/or users of the facility.

**Section 10.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this chapter of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, watercraft and recreational vehicles, for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any parcel within this district for more than twenty-four (24) hours in any ten (10) day period. If a dwelling is located on said lot the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- D.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than thirty (30) days in a calendar year.
- E.) Except as specifically permitted in Section 10.03(C.) or approved in the approved development plan no mobile home shall be placed or occupied in this district.
- F.) Subject to the procedures set forth in Ohio Revised Code 303.211, no telecommunication tower(s), aerial, antenna or tower shall be permitted in this district.

- G.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 10.06 – Procedure**

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

Process for Amendment

Step 1: The applicant, being the owner of the subject real estate (or his/her representative or assignee) may apply for designation of the land as a PRD, which will result in a change in the zoning map to show the PRD as a rezoning. A Preliminary Development Plan must be submitted with the application. The Preliminary Development Plan shall consist of items 1, 2, 5 & 8 of Section 10.06(B.). The change in the zoning map is considered a legislative amendment, and is subject to referendum by the citizens.

Step 2: The submission and approval of a final development plan. Unless simultaneously adopted as part of the zoning map change, the subsequent approval, or disapproval of the final development plan is an administrative act by the County, based on the PRD standards herein adopted, which is an administrative action, but is subject to the review and approval by the Zoning Commission for appropriateness.

For the purposes of this resolution, a Preliminary Development Plan shall consist of items 1, 2, 4, 5 & 8 of Section 10.06(B.). A Final Development Plan includes all items in Section 10.06(B.) below.

- A.) Application - The owner or owners of lots and lands within the area under County Zoning may request that the zoning map be amended to include such tracts in the Planned Residence District in accordance with the provisions of this resolution.
  - 1.) The applicant is encouraged to engage in informal consultations with the Zoning Commission and the County Regional Planning Commission prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by officials of the County shall be binding upon either.
- B.) Development Plan - Ten (10) copies of the development plan shall be with the application, which plan shall include in the text and map form:
  - 1.) The proposed size and location of the Planned Residential District.
  - 2.) The general development character of the tract including the limitations or controls to be placed on residential and related uses, with probable lot sizes, minimum set back requirements and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.

- 5.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 6.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - 7.) Location of schools, parks and other facility sites, if any.
  - 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give county officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards in Articles 7, 8, and/or 10 or existing county regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved the same shall be complied with.
  - 12.) Evidence of the applicant's ability to post a bond equivalent to the cost of completing public improvements if the plan is approved, assuring completion of public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval - In approving an application for a Planned Residence District the reviewing authorities shall determine:
- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the county and the immediate vicinity.
- D.) Effect of Approval - The Development Plan as approved by the County Commissioners shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire and the land shall be subject to be rezoned to the previous zoning designation by the Zoning Commission unless the application for time extension is timely submitted and approved.
- E.) Extension of Time and/or Modification

- 1.) An extension of the time limit and/or a modification of the approved development plan may be approved by the Zoning Commission. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the County Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 10.06(D.) as herein before set forth.
  - 2.) A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application, but shall be subject to applicable fees.
  - 3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of final development plan approval as the original application, including applicable fees. The following shall be considered substantial departures from the original application.
    - a.) A change in the use or character of the development;
    - b.) An increase in overall lot coverage of structures and off-street parking;
    - c.) An increase in the density;
    - d.) An increase in the problems of traffic circulation and public utilities;
    - e.) A reduction in approved open space;
    - f.) A reduction of off street parking and loading space;
    - g.) A reduction in required pavement widths;
    - h.) A reduction of the acreage in the planned development;
    - i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.
- F.) Plat Required - In the Planned Residence District (PRD), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:
- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, night light deflection, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
  - 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no

event, however, shall any zoning certificate be issued for any building or use until such time as the facilities for the phase in which the building or use is located are completed.

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

**Section 10.07 – Development Standards**

In addition to any other provisions of this resolution the following standards for arrangement and development of lands and buildings are required in the Planned Residence District.

- A.) Intensity of Use - The maximum density shall be one (1) dwelling unit per 85,000 square feet (1.95 acres) within the area to be developed. The maximum density may be increased to one (1) unit per 43,560 sq. ft. (1 acre) if the minimum open space provided is a minimum of fifty percent (50%) of the gross acreage. The minimum lot size may be modified to permit clustering where appropriate, but shall not be less than 0.25 acres.
- B.) Open Space - A minimum of thirty percent (30%) of the total gross acreage shall be provided as designated open space, arranged and restricted by easement, covenant, deed or dedication. This organized open space shall not include minimum yard space as required or required off- street parking areas, however, it may include recreation facilities, fire protection areas, and agriculture. The dedicated street right-of-way shall not be considered open space. Treated effluent holding ponds shall not be considered open space. If it is demonstrated to the County Commissioners that the type of development, adjoining development or adjoining publicly controlled open space is sufficient to provide for the health and welfare of the area, the open space requirement as herein before set forth may be reduced to not less than ten (10%) percent in lieu of the provisions of organized open space as herein before described. The development plan shall provide means to properly maintain open space.
- C.) Arrangement of Structures
  - 1.) Setbacks - The physical relationships of dwelling units, non-dwelling structures and their minimum yard spaces shall be developed in strict compliance with the approved plan or the provisions of Article 25 unless a variance is approved.
  - 2.) Building Height Limits - No building in this district shall exceed thirty-five (35) feet in height. Church spires, domes, flag poles and elevator shafts, are exempted from any height regulation and may be erected to any safe height. No antenna or aerial shall be permitted to extend more than twenty-five (25) feet over the highest point of the principal residence on the premises.
- D.) Building Dimensions - Each single family dwelling hereafter erected in this district shall have a living area of not less than nine hundred and fifty (950) square feet. All such living areas shall be exclusive of basements, porches or garages. All apartments or other multi-family structures constructed within this district shall contain the following minimum floor space:

One (1) bedroom unit	750 sq. ft.
Two (2) bedroom unit	850 sq. ft.
Three or more bedroom units	900 sq. ft.

- E.) Landscaping - All yards, front, side and rear, shall be landscaped and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- F.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained.
- G.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 25 of this resolution shall, when appropriate, be incorporated.
- H.) Signs - Except as provided under the provisions of this article for home occupations or as controlled by Article 26 of this resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

- I.) Mobile Home Development Standards - In the event mobile homes are included as a type of residence within this district construction of pads, etc. shall be in conformity with industry standards currently established by the Ohio Manufactured Homes Association, any State or Federal Regulations or standards established on said subject or any requirement approved or imposed in the plan of development.
- J.) The County Zoning Commission and/or the Board of County Commissioners may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

**ARTICLE 11 - Reserved**

Article 11 – Reserved



## **ARTICLE 12 – Neighborhood Office District (C-1)**

### **Section 12.01 – Purpose**

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

### **Section 12.02 – Application**

The provisions of this article of the Zoning Resolution shall apply to all proposed uses which are designed to serve the limited neighborhood area as opposed to the community at large. Such C-1 designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 12.03 – Permitted**

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

- A.) Office facilities for the providing of personal service such as insurance agencies, insurance brokers, real estate offices, law offices, offices of physicians, dentists, osteopaths, chiropractors, podiatrists or other allied medical, dental or optical fields, accountants, architects and engineers.
- B.) Offices of credit agencies, personal credit institutions or loan offices provided that no drive-in windows are provided.
- C.) Offices of Veterinarians provided that the practice of said veterinarian is limited to small domestic animals, that no animals are boarded on the premises, except as related to a medical procedure, and that no outside runs are provided. Exercise areas are permitted.
- D.) Other offices, similar in nature or character, as determined by the Zoning Commission.
- E.) Temporary structures such as trailer and construction office buildings of a non-residential character may be used incident to construction work on the premises or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of permit or (10) days after project completion, whichever comes first of said permit.

### **Section 12.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions

imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Single Family Residences provided the same contains at least nine hundred and fifty (950) square feet of living area exclusive of porches, garages and basements.
- B.) Apartments in areas over or adjacent to the office facility provided that apartments constructed within this district shall contain the following minimum floor space, exclusive of porches, basements or garages:

One (1) bedroom unit	750 sq. ft.
Two (2) bedroom unit	850 sq. ft.
Three or more bedroom units	900 sq. ft.

- C.) Kindergarten or child care facilities provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. All such facilities shall possess all approvals and or licenses as required by state or local agencies.

**Section 12.05 – Prohibited Uses:**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.
- B.) The outdoor storage of inoperable, unlicensed or unused motor vehicles, watercraft and recreational vehicles, for a period exceeding seven (7) days is prohibited if visible from any adjoining property or roadway. If not enclosed within a building a maximum of five (5) inoperable, unused or unlicensed vehicles may be kept on any parcel of land in this district.
- C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district for more than twenty-four (24) hours in any ten (10) day period. If a structure is located on the tract of land or lot the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions on the plat or deed.
- D.) Except as specifically permitted in Sec. 12.03(E.) herein no mobile home or mobile office structure shall be placed or occupied in this district.
- E.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 12.06 – Development Standards**

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

- A.) Building Size - No structure in this district shall contain more than three thousand (3000) square feet of floor space per floor devoted to any permitted or conditional use.
- B.) Lot Size - No minimum lot size shall be required, however, the lot size shall be adequate to provide the yard spaces and off street parking as herein required.

- C.) Lot Width - No minimum lot width shall be required, however, all commercial tracts shall have access to streets approved by Delaware County and shall be of such width as to provide required yard spaces and off street parking.
- D.) Building Height - No building shall exceed two (2) stories or thirty-five (35) feet in height measured from the finished grade.
- E.) Building Setback - No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- F.) Side Yard - Side yards shall be required adjacent to residential districts not less than one-fourth ( $\frac{1}{4}$ ) of the sum of the height and depth of office the buildings but in no case less than twenty-five (25) feet from the adjacent residential district.
- G.) Rear Yard - Rear yards of not less than thirty (30) feet shall be required when commercial areas are adjacent to residential areas. The rear yard setback shall not be less than the adjoining residential setback.
- H.) Screening - All commercial and office areas shall provide a screening of shrubbery or fencing so as to hide trash collection areas and service areas from the view. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- I.) Parking - Off street parking shall be provided, within this district in strict compliance with the provisions of Article 25 of this Resolution.
- J.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 26 of this resolution.
- K.) Lighting - Exterior lighting fixtures shall be so shaded, shielded or directed that the light intensity or brightness shall not be objectionable to surrounding areas.
- L.) Freight Loading Area - When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- M.) Landscape Plan - When any use abuts on U.S. Rt. 23 or on a Class A or Class B road as defined in Sec. 25.09 herein a landscape plan shall be developed which is compatible, in the discretion of the Zoning Commission, with the adjoining areas and the owner or occupant of the premises shall at all times maintain all grassed and landscaped areas.

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## **ARTICLE 13 – Neighborhood Commercial (C-2)**

### **Section 13.01 – Purpose**

It is the intent of the County to create a commercial district which together with the regulation of future areas and rehabilitation of existing facilities will provide the atmosphere and opportunities to develop small neighborhood shopping areas which are pleasant, safe, convenient to the neighborhood yet not designed to serve the public at large.

### **Section 13.02 – Application**

The provisions of this article shall apply to all areas zoned neighborhood commercial as of the date of adoption of this amendment and all existing legal neighborhood commercial uses on lands now zoned neighborhood commercial within the areas under County Zoning shall be considered, for purposes of this zoning district, permitted uses.

The provisions of this article of the Zoning Resolution shall apply to all proposed uses which are designed to serve the limited neighborhood area as opposed to the community at large. Such C-2 designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 13.03 – Permitted Uses**

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

- A.) Retail Stores primarily engaged in selling of merchandise for personal or household consumption and rendering services incidental to the sale of goods including hardware stores, grocery stores, meat and seafood markets, fruit stores and vegetable markets, candy stores, nut and confectionery stores, dairy product stores, retail bakeries, drug and proprietary stores, liquor stores, carryouts, florists, eating and drinking places where service is provided totally within the building, self-service laundromats, laundry and dry-cleaning shops, beauty shops, health spas, barber shops, shoe repair or shining shops or any other like retail establishment consistent with the above listed uses. Businesses providing drive-thru facilities or facilities which do not require the occupant to leave his or her car are not considered permitted uses.
- B.) Office facilities for the providing of personal service such as insurance agencies, insurance brokers, real estate offices, law offices, offices of physicians, dentists, osteopaths, chiropractors, podiatrists or other allied medical, dental or optical fields, accountants, architects and engineers.
- C.) Offices of credit agencies, personal credit institutions or loan offices provided that no drive-in windows are provided.
- D.) Offices of Veterinarians provided that the practice of said veterinarian is limited to small domestic animals.
- E.) Other business, similar in nature or character or determined by the Zoning Commission.
- F.) Temporary structures such as trailers and construction office buildings of a non-residential character may be used incident to construction work on the premises or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for

sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration or (10) days after project completion, whichever comes first of said permit.

**Section 13.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

A.) Single Family Residences provided the same contain at least nine hundred and fifty (950) square feet of living area exclusive of porches, garages and basements.

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

One (1) bedroom unit	750 sq. ft.
Two (2) bedroom unit	850 sq. ft.
Three (3) or more bedroom units	900 sq. ft.

C.) Kindergarten or Child Care Facilities provided the building occupied by the use is architecturally compatible with the neighborhood and provisions are made for vehicular access, parking and fences to control accessibility of the children to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards. All such facilities shall possess all approvals and/or licenses as required by state or local agencies

D.) Drive-thru or drive-in facilities for financial institutions, restaurants or other businesses.

E.) Eating and drinking places where service is generally provided within the building, but also provides outdoor seating.

**Section 13.05 – Prohibited Uses**

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

B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, watercraft and recreational vehicles for a period exceeding seven (7) days is prohibited. Said vehicles if stored on the premises shall be enclosed within a building so as not to be visible from any adjoining property or public road.

C.) No trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district for more than twenty-four (24) hours in any ten (10) day period. If a structure is located on the tract of land or lot the building line shall be considered to be

the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions in the plat or deed.

- D.) Except as specifically permitted in Sec. 13.03(F.) herein no mobile home or mobile structure shall be placed or occupied in this district.
- E.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 13.06 – Development Standards**

In addition to any other provisions of this resolution, all lands and uses within the Neighborhood Commercial District shall be developed in strict compliance with the standards hereinafter established.

- A.) Building Size - No structure in this district shall contain more than three thousand (3000) square feet of floor space per floor devoted to any permitted or conditional use.
- B.) Lot Size - No minimum lot size shall be required, however, the lot size shall be adequate to provide the yard spaces and off street parking as herein required.
- C.) Lot Width - No minimum lot width shall be required, however, all commercial tracts shall have access to streets approved by Delaware County and shall be of such width as to provide required yard spaces and off street parking.
- D.) Building Height - No building shall exceed two (2) stories or thirty-five (35) feet in height measured from the finished grade.
- E.) Building Setback - No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- F.) Side Yards - Side yards shall be required adjacent to residential districts not less than one-fourth (1/4) of the sum of the height and depth of the buildings but in no case less than twenty-five (25) feet from the adjacent residential district.
- G.) Rear Yards - Rear yards of not less than thirty (30) feet shall be required when commercial areas are adjacent to residential areas.
- H.) Screening - All commercial and office areas shall provide a screening of shrubbery or fencing so as to hide trash collection areas and service areas from the view. All such shrubbery shall be properly trimmed and all screening shall be maintained in a neat and tidy manner.
- I.) Parking - Off street parking shall be provided, within this district in strict compliance with the provisions of Article 25 of this Resolution.
- J.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 26 of this resolution.
- K.) Lighting - Exterior lighting fixtures shall be so shaded, shielded or directed that the light intensity or brightness shall not be objectionable to surrounding areas.

