

ZONING RESOLUTION
PERRY TOWNSHIP
LICKING COUNTY, OHIO

04.18.2024

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**PART ONE - AUTHORIZATION AND GENERAL
PROVISIONS**

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ARTICLE I: Authorization And Purpose

Section 1.01 Title

This Resolution shall be known and may be cited as the ***Zoning Resolution of Perry Township, Licking County, Ohio***. Unless otherwise provided herein or by the law or implication required, the same rules of construction, definition, and application shall govern the interpretation of the Resolution as those governing the interpretation of the Ohio Revised Code.

Section 1.02 Purpose

The Board of Township Trustees hereby find it necessary, advisable and beneficial to the residents of Perry Township to provide for the division of the unincorporated area of the Township into districts or zones. This Zoning Resolution is adopted to promote and protect the public health, safety, and general morals by the following:

- Regulating the use of land areas and the construction, restoration and/or alteration of buildings or other structures and uses therein,
- Restricting the area dimensions of land, yards and open spaces to secure adequate light, air and safety from fire and other dangers,
- Controlling the bulk, height, density, and location of buildings or other structures,
- Protecting and preserving existing natural resources.
- Assuring the orderly growth and development of lands, as permitted by the provisions of Chapter 519 of the Ohio Revised Code.

Section 1.03 Applicability and Limitations

Subject to the limitations specified in Section 519.211 of the Ohio Revised Code, the regulations set forth in this Zoning Resolution shall be applicable to all buildings, structures, uses and lands of any private individual or entity, or any political subdivision, district taxing unit or bond-issuing authority, located within the unincorporated area of Perry Township, Licking County, Ohio.

Section 1.04 Interpretation and Consistency

The provisions of this Resolution shall be held to be as the minimum requirements and shall apply uniformly to each class or kind of building, structure or land. Where the provisions of this Resolution impose greater restrictions upon buildings, structures, uses or land, than required by other codes, laws, ordinances, or restrictive covenants running with the land, the regulations of this Resolution shall govern. Conversely, these regulations shall not be deemed or construed to repeal, amend, modify, alter or change any other law, resolution or regulation of Perry Township, or part thereof, not specifically repealed, amended, modified, altered or changed herein.

Section 1.05 Separability

The invalidation of any clause, sentence, paragraph, or section of this Resolution by a court of competent jurisdiction shall not affect the validity of the remainder of this Resolution either in whole or in part.

ARTICLE II: Definitions

Section 2.01 Interpretation

For this Zoning Resolution, certain terms and words are to be defined as found in this Article. Words and terms not specifically defined carry their customarily understood meanings. Words used in the present tense include the future tense. The singular form shall include plural, and plural shall include singular. The word “shall” is intended to be mandatory. “Occupied” or “used” shall be considered as though followed by the words “or intended, arranged or designed to be used or occupied”. Terms directly related to topics may be defined within the specific sections of the Resolution where those general requirements are found.

Section 2.02 Definitions

“**Accessory use**” means a use subordinate, secondary, incidental to, and customary in connection with the principal building or use and located on the same lot as the principal building or use. In residential districts, accessory uses include swimming pools, lakes and/or ponds, courts for private recreation.

“**Accessory building**” or “**accessory structure**” means a building or structure occupied by an accessory use.

“**Administrative and business offices**” means offices which carry on no retail trade with the public and maintain no stock of goods for sale to customers.

“**Adult family home**” means a residence or facility that provides accommodations for three to five unrelated adults and supervision and personal care services to at least three of those adults.

“**Adult group home**” means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

“**Alterations, Structural**” means any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

“**Agricultural Structure**” means any Structure which is constructed and used predominantly for one or more activities satisfying the definition of Agriculture.

“**Agricultural use**” means the same as stated in Section 519.01 of the Ohio Revised Code, as may be amended, to include farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to the care and raising of livestock, equine and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. Except as otherwise provided in ORC 519.21 divisions B and D, Sections 519.02 to 519.25 of the

Revised Code confer no power to prohibit the agricultural use of any land for agricultural purposes or the construction or use of structures incident to the use for agricultural purposes.

“Building” means a structure with one (1) or more floors and a roof supported by columns or walls, used or intended to be used for shelter or enclosure of persons, animals and/or property.

“Height of building” means the vertical distance from the average grade surrounding the building to the highest point of the roof.

“Front Building line” means the front yard setback line established by this Zoning Resolution, generally parallel with and measured perpendicularly from the front lot line, defining the limits of a front yard in which no building or structure may be located.

“Rear Building Line” means a line touching the rear most part of the building, not to include accessory structures, which is parallel with the building line.

“Business services” means any profit-making activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.

“Cemetery” means land used or intended to be used for the burial of human dead.

“Clinic, Human” means an establishment where patients who are not lodged overnight are admitted for examination and/or treatment by a physician or group of physicians.

“Conditional use” means an uncommon or infrequent use which may be permitted in specific zoning districts subject to compliance with certain standards, explicit conditions, and the granting of a conditional use permit as specified in Article IX of this Resolution.

“Congregate or group home” means a residential care facility in which not less than six (6) but not more than sixteen (16) persons are provided with room, board, specialized care, rehabilitative services and supervision in a family environment.

“Continuing Care Retirement Community:” means a comprehensive living arrangement for the elderly which offers at a minimum: independent-living units, board, and a range of health care and social services including access to prescriptions, physician services, rehabilitation services, assisted living and nursing care. The community is owned by a single entity and has obtained necessary licenses and/or certification for specialized services, including, as appropriate, assisted living and nursing care. Lodging, services and a specified amount of nursing care are provided pursuant to an agreement effective for the lifetime of an individual in consideration of the payment of an entrance fee and additional periodic charges.

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

“District” means a part, portion, zone or geographic area within Perry Township within which certain development standards, as delineated by this Resolution, apply.

“Dwelling” or “residence” means any building or portion thereof which is designed or used for

residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.

“Single family dwelling” or **“single family residence”** means a building designed for or occupied exclusively by one family.

“Two-family dwelling” or **“two-family residence”** means a building designed for or occupied exclusively by two families living independently.

“Multiple-family dwelling” or **“multiple-family residence”** means a building designed or used as a residence for three or more families living independently and doing their own cooking therein.

“Earth Disturbing Activity” means any activity which involves any grading, excavating, filling, or other alteration of the earth's surface (excluding agricultural activities) which is likely to result in or contribute to more than an insignificant amount of erosion and/or sediment pollution; **“Filling”** means any activity which involves depositing or dumping any fill onto or into the ground, excluding agricultural activities and common household gardening and ground care activities; and **“fill”** means soil, rock, earth, sand, gravel, or any other material which is deposited or placed onto or into the ground.

“Easements” means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

“Essential Services” means the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

“Family” means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption, or marriage, no such family shall contain over five persons.

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

“Flood” or **“flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Map (FIRM)” means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazards within Perry Township and/or Licking County

“Floodway” means the channel of a creek, stream or other watercourse and the adjacent lands that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floor area” of a building means the sum of the gross horizontal areas of the building floors, measured from the exterior faces of exterior walls. Floor area shall not include basements, elevator and stair bulkheads, unfinished attic spaces, terraces, breezeways, open porches, uncovered steps, or garages.

“Food Processing” means the preparation, storage, or processing of food products. Examples of these activities include bakeries, dairies, canneries, and other similar businesses.

“Frontage” or **“lot frontage”** means the distance along a single street of a contiguous portion of the lot that directly abuts the street and has direct access thereto.

“Garage, Private” means a detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises.

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

“Home occupation” means any occupation or profession conducted primarily by immediate resident family members, which is clearly incidental and secondary to the dwelling's residential use. A home occupation must meet the standards and requirements specified in Section 27.02 of this Ordinance.

“Hospital” means a building or structure containing beds for at least four (4) patients allowing for overnight or continuous care, diagnosis and treatment of human ailments.

“Hotel,” “Motel,” and/or “Apartment Hotel” meaning a building in which lodging or boarding and lodging are provided and offered to the public for compensation.

“Institution” meaning a building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.

“Junk Buildings,” “Junk Shops,” and/or “Junk Yards” means any land, property, structure, building or combination of the same, on which junk is stored or processed.

“Kennel” means any building or structure, including the surrounding fenced land, used for the breeding, care (excluding veterinary services) and/or raising of domesticated dogs and/or cats for let, hire, board, training, housing, grooming, and/or other use on a commercial basis for compensation. Said use is an agriculture use under Section 519.01 of the Ohio Revised Code and is considered animal husbandry. Veterinary clinics and services shall not be construed to be a Kennel under this definition. However, Kennels, as defined herein, may administer routine maintenance medications or therapy prescribed by an off-site professional veterinarian but does not require care by the veterinarian.

“Lawful Non-Conforming Structure/Use” meaning a lawful non-conforming use for the purpose of this resolution shall mean any structure or use that existed prior to zoning being enacted by the

Board of Trustees, Perry Township, Licking County, Ohio. Additionally, a lawful non-conforming structure or use shall mean any structure or use that complied with the Perry Township Zoning Resolution at the time it was constructed, or the use began, but due to the subsequent amendments and changes to the regulations, said structure or use no longer conforms (complies) with any or all standards of the current effective Perry Township Zoning Resolution.

“Livestock” means farm animals kept for use and profit.

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

“Lot” means a division of land separated from other divisions for purposes of sale, lease, or separate use, described on recorded subdivision plat, recorded map or by metes and bound, and includes the terms “plat” and “parcel”.

“Corner lot” means any lot at the junction of and abutting on two (2) or more intersecting streets.

“Front Lot Line” means a line running down the center of a road or roads or along the right of way of a road or roads along which a parcel is located;

For private, township or county roads: a front lot line runs down the center of the road on which the parcel is located.

For federal or state highways: a front lot line runs along the right of way line.

A parcel with frontage on more than one road will have more than one Front Lot Line

“Lot coverage” means the ratio of enclosed ground floor area of all buildings and/or pavement areas on a lot to the horizontally projected area of the lot, expressed as a percentage.

“Rear lot line” means that lot line which is opposite and furthest removed from the front lot line. In the case of a curved roadway or a corner lot of equal dimensions, the parcel will have more than one rear lot line.

“Side lot line” means the lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.

“Lot of record” means any lot which individually or as a part of a subdivision has been recorded in the Office of the Recorder, Licking County, Ohio, as of the effective date of this Resolution.

“Minimum area of lot” means the area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.

“Lot width” is the width of a lot as measured along the frontage of the parcel.

“Maintenance and Storage Facilities” means land, buildings, and structures devoted primarily to the maintenance and storage of construction equipment and material.

“Manufactured Home” shall mean a building unit or assembly of closed construction fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974”, and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. See also “Permanently sited manufactured home.”

“Manufactured Home Community” shall mean a development constructed primarily for manufactured homes, with continuing local general management and with special facilities for

common use by occupants, including such items as common recreational buildings and/or common open space.

“Manufactured Home Subdivision” shall mean a development constructed primarily for manufactured homes, in which each lot in the development is independently owned by the respective owners of the dwelling units located on such lots.

“Modular Home” means a non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for *modular housing*. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site- built homes

“Mobile Home” shall mean a transportable, non-site-built dwelling unit designed to be used as a year-round residential dwelling and built prior to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Because mobile homes, as herein defined, were not constructed to accepted standards, such mobile homes shall not be considered as permitted or conditional use in any zoning district.