- L.) Freight Loading Area - When any use within this district requires the merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
  
- M.) Landscape Plan - When any use abuts on U.S. Rt. 23 or on a Class A or Class B defined in Sec. 25.09 herein a landscape plan shall be developed which is compatible, in the discretion of the Zoning Commission, with the adjoining areas and the owner or occupant of the premises shall at all times maintain all grassed and landscaped areas.



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

### **Section 14.01 – Purpose**

The County, recognizing that with increased urbanization and population growth comes increased demands for well-organized commercial areas to provide employment, goods, and services to area residents as well as to provide a balanced economy within the County, hereby provides for the Planned Commercial and Office District. It is intended to promote the variety and flexibility of land development for commercial purposes that is necessary to meet these demands while still preserving and enhancing the health, safety and general welfare of the inhabitants of Delaware County. The Planned Commercial and Office District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 303.022.

### **Section 14.02 – Application**

This provision of the Zoning Resolution may apply to all lands within the areas under County Zoning which are to be used for commercial or office purposes and which are not regulated by the Neighborhood Commercial or Neighborhood Office District as herein before set forth in Article 12 and 13 of this resolution.

### **Section 14.03 – Permitted Uses**

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

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

One (1) bedroom unit	750 sq. ft.
Two (2) bedroom unit	850 sq. ft.
Three (3) or more bedroom units	900 sq. ft.
Single Families	950 sq. ft.

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

- J.) Temporary structures such as trailer and construction office buildings of a non-residential character may be used incident to construction work on the premises or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than twice. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.
- K.) Other commercial ventures not provided by this or other section of this resolution if approved as part of the plan.

**Section 14.04 – Conditional Uses**

Provisions for conditional uses are unnecessary under this article because, in effect, each application for plan approval is a conditional use granted by the Zoning Commission and/or the County Commissioners.

**Section 14.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.
- B.) The outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited if visible from any adjoining property or roadway. If not enclosed within a building a maximum of five (5) inoperable, unused or unlicensed vehicles may be kept on any parcel of land in this district.
- C.) Except as provided in the plan of development no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) Except as specifically permitted in Sec. 14.03(J.) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- E.) Adult Entertainment Facilities - See section 24.01.
- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 14.06 – Procedure**

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

- A.) Application - The applicant, being the owner or owners of the subject real estate (or his/her representative or assignee) land under County Zoning may request that the zoning map be amended to include such tracts in the Planned Commercial and Office District in accordance with the provisions of this resolution which will result in a change in the zoning map to show the PCD as a rezoning. A Final Development Plan must be submitted with the application. The change in the zoning map is considered a legislative amendment, and is subject to referendum by the citizens.

- 1.) The applicant is encouraged to engage in informal consultations with the Zoning Commission and the County Regional Planning Commission prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by Officials of the County shall be binding upon either.
- B.) Development Plan - Ten (10) copies of the development plan shall be submitted with the application, which plan shall include in the text and map form:
- 1.) The proposed size and location of the Planned Commercial District.
  - 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum set back requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 6.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - 7.) Location of parks and other public facility sites, if any.
  - 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give county officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards in Articles 7, 8, and/or 26 or existing County regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved the same shall be complied with.
  - 12.) Evidence of the applicant's ability to post a bond equivalent to the cost of completing public improvements if the plan is approved, assuring completion of public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval - In approving an application for a Planned Commercial and Office District the reviewing authorities shall determine:

- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the County and the immediate vicinity.
- D.) Effect of Approval - The Development Plan as approved by the County Commissioners shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire and the land shall be subject to be rezoned to the previous zoning designation by the Zoning Commission unless the application for time extension is timely submitted and approved.
- E.) Extension of Time or Modification
- 1.) An extension of the time limit as a modification of the approved development plan may be approved by the County Commissioners. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the County Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 14.06(D.) as herein before set forth.
  - 2.) A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application, but shall be subject to applicable fees.
  - 3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of final development plan approval as the original application, including applicable fees. The following shall be considered substantial departures from the original application.
    - a.) A change in the use or character of the development;
    - b.) An increase in overall lot coverage of structures and off-street parking;
    - c.) An increase in the density;
    - d.) An increase in the problems of traffic circulation and public utilities;
    - e.) A reduction in approved open space;
    - f.) A reduction of off street parking and loading space;
    - g.) A reduction in required pavement widths;
    - h.) A reduction of the acreage in the planned development;
    - i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

- F.) Plat Required – In the Planned Commercial and Office (PC) District, no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:
- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
  - 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building until such time as the facilities for the phase in which the building is located are completed.
- G.) Administrative Review - All plats, construction drawing, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission and the County Commissioners or their designated technical advisors for administrative review to insure substantial compliance with the development plan as approved.

#### **Section 14.07 – Development Standards**

In addition to any other provisions of this resolution the following standards are required in this district.

- A.) Fire and Explosion Hazards - All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B.) Air Pollution - No emission of air pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- C.) Glare, Heat and Exterior Light - Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- D.) Dust and Erosion - Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- E.) Liquid or Solid Wastes - No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.

- F.) Vibrations and Noise - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- G.) Odors - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.
- H.) Setbacks - The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 25 unless variance there from is approved.
- I.) Building Height Limits - No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Elevator shafts, aerials and antennas may be constructed to any safe height, but not more than the distance to nearest property line or right-of-way.
- J.) Building Dimensions - Buildings may contain such area of floor space as is approved in the development plan.
- K.) Landscaping - All yards, front, side and rear, shall be landscaped and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- L.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained.
- M.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 25 of this resolution shall, when appropriate, be incorporated.
- N.) Signs - Signs shall conform to the provisions of Article 26 of this resolution. Temporary signs, such as "For Sale" or "For Rent or Lease" shall be permitted in this district for the purposes of individual sales, advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

The owner or developer of a subdivision or similar area may, for the same approval period established in the Development Plan, erect one sign not exceeding 48 square feet in area per side advertising said subdivision, development or tract for sale.

- O.) The County Zoning Commission and/or the Board of County Commissioners may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.
- P.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**ARTICLE 15 - Reserved**

Article 15 - Reserved



## **ARTICLE 16 – Industrial District (I)**

### **Section 16.01 – Purpose**

The County recognizes that a well-planned and balanced community must have jobs for its residents and a tax base to support the best possible educational opportunities for the young. It is the intention of this board to provide those reasonable conditions under which desirable industry of all types may operate so that the health, safety and general welfare of the residents of the County may be preserved.

### **Section 16.02 – Application**

The provisions of this article shall apply to all areas zoned Industrial (I) as of the date of adoption of this amendment. All existing legal industrial uses on lands now zoned within areas under County Zoning shall be considered, for purposes of this resolution and this zoning district, permitted uses. New application of the Industrial designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 16.03 – Permitted Uses**

Within the Industrial District (I) the following uses, developed in accordance with other provisions of this resolution, shall be permitted.

- A.) Wholesale business when all products are stored within the building.
- B.) Enclosed warehouse.
- C.) Enclosed manufacturing industries.
- D.) Enclosed service or repair activities.
- E.) Business offices.
- F.) Enclosed research facilities.
- G.) Temporary structures such as trailer and construction office buildings of a non-residential character may be used incident to construction work on the premises or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit or (10) days after occupancy permanent structure, whichever comes first.

### **Section 16.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions

imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Circuses, carnivals or similar transient enterprises provided such uses can be operated in a safe and sanitary manner pursuant to previously obtained health permits.
- B.) Petroleum product storage and refining areas.
- C.) Exploration and drilling for oil or gas and production of said products.
- D.) Freight or trucking terminals and distribution centers.
- E.) The outdoor storage, display, processing, repair or sale of raw materials, supplies, equipment or products.

**Section 16.05 – Prohibited Uses:**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution or by the Board of Zoning Appeals shall be permitted.
- B.) Unless specifically permitted by the Board of Zoning Appeals as incident and necessary to a permitted or conditional use in this district, the storage of any inoperable, unlicensed or unused motor vehicles shall be prohibited.
- C.) Unless specifically permitted by the Board of Zoning Appeals as incident and necessary to a permitted or conditional use in this district, no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code or the restrictions in the plat or deed.
- D.) Residential use of any kind.
- E.) Except as specifically permitted in Sec. 16.03(G.) no mobile home or mobile office structure shall be placed or occupied in this district.
- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 16.06 – Development Standards**

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

- A.) Lot Size - No minimum lot size shall be required, however, the lot size shall be adequate to provide the required yard spaces and off street parking as herein required.
- B.) Lot Width - No minimum lot width shall be required, however, the industrial tract shall have access to streets approved by Delaware County and shall be of sufficient width to provide required yard spaces and off street parking.

- C.) Building Height - No building shall exceed a safe height as determined by the applicable building code, fire codes, or by the fire department having jurisdiction.
- D.) Building Setback - No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- E.) Side Yards - There shall be a side yard on each side of the main building constructed in this district of not less than fifty (50) feet on each side. No accessory building, outdoor storage area or required off street parking shall encroach in said side yard except with consent of the Board of Zoning Appeals.
- F.) Rear Yards - No building shall be located closer than thirty (30) feet to the rear line of any lot. No outdoor storage area or required off street parking area may encroach in the prescribed rear yard except with permission of the Board of Zoning Appeals.
- G.) Screening - All outside storage areas, manufacturing areas, service areas and loading docks shall be screened by properly maintained walls, fences or shrubbery at least six (6) feet in height. These walls, fences or shrubbery shall be of a design so as to effectively screen such storage, manufacturing, service or loading areas and facilities from adjoining streets or other zoning districts. Such shrubbery shall be neatly trimmed and all other fences or walls shall be maintained in a neat and tidy manner.
- H.) Parking - Off street parking shall be provided within this district in strict compliance with the provisions of Article 25 of this resolution.
- I.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 26 of this resolution.
- J.) Lighting - Exterior lighting fixtures shall be so shaded, shielded or directed that the light intensity or brightness shall not be objectionable to surrounding areas.
- K.) Freight Loading Areas - When any use within this district requires the pickup or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such loading area shall be located on any public street or alley. Such loading area as provided shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.
- L.) Performance Standards - No use shall be conducted within this district which fails to maintain the following standards:
  - 1.) Fire and Explosion Hazards - All activities, including storage, involving flammable, explosive or hazardous materials shall include the provision of adequate safety devices against the hazard of spill, fire and/or explosion. All standards enforced by the Occupational Safety and Health Administration and other appropriate agencies shall be followed. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
  - 2.) Air Pollution - No emission of air pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
  - 3.) Glare, Heat and Exterior Light - Any operation producing intense light or heat such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed

building and not be visible beyond any lot line bounding the property whereon the use is conducted.

- 4.) Dust and Erosion - Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- 5.) Liquid or Solid Wastes - No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- 6.) Vibrations and Noise - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- 7.) Odors - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.

## **ARTICLE 17 – Planned Industrial District (PI)**

### **Section 17.01 – Purpose**

In the creation of the Planned Industrial District it is the intention and desire of the County to provide those reasonable conditions under which well-planned industrial areas can develop for the greatest benefit of the entire County and so that the health, safety and general welfare of all inhabitants of Delaware County may be preserved.

### **Section 17.02 – Application**

The provisions of this chapter may apply to all lands under County Zoning regardless of the size of the tract and the owner may elect to submit an application for change in the zoning under the provisions of this article or the provisions of Article 16. The Board of County Commissioners or the Zoning Commission may, in their discretion, require that an application be filed under this article if approval under this article serves the best interest of the community and assures quality development. The Planned Industrial District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 303.022

### **Section 17.03 – Permitted Uses**

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

- A.) Manufacturing, processing, warehousing and industrial service activities located and maintained within the limits of the development standards of these Planned Industrial District Regulations.
- B.) Commercial Establishments normally associated with and designed to serve the Industrial establishments or their employees and approved as part of the development plan such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation or other personal enrichment facilities provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved plan for the Planned Industrial District.
- C.) Temporary structures such as trailers and construction office buildings of a non-residential character may be used incident to construction work on the premises or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit or ten (10) days after project completion, whichever comes first.
- D.) Borrow Pits provided the excavation is completed within two (2) years and the contractor posts such bond as required by the Board of County Commissioners and/or the County Engineer to insure compliance with the restrictions and conditions imposed to insure regrading, reseeding and general restoration of the area including haul roads. All applications or plans submitted incident thereto shall be reviewed by the Delaware County Engineer and that agency's comments shall be included in the record regarding the matter and where applicable said work shall be carried out in compliance with County Sedimentation Regulations.
- E.) Sanitary Land Fills or Solid Waste Transfer Stations provided that all required licenses and approvals are issued by appropriate state and county agencies. In addition to requirements imposed by state agencies

the Board of Zoning Appeals may require such screening as is necessary to protect adjacent neighborhoods. This section is not applicable to facilities qualifying as a Public Utility and exempt from zoning.

- F.) Quarries and other activities providing for the removal, processing and sale of natural resources.

**Section 17.04 – Conditional Uses**

Provisions for conditional uses are unnecessary under this article because, in effect, each application for plan approval is a conditional use granted by the Zoning Commission and/or the County Commissioners.

**Section 17.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.
- B.) Except as approved in the development plan the outdoor storage of any inoperable, unlicensed or unused motor vehicle for a period exceeding seven (7) days is prohibited.
- C.) Except as provided in the plan of development no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) Residential uses of any kind.
- E.) Except as specifically permitted in Sec. 17.03(C.) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 17.06 – Procedure**

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

- A.) Application - The owner or owners of lots and lands within the County may request that the zoning map be amended to include such tracts in the Planned Industrial District in accordance with the provisions of this resolution.
  - 1.) The applicant is encouraged to engage in informal consultations with the Zoning Commission and the County Regional Planning Commission prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by Officials of the County shall be binding upon either.
- B.) Development Plan - Ten (10) copies of the development plan shall be submitted with the application, which plan shall include in the text and map form:
  - 1.) The proposed size and location of the Planned Industrial District.

- 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum set back requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  - 6.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  - 7.) Location of parks and other public facility sites, if any.
  - 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), should be fully described in text form in a manner calculated to give County officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards, in Article 16 or existing county regulations or standards. Unless a variation from the development standards is specifically approved the same shall be complied with.
  - 12.) Evidence of the applicant's ability to post a bond equivalent to the cost of completing public improvements if the plan is approved, assuring completion of public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval - In approving an application for a Planned Industrial District the reviewing authorities shall determine:
- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the County and the immediate vicinity.
- D.) Effect of Approval - The Development Plan as approved by the County Commissioners shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment.

The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire and the land shall be subject to rezoning to the previously-documented zoning district by the Zoning Commission unless the application for time extension is timely submitted and approved.

E.) Extension of Time or Modification

- 1.) An extension of the time limit as a modification of the approved development plan may be approved by the County Commissioners. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the County Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 17.06(D.) as herein before set forth.
- 2.) A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application, but shall be subject to applicable fees.
- 3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of final development plan approval as the original application, including applicable fees. The following shall be considered substantial departures from the original application.
  - a.) A change in the use or character of the development;
  - b.) An increase in overall lot coverage of structures and off-street parking;
  - c.) An increase in the density;
  - d.) An increase in the problems of traffic circulation and public utilities;
  - e.) A reduction in approved open space;
  - f.) A reduction of off street parking and loading space;
  - g.) A reduction in required pavement widths;
  - h.) A reduction of the acreage in the planned development;
  - i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

F.) Plat Required - In the Planned Industrial District (PI), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:

- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non- highway service use with indication of the nature of such use.



- 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon and the activities of occupants.
- 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officer in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building until such time as the facilities for the phase in which the building is located are completed.

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

### **Section 17.07 – Development Standards**

In addition to any development standards imposed or approved as part of the plan of development, the following standards shall apply.

- A.) Fire and Explosion Hazards - All activities, including storage, involving flammable, explosive or hazardous materials shall include the provision of adequate safety devices against the hazard of spill, fire and/or explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B.) Air Pollution - No emission of air pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- C.) Glare, Heat and Exterior Light - Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- D.) Dust and Erosion - Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- E.) Liquid or Solid Wastes - No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- F.) Vibrations and Noise - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- G.) Odors - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.

- H.) Setbacks - The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 25 unless variance therefrom is approved.
- I.) Building Height Limits - No building or structure in this district shall exceed a safe height as determined by the applicable building code, fire codes, or by the fire department having jurisdiction. Elevator shafts, aerials and antennas may be constructed to any safe height, but not more than the distance to nearest property line or right of way.
- J.) Building Dimensions - Buildings may contain such area of floor space as is approved in the development plan.
- K.) Landscaping - All yards, front, side and rear shall be landscaped and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall be submitted with the subdivision plat and shall be subject to approval in the same manner required of the subdivision plat.
- L.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent (6%) shall be maintained.
- M.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 25 of this resolution shall, when appropriate, be incorporated.
- N.) Signs - Signs shall conform to the provisions of Article 26 of this Resolution. Temporary signs, such as "For Sale" or "For Rent or Lease" shall be permitted in this district for the purposes of individual sales, advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet in area on each side.

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

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

**ARTICLE 18 - Reserved**

Article 18 - Reserved

## **ARTICLE 19 – Agricultural Preservation District (A-1)**

### **Section 19.01 – Purpose**

The Agricultural Preservation District is intended to protect extensive land areas currently in agricultural use and/or extensive areas possessing soils that are especially suited to agricultural purposes and protect them from uncontrolled encroachment by urban types of development.

### **Section 19.02 – Application**

This section shall apply to agricultural lands, the owner of which has applied for classification herein provided such lands meet the criteria established by state law as to size, location, productivity and classification. New application of the Agricultural Preservation District designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 19.03 – Permitted Uses**

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

- A.) Farm residence.
- B.) Accessory buildings and accessory uses including private garages.
- C.) One occupied mobile home or permanent dwelling to be occupied by full time farm labor only and provided that said mobile home is installed in compliance with rules and regulations established by the Delaware General Health District. Not more than one mobile home shall be located on any farm within Townships under County Zoning.
- D.) Projects specifically designed for watershed protection, conservation of water or soils or for flood control.
- E.) Agriculture, in accordance with the provisions of Ohio Revised Code 303.21, equestrian trails, forest and game management, greenhouses, nature trails and walks and stables.
- F.) Roadside sales of agricultural products shall be permitted in this district provided where fifty (50%) percent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Adequate area shall exist adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfare placed without permission of the Board of Zoning Appeals and issuance of a conditional use permit.
- G.) Facilities for the storage, sorting, preliminary processing or sale of agricultural products shall be permitted if such products are used in the production of other farm products and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor.
- H.) Mobile homes and recreational vehicles for temporary residential use and temporary buildings of a non-residential character may be used or occupied only during residential construction on the premises for a maximum of eighteen (18) months from the date of issuance of the zoning permit. Said temporary structure shall be removed no later than thirty (30) days after expiration of said eighteen (18) month period or no later than thirty (30) days after issuance of occupancy permit, whichever comes first. Provisions shall be made for sanitary waste disposal, solid waste and water supply.
- I.) Conducting of casual sales of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days.

### **Section 19.04 – Conditional Uses**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 31 of this resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A.) Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
- 1.) The home occupation shall be carried on solely within the confines of the residential structures and architecturally compatible accessory buildings which are customarily associated with the residential use and character of the neighborhood.
  - 2.) Only one sign, not larger than six (6) square feet per side and four (4) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
  - 3.) The home occupation shall occupy not more than thirty-three (33%) percent of the total floor area of the dwelling unit and/or one hundred (100%) percent of the combined floor space in any garage or accessory building.
  - 4.) No more than two (2) non-resident employees shall work on said premises.
  - 5.) Services may be rendered on the premises or elsewhere.
  - 6.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces.)
  - 7.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers or other electronic device used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.

- 8.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.
- 9.) No activity shall be conducted or permitted which creates a nuisance to neighboring properties
- B.) Private landing fields for aircraft for use by the owner of the property and guests provided that no commercial activities take place on said premises and the site is in compliance with all F.A.A. regulations.
- C.) Permanent structures or improvements used for retail sale of agricultural products produced on the premises.
- D.) Conversion of existing residential structures to permit occupancy by more than one family.

**Section 19.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this chapter of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles, watercraft and recreational vehicles, for a period exceeding seven (7) days is prohibited visible from any adjoining property or roadway. If not enclosed within a building (but screened from adjoining properties) a maximum of three (3) inoperable, unused or unlicensed vehicles may be kept on any parcel of land in this district.
- C.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than thirty (30) days.
- D.) Except as specifically permitted by Sec. 19.03(C.) or (H.) herein no mobile home shall be placed or occupied in this district.
- E.) No trailer of any type, no boats, no motor homes, buses, and no equipment of any type shall be parked in front of the front building setback line on any parcel within this district. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.
- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 19.06 – Development Standards**

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

- A.) Lot Area - No parcel of land in this district shall be used for residential purposes which has an area of less than five (5) acres (217,800 square feet). All other uses in this district shall have such lot area prescribed by the article permitting the use or as prescribed by the Board of Zoning Appeals as a condition of said use.

- B.) Lot Frontage - Except as hereinafter set forth all lots or parcels within this zoning district shall have a minimum of three hundred (300) feet of frontage on a road approved by Delaware County.

Lots or parcels having less than the above listed minimum frontages on the right of way line of the adjoining approved road or street must have a lot width which is equal to that minimum lot frontage requirement. This must be maintained fifty (50) feet forward of the building line. In no case shall the parcel or lot frontage at the right-of-way line be less than sixty (60) feet in width and the width of sixty (60) feet shall not be decreased at any point forward of the building line of the principal residence located on the premises.

- C.) Any parcel of land which at the building setback line is separated or removed from the public road by more than one other parcel of land shall be accessed only by a Common Access Drive (CAD) approved by the Delaware County Regional Planning Commission. Multiple lots with narrow frontage or flag lots must be separated by a lot meeting the required frontage at the right- of-way line. For lots having frontage on streets having extreme curvature, e.g., cul-de-sacs, the lot shall have the minimum width as specified above at the building line.
- D.) Building Height Limits - No building in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Barns, silos, grain handling conveyors, church spires, domes, flag poles, elevator shafts, and windmills are exempted from any height regulation and may be erected to any safe height. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line or right of way of said tract.
- E.) Building Dimensions (Floor Space Requirements) - Each single family dwelling hereafter erected in this district shall have a living area of not less than nine hundred and fifty (950) square feet. All such living areas shall be exclusive of basements, porches or garages.
- F.) Building Set Back - No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Sec. 25.09 herein.
- G.) Side Yard Set Back - No building or structure shall be located closer than twenty-five (25) feet to any side lot line.
- H.) Rear Yard Requirement - No principal dwelling shall be located closer than eighty (80) feet to the rear line of any lot and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.
- I.) Maximum Lot Coverage - On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.
- J.) Parking - Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the recommended standards set forth in Article 25 of this Resolution.

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

- K.) Signs - Except as provided under the provisions of this article home occupations or as controlled by Article 26 of this resolution and except as permitted by the Board of Zoning Appeals incident to



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

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

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## **ARTICLE 20 – Institutional District (INS)**

### **Section 20.01 – Purpose and Intent**

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

### **Section 20.02 – Application**

All lands which are to be utilized as an Institutional District (designated INS) shall have five (5) acres or more depending upon contemplated character of use. Application of the Institutional designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 20.03 – Permitted Uses**

- A.) Institutions providing social, cultural, educational and health services to member agencies, organizations and individuals or to the general public including:
  - 1.) Hospitals;
  - 2.) Elementary and secondary schools;
  - 3.) Colleges, universities and junior colleges;
  - 4.) Religious organizations;
  - 5.) Libraries, museums and art galleries;
  - 6.) Community buildings.
  
- B.) Offices for organizations and associations organized for promotions of membership interests to include:
  - 1.) Business and professional associations and organizations;
  - 2.) Labor unions and similar labor organizations;
  - 3.) Civic, social and fraternal associations;
  - 4.) Political, charitable and other non-profit membership associations not elsewhere classified

### **Section 20.04 – Conditional Uses**

The following uses may be allowed in an Institutional District subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of this Article and of this Resolution. Conditionally permitted uses shall be considered and declared abandoned if said use or uses are discontinued for a period in excess of two (2) years. If the premise is sold or conveyed to a third party, any previously granted conditionally permitted use shall be void and the subsequent owner(s) shall be required to re-apply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. No conditionally permitted use shall be implemented until a permit of compliance is issued by the Zoning Inspector after approval by the Board of Zoning Appeals.

- A.) Professional Offices. Professional offices for persons whose professions are directly related to, rationally connected with and beneficial to the institutional services already provided or already approved in the district. Criteria for evaluation shall include, but is not limited to the following:
- 1.) Whether or not it is a rational and beneficial connection to institutional services or use already permitted or approved in the general vicinity;
  - 2.) Whether or not the proposed professional office shall be designed, constructed, operated and maintained so as to be harmonious in appearance with existing or planned uses of the general vicinity;
  - 3.) Whether or not the professional office is needed in the specific area to more effectively service the institutional use.
- B.) Convalescent Nursing Centers or Family Care Homes. Convalescent Nursing centers or Family Care Homes shall be subject to the following:
- 1.) Every room occupied for sleeping purposes within the home shall contain a minimum of eighty (80) square feet of habitable room area for one (1) occupant, and when occupied by more than one (1) individual shall contain at least sixty (60) square feet of habitable room area for each occupant. No such facility shall use living rooms, dining rooms, entry ways, closets, corridors, outside porches or cellars as sleeping rooms;
  - 2.) It shall provide not less than twenty-five (25) square feet per person of suitable indoor recreation area and not less than seventy-five (75) square feet of outdoor recreation or open space per person, exclusive of required front and side yards and parking areas, consolidated in a useful configuration and location on the site;
  - 3.) No exterior alterations of the structure shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood;
  - 4.) All exterior lighting fixtures will be shaded wherever necessary to avoid casting direct light upon any adjoining property located in a Residential District;
  - 5.) Required Submittal
    - a.) Information explaining the need for the facility, the clientele to be served and the financial resources that will be used to operate the facility;
    - b.) Identification of similar facilities presently located in the area, including the names of individuals who may be contacted concerning the operation of such facilities;
    - c.) Identification of community facilities and social services that will be used by the clientele of the facilities, including the indication from the Administrator of such facilities and services that the clientele can adequately be accommodated;
    - d.) A license or evidence of ability to obtain a license from the appropriate governmental agency. Prior to the issuance of a permanent zoning permit, the applicant shall provide evidence that a valid license has been issued or is obtainable for the proposed conditional use on the subject property. When a license is not required of the applicant by a

governmental agency, a written affidavit shall be presented as a part of the application by the governmental agency to which that applicant has accountability stating that a license is not required. The affidavit shall further state and describe the procedures that have been established in lieu of licensing to insure that the provisions of this section are carried out and the types of controls that the governmental agency can exercise in this regard;

- e.) A copy of the operational and occupancy standards that will be used in establishing the facility;
  - f.) A detailed plan of services and programs to be offered to the clientele of the facility, including the nature of care to be provided, the types of services to be offered and the individuals and/or agencies who will be responsible for administering such care and services;
- 6.) Unless modified by this section, the facility shall comply with all other applicable codes and ordinances;
- 7.) Criteria for Evaluation
- a.) Is in fact the facility licensed by and/or has legal accountability to an established social service agency of local government and that sufficient controls can be exercised to insure continued compliance to the provisions of this section;
  - b.) Whether or not the facility is needed based upon the evidence submitted by the applicant;
  - c.) Whether or not the proposed facility will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or officially planned uses of the general vicinity and that such use will not change the essential character of the neighborhood;
  - d.) Whether or not the proposed facility will be hazardous or disturbing to existing or officially planned future neighborhood uses from the standpoint of noise, lights, congestion of traffic generation which would be incompatible with the neighborhood environment;
  - e.) Whether or not the proposed facility will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
  - f.) Whether or not the proposed facility will have vehicular approaches to the property which shall be so designed not to create an interference with traffic on public thoroughfares.
- C.) Licensed Pre-schools, Day Care Facilities and Children's Nurseries. All licensed pre-schools, day care facilities and children's nurseries shall be subject to the following:
- 1.) Such proposed facility must be affiliated with or sponsored by an organization existing under one or more of the enumerated permitted institutional uses;
  - 2.) Evidence of need for such facility and of benefit to the community created thereby must be demonstrated to the satisfaction of the Board of Zoning Appeals;

- 3.) A drop-off area shall be provided at the main entrance to the facility sufficient to accommodate at least four (4) automobiles;
- 4.) All outdoor play areas shall be fenced or walled with adequate barrier being not less than four (4) feet. If such facility is located adjacent to any residential, a solid fence, wall, earthen berm or evergreen hedge six (6) feet high shall be constructed or planted along the lot line separating the districts;
- 5.) The maximum percentage of site coverage by all principal and accessory buildings, parking areas and outdoor play areas shall be seventy-five percent (75%).

**Section 20.05 – Prohibited Uses**

- A.) Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited.
- B.) No trailer of any type, no boats, no motor homes, buses and no equipment of any type shall be parked in front of the front building set-back line on any parcel within this district. If a building is located on said lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this code or the restrictions on the plat or subdivision;
- C.) No motor home, mobile home or camper of any type may be occupied by a guest of the owner for more than thirty (30) days;
- D.) No mobile homes, house trailers, whether occupied or unoccupied, other than guest under subsection (C.) shall be parked on any lot.
- E.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 20.06 – Procedure for Approval**

- A.) An original and five (5) copies of the application shall be tendered to the Zoning Commission;
- B.) Applicant shall further attach to the application in text and/or plans, proposed provisions for water, sanitary sewer, surface drainage facilities and outdoor trash container systems showing evidence of reasonableness as to each;
- C.) Applicant shall forth attach to the application in text and/or plans, proposed traffic plans, including streets, parking areas, walks and other access ways indicating their relationship to the topography;
- D.) Applicant shall forth attach to the application in text and/or plans, proposed provision for screening, lighting and noise abatement;
- E.) Applicant shall further attach to the application in text and/or plans, a proposed schedule for development of the site;
- F.) Applicant shall further attach to the application shown to scale showing existing or proposed structures and their location on site.