“Nonconforming use” means the use of land, building, other structure, or a portion thereof, which does not conform with the use regulations of the district in which it is situated, which use was lawful prior to the enactment of this Zoning Resolution.

“Nursery” or **“Day care center”** means a facility which temporarily assumes responsibility for more than four (4) children other than those related to the resident of the premises. Such responsibility shall consist of administering to the needs of those children during any part of a twenty-four-hour day for a period of two (2) consecutive days.

“Nursery, Plant Materials” meaning land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping.

“Nursing home” includes convalescent and extended care facilities; an establishment which specializes in providing necessary care, shelter and nursing services and services to those unable to be responsible for themselves.

“Off-street parking space” means any parking space located wholly off any street, alley, or sidewalk, either in an enclosed building or on an open lot and where each parking space conforms to the standards as specified in this Resolution.

“Open Space” meaning an area substantially open to the sky, which may be on the same lot with a building. The area may include, along with the natural environmental features, water areas, swimming pools, and tennis courts, any other recreational facilities that the Zoning Commission deems permissive. Streets, parking areas, structures for habitation, and the like shall not be included.

“Parking Space, Off-Street” meaning an off-street parking space consisting of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, but shall be located totally outside of any street or alley right-of-way.

“Performance Bond or Surety Bond” meaning an agreement by a sub divider or developer with the County for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the sub divider’s agreement.

“Permanently sited manufactured home” shall mean a manufactured home that meets all the following criteria:

- 1) The structure is affixed to a permanent foundation and is connected to appropriate facilities.
- 2) The structure, excluding any addition, has a width of at least 22 feet at one point, a length of at least 22 feet at one point, and contains at least 900 square feet, excluding garages, porches or attachments.
- 3) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering.
- 4) The structure was manufactured after January 1, 1995”

“Person” means any individual, corporation, company, business, partnership, association or legal entity.

“Personal services” means any enterprise, conducted for gain, which primarily offers services to the general public such as shoe repair, watch repair, retail dry cleaning, barber and beauty shops, and related activities.

“Professional offices” means the offices which engage in the providing to the general public services of a professional nature such as legal, medical, accounting, and architectural services.

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

“Public Utility” means every corporation, company, co partnership, person, or association, the lessees, trustees, or receivers of the foregoing, defined in section [4905.03](#) of the Revised Code, including any public utility that operates its utility not for profit except companies as further described in ORC 4905.02. Except as otherwise provided in ORC 519.211 C, B and 519.213 Public Utilities are exempt from Zoning.

“Public Uses” means public parks, schools, governmental, administrative and cultural buildings and structures, including public land or buildings devoted solely to the storage and maintenance of equipment and materials and any other public service facilities.

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

“Recreational facilities” means public or privately-operated uses such as country clubs, golf courses, swimming pools, or other areas maintained for the purpose of providing active and passive recreation.

“Restaurant” means a business establishment where food and beverages are prepared and presented for human consumption on the premises.

“Retail store” means a store primarily engaged in selling merchandise for personal or household consumption and in rendering services incidental to the sale of goods.

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

“Right-of-way line” means a line defining the public right-of-way for a particular roadway.

“Roadside Stand” means a temporary structure designed or used for the display or sale of agricultural and related products.

“Setback Line” means a line established by the zoning resolution generally parallel with and measured from the edge of the pavement, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in said code.

“Sewers, Central or Group” means an approved sewage disposal system, which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

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

“Sidewalk” means that portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

“Similar use” means a use not specifically listed in any of the permitted building or use classifications of any district, but which may be found analogous and added to the classification, according to the procedures and requirements of Section 11.02.05 of this Resolution.

“Site Plan” meaning a drawing of the parcel, drawn to scale, showing and defining all property lines and building outlines, access drives, parking areas, and other notable physical features. Such a drawing must contain an accurate location survey with all relevant distances and dimensions.

“Street,” “road” or “thoroughfare” means a public way for the purpose of vehicular travel, including the entire area within the right-of-way.

“Structure” means anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground, including among other things walls, buildings, and patios. “Structure” does not include fences. Notwithstanding anything to the contrary, the term “structure” shall include mobile and/or moveable structures.

“Structural alteration” means any change that would replace or tend to prolong the life of a supporting member of a structure, such as bearing walls, columns, beams, or girders.

“Subdivision” meaning the dividing of a parcel of property into more than one parcel.

“Supply Yards” meaning a commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

“Substitution” meaning the act and/or process of replacing a conforming or lawful non-conforming structure or use with another conforming structure or use, or nonconforming structure or use to the extent that it does not create a non-conforming structure or use (if replacing a conforming structure or use) or increase the non-conforming structure or use (if replacing a lawful nonconforming structure or use).

“Telecommunications tower” means any freestanding structure or structure attached to another structure, that meets all of the following criteria:

- 1) Construction is proposed to begin on or after October 31, 1996.
- 2) The tower is proposed to be owned or principally used by a public utility engaged in telecommunications services.
- 3) The tower is proposed to have a height of greater than thirty-five (35) feet.
- 4) The tower is proposed to have attached to it radio frequency transmission or reception equipment.

“Township” means Perry Township, Licking County, Ohio.

“Unlawful Non-Conforming Structure/Use” means an unlawful non-conforming use for the purpose of this resolution shall mean any structure or use that did not exist prior to the zoning being enacted by the Board of Trustees, Perry Township, Licking County, Ohio and said structure or use did not comply with the Perry Township Zoning Resolution at the time it was constructed, or the use began.

“Unnecessary Hardship” meaning a hardship which is substantial and serious and one or more of the following is true: 1. Application of the zoning ordinance to the parcel of land causes such a diminution of its value as to amount to a confiscation. 2. The affected property cannot be used for any productive use if devoted to a permitted use. Economic loss alone is not sufficient to meet this criteria; the landowner's property must be rendered practically valueless without the variance. 3. None of the permitted uses in the zoning ordinance for the particular district may reasonably be applied to the property. 4. The hardship is unique to the applicant's property and is not a hardship common to the area. In any of the foregoing situations, the hardship cannot have been self-created. An applicant who had knowledge of the zoning restrictions and/or the problems bringing

about the hardship, or who should have known them at the time the property was purchased, may not claim unnecessary hardship.

“Use” means the purpose for which a building is arranged, designed, or intended, or for which either land, lot, piece or parcel thereof or a building located thereon may be occupied or maintained.

“Variance” means a modification from the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of action by the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

“Yard” means a required open space other than a court, unoccupied and unobstructed by any structure or portion of a structure from three (3) feet above the general level of the graded lot upward.

“Front yard” means that portion of a lot extending across the front of the lot between the side lot lines and being the minimum horizontal distance between the front lot line and the front building line.

“Rear yard” means that portion of a lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the building or structure.

“Side yard” means that portion of a lot that is located between the side lot line and the nearest building or structure.

“Zoning certificate” means an official statement certifying that a proposed building or use complies with all the provisions of this Zoning Resolution.

“Zoning District” means a portion of the Township within which certain regulations and requirements, or various combinations thereof apply under the provisions of this Zoning Resolution.

“Zoning District Map” or **“Zoning Map”** means the map of the Township showing the locations of established zoning districts, together with all amendments subsequently adopted by the Township Trustees and established pursuant to Section 12.02 of this Resolution.

“Zoning Inspector” means the enforcement officer, hired by the Board of Township Trustees, who is charged with enforcing the provisions of this Zoning Resolution.

**PART TWO - ADMINISTRATION AND
ENFORCEMENT**

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ARTICLE III: Administrative Bodies & Duties

Section 3.01 Zoning Inspector

3.1.1 Office of Zoning Inspector Established

The Zoning Inspector, appointed by the Board of Township Trustees, shall enforce the Zoning Resolution. All officials and/or employees of the Township shall assist the Zoning Inspector by reporting any new construction, reconstruction, or apparent violations to this Resolution.

3.1.2 Relief From Personal Liability

The Zoning Inspector, acting in good faith and without malice in the discharge of his/her duties during enforcement of this Resolution is relieved of all personal liability for any damage that may accrue to persons or property as a result of such acts of alleged failure to act. Further, he/she shall not be held liable for the costs in any action, suit, or proceeding that may be instituted against him/her as a result of the enforcement of this Resolution. In any of these actions, the Zoning Inspector shall be defended or represented by the jurisdiction's attorney-at-law until the final termination of the proceedings.

3.1.3 Duties of Zoning Inspector

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

- A. Enforce the Zoning Resolution and take all necessary steps to remedy conditions found in violation by ordering, in writing, the discontinuance of illegal uses or work in progress, and direct cases of noncompliance to the appropriate entity for action.
- B. Issue zoning certificate(s) to the owner of a parcel or his/her agent, when the provisions of the Zoning Resolution have been met or refuse to issue the same in the event of noncompliance.
- C. Collect designated fees as established by separate resolution, for zoning certificates, appeals, variances and conditional uses.
- D. Make and keep all records necessary and appropriate to the office including records of issuance and denial of zoning certificates and receipt of complaints of violation of the Zoning Resolution and action taken on the same.
- E. Inspect any buildings or land to determine whether any violations of the Zoning Resolution have been committed or exist.
- F. Advise the Zoning Commission and the Board of Zoning Appeals of relevant matters pertaining to the enforcement of and amendments to the Zoning Resolution.
- G. The zoning inspector will submit copies of the application for issued permits to the Licking County Auditor at least semi-annually or as requested by the County Auditor.

Section 3.02 Zoning Commission

3.2.1 Establishment

Pursuant to Ohio Revised Code Chapter 519, there is hereby established a Rural Zoning Commission in and for Perry Township. Such Commission shall consist of five (5) residents of the unincorporated area of the Township as appointed by the Board of Township Trustees. The terms of members shall be of such length and so arranged that the term of one member shall expire each year; however, each member shall serve until his/her

successor is appointed.

3.2.2 Removal of Members

Members of the Zoning Commission shall be removable, at the discretion of the Trustees, for non-performance of duty, misconduct in office, or other just cause by the Board of Township Trustees, after public hearing and notification. Members of the Zoning Commission may resign by written notice to the Board of the Perry Township Trustees. The Board of Township Trustees shall fill such vacancies for the remaining un-expired term.

3.2.3 Proceedings

The Zoning Commission shall elect a Chairman and adopt rules necessary for the conduct of its affairs consistent with the provisions of this Resolution. One of the members shall be appointed Secretary who shall keep records of the actions of the Commission. Meetings shall be held at the call of the Chairman, and at such other times as deemed appropriate by the Commission, as determined by majority vote. All meetings shall be open to the public. The Commission 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. Such minutes shall be public records and shall be immediately filed in the office of the Commission. For the purpose of taking action, the concurring vote of three (3) members of the Commission shall be required.

3.2.4 Powers and Duties

For the purposes of this Resolution, the Zoning Commission shall have the following powers and duties:

- A. Initiate amendments to this Resolution, pursuant to Article VI.
- B. Review proposed amendments to this Zoning Resolution and make recommendations to the Board of Township Trustees.

Section 3.03 Board of Zoning Appeals

3.3.1 Establishment

There is hereby established a Board of Zoning Appeals, which shall have the authority as specified in Sections 519.13 through 519.15 of the Ohio Revised Code, subject to such rules of a procedural nature as said Board may adopt and promulgate for the purposes of acting on matters properly before it.