**Section 20.07 – Development Standards**

A.) Lot area. No parcel of land in this district shall be used for institutional purposes or enumerated conditional purposed unless it has a net area (exclusive of existing right-of-ways) of at least the following:

USE	REQUIRED ACREAGE
1.) Hospitals	15 acres
2.) Elementary and secondary schools	5 acres
3.) Colleges, universities/ junior colleges	15 acres
4.) Religious organizations	5 acres
5.) Libraries, museums, art galleries	5 acres
6.) Community buildings	5 acres
7.) Offices for organizations, associations	5 acres
8.) Professional offices	5 acres
9.) Convalescent Nursing Centers, Family Care Homes	5 acres
10.) Pre-schools, Day Care Facilities, Children’s Nurseries	5 acres

- B.) Lot Frontage. All lots or parcels within this zoning district shall have at least three hundred (300) feet of minimum lot frontage on the right-of-way line of adjoining public roads or approved easements.
- C.) Building Setback. No building or use shall be located closer to center line of the adjacent public or private road than permitted in Section 25.09 herein.
- D.) Side Yard. No building, structure or parking areas shall be located closer than twenty-five (25) feet to any side lot line, provided, however, that the right is reserved to the Zoning Commission, County Commissioners or Board of Zoning Appeals to require greater side yard distances in this district if, in its opinion, the public safety or welfare may require it.
- E.) Rear Yard. No building, structure or parking area shall be located closer than forty (40) feet to any rear lot line, provided, however, that the right is reserved to the Zoning Commission, County Commissioners or Board of Zoning Appeals to require greater rear yard distances in this district if, in its opinion, the public safety or welfare may require it.
- F.) Maximum Lot Coverage. On no parcel in this zoning district shall main or accessory structures be constructed which occupy more than twenty-five percent (25%) of said lot. Parking areas, pedestrian areas and other hard-surfaced or paved areas shall not cover more than twenty-five percent (25%) of such lot or parcel.
- G.) Building Height Limits. No building or structure in this district shall exceed a safe height as determined by the applicable building code, fire codes, or by the fire department having jurisdiction.
- H.) Lighting and Noise Standards. Any activity carried on shall be conducted in such a manner as to minimize noise carrying beyond lot lines. Outdoor artificial lighting shall not be permitted in an Institutional District which directly or indirectly materially illuminates adjacent properties.
- I.) Roads and Parking Areas. All roads and parking areas within this district which are generally open to the public shall be paved in accordance with Delaware County requirements.

- J.) Traffic. The site shall have adequate access onto a surface state highway, county or township road that is regularly maintained and traffic plans for ingress and egress and shall be so designed so as to adequately handle the additional traffic generated by the use.
- K.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 26 of this resolution.



## **ARTICLE 21 – Planned Institutional District (PINS)**

### **Section 21.01 – Purpose**

It is the purpose of the Planned Institutional District to promote, encourage and regulate the development of uses within this district for the preservation and, fostering of institutions providing social, cultural, and educational services. The Planned Institutional District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 303.022(A).

### **Section 21.02 – Application**

This provision of the Zoning Resolution may apply to all lands within the county which are to be used for institutional purposes and which are not regulated by the Planned Residential District or Planned Commercial District.

The provisions of this Article shall apply to all areas zoned Planned Institutional District (PINS) as of the date of the adoption of this resolution and all existing legal commercial uses on lands zoned Planned Institutional within the county shall be considered, for the purposes of this zoning district, permitted uses. All uses established after the date of the adoption of this Resolution shall conform to all requirements of this Resolution.

### **Section 21.03 – Permitted Uses**

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

- A.) Institutions providing social, cultural, educational and health to member agencies, organizations and individuals or to the general public including:
  - 1.) Hospitals;
  - 2.) Elementary and secondary schools;
  - 3.) Colleges, universities and junior colleges;
  - 4.) Religious organizations;
  - 5.) Libraries, museums and art galleries;
  - 6.) Community buildings.
  
- B.) Offices for organizations and associations organized for the promotion of memberships interests to include:
  - 1.) Business and professional associations and organizations;
  - 2.) Labor unions and similar labor organizations;
  - 3.) Civic, social and fraternal associations;
  - 4.) Political, charitable and other non-profit membership associations not elsewhere classified.
  
- C.) Cemeteries, providing the same occupies a tract of not less than one hundred (100) acres. No building shall be placed closer to the right-of-way of any approved road than the setback prescribed by Section

25.09 of this Resolution. No burial may be made nearer than fifty (50) feet to the right-of-way of the approved public road adjacent thereto. No burial shall be permitted nearer than twenty five (25) feet to any other property line unless mature natural screen has been established along said property line at least six (6) feet in height in which case burials may be permitted not closer than ten (10) feet to said property line. No mausoleum, crematory, office facility, maintenance building or storage area shall be constructed except as approved by the Zoning Commission and parking areas, public accesses, screening and other improvements shall be furnished as required.

- D.) Public or Private Schools or Colleges. Instructional areas, whether improved with buildings or not shall provide adequate parking areas for faculty, staff and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Zoning Commission and shall provide screening adjacent to residential areas.
- E.) Churches or other places of worship, provided they occupy a lot of not less than five (5) acres plus one (1) acre for each one hundred (100) permanent seats over three hundred (300) in the main assembly area.
- F.) Temporary structures such as mobile offices and temporary buildings of non-residential character may be used incident to construction work on the premises. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for twelve (12) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector shall require provisions for sanitary waste disposal, solid waste disposal and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

**Section 21.04 – Conditional Uses**

Provisions for conditional uses are unnecessary under this article because, in effect, each application for plan approval is a conditional use granted by the Zoning Commission and/or the Board of County Commissioners.

**Section 21.05 – Prohibited Uses:**

- A.) No use not specifically authorized by the express terms of this article or the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days is prohibited.
- C.) Except as provided in the development plan no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) No motor home, mobile home or camper of any type may be occupied by a guest of the owner for more than thirty (30) days;
- E.) Except as specifically permitted in Section 21.03 (F.) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.

- F.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

**Section 21.06 – Procedure for Approval**

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

- A.) Application - The owner or owners of land may request that the zoning map be amended to include such tracts in the Planned Institutional District in accordance with the provisions of this Resolution. The applicant is encouraged to engage in informal consultations with the Zoning Commission and Regional Planning Commission, prior to formal submission of a development plan and request for an amendment of the zoning map, it being understood that no statement by Officials of County shall be binding upon either.
- B.) Development Plan - Ten (10) copies of the development plan shall be submitted to the Zoning Commission with the application, which plan shall include in text and map form the following:
  - 1.) The proposed size and location of the Planned Institutional District.
  - 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum set back requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The proposed traffic patterns showing public land, private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  - 6.) The relationship of the proposed development if existing and probable uses of surrounding areas.
  - 7.) Locations of parks and other public facility site, if any.
  - 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards in Article 25 or existing County regulations or standards and the justification therefore. Unless a variation from these development standards is specifically approved, the approved plan shall be complied with.

- 12.) Evidence of the applicant's ability to post a bond equivalent to the cost of completing public improvements if the plan is approved, assuring completion for public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval - In approving an application for a Planned Institutional District the reviewing authorities shall determine:
- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the Township and the immediate vicinity.
- D.) Effect of Approval - The Development Plan as approved by the County Commissioners shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire and the land shall be subject to be rezoned to the previous zoning designation by the Zoning Commission unless the application for time extension is timely submitted and approved.
- E.) Extension of Time and/or Modification
- 1.) An extension of the time limit and/or a modification of the approved development plan may be approved by the Zoning Commission. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of time shall be granted except on application filed with the County Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 21.06(D.) as herein before set forth.
  - 2.) A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application, but shall be subject to applicable fees.
  - 3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of final development plan approval as the original application, including applicable fees. The following shall be considered substantial departures from the original application.
    - a.) A change in the use or character of the development;
    - b.) An increase in overall lot coverage of structures and off-street parking;
    - c.) An increase in the density;

- d.) An increase in the problems of traffic circulation and public utilities;
  - e.) A reduction in approved open space;
  - f.) A reduction of off street parking and loading space;
  - g.) A reduction in required pavement widths;
  - h.) A reduction of the acreage in the planned development;
  - i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.
- F.) Plat Required - In the Planned Institutional District (PINS), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the Subdivision regulations. The subdivision plat shall be in accord with the approved development plan and shall include:
- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non- highway service use with indication of the nature of such use.
  - 2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use development and maintenance of the land improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recondition for the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one year after recording of said plat. In no event, however, shall any certificate of compliance be issued for any building until such time as the facilities for the phase in which the building is located are completed.
- F.) Administrative review - All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission and the County Commissioners or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved, prior to the issuance of any zoning certificate.

**Section 21.07 – Development Standards**

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

- A.) Setbacks - The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 25 unless variance therefrom is approved.
- B.) Building Height Limits - No building or structure in this district shall exceed a safe height as determined by the applicable building code, fire codes, or by the fire department having jurisdiction.
- C.) Building Dimensions - Buildings may contain such area of floor space as is approved in the development plan.
- D.) Landscaping - All yards, front, side and rear, shall be landscaped in accordance to Article 25 of this Resolution.

- E.) Site Development - To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.
- F.) Parking - Off street parking shall be provided, at the time of construction of the main structure of building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 25.01 of this Resolution shall, when appropriate, be incorporated.
- G.) Signs - Signs identifying or advertising uses within this district shall be in strict compliance with the regulations imposed by Article 26 of this resolution.
- H.) Exterior Lighting - All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- I.) Fire and Explosion Hazards - All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration (O.S.H.A) shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- J.) Air Pollution - No emission of air pollutants shall be permitted which violate the Clean Air Act Amendments of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- K.) Glare, Heat and Exterior Light - Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- L.) Dust and Erosion - Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- M.) Liquid or Solid Wastes - No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, or any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- N.) Vibrations and Noise - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.
- O.) Odors - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odors causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be met.
- P.) The Zoning Commission and/or the Board of County Commissioners may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

## **ARTICLE 22 – Recreational District (REC)**

### **Section 22.01 – Purpose and Intent**

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

### **Section 22.02 – Application**

All lands which are to be utilized as a Recreational District (designated REC) shall contain five (5) acres or more, and which are not regulated by the Planned Recreational District. New application of the Recreational designation requires a rezoning, which is a legislative act subject to referendum.

### **Section 22.03 – Permitted Uses**

- A.) Public or private clubs and grounds for games and sports provided that no mechanical amusement equipment be constructed, erected or contained thereon;
- B.) Public or private golf courses, to include commercial activities that are carried on in conjunction with golf course club house facilities such as pro-shops and eating facilities;
- C.) Private clubs (including building and grounds) of a civic, social, business, educational or recreational nature;
- D.) Recreation buildings, grounds and accessory buildings in conjunction with playgrounds and athletic fields open to the public with or without charge;
- E.) Public or private parks, preserves or sanctuaries intended for public use and enjoyment to include accessory structures such as shelters and picnic areas;
- G.) Playgrounds, play fields, picnic areas and summer camps with adequate off street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.

### **Section 22.04 – Conditional Uses**

- A.) Such public or private uses that in the opinion of the Zoning Commission would further the intent and purpose of this district on the basis of potential harm such uses might have upon the conservation of natural environmental assets.

### **Section 22.05 – Prohibited Uses**

- A.) Outdoor storage of inoperable, unlicensed or unused motor vehicles is prohibited.
- B.) No trailer of any type, no boats, no motor homes, buses, no equipment of any type shall be parked in front of the front building setback line on any parcel within this district. If a building is located on said

lot, the building line shall be considered to be the front wall of the building even if said building is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.

- C.) Except for conditionally permitted trailer parks, campsites or grounds, no motor home, mobile home, or camper of any type may be occupied by a guest of the resident owner for more than fourteen (14) days.
- D.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

### **Section 22.06 – Procedure for Approval**

- A.) An original and five (5) copies to the application shall be tendered to the Zoning Commission.
- B.) Applicant shall further attach to the application in text and/or plans, proposed provisions for water, sanitary sewer, surface drainage facilities and outdoor trash container systems showing evidence of reasonableness as to each.
- C.) Applicant shall further attach to the application in text and/or plans, proposed traffic plans, including streets, parking areas, walks and other access ways indicating their relationship to the topography.
- D.) Applicant shall further attach to the application in text and/or plans, proposed provisions for screening, lighting and noise abatement.
- E.) Applicant shall further attach to the application in text and/or plans, a proposed schedule for development of the site.
- F.) Applicant shall further attach to the application plans shown to scale showing existing or proposed structures and their location on site.

### **Section 22.07 – Development Standards**

All lands and uses within a Recreation District shall be developed in strict compliance with the standards hereinafter established. Said standards are as follows:

- A.) Lot Area: No parcel of land in this district shall be used for any purpose enumerated, which has an area of, less than five (5) acres.
- B.) Density: No parcel of land in this district shall have upon it more than one (1) main structure (excluding accessory structures clearly incidental to the main structure) per five (5) acres increment.
- C.) Lot Frontage: All lots or parcels within this district shall have at least three hundred (300) feet of minimum lot frontage on the right-of-way line of adjoining public or private roads, or upon approved easements.
- D.) Building Setback: No building or use shall be located closer or center line of the adjacent public or private road than permitted in Section 25.09 herein.
- E.) Side Yard Setback: No building, structure or parking area shall be located closer than twenty-five (25) feet to any side lot line, provided, however that the right is reserved to the Zoning Commission, County Commissioners or Board of Zoning Appeals to require greater side yard distances in this district if, in their opinion, the public safety or welfare may require it.



- F.) Rear Yard Requirement: No building, structure or parking area shall be located closer than forty (40) feet to any rear lot line, provided, however, that the right is reserved to the Zoning Commission, County Commissioners or Board of Zoning Appeals require greater rear yard distances in this district if, in their opinion the public safety or welfare may require it.
- G.) Maximum Lot Coverage: On no lot or parcel in this Zoning District shall the main or accessory structures, parking areas, pedestrian areas and other hard-surfaced paved areas occupy more than twenty five (25%) of such lot or parcel.
- H.) Building Height: No building or structure in this district shall exceed a safe height as determined by the local fire code or by the fire district.
- I.) Lighting and Noise Standards: Any activity carried on shall be conducted in such a manner as to minimize noise carrying beyond lot lines. Outdoor artificial lighting for any intended use shall not be permitted in this district, which directly or indirectly materially illuminates adjacent properties.
- J.) Roads and Parking Areas: All roads and parking areas within this district which are generally open to the public shall be paved in accordance with Delaware County Engineer design requirements.
- K.) Traffic: The site shall have adequate access onto an approved road that is regularly maintained (with traffic plans for ingress and egress) and shall be so designed so as to adequately handle the additional traffic generated by the use.

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## **ARTICLE 23 – Planned Recreational District (PREC)**

### **Section 23.01 – Purpose**

The purpose of the Planned Recreational District is to permit the construction and use of private, semi-public and public recreation facilities within the applicable Townships, provided the proposed location of such facility recognizes and protects unique natural scenic areas for conservation of open space and for recreational uses. Proposed recreational facilities are encouraged in low density areas with a fostering of essentially non-urban activities or activities which are not likely to create a nuisance in terms of noise, odor, smoke and the like to adjoining property owners. It is further a purpose of this district to encourage development of recreational activities upon such lands which are participatory in nature. The Planned Recreational District is a planned unit development district (PUD) adopted pursuant to Ohio Revised Code section 303.022(A).

### **Section 23.02 – Application**

This provision of the Zoning Resolution may apply to all lands within the applicable Township which are to be used for recreational purposes.

### **Section 23.03 – Permitted Uses**

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

- A.) Public or private clubs and grounds for games and sports.
- B.) Public or private golf courses, to include commercial activities that are carried on in conjunction with golf course club house facilities such as pro-shop and restaurants.
- C.) Private clubs (including building and grounds) of a civic, social, business, educational or nature.
- D.) Recreational buildings, grounds and accessory buildings in conjunction with playgrounds and athletic fields open to the public.
- E.) Public or private parks, preserves or sanctuaries, including accessory structures such as shelters and picnic areas.
- F.) Campgrounds, provided that all federal, state and local permits are obtained.
- G.) Other recreational ventures not provided by other sections of this resolution if approved as part of the plan.
- H.) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months, renewable two times. The Zoning Inspector shall require provisions for sanitary waste disposal, and water supply. The fees for such permit and renewals thereof shall be established by the Board of County Commissioners. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit or no later than (10) days after project completion.

### **Section 23.04 – Conditional Uses**

Provisions for conditional uses are unnecessary under this article because, in effect, each application for plan approval is a conditional use granted by the Zoning Commission and/or the County Commissioners.

### **Section 23.05 – Prohibited Uses**

- A.) No use not specifically authorized by the express terms of this article of the Zoning Resolution shall be permitted.
- B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles is prohibited.
- C.) Except as provided in the development plan no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.
- D.) Except as specifically permitted in Section 23.03(H.) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.
- E.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.

### **Section 23.06 – Procedure**

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

- A.) Application. The owner or owners of land may request that the zoning map be amended to include such tracts in the Planned Recreational District in accordance with the provisions of this Resolution.

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

- B.) Development Plan. Ten (10) copies of the development plan shall be submitted to the Zoning Commission with the application, which plan shall include in text and map form the following:
  - 1.) The proposed size and location of the Planned Recreational District.
  - 2.) The general development character of the tract including the limitations or controls to be placed on all uses, with probable lot sizes, minimum set back requirements, and other development features including landscaping.
  - 3.) Architectural design criteria for all structures and criteria for proposed signs with proposed control procedures.
  - 4.) The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness.
  - 5.) The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  - 6.) The relationship of the proposed development to existing and probable uses of surrounding areas.

- 7.) Location of parks and other public facility sites, if any.
  - 8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  - 9.) If the proposed timetable for development includes developing the land in phases, all phases to be developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give the County officials definitive guidelines for approval of future phases.
  - 10.) The ability of the applicant to carry forth its plan by control of the land and the engineering feasibility of the plan.
  - 11.) Specific statements of divergence from the development standards in Article 25 or existing County regulations or standards and the justification therefor. Unless a variation from these development standards is specifically approved the same shall be complied with.
  - 12.) Evidence of the applicant's ability to post a bond equivalent to the cost of completing public improvements if the plan is approved, assuring completion of public service facilities to be constructed within the project by the developer.
- C.) Criteria for Approval: In approving an application for a Planned Recreational District the reviewing authorities shall determine:
- 1.) If the proposed development is consistent in all respects with the purpose, intent and general standards of this Zoning Resolution.
  - 2.) If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  - 3.) If the proposed development advances the general welfare of the Township and the immediate vicinity.
- D.) Effect of Approval: The Development Plan as approved by the County Commissioners shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three (3) years to allow the preparation of plats required by the Subdivision Regulations of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three (3) years, the Development Plan shall expire and the land shall be subject to be rezoned to the previous zoning designation by the Zoning Commission unless the application for time extension is timely submitted and approved.
- E.) Extension of Time and/or Modification
- 1.) An extension of the time limit and/or a modification of the approved development plan may be approved by the Zoning Commission. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of

the district. No extension of time shall be granted except on application filed with the County Zoning Inspector not later than ninety (90) days before the expiration of the three (3) year period prescribed in Section 23.06(D.) as herein before set forth.

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

F.) Plat Required: In the Planned Recreational District (PREC), no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the Subdivision Regulations for Delaware County, Ohio and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:

- 1.) Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface draining and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non- highway service use with indication of the nature of such use.
- 2.) Deed restrictions, covenants, easements, encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of the occupants, including those applicable to areas within the tract to be developed for non-residential uses.
- 3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to recondition of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any certificate of compliance be issued for any building until such time as the facilities for the phase in which the building is located are completed.

F.) Administrative Review: All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission and the County

Commissioners or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved, prior to the issuance of any zoning certificate.

**Section 23.07 – Development Standards**

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

- A.) Setbacks: The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 25 unless variance therefrom is approved.
- B.) Building Height Limits: No building or structure in this district shall exceed a safe height as determined by the applicable building code, fire codes, or by the fire department having jurisdiction.
- C.) Building Dimensions: Buildings may contain such area of floor space as is approved in the development plan.
- D.) Landscaping: All yards, front, side and rear, shall be landscaped in accordance to Article 25 of this Resolution.
- E.) Site Development: To the maximum extent possible, all natural drainage courses, vegetation and contours in excess of six (6%) percent shall be maintained.
- F.) Parking: Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 21 of this Resolution shall, when appropriate, be incorporated.
- G.) Signs: All signs shall comply with the provisions of Article 26 of this Resolution
- H.) Exterior Lighting: All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- I.) Fire and Explosion Hazards: All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration (O.S.H.A.) and other appropriate agencies shall be followed. Burning of waste materials in open fire is prohibited as enforced by the Ohio Environmental Protection Agency.
- J.) Air Pollution: No emission of air pollutants shall be permitted which violate the Clean Air Act Amendment of 1977 or later amendments as enforced by the Ohio Environmental Protection Agency.
- K.) Glare, Heat and Exterior Light: Any operation producing intense light or heat, such as high temperature processing, combustion, welding or other shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- L.) Dust and Erosion: Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- M.) Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system or stream, or into the ground, or any materials of such nature or temperature as can contaminate any

water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.

- N.) Vibrations and Noise: No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.
- O.) Odors: No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.
- P.) The Zoning Commission and/or the Board of County Commissioners may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.



## **ARTICLE 24 – Adult Entertainment Regulations and Adult Entertainment District (AE)**

### **Section 24.01 – Purpose**

The purpose of Article 24 inclusive of this Resolution is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of these sections to regulate businesses, as defined herein, in such a manner as to prevent the degradation of the character of the surrounding neighborhoods and to prohibit the establishment of adult businesses within close proximity to existing adult entertainment businesses, residentially zoned areas, schools, churches, park and playgrounds within the county. The following regulation shall apply to adult entertainment business as defined in this Article.

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

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

- A.) Zoning Authority – Delaware County, Ohio, pursuant to Ohio Revised code Section 303.21 and for the purposes specified thereunder, may and does regulate and has local zoning control over land use in Townships under County zoning. Adult entertainment establishments are a type of land use.
  
- B.) Delaware County has analyzed studies of sexually-oriented businesses in communities that possess relevant conclusions about adverse secondary effects that could also occur in Delaware County. Delaware County believes that the details of these studies are indicative of the kinds of problems that can occur when adult entertainment establishments locate within a community. The studies which were selected for relevance and appropriateness are the following: Effects of Surrounding Area of Adult Entertainment Businesses in Saint Paul, Minnesota, Division of Planning, Department of Planning and Economic Development, St. Paul, Minnesota, 1978; Adult Entertainment 40-Acre Study, Planning Division, Department of Planning and Economic Development, St. Paul, Minnesota, 1987; Report of the Attorney General’s Working Group on the Regulation of Sexually-Oriented Businesses, 1989, Hubert H. Humphrey III, Attorney General, State of Minnesota; Sexually-Oriented Business Study, Rochester, New York, by Duncan Associates, July 2000; Adult Entertainment Businesses in Indianapolis: An Analysis, 1984; City of Austin Texas Study of the Time, Place and Manner Regulation of [Adult] Business Activity, Special Programs Division of the Office of Land Development Services, Austin Police Department, and Austin Building Inspection Department, 1986; A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver, Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor’s Office, and City Attorney’s Office, January 1998; Study of Adult Businesses and Other Businesses with Adult Materials, Kansas City, Missouri, Attorney Eric Damian Kelley, Ph.D., AICP and Connie B. Cooper, AICP, April 1998; Adult Entertainment Study, Department of City Planning, City of New York, November 1994; A study of Land Use Regulations of Adult Entertainment Establishments, Springfield, Missouri, Department of Community Development, November 1986; Adult Use Study, Newport News, Virginia, Department of Planning and Development, March 1986; Study of the Effects of the Concentration of Adult Entertainment Establishments in the City of Los Angeles, by the Los Angeles City Planning Department, June 1977; Everything you always wanted to know about regulating sex businesses xxx, Eric Damian Kelley FAICP and Connie Cooper FAICP for the American Planning Association, Planning Advisory Service Report Number 495/496.
  
- C.) The studies referenced above include numerous adverse secondary effects, some of which are summarized as follows: there is a correlation between sexually-oriented businesses and a reduction in

appraised property values and an increase in property deterioration to both residential and commercial property values within the surrounding area. Patrons of standard businesses that were located in areas of adult entertainment felt less safe going to do business there (St. Paul). There is a correlation between sexually-oriented businesses and significantly increased major crime rates in the immediate area of sexually-oriented businesses (St. Paul). Adult entertainment correlates to street prostitution, which leads to other crimes (St. Paul). People living in a control area were exposed to a major crime rate in their neighborhoods that was 18% higher than that of the IPD generally (Indianapolis). Sex-related crimes in the Study Areas are 177%-482% higher than the city wide average (Austin). The vice detail “has made arrests, primarily for public indecency, at all of the adult bookstores and theater/bookstores in Denver over the past several years” (Denver). Adult Theater-related areas had by far the most crimes related to them (Denver). For the period 1995-96 the city tallied major crimes that included assault, criminal mischief, disturbance, DUI, fight, harassment, threat, prowler, noise, vice/narcotics, robbery, shooting, stabbing, theft, and sexual assault. Incidence of crimes was greatest near 24-hour operating sexual oriented businesses (Denver). Adult video arcades or “peep shows” correlate with illicit sexual activity, acts of indecent exposure, loitering and unsanitary conditions on the premises (APA Report).

- D.) Delaware County incorporates the detailed findings of the adverse secondary effects of adult entertainment establishments in the studies referenced into this resolution by reference and notes that without specific zoning to mitigate such effects, the same adverse secondary effects can be expected to occur in the County at such time when adult entertainment establishments choose to locate there.

**Section 24.02 – Mainstream Media Shops or Stores**

Mainstream media shops or stores that have a maximum of 10 percent of their gross area devoted to hard core material are conditionally permitted in Planned Commercial and Planned Industrial Districts, provided that:

- A.) Hard core material shall be physically and visually separated from main stream media, and shall not be displayed publicly.
- B.) Separation shall be by a solid opaque-walled enclosure at least eight feet high or reaching to the ceiling.
- C.) Inventory marketed to and predominantly consumed by minors shall not be displayed within 15 feet of the entrance to the hard core material section.
- D.) Access to the hard core material section shall be controlled by electronic or other means to provide assurance that a person under age 18 will not obtain access, and the general public will not accidentally enter this section.
- E.) The hard core material section shall provide signage at its entrance warning that persons under the age of 18 are not permitted inside.
- F.) No adult arcades are permitted in mainstream media stores.
- G.) No more than one designated area for sexually oriented merchandise per store.
- H.) There shall be no exterior signs that advertise hard core or adult media.

**Section 24.03 – The Adult Entertainment District**

There is hereby established an Adult Entertainment District. The purpose of this district is to accommodate those uses that do not conform to the limitations of the Mainstream Media Shops or Stores as established in Section 24.02. New application of the Adult Entertainment District designation requires a rezoning, which is a legislative act subject to referendum.

**Section 24.04 – Permitted Uses**

- A.) Adult Entertainment Business as defined herein.

**Section 24.05 – Prohibited Uses**

- A.) No person shall cause or permit the establishment of an adult entertainment business within one thousand, five hundred (1500) feet of any single, two or multi-family dwelling, church, park, preschool, school, or another adult entertainment business. For purposes of this Resolution, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of the building within which the adult entertainment business is located to the nearest property line or the premises of a single, two or multi-family dwelling, church, park, preschool or school, or other adult entertainment business.

**Section 24.06 – Conditional Uses**

There are no conditionally-permitted uses in this district.

**Section 24.07 – Definitions**

- A.) “Establishment” shall be defined as the opening of a new business, the relocation or conversion of an existing business.
  
- B.) “Adult Entertainment Business” shall be defined as a business or enterprise where more than 10% of its gross floor area is devoted to presenting material or performances (1) whose dominant tendency is to arouse lust or to appeal to the prurient or scatological interest by displaying or depicting sexual activity, masturbation, sexual excitement, nudity or human bodily functions of elimination, (2) which, when taken as a whole, lack serious literary, artistic, political or scientific value, and (3) which may detrimentally affect the purposes of this Resolution as set forth in Section 24.01 hereof.
  
- C.) “Presents” shall be defined as creates, produces, directs, publishes, advertises, sells, rents, disseminates, distributes or displays.
  
- D.) “Sexual conduct” means vaginal intercourse between a male and female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
  
- D.) “Sexual contact” means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
  
- F.) “Sexual activity” means sexual conduct or sexual contact, or both.
  
- G.) “Sexual excitement” means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
  
- H.) “Nudity” means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
  
- I.) “Material” means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, audio-visual device or media, or other tangible thing capable of arousing interest through sight, sound or touch.

- J.) "Performance" means any audio-visual media, preview, trailer, play, show, skit, dance, or other exhibition performed before an audience.

### **Section 24.08 – Development Standards**

- A.) **Setbacks** – The physical relationships of the structures or use areas and their minimum yard spaces shall be developed in strict compliance with the development plan or the provisions of Article 25.
- B.) **Building Height Limits** – No building or structure in this district shall exceed thirty-five (35) feet in height measured from the finished grade. Standards set forth in Section 25 shall apply.
- C.) **Building Parcel Coverage** – No more than twenty percent (20%) of any parcel may be covered by buildings. Any portion of a parcel not covered by buildings may be covered by impervious improvements such as parking areas, loading and service areas, and driveways, provided that no more than fifty percent (50%) of a parcel will, in the aggregate, be covered by buildings and improvements. At least fifty percent (50%) of a parcel will be devoted exclusively to landscaping, including, with limitation, ponds and grass areas.
- D.) **Landscaping** – All yards, front, side and rear, shall be landscaped in accordance to Section 25 of this Resolution.
- E.) **Site Development** – To the maximum extent possible, the following shall be maintained: all existing natural and man-made drainage courses, trees, and slopes in excess of six percent (6%).
- F.) **Parking** – Off street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan the provisions of Article 25 of this Resolution shall, when appropriate, be incorporated.
- G.) **Signs** – All signs shall comply with the provisions of Article 26 of this Resolution.
- H.) **Exterior Lighting** – All exterior lighting fixtures shall be shaded and directed downward whenever necessary to avoid casting direct light upon any adjoining property.
- I.) The Zoning Commission and/or the Board of County Commissioners may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.
- J.) **Lot Proportion** – The maximum lot depth to width ratio is 4:1.
- K.) **Lot Size** – Minimum lot size shall be 5 acres, and the lot size required shall be adequate to provide yard spaces and off street parking as required in this resolution.
- L.) No trash, debris, unused property or discarded material shall be permitted to accumulate on any lot or portion of any lot which creates an eyesore, hazard or public nuisance to the neighborhood or general public.
- M.) **Standards for External Impacts** – All development shall comply with the following development standards:

- 1.) **Fire and Explosion Hazards** - All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- 2.) **Glare, Heat and Exterior Light** - Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other activity, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
- 3.) **Dust and Erosion** - Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
- 4.) **Vibrations and Noise** - No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises. Noise standards of the Environmental Protection Agency shall be adhered to.
- 5.) **Odors** - No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the Environmental Protection Agency shall be adhered to.
- 6.) **Electrical Interference** - No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 7.) **Waste materials, solid or liquid** - Shall not be created on or imported onto the premises at a level greater than normal to the use, unless provisions for the disposition of said wastes are acceptable to the Delaware General Health District and do not create a burden on adjoining property.



## **ARTICLE 25 – General Development Standards**

### **Section 25.00 – General**

It is the purpose of these development standards to set forth certain general rules to be adhered to regardless of the type or classification of development. They are designed to insure that the general welfare of citizens of Delaware County are protected and enhanced. These development standards apply throughout areas of the county regulated by this Resolution. If a conflict exists between these standards and more specific standards prescribed in any individual zoning district the specific provisions of the zoning district in question shall prevail. The standards set forth herein are to be considered minimum standards to be augmented by standards set forth elsewhere in this resolution or prescribed or agreed to by the land owner in any rezoning or variance.