The Board of Zoning Appeals shall consist of five (5) members appointed by the Board of Township Trustees. Every member shall be a resident of the unincorporated territory of Perry Township, Licking County, Ohio. The terms of members shall be of such length and so arranged that the term of one member shall expire each year; however, each member shall serve until his/her successor is appointed. Vacancies shall be filled by resolution of the Board of Township Trustees for the non-expired term of the member affected.

3.3.2 Removal of Members

Members of the Board of Zoning Appeals shall be removable at the discretion of the Trustees, for non-performance of duty, misconduct in office, or other just cause by the

Board of Township Trustees, after public hearing and notification. Members of the Zoning Commission may resign by written notice to the Board of the Perry Township Trustees. The Board of Township Trustees shall fill such vacancies for the remaining un-expired term.

3.3.3 Proceedings

The Board shall organize annually and elect a Chairman, and Secretary. Meetings of the Board shall be held at the call of the Chairman, and at other such times as the Board shall determine. The Board shall adopt, from time to time, such rules and regulations as it may deem necessary to implement the provisions of this Zoning Resolution. All meetings of the Board shall be open to the public.

The Secretary of the Board 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 action, all of which shall be a public record and be open for public inspection. The Board shall have the power to subpoena witnesses, administer oaths and may require the production of documents, under such rules as it may establish.

3.3.4 Powers and Duties

In exercising its duties, the Board may, as long as such action is in conformity with the terms of this Resolution, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, decision, or determination as ought to be made, and to that end shall have the powers of the Zoning Inspector from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, decision, or determination of the Zoning Inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this Resolution or to affect any variation in the application of this Resolution. For the purpose of this Resolution, the Board has the following specific responsibilities:

- A. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Inspector, in accordance with Article VII of this Resolution.
- B. Authorize such variances from the terms of this Resolution as will not be contrary to the public interest, where, owing to special conditions of the land, a literal enforcement of this Resolution will result in unnecessary hardship in accordance with the provisions of Article VIII of the Resolution.
- C. Interpret the boundaries of the Official Zoning Map, in accordance with the provisions of this Resolution.
- D. Permit conditional uses as specified in the Official Schedule of District Regulations and under the conditions specified in Article IX of this Resolution, and such additional safeguards as will uphold the intent of the Resolution.
- E. Authorize the substitution or extension of nonconforming uses, as specified in Article V of this Resolution.
- F. Authorize extensions of time for completion of work specified in zoning certificate, in accordance with Section 4.08 of this Resolution
- G. Declare zoning certificates void, pursuant to Section 4.09 of this Resolution.

Section 3.04 Board of Township Trustees

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

- A. Appoint members to the Zoning Commission and Board of Zoning Appeals.
- B. Initiate and/or act upon suggested amendments to the Zoning Resolution text or Official Zoning District Map
- C. Override a written recommendation of the Zoning Commission on a text or map amendment, provided such action is passed by a unanimous vote of all members of the Board.

Section 3.05 Powers of Zoning Inspector, Board of Zoning Appeals, and Board of Township Trustees on Matters of Appeal

It is the intent of this Resolution that all questions of interpretation and enforcement shall first be presented to the Zoning Inspector. Such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Inspector, and recourse from the decisions of the Board of Zoning Appeals shall be only to the courts as provided by law. It is further the intent of this Resolution that the powers of the Board of Township Trustees in connection with this Resolution shall not include hearing and deciding questions of interpretation and enforcement that may arise. The Board of Township Trustees shall not have the authority to override the decisions of the Board of Zoning Appeals and/or the Zoning Inspector on matters of appeal or variance. Nonetheless, nothing in this Resolution shall be interpreted to prevent any official of the Township from appealing a decision of the Board of Zoning Appeals to the courts pursuant to Chapters 2505 and 2506 of the Ohio Revised Code. Such appeal shall be made within ten (10) days of the Board's written decision.

ARTICLE IV: Enforcement & Penalty

Section 4.01 Zoning Certificate Required

It shall be unlawful for any owner or other person to use or to permit the use of any non-agricultural structure, building or land, or part thereof, hereafter constructed, created, erected, changed, structurally altered, converted or enlarged until a zoning certificate shall have been issued by the Zoning Inspector. Such zoning certificate shall show that such building or premises or a part thereof, and the property use thereof, are in conformity with the provisions of this Resolution. The Zoning Inspector shall issue no such certificate until the requirements of this Resolution have been met.

A zoning certificate is required for any of the following subject to the limitations of section 519.211 of the Ohio Revised Code:

- A. Construction, structural alteration or enlargement of any non-agricultural building or structure, including accessory buildings, except portable storage buildings 144 square feet or less which are located in a residential district and are not located in the flood plain overlay district.
- B. Change in use of an existing building or accessory building, except agricultural uses, to a use not listed as a permitted use in the zoning district where the building is located.
- C. Occupancy and use, excepting agricultural use, of vacant land.

- D. Change in the use of land to a use not listed as a permitted use in the zoning district where the land is located.
- E. Any alteration, expansion or other change of a lawful nonconforming use as regulated by Article V.

Section 4.02 Application for Zoning Certificate

The owner or applicant shall sign three (3) copies of an application for a zoning certificate, attesting to the truth and exactness of all information supplied on the application. At a minimum, the application shall contain the following information:

- A. Name, address, and telephone number of the applicant.
- B. Legal description of property, as recorded in Licking County Recorder's office.
- C. Existing use.
- D. Proposed use.
- E. Zoning district in which property is presently located.
- F. Plans in triplicate drawn to approximate scale, showing the actual dimensions and shape of the lot to be built upon; the exact dimensions and location of existing buildings of the lot, if any; and the location and dimensions of the proposed building(s) or alteration.
- G. Height of proposed buildings.
- H. Number of proposed dwelling units.
- I. Number of off-street parking spaces and loading berths.
- J. An approval by the Licking County Health Department of the proposed method of water supply and for disposal of sanitary wastes prior to approval by the Zoning Inspector.
- K. Such other material and information as may be requested by the Zoning Inspector to determine conformance with and provide for the enforcement of this Resolution.

Where complete and accurate information is not readily available from existing records, the Zoning Inspector may require the applicant to furnish a survey of the lot by a registered surveyor. In particular cases, the Zoning Inspector may reduce the submittal requirements for an application, when the proposed action warrants.

Section 4.03 Approval of Zoning Certificates

Within thirty (30) days after the receipt, the application shall be either approved or disapproved by the Zoning Inspector, in conformance with the provisions of this Resolution, unless the provisions of Section 4.04 are applicable. Zoning certificates issued on the basis of plans and applications approved by the Zoning Inspector shall authorize only the use and arrangement as set forth in such approved application. All zoning certificates shall be conditional upon the commencement of work within one (1) year. One (1) copy of the application shall be returned to the applicant by the Zoning Inspector, after such copy is marked as either approved or disapproved and attested to same by the signature of the Zoning Inspector, or his/her designated agent on such copy. In the case of disapproval, the Zoning Inspector shall state on the returned plans the specific reasons for disapproval. The Zoning Inspector shall retain two (2) copies of plans, similarly marked. One (1) copy retained by the Zoning Inspector shall be forwarded to the County Auditor upon issuance of a certificate of zoning compliance along with one (1) copy of the application.

Section 4.04 Submission to the Director of the Department of Transportation

Before any zoning certificate is issued affecting any land within 300 feet of the centerline of a

proposed new highway or a highway for which changes are proposed as described in the certification to local officials by the Director of the Department of Transportation, or any land within a radius of 500 feet from the point of intersection of said centerline with any public road or highway, the Zoning Inspector shall give notice, by registered or certified mail to the Director of the Department of Transportation. The Zoning Inspector shall not issue a zoning certificate for 120 days from the date the notice is delivered to the Director of the Department of Transportation. If the Director of the Department of Transportation notifies the Zoning Inspector that he/she shall proceed to acquire the land needed, then the Zoning Inspector shall refuse to issue the Zoning Certificate. If the Director of the Department of Transportation notifies the Zoning Inspector that acquisition at this time is not in the public interest, or if the Zoning Inspector does not receive notification of action, the Zoning Inspector shall, if the application is in conformance with all provisions of this Resolution, issue the zoning certificate.

Section 4.05 Record of Zoning Certificates

A record of all zoning certificates shall be kept on file in the Office of the Zoning Inspector, or his/her designated agent, and copies shall be furnished upon request to any resident and/or person.

Section 4.06 Expiration of Zoning Certificates

If the work described in any zoning certificate has not begun within one (1) year from the date of issuance thereof, or has not been completed within two (2) years from the date of issuance thereof, said certificate shall expire; it shall be revoked by the Zoning Inspector, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the expired certificate shall not proceed unless and until a new zoning certificate has been obtained or extension granted by the Board of Zoning Appeals.

Section 4.07 Certificate of Zoning Compliance

It shall be unlawful to use or occupy, or permit the use or occupancy of any building or premises hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Zoning Inspector, stating that the proposed use of the building or land, as completed, conforms to the requirements of this Resolution. Such certificate of zoning compliance may be processed as an indication of final approval on the zoning certificate.

Section 4.08 Schedule of Fees, Charges and Expenses (need to establish)

The Board of Township Trustees shall establish, by separate Resolution, a schedule of fees, charges, and expenses and a collection procedure for zoning certificates, certificates of zoning compliance, appeals, and other matters pertaining to this Resolution. The schedule of fee shall be posted in the Township Offices and may be altered or amended only by the Board of Township Trustees. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application.

Section 4.09 Void Zoning Certificate

A zoning certificate shall be void if any of the following conditions exist:

- A. The zoning certificate was issued contrary to the provisions of this Resolution by the Zoning Inspector.
- B. The zoning certificate was issued based upon a false statement by the applicant.

C. The zoning certificate has been assigned or transferred.

When a zoning certificate has been declared void for any of the above reasons by the Board of Zoning Appeals pursuant to this Resolution, written notice of its revocation shall be given by certified mail to applicant and sent to the address as it appears on the application. Such notices shall also include a statement that all work upon or use of the building, structure, or land cease unless, and until, a new zoning certificate has been issued.

Section 4.10 Violation and Penalty

4.10.1 Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates

Zoning certificates or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Inspector authorize only the use, and arrangement set forth in such approved plans and applications or amendments thereto. Any use, arrangement, or construction not in conformance with that authorized shall be deemed a violation of this Resolution, and punishable as provided in Section 4.10.03.

4.10.2 Complaints Regarding Violations

Whenever a violation of this Resolution occurs, or is alleged to have occurred, any resident or owner of property within the Township may file a written complaint. Such complaint shall state fully the causes and basis thereof, and shall be filed with the Zoning Inspector. The Zoning Inspector shall record properly such complaint, immediately investigate, and within thirty (30) days take such appropriate action thereon as may be necessary and provided for by this Resolution.

4.10.3 Penalties for Violation

Violation of the provisions of this Resolution or failure to comply with any of its requirements (including violations of conditions and safeguards established in various sections of this Resolution) shall constitute a misdemeanor. Any person who violates this resolution or fails to comply with any of its requirements shall be fined up to the greater of \$500 or as permitted under Ohio Revised Code Section 519.99. Each day such violation continues, after receipt of violation notice, shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who knowingly commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Township, the County Prosecutor, or any adjacent property owner from taking such other lawful action as is necessary to prevent or remedy any violations.