### **Section 25.01 – Parking**

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

- A.) Dimensions - All parking spaces shall be not less than nine (9) feet wide and twenty (20) feet long. Such spaces shall be measured rectangularly and shall be served by aisle ways of sufficient width to permit easy and smooth access to all parking spaces. Requirements of the Americans with Disabilities Act shall be adhered to.
- B.) Paving - Except in the Farm Residence Zoning District (FR-1) and the Agricultural Conservation District (A-1) all common parking areas and adjacent aisles or driveways are recommended to be paved with asphaltic material or concrete.
- C.) Driveways - All driveways serving parking lots for five (5) or more vehicles should be served by a driveway not less than twenty (20) feet in width but adequate in width to permit easy access to parking spaces. No driveway should be located so that it enters a public road within one hundred (100) feet of the intersection of any two (2) public roads unless there are two driveways serving the lot, one of which is more than one hundred (100) feet and the other not less than forty (40) feet from said intersection. All driveways should be located and the adjoining lots graded so that vehicular traffic entering a public road has an unobstructed sight distance of at least three hundred (300) feet.
- D.) Parking Area Location - Except in the single family districts (A-1), (FR-1) and (R-2), no parking lot or parking area shall be located nearer than six (6) feet to the side or rear line of the tract on which the structure is located and parking in front of the main structure may be permitted only if not more than forty (40%) percent of the front set back area outside of the right-of-way is occupied by parking. All parking spaces required herein shall be located on the same lot, or adjacent lots under the same ownership and on the same side of the street as the building or use served.
- E.) Required Off-Street Parking Spaces - The user of any tract shall provide off-street parking for all employees, customers, visitors and invites. The following table shall specify the minimum parking areas to be provided. Unless otherwise noted, calculations below are based on gross floor area.

USE	REQUIRED PARKING SPACES
1.) Single family residential (FR-1) and (A-1)	Four (4) per dwelling unit
2.) All other residential	Three (3) per dwelling unit
3.) Hotels, motels, lodges	One (1) per rental unit plus one (1) per (without public meeting employee on largest shift facilities) plus one (1) for each four seats in the dining room or restaurant area
4.) Hotels, motels, lodges, exhibition halls and public assembly	One (1) per rental unit plus one (1) per employee on the largest shift plus one (1) per seventy-five (75) sq. ft. areas (except churches) of floor area used for exhibition or assembly purposes plus one (1) per four (4) seats in restaurant therein
5.) Churches or places of worship	One (1) for each three (3) seats or one (1) for each public assembly forty-five (45) sq. ft. of assembly area, whichever is greater
6.) Hospitals	One and a half (1-1/2) for each bed plus one (1) for each employee on the largest shift
7.) Nursing Homes	One (1) for each two (2) beds plus one (1) for each employee on the largest shift
8.) Museums, libraries, etc.	One (1) for each 400 sq. ft. of area open to public plus one (1) for each employee on largest shift
9.) Primary or elementary schools	Four (4) for each classroom
10.) Secondary schools, colleges, trade schools, etc.	Four (4) for each classroom plus one 1 for each four (4) students
11.) Restaurants	One (1) for each two (2) seats plus 1 for each employee on the largest shift. Not less than 25 parking spaces shall be provided
12.) Offices	One (1) for each 400 sq. ft. of floor area plus 1 for each employee
13.) Funeral Homes	One (1) for each twenty-five (25) sq. ft. of public area
14.) Retail Stores	Five (5) plus one (1) for every four hundred (400) sq. ft. of floor area
15.) All industrial, warehousing	Twenty (20) plus one (1) for each two (2) employees plus one (1) for each vehicle maintained on premises

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

**Section 25.02 – Height Limitations**

The building height limitations set forth in this resolution shall not apply to church spires, domes, chimneys, cooling towers, elevator shafts, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers, tanks, water towers or necessary mechanical appurtenances which may be erected to any safe and lawful height. Except as regulated by Section 25.12 (Small Wind Farms) and Section 6.04 (Telecommunications Towers), windmills, aerials, antenna or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract. When a



commercial tower is erected on a tract, the 360-degree fall zone, to any structure(s), shall be equal to the tower height plus twenty-five (25) feet.

**Section 25.03 – Structure Separation**

No principal structure shall be located closer than twenty-five (25) ft. to another principal structure unless appropriately fire-rated in which event said principal structures shall be no closer than fifteen (15) feet. No principal structure shall be located closer than fifteen (15) feet to another principal structure unless one of said structures has, as its exterior facing wall, a fire wall, free of any opening and capable of stopping the spread of any fire.

**Section 25.04 – Sanitary Sewer Requirements and Pollution Control**

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

**Section 25.05 – Water Impoundments**

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

- A.) Adjacent to all class “A” roadways no impoundment shall be located closer than twenty-five (25) feet to the right-of-way of any adjacent approved road. No impoundment shall be located closer than fifty (50) feet to the right- of-way of U.S. Rt. 23.
- B.) No impoundment shall be located in the front yard in any district except the FR-1 or A-1 district except upon issuance of a conditional use permit pursuant to Article 28 of this resolution or as approved in plans of development or approved subdivision plats.
- C.) All permanently-installed swimming pools (in-ground or above-ground), or the entire property upon which it is located, shall be walled or fenced to prevent uncontrolled access by individuals from the street or from adjacent properties. Said fence or wall shall be in accordance with the Building Code of Delaware County.
- D.) Temporary or inflatable pools shall be located and protected to prevent accidental entry, either with a removable ladder or with a fence or wall in accordance with the Building Code of Delaware County.

**Section 25.06 – Landscaping**

All uses and improvements within areas of the County regulated by this Resolution shall pay close attention to maintenance of proper landscaping as soon as possible after completion of construction of the principle structures or improvements. Maintenance of ground cover at all times is encouraged to prevent erosion. Replacement of trees, removed during the land clearing, should be accomplished as soon as possible.

**Section 25.07 – Drainage**

All construction within areas of the County regulated by this Resolution shall be accomplished in a manner consistent with maintenance of good surface drainage. In all improvements or uses where submittal of drainage plans is not specifically required every reasonable effort shall be made to insure that proper drainage on the subject property and adjacent or servant properties is maintained or improved. Where applicable the appropriate sediment pollution and water run-off control regulations shall be complied with. In no event shall any person interdict or interfere with any existing tile or surface drain channel unless it is determined that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties.

**Section 25.08 – Floodplain Restrictions**

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

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

**Section 25.09 – Set Back Regulations**

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

- A.) CLASS A – Roadways designated by Functional Classification in Delaware County’s Thoroughfare Plan as Major Arterials, including U.S. or State Routes.
- B.) CLASS B – Roadways designated by Functional Classification as Minor Collectors, Minor Arterials, and Major Collectors, or any other through public street or county road or township roads or any private roadway approved by County Engineer connecting two or more public roads.
- C.) CLASS C – Other local roads or dead-end roads ending at a cul-de-sac or approved turn around when the lot configuration or approved plan precludes future extension of said roadway or any branch therefrom to create a connecting street between two or more existing or future streets or roads.
- D.) Minimum Setback Distances  
All distances are measured (in feet) from the centerline of the existing or proposed roadway to the nearest use or improvement, except parking areas or signs which may be located within the setback area as regulated by Article 25 of this resolution.

USE CLASSIFICATION	ROAD CLASSIFICATION		
	Class A	Class B	Class C
FR-1 – Residential	130	90	90
PRD – Residential	As approved by Development Plan		
R-2 – Residential	130	75	60
C-1 – Neighborhood Office	130	80	60
C-2 – Neighborhood Commercial	130	80	60
PC – Planned Commercial and Office	As approved by Development Plan		
I – Industrial	130	130	100
INS – Institutional	130	130	100

PINS – Planned Institutional	As approved by Development Plan		
PI – Planned Industrial	As approved by Development Plan		
REC – Recreation	130	130	100
PREC – Planned Recreation	As approved by Development Plan		
A-1 – Agricultural	130	90	90
AE – Adult Business	130	130	100

**Section 25.10 – Installation of Satellite Signal Receiving Earth Stations**

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

- A.) No permit for installation of a disk or dish shall be required for a dish measuring 39.37” (one (1) meter) in diameter or less. For any dishes greater than 39.37” (one (1) meter) in diameter a permit fee as prescribed by the Board of County Commissioners shall be paid and permit forms shall be executed as prescribed.
- B.) No installation may be made forward of the front building line of the principal structure and no antenna or dish shall be placed nearer than twenty feet (20') to any property line.
- C.) No disk or dish having a diameter of greater than 39.37” (one (1) meter) may be located on the roof of any residential structure or accessory building on a residential or agricultural lot. The top of disk or dish may not be more than twelve (12) feet above the ground level.
- D.) No disk or dish having a diameter of greater than 39.37” (one (1) meter) shall be installed on the roof or other mounting more than six (6) feet above ground level in a commercial or industrial district unless the mounting of the same is designed to withstand a wind force of 85 miles per hour and a certificate is furnished to the Zoning Inspector, signed by a licensed and qualified engineer, that the installation is in conformity to the above limitations.
- E.) No disk or dish shall be permitted within the County which exceeds twelve (12) feet in diameter unless the same is specifically approved as part of the development plan in the Planned Office/Commercial District or an Industrial District.

**Section 25.11 – Driveway Construction**

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

- A.) All driveways (any use). In addition to the conditions or specifications imposed in subsections (b) or (c) hereinafter established, the following specifications are required for all driveways, regardless of the use served thereby:
  - 1.) Driveway shall not have a grade, up or down, from the public road pavement level exceeding eight percent (8%).
  - 2.) Driveway shall not, at any point over its entire length, contain a grade exceeding eight percent (8%)
  - 3.) At the point the driveway intersects the public road the same shall have such radii and drain pipe as specified or required by the governmental agency (State, County or Township) which controls the public roadway.

- 4.) If the driveway leaves the public road on an up-grade the design and construction shall include a vertical curve or saddle to prevent the flow of surface drainage from said driveway onto the traveled portion of the public road.
  - 5.) If any driveway crosses a drainage swale, stream or ditch the same shall be bridged by pipe or such structure as required to permit the unobstructed passage of all surface water generated by a 5-year storm. Any pipe shall be of sufficient length to extend not less than three (3) feet beyond the toe of the slope of the fill over said pipe unless a properly designed headwall is installed to protect the end of such pipe and shall comply with standards contained in the Delaware County Engineer's *Design, Construction and Surveying Standards* and the *Delaware County Flood Damage Prevention Regulations*, if applicable. No bridge should be less than 12 feet in width. If the driveway serves a commercial or industrial use the bridge shall be not less than 18 feet in width.
  - 6.) If a fill is placed over any drainage structure or placed to alter the grade of any driveway the vertical slopes on said fill shall be no steeper than a two to one slope. All fill areas shall be scalped of vegetation and excavated to load bearing soil before fill material is placed over it. Such fill shall be free of all humus and organic material and shall be compacted to a density of 100% proctor. The fill shall be of sufficient width to include a compacted berm beside the graveled or paved area of at least twelve (12) inches in width to facilitate safe passage of vehicles. Guardrails or barriers shall be installed when necessary to create safe conditions.
  - 7.) Drainage ditches shall be constructed as necessary parallel to said driveway and shall be graded to maintain flow to a good and sufficient outlet. Siltation control shall be placed in any ditch and such siltation shall not flow to roadside ditches along public roads.
  - 8.) All curves in the driveway shall be of sufficient radius (not less than 50 feet) to permit unhindered passage of public safety vehicles including fire vehicles and all other vehicles reasonably expected to utilize the same.
  - 9.) All trees, overhanging branches or other obstructions to the free passage of public safety vehicles shall be removed.
  - 10.) Obstructions on the prevailing wind-ward side of the driveway which contribute to drifting of snow shall, when possible, be removed.
- B.) Residential driveways. In addition to the conditions imposed by Section 25.11(A.) herein before set forth the following standards are required for driveways serving residential structures or uses:
- 1.) Driveways serving individual residential structures shall not be less than 10 feet in width and shall be constructed over an aggregate base of appropriate depth.
  - 2.) If the driveway serves two (2) or more residences (not including apartment structures) the same shall be twelve (12) feet in width and shall be constructed over an aggregate base of appropriate depth.
  - 3.) If any residential driveway is over 500 feet in length widened passing areas at least fifteen (15) feet in width and at least twenty (20) feet long excluding tapers shall be provided at reasonable intervals, not more than 300 feet distant from each other, to permit the free passage of traffic over said drive.

- C.) Commercial, industrial, public facility and apartment complex driveways. In addition to the conditions addressed in Section 25.11(A.) herein, the following standards shall apply to driveways serving all commercial and industrial uses and apartment complexes containing ten (10) or more units and served by a common parking area:
- 1.) Driveways shall be not less than twenty (20) feet in width.
  - 2.) Driveway base and surface shall be designed by a professional engineer to sufficient depth for anticipated use and access by public safety vehicles.
  - 3.) The finished surface of the driveway shall be hard surfaced and may be of any Ohio Department of Transportation-approved materials.

**Section 25.12 – Small Wind Farms less than 5 Megawatts**

As used in this section, “small wind farm” means wind turbines and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than five megawatts (5MW or five million watts).

A.) Application

- 1.) Any proposed construction, erection, or siting of a small wind project farm less than 5MW including a wind turbine generator and anemometer (instrument that measures the force and direction of the wind) or any parts thereof shall be a Permitted Use/Permit Required in any zoning district except those expressly zoned for residential use.
- 2.) A Conditional Use Permit shall be required in all districts zoned for residential use. The areas zoned for residential use shall be deemed to be all land located within the following districts: Farm Residential (FR-1), Low Density Residential (R-2), Planned Residential (PRD), and Agricultural Preservation (A-1).
- 3.) Wind Project Farms of 5MW or more shall be required to submit an application with the Ohio Power Siting Board (OPSB) at the Public Utilities Commission of Ohio (PUCO) and are required to meet OPSB regulations.
- 4.) Small Wind Projects Farms less than 5MW and used solely for Agriculture will be exempt from these zoning regulations as an Agricultural Use. Any proposed construction, erection, or siting of a small wind project farm less than 5MW including the wind turbine generator or anemometer or any parts thereof shall be a Permitted Use/Permit Required in any zoning district except those expressly zoned for residential use.

B.) General Requirements. The following conditions shall be met for both Permitted and Conditional Use Permit.

- 1.) Height: The maximum height of any turbine shall be 125 ft. For purposes of this Resolution, maximum height shall be calculated by measuring from the end of a prop at maximum vertical rotation to the base of the tower.
- 2.) Setbacks: Any turbine erected on a parcel of land shall be setback 1.1 times the height of the tower, or established “clear fall zone”, from all road right-of-way lines, neighboring property lines, and structures, as well as any inhabited structures on the parcel intended for the turbine. A turbine shall be erected and placed in such a manner that if it were to fall, whatever direction the fall

occurs would be contained solely on the property where the turbine is located, and would not strike any structures including the primary dwelling and any inhabited structures.