ARTICLE V: Nonconformities

Section 5.01 Intent

Within the districts established by this Resolution, or amendments hereinafter adopted, there may exist lots, structures, uses of land and structures which were lawful before this Resolution was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Resolution or future amendments. It is the intent of this Resolution to permit these nonconformities, as defined in Section 5.02 below, to continue until they are removed and to permit reasonable extensions and improvements as allowed by law.

Section 5.02 When Permitted

5.2.1 Existing Land or Buildings

Any use of land or buildings existing on the effective date of this Resolution may be continued, even though such use does not conform to the provisions herein, so long as such use was in conformity with the zoning resolution in effect in the Township at the time that the use or structure was established. No nonconforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as specifically provided in this Resolution.

5.2.2 Construction Commenced

Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Resolution, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Resolution, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within one (1) year from the date of adoption of this Resolution or amendment thereto making said use nonconforming and so long as such use was in conformity with the zoning resolution in effect in the Township at the time that the use or structure was established.

Section 5.03 Discontinuance

A nonconforming use that has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever any one of the following conditions exist:

- A. When the use has been voluntarily discontinued for a period of two (2) years.
- B. When the nonconforming use has been replaced by a conforming use.

Section 5.04 Substitution

The Board of Zoning Appeals may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided all other requirements are met. However, in any residential district, no change shall be authorized by the Board of Zoning Appeals to any use which is not a permitted or conditional use in any "R" District.

Section 5.05 Extension

No nonconforming use or structure shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

- A. The Board of Zoning Appeals may permit, on a once-only basis, a building containing a nonconforming use to be enlarged to an extent not exceeding fifty percent (50%) of the ground floor area of the existing building or structure devoted to a nonconforming use at the time of enactment of this Resolution or at the time of its amendment making the use nonconforming. The Board shall not authorize an extension which would result in a violation of provisions of this Resolution with respect to any adjoining premises, or which would occupy ground space required for meeting the yard or other requirements of this Resolution.

- B. No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.
- C. Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate R-District.
- D. Any structure which is nonconforming due to its location or configuration on the lot, resulting in lot coverage or yards inconsistent with the requirements of the zoning district where it is located, may be enlarged, extended or structurally altered in a manner that decreases or maintains its existing degree of nonconformity, but in no case shall such structure be enlarged, extended or structurally altered in a manner that increases its degree of nonconformity.

Section 5.06 Damage and/or Destruction of a Nonconforming Building or Use

When a building or structure, the use of which does not conform to the provisions of this Resolution, is damaged by storm, fire, explosion, act of God, or the public enemy, it may be restored or rebuilt and continued in such nonconforming use, provided that the restoration or rebuilding is commenced within six (6) months of the time of damage, that construction is completed within twenty-four (24) months, and that such restoration or rebuilding would not extend or expand the existing use beyond the parameters specified in Section 5.05.

Section 5.07 Maintenance and Repair

Nothing in this Article shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use as follows:

- A. When required by law.
- B. To convert to a conforming use.
- C. To improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

Section 5.08 Nonconforming Lots of Record

In any district where dwellings are permitted, one (1) single-family detached dwelling may be erected on any lot of official record on the effective date of this Resolution, even though such lot does not meet the development standards of the district in which it is located, provided such lot receives the approval of the Licking County Board of Health, and further provided that the owner of such lot does not own adjacent property and did not own such property at the time this Resolution became effective. For the purposes of this Section, property located across the roadway from the subject property shall not be deemed as adjacent.

If the owner(s) of such lot owns adjacent property, or owned such property at the time this Resolution became effective, then the owner(s) shall re-divide such property to provide for the lot area and width requirements of the district in which the lot is located. However, if the width of the lots resulting from such would exceed the required lot width in the district by more than twenty percent (20%), such re-division may be made so as to provide one (1) more lot than would otherwise be permitted.

If development of a nonconforming lot occurs consistent with the provisions above, the structure shall be located on the lot in such a manner that the front, side and rear yards are as close as possible to the yards established in the district where the lot is located.

ARTICLE VI: DISTRICT CHANGES AND AMENDMENTS

Section 6.01 Intent

This Article describes the procedures to be followed for amendment of the Zoning Resolution. If and to the extent that the provisions of this Article are inconsistent with the provisions of Section

519.12 of the Ohio Revised Code, as may be subsequently amended, the provisions of the Ohio Revised Code shall govern.

Section 6.02 Initiation of Zoning Amendments

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

- A. By referral of a proposed amendment to the Township Zoning Commission by Board of Township Trustees.
- B. By the adoption of a motion by the Township Zoning Commission submitting the proposed amendment to the Board of Township Trustees.
- C. By the filing of an application by at least one (1) owner or lessee of property, or his/her designated agent, within the area proposed or affected by the said amendment.

Section 6.03 Contents of Application

An application for amendment shall be submitted by the applicant to the Zoning Inspector and shall contain, at a minimum, the following information:

- A. Name, address, and phone number of the applicant.
- B. Proposed amendment to the text or legal description of the property affected.
- C. Present use and district.
- D. Proposed use and district.
- E. A map drawn to scale showing property lines, streets, existing and proposed zoning, and such other items as the Zoning Inspector may require.
- F. A list of all property owners contiguous to, directly across the street from, or within two hundred (200) feet of the subject parcel(s) proposed to be rezoned and their address as appearing on the Licking County Auditor's current tax list. The requirement for addresses may be waived when more than ten (10) parcels are proposed to be rezoned.
- G. A statement as to how the proposed amendment will impact adjacent and proximate properties.
- H. Any other information may be requested by the Zoning Inspector to determine conformance with and provide for enforcement of this Zoning Resolution.
- I. A fee as established by the Board of Township Trustees.

Upon receipt of the application, the Zoning Inspector shall review it for completeness. If the above

requirements are met, the Zoning Inspector shall transmit the application to the Zoning Commission. The date of such transmittal shall be considered the date of filing. If the application is incomplete, the Zoning Inspector shall return it to the applicant with a listing of deficiencies.

Section 6.04 Submission to Regional Planning Commission

Within five (5) days after the adoption of a motion by the Commission, transmittal of a resolution by the Board of Township Trustees, or the filing of an application pursuant to Section 6.03 above, the Zoning Commission shall transmit a copy of such motion, resolution or application, together with the text and map pertaining to the case in question, to the Licking County Planning Commission. The Licking County Planning Commission may recommend the approval or denial of the proposed amendment, or some modification thereof, and shall submit such recommendation to the Township Zoning Commission. Such recommendation shall be considered at the public hearing held by the Zoning Commission, pursuant to Section 6.05 below.

Section 6.05 Public Hearing by Zoning Commission

6.5.1 Date of Public Hearing

The Zoning Commission shall schedule a public hearing after adoption of their motion, transmittal of a resolution from the Board of Township Trustees, or the filing of an application pursuant to Section 6.03 above. Said hearing shall be held not less than twenty (20) nor more than forty (40) days from the date of adoption of such motion, transmittal of such resolution, or filing of such application.

6.5.2 Notice of Public Hearing in Newspaper

Before holding the public hearing as required, notice of such hearing shall be given by the Township Zoning Commission in at least one (1) newspaper of general circulation in the Township at least ten (10) days before the date of such hearing. The notice shall set forth the following information:

- a. The time and place of the public hearing.
- b. A statement that the Perry Township Rural Zoning Commission is conducting the hearing.
- c. A statement indicating that the proposed action is an amendment to the zoning resolution.
- d. A list of the addresses and owners of all properties to be rezoned or redistricted as they appear on the application, if applicable.
- e. The present and proposed zoning classification of the property to be rezoned or redistricted, if applicable.
- f. The time and place where the application will be available for public examination for a period of at least ten (10) days prior to the hearing,
- g. The name of the person responsible for giving notice of the public hearing.
- h. Any other information requested by the zoning commission.
- i. A statement that after the conclusion of such hearing, the matter will be referred to the Board of Township Trustees for further determination.

6.5.3 Notice to Property Owners

If the proposed amendment intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of such hearing shall be mailed by the Zoning

Commission, by first class mail, at least ten (10) days before the date of the hearing, to all owners of property within, contiguous to and directly across the thoroughfare from such area proposed to be rezoned or redistricted. Such notices shall be mailed to the addresses of the owners appearing on the Licking County Auditor's current tax list, as provided by the applicant in Section 6.03 (F) above. The failure to deliver such notices shall not invalidate any such amendment. The notices shall contain the same information as required of notices published in newspapers as specified in Section 6.05.02 above.

Section 6.06 Recommendation by Zoning Commission

Within thirty (30) days after the hearing required in Section 6.05 above, the Zoning Commission shall recommend to the Board of Township Trustees that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied.

Section 6.07 Public Hearing by the Board of Township Trustees

Within thirty (30) days from receipt of the recommendation of the Zoning Commission, the Board of Township Trustees shall hold a public hearing. Notice by newspaper publication of such hearing shall be as specified in Section 6.05.02 above.

Section 6.08 Action by the Board of Township Trustees

Within twenty (20) days after the public hearing required in Section 6.07 above, the Board of Township Trustees shall either adopt or deny the recommendation of the Zoning Commission, or it may adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Zoning Commission, the unanimous vote of all three (3) members of the Board of Township Trustees is required.

Section 6.09 Criteria

In reviewing the proposed amendment and arriving at its decision, the Board of Township Trustees shall consider the following factors:

- A. Compatibility of the proposed amendment with the zoning and use of adjacent land, and with any land use or comprehensive plans adopted by the Township.
- B. The effect of the adoption of the proposed amendment on motor vehicle access, traffic flow, storm drainage and/or public infrastructure in the area.
- C. The effect of the adoption of the proposed amendment upon the public health, safety and general welfare of the adjacent properties and other residents of the Township.

Section 6.10 Effective Date and Referendum

Such amendment adopted by the Board of Township Trustees shall become effective thirty (30) days after the date of adoption, unless within that thirty (30) days there is presented to the Board of Township Trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the Township or part thereof included in the zoning plan, equal to eight percent (8%) of the total vote cast for all candidates for Governor in such area at the most recent election in which a Governor was elected, requesting the Board of Township Trustees to submit the proposed amendment to the electors of such area, for approval or rejection, at the next primary or general election.

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

ARTICLE VII: Appeals

Section 7.01 Appeals

Any official action of the Zoning Inspector may be appealed by any person aggrieved, or by any officer of the Township affected by the decision of the Zoning Inspector. The procedures to be followed shall be as specified in Sections 519.14 through 519.15 of the Ohio Revised Code, as may be amended.

Section 7.02 Notice of Appeal

A notice of appeal shall be filed with the Fiscal Officer of the Township by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau. Such appeal shall be filed with the Fiscal Officer within twenty (20) days after the date of the decision, and shall be in writing, signed by the appellant, specifying the grounds of the appeal. A copy of the action by the Zoning Inspector shall be attached to the notice of appeal. Within five (5) days from the date of receipt of such appeal, the Fiscal Officer of the Township shall transmit said notice to the Board of Zoning Appeals.

Section 7.03 Public Hearing by the Board of Zoning Appeals

The Board of Zoning Appeals shall hold a public hearing within a reasonable time after receipt by the township Fiscal Officer of the notice of appeal. Notice of such hearing shall be given by publication in one (1) or more newspapers of general circulation in Licking County at least ten (10) days before the date of the hearing; and also by notification in writing to the appellant(s) and all property owners contiguous to, directly across the street from, or within 200 feet of the subject parcel(s), at least ten days prior to the date of the hearing. The notice shall set forth the time and place of the hearing and the nature of the appeal.