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

C.) Permits

- 1.) A permit shall be required before construction is commenced on an individual wind turbine project system.
- 2.) As part of the permit process, the applicant shall inquire with the County Building Regulations as to whether or not additional height restrictions are applicable due to the unit's location in relation to any local airports.
- 3.) Applicant shall provide the Zoning Inspector with the following items and/or information when applying for a permit:
  - a.) Location of all public and private airports in relation to the location of the wind turbine.
  - b.) An engineering report that shows:
    - i.) The total size and height of the unit;
    - ii.) If applicable, the total size and depth of the unit's foundation structure concrete mounting pad, as well as soil and bedrock data;

- iii.) A list and/or depiction of all safety measures that will be on the unit including anti-climb devices, grounding devices, lightning protection, braking systems, guy wiring & anchors;
  - iv.) Data specifying the kilowatt size and generating capacity in kilowatts of the particular unit.
  - v.) The maximum decibel level of the particular unit. This information shall be obtained from the manufacturer of the turbine unit.
  - vi.) Ambient noise levels at property lines.
  - vii.) Hazardous materials containment and disposal plan.
- c.) A scaled site drawing showing the location of the unit in relation to existing structures on the property, roads and other public right-of-ways, and neighboring property lines.
  - d.) Evidence of established setbacks of 1.1 times the height of the wind turbine and “clear fall zone” with manufacturer’s recommendation.
  - e.) A maintenance schedule as well as a dismantling plan that outlines how the unit will be dismantled.

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## **ARTICLE 26 – Sign and Billboard Regulation**

### **Section 26.01 – Purpose**

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

### **Section 26.02 – Permitted Signs-No Permit Required**

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

- A.) Signs for Sale, Lease or Rent or Identifying the Builder or Contractor of the Premises on which the sign is located. Not more than one sign shall be displayed on any lot or parcel. Such signs shall not be illuminated and shall not exceed six (6) square feet of area per side with not more than two (2) sides. All signs shall be removed upon completion of the building and/or renovation project and within fifteen (15) days of the sale, lease or rent of a lot, parcel or property.
- B.) Signs for Expanded Home Occupations: Only one sign, not larger than six (6) square feet per side and four (4) feet in height above grade of the surrounding yard, may be erected advertising the occupation. The sign may be located at eye level if mounted flat against a building. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.
- C.) Vehicular Signs: Directional or other incidental signs pertaining to vehicular or pedestrian control (i.e. STOP, ONE WAY, SPEED LIMIT, YIELD, etc.) on private property shall be permitted provided said signs are located outside the right-of-way of any public road, do not exceed two (2) square feet of area per side and do not interfere or obstruct visibility when entering or leaving said property.
- D.) Name and Address of Occupant: of residence in A-1 and FR-1 District provided that such sign is located outside the right-of-way of any public road. Said sign shall not be higher than three (3) feet of above the ground and not more than one (1) sign shall be permitted.
- E.) Political Signs - The erection of political signs shall be permitted in any district covered by this resolution provided that said signs:
  - 1.) Are located outside the right-of-way limits of the road and do not interfere with visibility of vehicular traffic entering or leaving the highway.
  - 2.) Are erected or posted not more than forty-five (45) days prior to the election and are removed within fifteen (15) days following the election.
  - 3.) Are capable of posting and removal without destruction of public or private property.
  - 4.) Designate the name and address of the person responsible for the placement of the sign.
  - 5.) Signs shall not be placed on public utility poles or public property
- F.) Temporary Signs announcing special public or institutional events. Such signs shall not exceed thirty-two (32) square feet in area per side and shall not be permitted more than thirty (30) days prior to the planned event nor more than seven (7) days after said event. There shall be no more than three (3)

events per year per organization. Such sign shall designate the name of the person charged with the duty of removing said sign.

- G.) Signs Approved in Planned Districts: Permitted as part of the Development Plan approval process, provided that the construction of the approved sign is in strict compliance with the approved plan.
- H.) Farm Signs: Denoting the name and address of the occupants, the produce or products for sale on the premises and membership in organizations. Not more than one (1) sign may be permitted and it shall be located outside the road right-of-way. Advertising signs may not exceed thirty-two (32) square feet of area per sign and all other signs shall be limited to eight (8) square feet per side.
- I.) Flags, emblems and insignia of any governmental agency or political subdivision.
- J.) Historical signs, commemorative plaques, or corner-stones placed by recognized historical agencies, provided that such signs are less than nine (9) square feet in area and are not illuminated.
- K.) Yard or Moving Sales: One (1) sign advertising the sale of personal property at a garage, yard, porch or moving sale may be temporarily erected for no longer than fourteen (14) consecutive days on the same lot as the sale provided such sign is no larger than four (4) square feet, and is not illuminated.
- L.) Signs Approved as Part of Conditional Use Permit: provided such signs are constructed in strict compliance with the imposed conditions.

**Section 26.03 – Permitted Signs - Permit Required**

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

- A.) Outdoor Advertising: for a product or service not located upon the premises on which the sign is located shall be classified as a business use and shall be permitted in all commercial and industrial districts.
  - 1.) No billboard shall exceed three-hundred (300) sq. ft. in area per side nor have more than two sides.
  - 2.) No billboard shall exceed thirty-five (35) feet in height nor have a length in excess of four times the height of the sign face.
  - 3.) All billboards shall be located behind the building set-back lines established for the district in which the sign is located and shall be located no closer than 1200 feet from the closest inhabited building.
- B.) Commercial or Industrial Signs - Are to be free standing, building mounted or ground signs identifying or advertising commercial or industrial uses on the premises. If the signs are located within a planned commercial zone or are erected pursuant to a conditional use permit, the location of said signs must be in strict compliance with the plan or permit in addition to any restrictions imposed herein.
  - 1.) No sign shall have a surface area of greater than forty (40) square feet per side.
  - 2.) Not more than one sign is allowed except as authorized by the Board of Zoning Appeals.
  - 3.) In no case shall the total sign area of all signs exceed 200 square feet.

- 4.) No sign shall be located closer than twenty-five (25) feet to the right-of-way line of the adjoining thoroughfare.
- 5.) Setback from the side lot line shall be in accordance with development standards for the district in which the sign is located.

**Section 26.04 – Prohibited Signs**

The following signs shall be prohibited in areas under the Delaware County Zoning Resolution:

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

**Section 26.05 – General Regulations**

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

- A.) Location: No sign shall be located within the right-of-way of any public or private road, nor placed on any utility pole. Said sign or signs shall be located in strict compliance with this resolution, in strict compliance with the approved development plan or restrictions imposed by the Board of Zoning Appeals.
- B.) Lighting:
  - 1.) No sign shall be illuminated to a level which causes unreasonably high light levels on adjacent residential lots or residences.

- 2.) All lighting, indirect or internal, shall consist of constant illumination which is uniform in intensity. All lighting shall be properly directed so as to not create a nuisance to surrounding properties because of glare.
  - 3.) No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent roadways or right-of-ways thereby creating a hazard to vehicular traffic.
  - 4.) No flashing, rotating or moving light source shall be permitted on any sign.
- C.) Height: No signs shall be erected to a height greater than thirty-five (35) feet. No sign in excess of fifteen (15) feet in height shall be erected unless engineering data is supplied showing the structure to be able to withstand a wind force of eight-five (85) MPH
- D.) Sight Interference: No sign shall be permitted which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on roadways or right-of-ways. Signs shall not be located or designed so as to interfere with, obstruct the view of, or be confused with any authorized traffic control sign, signal or device.
- E.) Signs shall not make use of the words "Stop," "Look," "Danger," or other similar words that may mislead or confuse drivers on public roads.
- F.) Maintenance: All signs or billboards constructed or erected shall be maintained in good repair and in a proper state of preservation.
- G.) All signs shall include the name and address of the individual responsible for the placement of the sign.
- H.) Abandoned Signs: If any sign or billboard shall become abandoned, such sign or billboard is declared a public nuisance by reason that continued lack of use results in a lack of reasonable and adequate maintenance, thereby causing deterioration and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any of the following criteria:
- 1.) Any sign or billboard associated within an abandoned non-conforming use.
  - 2.) Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least one hundred and eighty (180) consecutive days. Seasonal businesses are exempted from this determination.
  - 3.) Any sign or billboard that is not maintained in accordance with this resolution. When the Zoning Inspector finds, upon investigation, that a sign or billboard has been abandoned, he/she shall notify the owner of said sign, together with the owner of the land on which the sign is located by certified mail, of his/her findings. Such notice shall advise the owner that the sign has been declared abandoned and must be removed within 30 days from the date of mailing of said notice. The owner may appeal such decision to the Board of Zoning Appeals as provided in Article 30 of this resolution.

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

If the sign is not removed, the same may be removed by the County at the expense of the lessee or owner. If the County is not immediately reimbursed for such costs, the amount thereof shall be certified

to the Delaware County Auditor for collection as a special assessment against the property on which it is located.

**Section 26.06 – Non-Conforming Signs or Billboards**

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

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

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

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

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

**Section 26.07 – Permits**

No signs, except as provided for in Article 26.02 of this Resolution, shall be erected prior to the issuance of a permit therefore by the County Zoning Inspector.

- A.) Fees: The applicant for a permit herein shall pay such fee as is prescribed by the Delaware County Commissioners.
- B.) Term of Permit: The zoning permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.
- C.) Inspection: All signs and billboards erected are subject to inspection, whether a permit is required or not prior to erection. The County Zoning Inspector is hereby authorized to enter upon any property or premises to ascertain compliance with the provisions of this Resolution. Such inspection may be made at any reasonable time and the County Zoning Inspector may order the removal of any sign or billboard that is not maintained in accordance with the provisions of this resolution.
- D.) Cancellation of Permit: In the event that the owner of any sign or property fails to comply with the terms of this Zoning Resolution said permit may be revoked upon compliance with the following terms:
  - 1.) Notice: The County Zoning Inspector shall notify the owner of any deficiency or violation of this regulation. Notice shall be served personally or by ordinary mail at the last known address of the permit holder. The permit holder may seek a hearing on said notice by complying with the

provisions of Article 31 of this resolution dealing with revocation of the Conditional Permit. Failure to correct deficiencies or to appeal the decision of the Zoning Inspector within 30 days will result in cancellation of the permit for such sign and said sign shall then be removed as provided by this resolution.

- E.) Removal of Signs: The County Zoning Inspector may cause the removal of any sign illegally placed within the right-of-way of any road within the county. The Zoning Inspector shall store said sign and shall notify the owner of its location, by certified mail. If the owner of any sign fails to claim same with thirty (30) days after mailing of notice by the Zoning Inspector said sign may be destroyed.

## **ARTICLE 27 – Non-Conforming Uses**

### **Section 27.01 – Continuance**

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

### **Section 27.02 – Restoration**

When a structure, the use of which does not conform to the provisions of this Zoning Resolution, is damaged by fire, explosion, flood, wind, earthquake, or other calamity outside the control of the owner or occupant, to the extent that the cost of restoration is more than fifty (50) percent of its value, it shall not be restored unless in conformity with the provisions set forth in this Zoning Resolution, as amended, for the district in which it is located, or unless a conditional use permit is issued by the Board of Zoning Appeals pursuant to Article 31; provided, however, such restoration shall be commenced within one hundred and eighty (180) days of such calamity and diligently continued until completed. For the purposes of this section “value” shall be defined as the reproduction cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines for the structure.

### **Section 27.03 – Enlargement**

No non-conforming building or use may be reconstructed, extended, enlarged, expanded, or substituted except upon the granting of a conditional use permit or variance issued by the Board of Zoning Appeals in accordance with the provisions of Article 31 and this section.

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

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

- A.) A non-conforming use of a less objectionable nature may be substituted for an existing non- conforming use.
- B.) An existing, legal non-conforming use which occupied only a portion of an existing structure or premises may be extended to additional portions of such structure or premises.
- C.) The alteration or reconstruction of a non-conforming use, structure, sign or building provided that such will make the non-conforming use substantially more in character with its surroundings.
- D.) The extension of a non-conforming use when such extension will substantially make the non- conforming use more in character with its surroundings.
- E.) Any extension shall not be more than 50% greater in size than the non-conforming use that existed at the time of passage of this Zoning Resolution.

The Board may impose such requirements and conditions, as they may deem necessary for the protection of adjacent properties and the public interest.

**Section 27.04 – Non Conforming Lots**

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record which has an area and/or lot width less than that required for such structure or permitted use in the Zoning District in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of Article 31. Such non-conforming lots must be in separate ownership and not have continuous frontage with other land in the same ownership on the effective date of the applicable amendment to the Zoning Resolution. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

Such non-conforming lots which must, for public health purposes, construct on-site water supply and/or wastewater disposal systems, may not divide or convey adjacent lots in common ownership and of continuous frontage with other land in the same ownership on the effective date of this amendment to the Zoning Resolution, if such conveyance would decrease the effective lot size below that required for public health standards. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located. A non-conforming lot shall not be built upon without a valid sewer tap or sewage permit from the Delaware General Health District.



## **ARTICLE 28 – Zoning Inspector, Zoning Certificates and Applications**

### **Section 28.01 – County Zoning Inspector**

The Board of County Commissioners shall appoint a County Zoning Inspector, together with such assistants as may be necessary. It shall be the duty of the County Zoning Inspector to compare each zoning certificate application with the then existing zoning map. The compensation for such Zoning Inspector shall be set and paid by the Board of County Commissioners.

### **Section 28.02 – Zoning Certificate Required**

No structure, which exceeds 200 square feet in size, shall hereafter be located, constructed, reconstructed, enlarged or structurally altered nor shall any work be started upon same, nor development begun until a zoning certificate for the same has been issued by the Delaware County Zoning Inspector, which certificate shall state that the proposed building, use, and/or development comply with all the provisions of this Zoning Resolution or the approved Development Plan.

No zoning certificate shall be required for any agricultural building to be erected on land presently used for agricultural purposes or for any building incidental to the agricultural use of the land on which said buildings are proposed to be located nor shall a certificate be required for use of land or building or construction of any building used for public utility or railroad purposes. Exception: all applicable regulations contained within this Resolution shall apply where authority is granted by the Ohio Revised Code. Fees for zoning certificates are established by the Board of County Commissioners.

### **Section 28.03 – Procedures for Obtaining Zoning Certificate**

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

### **Section 28.04 – Conditions of Certificate**

A zoning certificate shall be effective as long as the permit holder makes reasonable progress in accordance with the approved plans within said period or timetable attached to said plans.

### **Section 28.05 – Certificate of Compliance**

It shall be unlawful to use or occupy or permit the building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this resolution. It shall be the responsibility of the permit holder to request the compliance inspection.

### **Section 28.06 – Temporary Certificate of Compliance**

A temporary certificate of compliance may be issued by the Zoning Inspector for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion.

**Section 28.07 – Zoning Certificate (Change of Use)**

No change of use shall be made in any building or part thereof now or hereafter located, constructed, reconstructed, enlarged or structurally altered except for agricultural purposes, without a zoning certificate being issued wherefore by the County Zoning Inspector. No zoning certificate shall be issued to make a change in use unless the changes have been made in conformity with the provisions of this Zoning Resolution, or unless a variance or special permit has been granted by the Board of Zoning Appeals.

**Section 28.08 – Non-Conforming Uses**

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

**Section 28.09 – Records**

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

**Section 28.10 – Complaints**

The Zoning Inspector shall investigate all complaints received alleging violations. The Inspector shall require that all such complaints be submitted in writing. If violations are evident, the Zoning Inspector shall take the appropriate action to bring the use into compliance. A written notice by first class mail or personal service shall be served on the property owner in violation giving them thirty (30) days to bring the use into compliance. If compliance is not obtained by the end of thirty (30) days, a second notice shall be sent. If compliance is not obtained after a second thirty (30) day period, the matter shall be turned over to the Prosecutor for legal recourse. If a clear and present danger exists the thirty (30) day written notice may be waived and the Zoning Inspector may refer the matter directly to the Prosecutor for appropriate action.

**Section 28.11 – Fees**

At the time of adoption of this Zoning Resolution, the Board of County Commissioners shall establish a fee schedule. These fees will be effective immediately and may be amended by the Board of County Commissioners.