Section 7.04 Action by the Board of Zoning Appeals

The Board of Zoning Appeals shall decide the appeal within a reasonable time after the hearing.

ARTICLE VIII: Variances

Section 8.01 Powers of the Board of Zoning Appeals

The Board of Zoning Appeals shall have the power to authorize, in specific cases, such variances

from the provisions of this Resolution as will not be contrary to the public interest. Such variances shall be granted only in cases of special conditions, involving physical conditions of the land, whereby strict application of such provisions or requirements would result in *practical difficulty* and *unnecessary hardship* that would deprive the owner of the reasonable use of the land and buildings involved. The Board shall grant no variance from strict application of any provision of this Resolution unless it finds that all the following facts and conditions exist:

- A. That there are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of lot size or shape or exceptional topographical or other physical conditions specific to the land or building for which the variance is sought, and such conditions do not apply generally to land or buildings in the neighborhood or district in which the property is located.
- B. That, because of such physical conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Resolution and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That such hardship has not been created by the applicant or any person having present or prior interest in the property.
- D. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Under no circumstance shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this Resolution in the district involved, or any use expressly or by implication prohibited by the terms of this Resolution in said district.

Section 8.02 Application for Variance

Any owner, or his/her agent, may file an application to obtain a variance or appeal from the decision of the Zoning Inspector. An application for a variance shall be filed in triplicate with the Zoning Inspector. The Zoning Inspector shall forward such application to the Secretary of the Board of Zoning Appeals, within five (5) days from receipt of the completed application.

The application for a variance or an appeal shall contain the following information:

- A. Name, address, and phone number of the applicant.
- B. Legal description of property as recorded in Licking County Recorder's office.
- C. A map or drawing to approximate scale, showing the dimensions of the lot and any existing or proposed building, including the lots or tracts referenced in Section 8.02 D below.
- D. A list of all property owners contiguous to, directly across the street from, or within two hundred (200) feet of the subject parcel(s), as appearing on the Licking County Auditor's current tax list. The applicant shall also provide the addresses of all property within the above referenced boundaries, if available.
- E. Each application for a variance or appeal shall refer to the specific provisions of this Resolution, which apply.
- F. A narrative statement explaining the following:
 1. The use for which variance or appeal is sought.
 2. Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
 3. The specific reasons why the variance is justified, according to Section 8.01 A-D above.

Section 8.03 Public Hearing by the Board of Zoning Appeals

The Board of Zoning Appeals shall hold a public hearing within reasonable time after receipt by the Secretary of an application for a variance. Notice of such hearing shall be given in one (1) or more newspapers of general circulation in the Township at least ten (10) days before the date of said hearing. The notice shall set forth the time and place of the public hearing, and the nature of the proposed variance.

Section 8.04 Action by Board of Zoning Appeals

Within thirty (30) days after the public, hearing pursuant to Section 8.03, the Board of Zoning Appeals shall approve, disapprove, or approve with supplementary conditions the request for variance. In granting any variance, the Board of Zoning Appeals may prescribe appropriate and reasonable conditions. Violation of the conditions and/or safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Resolution under Section 4.10 of this Resolution.

If the application is approved, or approved with conditions, the Board of Zoning Appeals shall make a finding that the reasons set forth in the application justify the granting of the variance and will permit a reasonable use of the land, building or structure. The Board of Zoning Appeals shall transmit a written copy of its decision and findings to the Zoning Inspector, who shall forward such copy to the applicant. If the request for appeal or variance is denied, the applicant may seek relief through the Court of Common Pleas.

Section 8.05 Expiration and Revocation of Zoning Certificate Issued Under a Variance

The approval of the zoning certificate issued on a lot subject to variance procedures above, shall become null and void if such use is not carried out within one (1) year after date of approval. The Board may revoke the zoning certificate upon written evidence by any resident or official of the Township of violation of the Zoning Resolution and/or written terms and conditions upon which approval was based.

ARTICLE IX: Conditional Uses

Section 9.01 Authority and Purpose

Under some unusual circumstances, a use of property which typically affects an area more intensely than those uses permitted in the zoning district in which it is located may nonetheless be desirable and compatible with permitted uses, if that use is properly controlled and regulated. Such uses shall be listed as “conditional uses” within the respective zoning districts.

The Board of Zoning Appeals may grant conditional approval for use of the land, buildings, or other structures and may allow such a use to be established where unusual circumstances exist and where the conditional use will be consistent with the general purpose and intent of this Zoning Resolution.

Section 9.02 Application for Conditional Use

Any person owning or having an interest in property may file an application to use such property for one of the conditional uses provided for by this Resolution in the zoning district in which the property is situated. An application for a conditional use shall be filed with the Zoning Inspector, who shall forward within five (5) days a copy to the Secretary of the Board of Zoning Appeals.

At a minimum the application shall contain the following information:

- A. Name, address, and phone number of applicant.
- B. Legal description of the property as recorded in the Licking County Recorder's office.
- C. Present zoning district.
- D. Description of proposed conditional use.
- E. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, the lots or tracts referenced in Section 9.02 G below, and such other information as the Board may require to determine if the proposed conditional use meets the intent and requirements of this Resolution.
- F. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, light, fumes and vibration on adjoining property; and a discussion of the general compatibility with adjacent and other properties in the district.
- G. The names and addresses of all property owners within 200 feet, contiguous to, and directly across the street from the property, as appearing on the Licking County Auditor's current tax list. The applicant shall also provide the addresses of all property within the above referenced boundaries, if available.
- H. Such other information regarding the property, proposed use, or surrounding area as may be pertinent to the deliberations of the Board.

Section 9.03 General Standards for Conditional Uses

The Board of Zoning Appeals shall not approve a conditional use unless it shall, in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location shall meet the following requirements A through E, or F:

- A. Will be consistent with the general objectives, or with any specific objective or purpose, of this Zoning Resolution.
- B. Will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area
- C. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
- D. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- E. Will have vehicular approaches to the property that shall be so designated as not to create interference with traffic on surrounding public streets or roads.
- F. The applicant has a disability as defined by the Americans with Disabilities Act (ADA) and:
 - 1. The modification requested is reasonably necessary to accommodate the disability under the Federal Fair Housing Act (FFHA).
 - 2. The modification would not fundamentally and unreasonably alter the nature or purposes of the zoning ordinance.

Accommodations as defined in "F" above are not transferrable to a new owner and must be removed if no longer necessary.

Section 9.04 Supplementary Conditions

In granting any conditional use, the Board may prescribe appropriate conditions and safeguards in conformance with this Resolution.

Section 9.05 Public Hearing by the Board of Zoning Appeals

The Board shall hold a public hearing within reasonable time from the receipt of the application specified in Section 9.02. The requirements for public notice and notification of parties of interest shall be the same as for a variance, as specified in Section 8.03 of this Resolution.

Section 9.06 Action by the Board of Zoning Appeals

Within thirty (30) days after the public hearing pursuant to Section 9.05, the Board shall either approve, approve with supplementary conditions as specified in Section 9.04, or disapprove the application as presented. If the application is approved with supplementary conditions, the Board shall direct the Zoning Inspector to issue a zoning certificate listing the specific conditions listed by the Board for approval. If the application is disapproved, the applicant may seek relief through the Court of Common Pleas.

Section 9.07 Expiration and Revocation of Zoning Certificate Issued Under Conditional Use Provisions.

The approval of the zoning certificate issued in accordance with Section 9.06 shall become null and void if such use is not carried out within one (1) year after date of approval. The Board may revoke the zoning certificate upon written evidence by any resident or official of the Township of violation of the Zoning Resolution and/or written terms and conditions upon which approval was based.

ARTICLE X: (Reserved For Future Use)

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PART THREE - ZONING DISTRICTS

ARTICLE XI: Standard Zoning District Regulations

Section 11.01 Regulations for the Use and Development of Land or Structures

Regulations pertaining to the use of land and/or structures and the physical development thereof within each of the zoning districts as established in Article XII, are hereby established and adopted.

Section 11.02 Rules of Application

11.2.1 Identification of Uses

Listed uses are to be defined by their customary name or identification, except as specifically defined or limited in this Resolution.

11.2.2 Permitted Uses

Only a use designated as permitted shall be allowed as a matter of right in any zoning district and any use not so designated shall be prohibited unless:

- A. A permitted use may be added to a zoning district by formal amendment, in conformance with Article IV of this Resolution.
- B. An unlisted use may be determined by the Board of Zoning Appeals to be a similar use, in accordance with Section 11.2.5 of this Article.

11.2.3 Accessory Uses

An accessory use or structure is a subordinate use or structure clearly incidental and secondary to the principal permitted building or use, and located on the same lot with such principal building or use.

11.2.4 Conditional Uses

A use designated as a conditional use shall be allowed in the zoning district where the designation occurs, when such use, its location, extent and method of development will not substantially alter the character of the vicinity or unduly interfere with or adversely impact the use of adjacent lots.

To this end, the Board of Zoning Appeals shall, in addition to the development standards for the specific district, set forth additional requirements as will render the conditional use compatible with existing and future use of adjacent lots in the vicinity, in accordance with Article IX of this Resolution.

11.2.5 Similar Uses

Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that district.

Applications for zoning certificates for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the Board of Zoning Appeals.

Within thirty (30) days after such submittal, the Board of Zoning Appeals shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Board shall find that all of the following conditions exist:

- A. Such use is not listed as a permitted or conditional use in another zoning district.
- B. Such use conforms to basic characteristics of the classification to which it is to be added

and is more appropriate to it than to any other classification.

- C. Such use creates no danger to health and safety, creates no offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to added.

11.2.6 Development Standards

Development standards set forth shall be the minimum allowed for uses permitted in that district. If development standards are in conflict with requirements of any other lawfully adopted rule, regulation, or law, the most restrictive standard shall govern.

11.2.7 Development Plan

For particular uses in specific districts, a *Development Plan* will be cited as required. In such cases, unless otherwise indicated, the applicant shall submit the Development Plan at the time of the application for a zoning certificate. The Development Plan shall contain a site plan for the property show the size, design, materials and location of all signage proposed for the development. The Development Plan shall contain a narrative description of the proposed use and how such use will impact adjacent property

The Zoning Commission must approve the Development Plan as a condition for the issuance of a zoning certificate. In approving a Development Plan, the Zoning Commission shall find that the following criteria have been met:

- A. The proposed building or use shall have sufficient yard space to provide for adequate parking and buffering of adjacent residential areas in accordance with this Article.
- B. The Development Plan for the proposed use has incorporated measures to lessen and/or alleviate adverse impacts on adjacent residential areas and to protect the residential character of such areas.
- C. The location, design and operation of the proposed use shall not impose undue adverse impacts on surrounding residential neighborhoods.

ARTICLE XII: Zoning Districts & Zoning District Map

Section 12.01 Zoning Districts Established

The following zoning districts are hereby established for Perry Township:

(AG) Agricultural District

Section 12.02 Official Zoning Map

The districts established in Section 12.01 of this Resolution are shown on the Official Zoning Map, which together with all notations, references, data, district boundaries and other explanatory information, is hereby adopted as a part of this Resolution. The Official Zoning Map shall be identified by the signatures of the Board of Township Trustees and the Fiscal Officer of the Township and shall be on file in the Township offices.

Section 12.03 Interpretation of Zoning District Boundaries

Except where referenced and noted on the Official Zoning Map by a designated line and/or dimensions, the district boundary lines are intended to follow property lines, lot lines, centerlines of

streets, alleys, streams and/or railroads as they existed at the time of passage of this Resolution. The Zoning Inspector shall interpret the boundary lines from the Zoning Map. When and if the Zoning Inspector's interpretation of such boundary line is disputed, the final interpretation authority shall rest with the Board of Zoning Appeals.

ARTICLE XIII: (Reserved For Future Use)

ARTICLE XIV: (Reserved For Future Use)

ARTICLE XV: (Reserved For Future Use)

ARTICLE XVI: (AG) Agricultural District

Section 16.01 Purpose

It is recognized that rural based business activity is unique and may possess characteristics typically associated with both agricultural and agricultural-type land uses. The purpose of the "AG" Agricultural District is to protect land best suited for agricultural uses from the encroachment of other land uses and to preserve valuable agricultural land for agricultural uses and related activities. The AG District protects the long-range physical, social and economic needs of the agricultural community within Perry Township.

Permitted uses within the Agricultural District must operate in accordance with the following standards:

- A. with minimal adverse environmental or economic impact on adjacent properties.
- B. free from noise, odor, dust, smoke, light, glare or vibration at levels in excess of the average level on adjacent streets and properties.

In addition, this district is established to provide areas for large lot single family residential development reflecting very low density and a rural lifestyle. In addition, the standards of this district promote the continuance of agriculture and farm-based uses within the Township. Such development is typically not served by public water or sewer systems.

Section 16.02 Permitted Uses

Permitted uses within the Agricultural District shall operate 1) primarily within enclosed structures; 2) be free of noise, odor, dust, smoke, light, glare, or vibration in excess of the average level on adjacent streets and properties.

- A. Agricultural uses
- B. One single-family dwelling structure.
- C. Manufactured Homes
- D. Home Occupations

- E. Utility and service system buildings and lands, public buildings, and picnic grounds.
- F. Unlighted signs notifying of sale, rental or lease of land or sale of farm goods on the premises on which the sign is maintained having not over four square feet of sign area, signs announcing meeting time and place of civic organizations.
- G. Projects specifically designed for watershed protection, conservation of water or soils for flood control.
- H. Similar uses, as determined by the Board of Zoning Appeals.

Section 16.03 Conditional Uses

- A. Uses of land including quarrying and mining of natural resources.
- B. Cemeteries, golf courses, religious and educational institutions, and similar uses.
- C. Home occupations.
- D. Churches, cemeteries, commercial grain storage, bed and breakfast, nursery-plant and material sales, Township uses.
- E. Public utilities as defined in section 2.02.
- F. Wedding venues, farmers markets.
- G. Telecommunication Towers.

Section 16.04 Development Standards

16.4.1 Minimum Lot Area

For residential, the lot area shall be not less than two (2) acres, or such size as determined by the Licking County Health Department, whichever is larger. For non-residential, there is no minimum lot size.

16.4.2 Minimum Lot Width

All lots of five (5) acres or less shall have a depth: width ratio of not higher than 4:1 and shall have at least 150 feet of contiguous frontage on one public street or roadway.

All lots of 5.01 acres or more shall have frontage of at least sixty (60) feet of contiguous frontage on one public street or roadway. Such lots must maintain a width of at least sixty (60) feet until the lot width is eighty (80) feet or more for at least another 110 feet. Such lots, which have less than one hundred and fifty (150) feet of frontage, shall require a site plan approved by the Zoning Commission.

16.4.3 Minimum Front Yard Depth

Eighty (80) feet from the Front Lot Line.

16.4.4 Minimum Side and Rear Yard

Twenty-five (25) feet.

16.4.5 Minimum Building Area

1,150 square feet of floor area shall be required for single-family dwellings.

16.4.6 Maximum Building Height

Thirty-five (35) feet.

16.4.7 Parking and Loading

Parking and loading spaces shall be provided as required in this Resolution. In addition, parking spaces shall be designed to allow a minimum of five (5) feet between any structure and any parked vehicle.

16.4.8 Lighting

Lighting shall be arranged so as not to shine directly on adjacent properties.

ARTICLE XVII: (Reserved For Future Use)

ARTICLE XVIII: (Reserved For Future Use)

ARTICLE XIX: (Reserved For Future Use)

ARTICLE XX: (Reserved For Future Use)

ARTICLE XXI: (Reserved For Future Use)

ARTICLE XXII: (Reserved For Future Use)

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PART FOUR - SPECIAL ZONING REQUIREMENTS

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ARTICLE XXVI: General Development Requirements

Section 26.01 Lot Width

A. Frontage Required

No new structure or use shall commence unless the lot fronts on a public road or other legally recorded right-of-way. If development is to occur on other than a public road, it must meet the following requirements:

Submission to and approval of a site plan by the Perry Township Zoning Commission and the following: The Zoning Commission may require standards relating to such private roadway, including, but not limited to, roadway width, construction standards, and maintenance agreements. The potential traffic burden on such roadway shall be a factor in such determination.

B. Lot Width

Lot width shall be measured along the front lot line that abuts such thoroughfare as designated in Section 26.01A above. If the lot abuts a roadway that curves at the point of tangency, lot width shall be measured at the front yard setback line.

Section 26.02 Yards and Setbacks

A. Front Yard Measurements

Front yard depth shall be measured from the centerline of the road adjacent to the building line, unless otherwise indicated in this Resolution.

B. Corner Lots

Structures built on a lot fronting on two (2) or more different roads shall require the front yard setback from both roads.

C. Side Yard Measurements

Side yard width shall be measured from the nearest side lot line to the building.

D. Rear Yard Measurements

Rear yard depth shall be measured from the rear lot line to the rear building line. Where the lot abuts a service street or alley, the rear yard depth shall be measured from the right-of-way line of the service, street or alley.

Section 26.03 Open Porches and Architectural Features

All portions of a structure, including open, uncovered porches or terraces, cornices, canopies, eaves, pilasters, sills and other similar architectural features shall be located behind the yard setback lines for the district involved.

Section 26.04 Erosion Control

The use or development of a lot shall not create significant erosion onto other properties or onto the surface of a public or private road. Where such erosion is likely, the person or board approving a zoning certificate, variance, conditional use, development plan, or site plan may require preventative measures.

Section 26.05 Height

Height regulations specified in the various zoning districts shall not apply to chimneys, tanks,

cupolas, domes, spires, private radio or television antennae or similar structures attached to a primary structure.

Section 26.05 Storm Runoff

Structures and physical changes to a site shall be designed and constructed so as to not cause a significant increase in storm water runoff onto adjacent properties.

ARTICLE XXVII: Accessory Uses & Structures

Section 27.01 Regulation of Agriculture on Specific Lots

Section 519.21(B) of the Ohio Revised Code allows a township zoning resolution, or an amendment thereof, to regulate agricultural use within any platted subdivision approved under Section 711.05, 711.09, or 711.10 of the Ohio Revised Code, or any area consisting of fifteen (15) or more lots approved under Section 711.131 (711.13.1) of the Ohio Revised Code, that are contiguous to one another and adjacent 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 public road.

- A. Pursuant to Section 519.21(B) of the Ohio Revised Code, animal and/or poultry husbandry, including the raising, boarding, housing, or grazing of horses, cattle, sheep, goats, swine, poultry or similar animals shall not be permitted on lots meeting the standards of ORC 519.21(B) above, and which are also one (1) acre or less in size. The processing of any such animals or their products shall also not be permitted.
- B. Animal and/or poultry husbandry shall not be permitted on lots greater than one (1) acre but not greater than five (5) acres if such lots meet the standards of ORC 519.21(B) above, and if at least thirty-five percent (35%) of the lots in the subdivision are developed with at least one (1) building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes pursuant to Section 4503.06 of the Ohio Revised Code. After thirty-five percent (35%) of the lots are so developed, any existing animal and/or poultry husbandry operation shall be considered a nonconforming use pursuant to Article V of this Resolution.

Section 27.02 Home Occupations

"Home occupation" means an activity, profession, occupation, service, craft, or revenue-producing hobby that is clearly incidental and subordinate to the use of the premises as a dwelling and is conducted entirely within building or buildings on the premises without any significant adverse impact upon surrounding properties. Home occupations shall be regulated as accessory uses in the various residential districts. A home occupation shall comply with the following standards:

- A. The use shall be clearly incidental and secondary to residential use of the dwelling and not more than twenty percent (20%) of the floor area of the principal dwelling unit structure is devoted to the home occupation. The size of any accessory building used totally or in part for a home occupation shall meet the requirements for accessory structures in Section 27.03 below.
- B. The home occupation shall primarily occur entirely within the confines of the dwelling unit and/or accessory structure.

- C. The home occupation shall not generate greater traffic volume than is normal for a residential neighborhood.
- D. External indication of such home occupation shall be limited to one non-illuminated sign not more than four (4) square feet.
- E. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot.

Section 27.03 Accessory Structures

- A. Location
A detached accessory use or structure shall not be located in the front yard and not closer to any side or rear lot line than the following:
 - 1. Twenty (20) feet in the GB and AG District
- B. Permitted Area and Height
The total area of all accessory uses or structures shall not exceed five percent (5%) of the area of the lot on which the structure or use is located. These area requirements shall not apply to lakes, ponds, swimming pools and tennis courts. An accessory structure shall not exceed 35 feet

Section 27.04 Lakes and Ponds

Lakes and ponds shall be considered as an accessory use where so indicated in the district regulations. Lakes and/or ponds over 1,000 square feet in surface area or exceeding three (3) feet in depth at any point shall meet the following requirements:

- A. The applicant shall provide a site plan for the property, indicating the location of the lake and/or pond, as well as the location of inlets, outlets, subsurface drainage, septic lines, and/or primary or secondary leach field site(s).
- B. The lake and/or pond shall be located not less than sixty (60) feet from any property line, leach field, and/or subsurface tile drainage passing through the property.
- C. The applicant shall demonstrate that the lake or pond meets the standards and specifications of the Natural Resources Conservation Service (NCRS) of the U.S. Department of Agriculture (USDA). These standards and specifications are available through the Licking County Soil and Water Conservation District .

Section 27.05 Telecommunications Towers

Telecommunications towers, as defined in Article II of this Resolution, may be allowed as a conditional use in AG and GB Districts. The process to be used in processing an application for such a tower shall be as specified in Section 519.211 of the Ohio Revised Code and Article IX of this Resolution. Telecommunications towers shall be subject to the following conditions:

- A. The maximum height of the tower shall not exceed 150 feet.
- B. The tower and any stabilization structures or guide wires shall not be located less than twenty-five (25) feet from any side or rear property line.
- C. The tower shall be located not less than 300 feet from any existing residential dwelling or any public roadway.
- D. The minimum lot size for the site of the tower shall be two (2) acres.
- E. Security fencing at least six (6) feet in height and affixed with an operable lock shall be provided to prevent uncontrolled access to the tower site.
- F. A landscaping plan shall be submitted and approved by the Board of Zoning Appeals.
- G. The tower shall not be lighted except to assure safety or as required by the FAA.
- H. The applicant or tower provider shall demonstrate that the telecommunication tower

must be located where it is proposed in order to service the applicant's service area, that other sites have been considered, and that location at the proposed site is technically necessary.