## **ARTICLE 29 – Zoning Commission**

### **Section 29.01 – County Zoning Commission**

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

### **Section 29.02 – Compensation and Expenses**

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

### **Section 29.03 – Functions of the County Zoning Commission**

The Zoning Commission shall submit a plan, including both text and maps, representing the recommendations of the Zoning Commission for the carrying out of this Zoning Resolution.

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

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

No County Commissioner shall be employed by the County Zoning Commission.

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

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

### **Section 29.04 – Zoning Secretary**

To assist in the administration of this Zoning Resolution, the County Commissioners shall appoint a Zoning Secretary whose duty it shall be to maintain County Zoning records, confirm information in applications, process all notices required under this Zoning Resolution, record the minutes of the Zoning Commission and the Board of Zoning Appeals, assist the Zoning Inspector, and perform such other duties relating to this Zoning Resolution as the County Commissioners may from time to time direct. The Zoning Secretary may be compensated at rates set

from time to time by the County Commissioners. The County Clerk may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

**Section 29.05 – Meeting and Agenda of County Zoning Commission**

The Zoning Commission shall meet as necessary in a public building within the County.

**Section 29.06 – Minutes**

The minutes of each meeting of the Zoning Commission shall be kept by the Zoning Secretary on file in the Zoning office with the other zoning records. Said minutes shall be open for public inspection during commission meetings and normal business hours.

## **ARTICLE 30 – Amendments**

### **Section 30.01 – Amendments**

This article is intended to be a restatement of Section 303.12 of the Ohio Revised Code and is adopted in this resolution for the convenience of the citizens of Delaware County. Any amendments to Section 303.12 adopted by the Ohio Legislature shall be considered as having also amended this Article correspondingly. Amendments to the Zoning Resolution may be initiated by motion of the County Zoning Commission, by the passage of a resolution by the Board of County Commissioners or by the filing of an application by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment with the County Zoning Commission. The Board of County Commissioners may require that the owner or lessee of property filing an application to amend the Zoning Resolution to pay a fee to defray the cost of advertising, mailing, filing with the county recorder, and other expenses. If the County Commissioners require such a fee, it shall be required generally, for each application. The Board of County Commissioners, upon the passage of such resolution, shall certify it to the County Zoning Commission.

### **Section 30.02 – Zoning Commission**

Upon the adoption of such motion, the certification of a resolution, or the filing of such application, the County Zoning Commission shall set a date for a public hearing, which date shall not be less than twenty (20) nor more than forty (40) days from the date of such a motion, the date of the certification of such resolution, or the date of the filing of such application. Notice of the hearing shall be given by the County Zoning Commission by one publication in one or more newspapers of general circulation in each Township affected by the proposed amendment at least ten (10) days before the date of such hearing.

If the proposed amendment or supplement intends to re-zone or re-district ten or less parcels of land, as listed on the 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 the area proposed to be re-zoned or re-districted to the addresses of those owners appearing on the county auditor's current tax list. The failure of delivery of that notice shall not invalidate any such amendment.

Section 303.12 of the Revised Code details information to be supplied with each amendment.

Regional Planning Input – Within five (5) days after the adoption of such motion or the certification of such resolution or the filing of such application, the County Zoning Commission shall transmit a copy of it together with text and map pertaining to it to the Regional Planning Commission.

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

Transmittal to Commissioners – The County Zoning Commission, within thirty (30) days after such hearing, shall recommend the approval or denial of the proposed amendment, or the approval of some modification of it and shall submit that recommendation together with the motion, application, or resolution involved, the text and map pertaining to the proposed amendment, and the recommendation of the regional planning commission on it to the Board of County Commissioners.

### **Section 30.03 – Board of County Commissioners**

The Board of County Commissioners, upon receipt of such recommendation, shall set a time for a public hearing on the proposed amendment or supplement, which date shall not be more than thirty (30) days from the date of

the receipt of that recommendation. Notice of the hearing shall be given by the board by one publication in one or more newspapers of general circulation in the County, at least ten (10) days before the date of such hearing.

The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment or supplement as defined in Section 303.12 of the Ohio Revised Code.

Within twenty (20) days after its public hearing, the Board of County Commissioners shall either adopt or deny the recommendations of the County Zoning Commission or adopt some modification of it. In the event the board denies or modifies the commission's recommendation, a majority vote of the board shall be required.

The proposed amendment, if adopted by the board, shall become effective in thirty (30) days after the date of its adoption, unless, within thirty (30) days after the adoption, there is presented to the Board of County Commissioners a petition signed by a number of qualified voters residing in the unincorporated areas under County Zoning or part thereof included in the zoning plan equal to not less than eight (8) percent of the total votes cast for all candidates for governor in that area at the last preceding general election at which a governor was elected, requesting the Board of County Commissioners 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 a 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.

All procedures thereafter shall be in strict compliance with the requirements of Chapter 303 of the Ohio Revised Code.

**Section 30.04 – Form of Application**

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

**Section 30.05 – Record**

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

## **ARTICLE 31 – Board of Zoning Appeals**

### **Section 31.01 – Board of Zoning Appeals**

A County Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five (5) members who shall be appointed by the Board of County Commissioners and who shall be residents of the unincorporated territory of the County included in the area zoned by this Zoning Resolution.

The Board of County Commissioners may appoint two alternate members to the Board of Zoning appeals. An alternate member shall take the place of an absent regular member at any meeting of the Board of Zoning Appeals. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. The terms of all regular or alternate members shall be five (5) years and so arranged that the term of one member will expire each year. Each regular or alternate member of the Board of Zoning Appeals shall serve until a successor is appointed and qualified.

Members of the Board of Zoning Appeals shall be removable for non-performance of duty, misconduct in office, or other cause by the Board of Commissioners, upon written charges being filed with the Board of Commissioners, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his/her usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Board of County Commissioners and shall be for the unexpired term.

### **Section 31.02 – Organization**

The Board of Zoning Appeals shall organize, electing a chair and vice-chair, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chair, and at such other times as the Board of Zoning Appeals may determine. The Chair, or the acting Chair, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public.

The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Zoning office and shall be a public record. Attendance of three (3) members shall constitute a quorum.

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

### **Section 31.03 – Compensation and Expenses**

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

### **Section 31.04 – Powers of the Board**

The County Board of Zoning Appeals has the following functions:

- A.) Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of Sections 303.02 to 303.25 of the Revised Code, or of any resolution adopted pursuant thereto, including this Resolution;
- B.) Authorize, upon appeal, in specific cases, such use 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.) Authorize, upon appeal, in specific cases, such area 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 a practical difficulty, and so that the spirit of the resolution shall be observed and substantial justice done;
- D.) 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;
- E.) Revoke an authorized variance or conditional zoning certificate granted, if any condition of the variance or certificate is violated;

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

In exercising the above-mentioned powers A.) through D.), such board may, in conformity with such sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as is within the powers of the officer whose decision was appealed, and to that end has all powers of the officer from whom the appeal is taken.

### **Section 31.05 – Procedure on Hearing Appeals**

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the County affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The application for appeal shall be received a minimum of twenty one (21) days prior to the hearing date. The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give at least ten (10) days written notice by ordinary mail to the parties in interest, give notice of such public hearing by one publication in a newspaper of general circulation within the County at least ten (10) days prior to the date of such hearing, and decide the same within a reasonable time after it is submitted. At the hearing, any party may appear in person or by attorney.



**Section 31.06 – Procedure for Application of Variance**

The County Board of Zoning Appeals, appointed by the County Commissioners, may upon application, grant such variances from the provisions or requirements of this resolution as will not be contrary to the public interest.

Where, by reason of the exceptional narrowness, shallowness or unusual shape of a specific piece of property on the effective date of this resolution, or by reason of exceptional topographic conditions, or other extraordinary situations or conditions of such parcel of property, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this resolution would involve practical difficulty the Board shall have power to authorize a variance from the terms of this resolution.

- A.) Public Notice - Written application for a variance shall be made to the County Zoning Inspector who shall transmit said application to the Board of Zoning Appeals. The application shall be received a minimum of twenty-one (21) days prior to the hearing date. The Board of Zoning Appeals shall give written notice by ordinary mail at least ten (10) days prior to the hearing to the applicant, affected Township officials, and all owners of land within five hundred (500) feet of the exterior boundaries of the land for which a variance is requested. An application for a variance shall be advertised at least once, ten (10) days in advance of the time set for the public hearing, in a newspaper of general circulation within the County. The notice shall state the time and place of the public hearing and the nature of the proposed appeal or variance.
- B.) Hearing and Decision - At such hearing the applicant shall present a statement and adequate evidence, in such form as the County Board of Zoning Appeals may require.

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

In granting such variance the board shall determine that said variance will not be contrary to the public interest, is justified due to special conditions, that the literal enforcement of the resolution will result in practical difficulty and that the spirit of this resolution will be observed and substantial justice done.

In granting any variance under the provisions of this section, the Board of Zoning Appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions in the application on which the variance is granted.

- C.) Form of Application - All applications for variances under this section shall be submitted on such forms as designated and approved by the County Commissioners. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application.

**Section 31.07 – Procedure on Application for Conditional Use Permit**

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

- A.) Application - An application for Conditional Use permit shall be submitted on such forms as designated and/or approved by the County Commissioners. No application shall be considered unless the same is fully completed and accompanied by all required information on said application together with plot plans and/or drawings as necessary. The application shall be received a minimum of twenty one (21) days prior to the hearing date.
- B.) Hearing - The application shall be transmitted to the Board of Zoning Appeals who shall cause a public hearing to be held.

- C.) Notice - Notice of the application for Conditional Use permit and the hearing thereon shall be given to the applicant, affected Township officials and all property owners within five hundred (500) feet of the premises on which the use is planned. Notice shall be given by ordinary mail at least ten (10) days prior to the hearing. In addition, one notice of said meeting shall be published in a newspaper of general circulation within the County not less than ten (10) days prior to the scheduled hearing. The notice shall set out the time and place of the meeting, as well as the general nature of the conditional use.
- D.) General Standards - before approving any conditional use, the Board of Zoning Appeals shall review the particular facts and circumstances of each application and the proposed use in terms of the following standards and shall find probative evidence that the use as proposed conforms with all of the following:
- 1.) Is in fact a conditional use and authorized within the existing zoning district pursuant to provisions of the Zoning Resolution;
  - 2.) The use is of such nature and 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 the use will not change the essential character of the same area;
  - 3.) Will not pose a discernible hazard to existing adjacent uses;
  - 4.) 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;
  - 5.) 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, dust, vibration, fumes, glare, lighting or odors;
  - 6.) The use will be consistent with the objectives of this Zoning Resolution and the Comprehensive Plan.

In the event the Board of Zoning Appeals approves the conditional use permit, it shall impose such reasonable conditions as it deems necessary to address each of the following factors to ensure that use will be conducted in the best interests of the zoning district: 1. Traffic, 2. Parking, 3. Noise, 4. Smoke, fumes &/or odors, 5. Dust, 6. External lighting, that is not offensive to the neighborhood, 7. Vibration, 8. The preservation of natural, scenic or historic features of any major importance.

- E.) Decision - The board shall make its decision within a reasonable time after the hearing. In the event the board, in its discretion, approves the Conditional Use permit, it may impose such reasonable conditions as it deems necessary to insure that the use will be conducted in the best interest of the zoning district.
- F.) Revocation - The Board of Zoning Appeals may revoke a conditional use permit for failure to comply with the conditions of that permit. The board shall notify the holder of the permit by certified mail of its intent to revoke the permit and of the holder's right to a hearing before the board, within thirty (30) days of the receipt of said notice, if so requested. In lieu of said certified mail service, service may be made personally by the County Zoning Inspector in which case the hearing shall be requested within thirty (30) days after such service. If the holder requests a hearing, the board shall set a time and place for the hearing and notify the holder. At the hearing, the holder may appear in person, or by an attorney or other representative, or may present the position in writing. The holder may present evidence and may examine witnesses. If no hearing is requested, the board may revoke the permit without a hearing. The authority to revoke a permit is in addition to any other means of zoning enforcement provided by law.

**Section 31.08 – Decision of Board**

The Board of Zoning Appeals shall act by a motion in which three (3) members concur. The Board shall document every decision with a written notice to the applicant. The notice shall be accompanied by a written finding of fact, based on testimony and evidence. A copy of the Board's decision accompanied by the Board's finding of fact shall be mailed to the applicant within a reasonable period of time.

**Section 31.09 – Public Information**

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

**Section 31.10 – Record**

For any hearing at which the applicant desires a record to be made, the applicant shall give notice not less than ten (10) business days prior to the date scheduled for said hearing to the Zoning Secretary requesting that a court reporter be retained to make such record and the applicant shall deposit with the request cash in the amount established by the Commissioners to be used to defray the expenses of making a record. In all hearings wherein no request has been made for a record, the notes of the Zoning Secretary of the Board of Zoning Appeals shall serve as the sole transcript of such hearing.

**Section 31.11 – Fees to Accompany Notice of Appeal or Application for Variance or Conditional Use**

For all actions of the Board of Zoning Appeals the Board of County Commissioners shall establish fees to be deposited with each application. Such fees shall be required generally for each application to defray the costs of advertising, mailing and other expenses:

- A.) Variance, appeal or conditional use applications - as determined by Board of County Commissioners.

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## **ARTICLE 32 – Enforcement**

### **Section 32.01 – Violations**

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of this Zoning Resolution, or amendment or supplement to such resolution, adopted by the County Board of Commissioners pursuant to Chapter 303, Ohio Revised Code. Each day's continuation of a violation of this section shall be deemed a separate offense irrespective of whether or not a separate notice of violation or affidavit charging a violation has been served upon the violator for each day the offense continues.

### **Section 32.02 – Remedies**

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of Chapter 303 Ohio Revised Code, or of this Zoning Resolution or amendments hereto adopted by the Board of County Commissioners under such resolution, such board, the prosecuting attorney of the county, the County Zoning Inspector, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use. The Board of County Commissioners may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section.

### **Section 32.03 – Penalty**

Whoever violates the provisions of this Zoning Resolution and amendments hereto or Chapter 303, Ohio Revised Code, shall be fined not more than five hundred dollars (\$500) for each offense or the maximum fine as provided by law, whichever is greater.

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## **ARTICLE 33 - Severability and Repeal**

### **Section 33.01 – Severability**

If for any reason any one or more articles, sections, sentences, clauses or parts of this Zoning Resolution are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Zoning Resolution but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Zoning Resolution held invalid and the invalidity of any section, sentence, clauses, or parts of this Zoning Resolution in any one or more instances shall not attest or prejudice in any way the validity of this Zoning Resolution in any other instance.

### **Section 33.02 – Repeal**

This Zoning Resolution may be repealed only by complying with the requirements of Chapter 303 of the Ohio Revised Code as amended.

### **Section 33.03 – Repeal of Conflicting Resolution**

The County Zoning Resolution or parts thereof previously in effect in areas under County Zoning, Delaware County, Ohio, not otherwise adopted as part of this Zoning Resolution, and in conflict with the Zoning Resolution as it is established on or established hereafter are hereby repealed. Any suits at law or in equity concerning the application or interpretation of this Resolution and/or all prosecutions resulting from violation of any Zoning Resolution or part thereof heretofore in effect, which are now pending in any of the Courts of the State of Ohio or of the United States, shall not be deemed abated or abandoned by reason of the adoption of any such amendment to this Zoning Resolution but shall be prosecuted to their finality the same as if such amendment to this Zoning Resolution had not been adopted. Any and all violations of the existing Zoning Resolution, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Zoning Resolution shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted. Nothing in this Section or Resolution shall be intended to limit the power of the Commissioners to settle litigation under Ohio Revised Code Section 307.561 nor the binding effect of a consent decree or court approved settlement agreement that has been approved by a court pursuant to said Revised Code Section 307.561.

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