- I. The applicant shall provide a signed statement indicating that he/she agrees to allow for the potential co-location of other similar facilities on the tower, the removal of the tower within 180 days after the site use is discontinued, and proof of notice has been provided as required in Section 519.211 of the Ohio Revised Code, as may be subsequently amended.

If a public telecommunications service provider desires to co-locate its facility either on an existing tower or utility structure, the location of such facility shall be addressed as a permitted use.

ARTICLE XXVIII: Off-Street Parking Requirements

Section 28.01 Purpose

The purpose of these requirements is to encourage the orderly development of parking and loading areas within Perry Township and to promote the safety of residents and visitors by insuring the efficient handling of vehicular traffic.

Section 28.02 Provision for Parking Required

In all zoning districts, at the time any building, structure or use is changed, established, erected, developed, or is enlarged or increased in capacity, there shall be provided off-street parking spaces in accordance with the provisions of this Article.

Section 28.03 General Requirements

A. Surfacing

All off-street parking areas within the GB and/or AG Districts shall be properly graded, drained, marked and surfaced so as to provide a hard, durable and dustless surface.

B. Lighting

Any lighting used to illuminate any off-street parking area shall be so arranged as to reflect light away from any adjoining premises in any zoning district where residences are a permitted use. In addition, such lighting shall be so arranged as not to interfere with traffic on any adjoining street or to be confused with any traffic control lighting.

C. Parking of Inoperable or Disabled Equipment or Vehicles.

The exterior parking or storage of inoperable or disabled pieces of equipment or vehicles for a period of time exceeding thirty (30) consecutive days, outside of an approved junk yard licensed and regulated pursuant to Sections 4737.05 through 4737.12 of the Ohio Revised Code, shall be prohibited.

The Township reserves the right to remove junk cars from private property consistent with the standards and procedures cited in ORC Section 4513.65.

Section 28.04 Recommended Number of Off-Street Parking Spaces

Parking spaces shall be provided according to the following Schedule that is hereby made a part of this Resolution. For uses not listed in the Schedule, the Board of Zoning Appeals shall make the determination of the number of recommended spaces.

Schedule of Recommended Parking Space Use

USE

NUMBER OF SPACES

A. Residential

- | | |
|--|---|
| 1. Single or multiple- family residences | Two (2) per dwelling unit |
| 2. Institutional housing, other residential uses | One (1) per three (3) occupants plus two (2) for each main work shift |

B. Commercial

- | | |
|--|--|
| 1. Professional, administrative and business | One (1) for each 400 S.F. of gross floor area. |
| 2. Food, department, general merchandise, hardware, drugs, or other retail sales | One (1) for each 200 S.F. of gross floor area |
| 3. Eating or drinking establishments <i>without</i> drive-through facilities | One(1) for each 100 S.F. of gross floor area |
| 4. Eating or drinking establishments <i>with</i> drive-through facilities. | One (1) for each 75 S.F. of gross floor area plus additional space in the drive-through lanes equal to twenty-five percent (25%) of the required number of parking spaces. |
| 5. Personal services, including banks, savings loans, and repair services <i>without</i> drive-through facilities. | One (1) for each 200 S.F. of gross floor area. and |
| 6. Personal services, including banks, savings and loans, and similar services <i>with</i> drive-equal through facilities number | One (1) for each 200 S.F. of gross floor area. plus additional space in drive-through lanes to eighty percent (80%) of the required number of parking spaces. |
| 7. Barber and beauty shops | Two (2) for each work station |
| 8. Gasoline and service stations, automobile | Two (2) for each service bay plus one (1) for each service pump, plus one (1) for each employee during the main shift |
| 9. Self-serve laundries | One(1) for each three(3) washers. |
| 10. Medical and dental offices, human clinics | Four (4) for each doctor or dentist |
| 11. Veterinary clinics, animal hospitals | Three (3) for each doctor. |
| 12. Hotels, bed-and-breakfast establishments | One (1) for each sleeping room plus one (1) for each employee during the main shift |
| 13. Funeral homes | One (1) for each 400 S.F. of gross floor area. |

C. Industrial

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| 1. Any manufacturing, processing, packaging, warehousing, distribution or service employees, industry the | Two (2) for each three (3) employees during work shift having greatest number of plus one (1) for each vehicle maintained on the premises. |
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D. Institutional

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|---|---|
| 1. Churches and places of public worship sanctuary | One (1) for each four (4) seats in main sanctuary |
| 2. Public or private elementary or secondary school | Four (4) for each classroom, or one (1) for each seat in main auditorium, whichever is greater. |
| 3. Business, trade, or technical school, college university | One (1) for each two (2) students and one (1) for each faculty member. |

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| 4. Nursery School/Day Care | One (1) for each fifteen (15) students |
| 5. Libraries, museums, community centers similar facilities | One for each 400 S.F. of gross floor area and |
| 6. Civic, social and fraternal organizations main | One (1) for each three (3) persons allowed in meeting room at full capacity. |
| 7. Hospitals, nursing facilities | One (1) for each four (4) beds plus one (1) per employee on main shift. |

E. Recreational

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| 1. Baseball, softball, football, soccer or similar organized sport playfield | Twenty (20) for each playfield, plus one for each six (6) seats in stands. |
| 2. Tennis, handball or racquetball courts | Three (3) for each court |
| 3. Bowling alleys | Four (4) per lane, plus necessary spaces as required for auxiliary uses such as restaurants. |
| 4. Theatres, stadiums, sports arenas, other assembly halls other than schools | One (1) for each four (4) seats auditoriums or |

ARTICLE XXIX: Signs

Section 29.01 Purpose

The purpose of these regulations is to encourage the proper development of signs and signage systems. The intent of these regulations is as follows:

- A. to control the size, location and design of signs so that the overall appearance of such signs will be aesthetically harmonious with their surroundings,
- B. to reduce sign clutter,
- C. to prevent signs from becoming a distraction or obstruction to the safe flow of pedestrian and vehicular traffic,
- D. to prevent signs from becoming a nuisance to adjacent properties or uses,
- E. to encourage the development of signage that promotes a healthful economic and business environment and thereby protect the general health, safety, and welfare of the citizens of Perry Township.

Section 29.02 Definitions

As used in this Article, the following words or phrases shall have the meanings herein:

- A. "Sign" means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise direct attention to a person, institution, organization, activity, business, place, object or product.
- B. Other Definitions
 - 1. "Billboard" means an off-premises sign that is more than three hundred fifty-nine (359) square feet in area.
 - 2. "Changeable copy sign" means a sign that, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.

3. "Directional sign" means any off-premises sign that indicates the direction or specific location of an institution, organization or business, which does not include advertising or any information regarding product lines or services offered
4. "Flashing sign" means a sign or graphic that in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change
5. "Freestanding sign" means a sign that is wholly independent of any building for support.
6. "Moving sign" means any sign, all or any part of which physically moves or is animated so as to give the appearance of movement
7. "Off-premises sign" means any sign that identifies or provides information related to a good, service or event that is not located on the property where such sign is located.
8. "Permanent sign" means a sign intended to be erected or used, or in fact which is used for time period in excess of ninety (90) days in a six (6) month period..
9. "Portable sign" means a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include signs that are constructed on a chassis intended for the mounting of wheels, thereby permitting the sign to be moved
10. "Projecting sign" means a sign that extends outward perpendicular to the building face
11. "Temporary sign" means a sign intended to be used, or in fact used, for a time period of ninety 90 days or less.
12. "Wall sign" means a sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs include painted murals, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings.
13. "Window sign" means a sign, graphic, poster, symbol or other identification that is physically affixed to or painted on the glass or other structural component of the window.

Section 29.03 Signs Excluded from Regulations

The following signs are excluded from the regulations and requirements of this Article:

- A. Signs not exceeding one (1) square foot in area that are customarily associated with residential use and are not of a commercial nature, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, and signs warning against trespassing or danger from animals. Signs associated with home occupations shall not be excluded from these regulations.
- B. Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs include legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
- C. Temporary signs not exceeding fifty (50) square feet in area erected on a site owned or controlled by a non-profit organization or group, including but not limited to sites used for sporting or similar community events.
- D. Signs located on the inside of a structure or building, that are not designed or located so as to be typically visible from outside the building.

- E. Signs which are in the nature of cornerstones, commemorative tables and historic designations, provided such signs are less than nine (9) square feet in size and not illuminated.
- F. Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall be of any illumination or animation provided that a safety and/or visibility hazard is not clearly created.
- G. Flags or insignias of any governmental entity when not displayed as an advertising device, or in connection with any commercial promotion, and provided that not more than four (4) such flags or banners are displayed at any one time.
- H. Signs identifying agricultural commodities or products used on the premises.
- I. Sandwich boards are permitted in front of businesses but shall be located immediately in front of the business and shall be no closer to the pavement than thirty feet. They shall have the following specifications: a. Four foot height and two foot width b. One per building c. Be made of permanent weatherproof material such as painted wood or metal.

Section 29.04 Prohibited Signs

Signs that are not specifically permitted in this Article shall be considered as prohibited. Without restricting or limiting the generality of the foregoing provisions, the following signs are specifically prohibited:

- A. Signs on motor vehicles or trailers that are parked in a manner and location so as to serve as a sign.
- B. Banners, streamers, pennants and similar air-activated moving signs displayed more than 90 days in a calendar year.
- C. Flashing or high intensity lights mounted on a sign.
- D. Any sign that obstructs any part of a doorway, exit or fire escape.
- E. Any sign that resembles or is intended to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal.
- F. Any sign that extends into the right-of-way of any public street or highway.

Section 29.05 Sign Permits and Administration

A. Permit Required

No permanent or temporary sign, except as exempted in Sections 29.03 or 29.06 of this Ordinance shall hereafter be erected, constructed or maintained within Perry Township unless a permit for the same has been issued by the Zoning Inspector.

B. Contents of Application

The owner of the property upon which the sign is proposed, or his agent shall make application for a permit to construct or erect a sign. The fee shall be established by separate Resolution. Each application for a sign permit shall be made on forms provided by the Zoning Inspector, and shall include the following information:

1. Name, address, and telephone number of the applicant.
2. Drawings to an appropriate scale, showing at a minimum:
 - a. The design and layout of the proposed sign, including the total area of the sign and the size, height, character, materials and color of letters, lines, and symbols. If more than one sign face is proposed, separate information on each

face shall be provided

b. The exact location of the sign in relation to the building and property.

c. The method of illumination, if any.

3. Details and specifications for the construction, erection and attachment of the sign.

4. Name, address and telephone number of the sign contractor or company.

5. Other information as may be required by the Zoning Inspector to ensure compliance with the provisions of this Ordinance.

C. Action on Sign Permit

The Zoning Inspector shall issue a sign permit upon submittal of a completed application and payment of applicable fees if he/she determines that the provisions of this Ordinance have been met. If the application for a sign permit is denied, the applicant shall be given written notice of such denial, along with the reasons therefore.

D. Appeals

Any decision made by the Zoning Inspector under the terms of this Article may be appealed to the Board of Zoning Appeals in the manner set forth in Article VI of this Resolution.

Section 29.06 Signs Which Do Not Require a Permit

The following signs may be erected without a permit; such signs, however, shall be subject to all other provisions of this Article:

- A. Political signs or posters concerning candidates for elective office, public issues and similar matters to be decided by public election are to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed twelve (12) square feet in area, shall not be illuminated, and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. In addition such sign shall not be located in any manner so as to create a safety or visibility hazard. Signs that exceed the standards of this Section shall require a sign permit.
- B. Signs that are located on and that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed sixteen (16) square feet in area. One such sign shall be allowed per street front. Such signs shall not be located in a public right-of-way. Exception: Such signs that relate to property currently zoned General Business or to property designated for Commercial Use in an existing Township or County Land Use Plan, shall not exceed thirty-two (32) square feet in area.
- C. Temporary window signs which promote special business sales, promotions or occasions. No business shall display such signs for more than thirty (30) days per calendar year. The date when each sign is first displayed and the time period for which the sign will be displayed shall be legibly marked on the sign.
- D. Signs, which are less than twenty (20) square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building, which denote the name and address of an occupant in a building where more than one tenant is located and which has individual and separate entries.
- F. A sign which advertises the sale of personal property, such as a garage, yard, porch or moving sale sign provided such sign, is located on the sale premises for a time period not greater than three (3) consecutive days, and is not to be located in a public right-of-way nor affixed to any public utility pole or street tree. Such signs shall not be

located in such a manner so as to create a safety or visibility hazard.

- G. Temporary construction signs which display the identification of the construction project, including identification of the contractors, architects and other construction principals. Such construction signs shall be limited to one (1) per construction site, shall not exceed sixteen (16) square feet in area and shall be removed upon the completion of construction or the commencement of occupancy, whichever event occurs first. Such signs shall not be located within the public right-of-way.
- H. Signs promoting community events and programs which last for a time period of fourteen (14) days or less and which are sponsored by nonprofit, public, educational, religious and charitable entities. Such signs shall be removed not later than three (3) days after the scheduled activity
- I. Signs determined by the Board of Zoning Appeals to be similar to those specified in A-H above

Section 29.07 General Requirements

Temporary and/or permanent signs erected after the date of this Resolution shall comply with the following standards and requirements:

A. Digital Standard

Purpose and intent. More businesses desire to utilize advancements in technology which permit signs to change copy electronically (e.g., utilizing an LED type of sign). These newer technologies pose additional risks of impacting adjacent areas and adversely dominating the environment in which they operate unless regulated in a reasonable fashion. The intent of this section is to establish operating standards and regulations for signs which utilize these newer technologies in order to minimize the secondary effects that often accompany the unregulated display of digital signs, preserve the character and repose of adjacent areas (with a principal focus on residential neighborhoods), protect property values, and reduce traffic hazards caused by undue distractions.

Definitions. For purposes of this section, the words "wall sign", "digital sign", and "freestanding sign" and "sign" shall have the same definitions as contained in the Township's adopted Zoning Ordinance, as amended from time to time.

Display

- 1. A digital sign, other than a digital billboard, may not allow the display or message; to change more frequently than once every eight seconds, with a transition period of one second or less
- 2. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article.
- 3. The maximum brightness levels for digital signs, shall not exceed 0.2 (two tenths) foot-candles over ambient light levels measured within 150 feet of the source, consistent with the terms of this section. Certification must be provided to the Township demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re- inspection and recalibration may be periodically required by the Township in its reasonable discretion, at the permittee's expense, to ensure that the specified brightness levels are maintained at all times.
- 4. Brightness of digital signs shall be measured as follows:

- a. At least 30 minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre- set location.
 - b. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
 - c. If the difference between the readings is 0.2 foot candles or less. The brightness is properly adjusted.
5. Other Requirements. The use, size and location of digital signs, other than digital billboards, must comply with all other relevant regulations and ordinances of the Township.

B. Outdoor Advertising

Outdoor advertising including off-premises signs shall be considered a business use and shall be permitted in and subject to the development standards of the GB District, and the following:

1. All off-premises signs other than directional signs specified in Section 29.07 B(2) below, shall conform to all yard and setback requirements for the zoning district in which it is located.
2. Not more than two (2) off-premises directional signs shall be permitted, directing persons to a business located elsewhere. Each such directional sign shall not exceed four (4) square feet in area.
3. The height of an outdoor advertising sign shall not exceed thirty-five (35) feet above natural grade and shall not exceed three hundred fifty-nine(359) square feet in area.
4. All permitted outdoor advertising signs shall be licensed or permitted as may be required by other local, federal or state agencies.
5. Outdoor advertising signs shall be located not less than 100 feet from any adjacent residence.
6. No outdoor advertising shall be erected or maintained in trees, or constructed, drawn or painted directly onto rocks or other natural features.

C. On-Premises Signs

Free-standing, wall-mounted, window or projecting signs identifying and/or promoting uses or activities on the premises are permitted as part of the principal use in the GB. No single sign shall have an area of area of more than fifty (50) square feet per side.

1. No single use or property shall maintain a total sign area for *all* signs of more than three hundred fifty-nine (359)square feet.
2. No on-premises sign shall be erected closer than ten (10) feet to the road right-of-way.
3. No sign shall exceed thirty-five (35) feet in height, as measured from ground level.

D. Portable Signs

Portable signs, as defined in Section 29.02B (9), shall be permitted as temporary signs, so long as the gross sign area for the property, as specified in Section 29.07D.2. above, is not exceeded.

E. Permanent Subdivision Identification Signs

Permanent signs identifying a residential subdivision shall be limited to not more than two (2) signs located at the entrance to the subdivision.

F. General Requirements for all Signs

1. When a sign is proposed to be illuminated, it shall not flash, blink, fluctuate in intensity, travel, move or in any manner fail to provide constant illumination, and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of

illumination emitted from a sign shall not be of an intensity to constitute a demonstrable safety hazard to vehicular movement on any street. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.

2. Moving signs and the animation of signs are prohibited.
3. All signs and parts thereof, including any electrical wiring, shall be erected, constructed, and maintained so as not to constitute a safety hazard.
4. No sign nor part of any sign shall be placed in, over, or extend onto any public right-of-way, nor shall any part of a sign be placed over, or extend above the roof of any structure.
5. No sign shall be located so as to hinder clear sight within fifty (50) feet in both directions at the intersection of any roadway with a federal or state highway.

Section 29.08 Measurement of Sign

For the purposes of this Resolution, the measurement of sign area shall comply with the following standards:

- A. Sign area shall include the face of all the display area of the sign not including bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the design. Where a sign has two or more display faces, the area of *all* faces of the sign shall be included in determining the area of the sign.
- B. The area of the letters, numbers or emblems mounted on a building wall or wall extension shall be computed by enclosing such sign with the smallest single continuous perimeter consisting of rectangular or series of rectangles around the letters, number or emblems, and determining the area.

Section 29.09 Nonconforming Signs

A. Abandonment

The continuance of an existing sign that does not meet the regulations and requirements of this Article shall be deemed a nonconforming sign, which shall terminate by abandonment when any of the following conditions exist:

1. When the sign is associated with an abandoned use.
2. When the sign remains after the termination of a business. A business has ceased operations if it is closed to the public for at least ninety (90) consecutive days. Seasonal businesses are exempt from this requirement.
3. When the sign is not maintained or does not conform to the following:
 - a) All signs, together with all supports, braces, guys and anchors shall be kept in a proper state of repair.
 - b) Every sign and the immediately surrounding premises shall be maintained by the owner, or his agent, in a clean sanitary and inoffensive condition, free from all obnoxious substances, rubbish and weeds.

Upon finding that the sign is abandoned, the right to maintain and use such sign shall terminate immediately. The removal of an abandoned sign shall be the responsibility of the owner of the property.

B. Relocation or Replacement

A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this section.

C. Maintenance

A nonconforming sign shall be maintained or repaired in accordance with the following provisions:

1. The size and structural shape of the sign shall not be changed or altered. The copy may be changed provided that the change applies to the original use associated with the sign at the time the sign became nonconforming. The copy area shall not be enlarged.
2. In case damage occurs to the sign to the extent that more than 50 percent (50%) of the replacement value is lost, the sign shall be removed within sixty (60) days.

ARTICLE XXX: Adult Entertainment Businesses

Section 30.01 Purpose

The purpose of this Article is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of this Article to regulate businesses, as defined herein, in such a manner as to prevent the erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to schools, churches, residential areas, parks and playgrounds.

Section 30.02. Definitions

- A. "Adult Entertainment Facility" means any establishment that is involved in one or more of the following listed categories.
1. "Adult Book Store" means an establishment which utilizes fifteen percent (15%) or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on "specified sexual activities" or "specified anatomical areas" as defined below.
 2. "Adult Motion Picture" means a facility for the display of motion pictures which is regularly used or utilizes fifteen percent (15%) or more its total viewing time for presenting material distinguished or characterized by an emphasis to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
 3. "Adult Entertainment Business" means any establishment involved in the sale or services of products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live male or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.
- B. "Specified Sexual Activities" means any of the following:
1. Human genitals in a state of sexual stimulation or arousal.
 2. Acts, real or simulated, or human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or sadomasochistic sexual abuse.
 3. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.
- C. "Specified Anatomical Areas" mean any of the following:
1. Less than completely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.
 2. Human male genitals in a discernible turgid state.

- D. "Fine Art Gallery" means any display of artwork which is individually crafted and signed by the artist or which is limited in edition to 1,000 or less.
- E. "Sexually explicit nudity" means the sexually oriented and explicit showing of nudity, including, but not limited to, close-up views, poses, or depiction in such position or manner that present or expose such nudity to prominent, focal, or obvious viewing attention.
- F. "Visibly displayed" means the material is visible on any sign, viewing screen, marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the general public or otherwise, or that is visible from any part of the premises where a juvenile is or may be allowed, permitted, or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which juveniles, as part of the general public or otherwise, has unrestrained and reasonable anticipated access and presence.

Section 30.03. Exceptions

Nothing in this Article shall be construed to pertain to:

- A. The purchase, distribution, exhibition and/or loan of any work of art, book, magazine or other printed material or manuscript by an accredited museum, library, fine art gallery, school or museum of higher learning.
- B. The exhibition and/or performance of any play, drama tableau, or motion picture by any theater, museum, library, fine art gallery, school, or institution of higher learning either supported by public appropriation or which is an accredited institution supported by private funds.

Section 30.04. Location

Adult Entertainment Facilities shall be considered a conditional use in the GB District, and shall be subject to the following conditions:

- A. No adult entertainment facility shall be established within 1,500 feet of any residence or district where residences are a permitted use.
- B. No adult entertainment facility shall be established within a radius of 1,500 feet of any school, library, or teaching facility, whether public or private, when such school, library, or teaching facility is attended by persons under 18 years of age.
- C. No adult entertainment facility shall be established within a radius of 1,500 feet of any park or recreational facility attended by persons under 18 years of age.
- D. No adult entertainment facility shall be established within a radius of 1,500 feet of any church, synagogue, or permanently established place of religious services attended by persons under 18 years of age.
- E. No adult entertainment facility shall be established within a radius of 1,500 feet of any other adult entertainment facility.
- F. No advertisements, displays or other promotional materials displaying specified sexual activities or specified anatomical areas shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.
- G. All building openings, entries, windows, etc. for adult entertainment uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street.

- H. No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned from public or semi-public area.

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