

# **PORTER TOWNSHIP ZONING RESOLUTION**

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## **ARTICLE I TITLE**

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

## **ARTICLE II PURPOSE**

The Porter Township Zoning Resolution is enacted for the following purposes and objectives which are to be construed as being consistent with the limitations and jurisdiction of a township as set forth in of the **Ohio Revised Code, Chapter 519**.

- A. To promote and protect the public health, safety, comfort and general welfare.
- B. To conserve and promote agricultural land, the agricultural industry within the township and to protect agricultural land from the unnecessary encroachment by non-agricultural uses.
- C. To promote, insure and control the orderly development of lands best suited for residential development.
- D. To promote and secure the most appropriate use of land to facilitate and provide adequate public and private improvements.
- E. To promote sensitivity to environmental concerns in all development and land uses.
- F. To conserve and protect the natural resources, scenic areas, wildlife habitat and historical and unique natural features of the land.
- G. To conserve and protect the right to farm all suitable land. The right to farm includes the use of large irrigation pumps and equipment, aerial and ground seeding and spraying, large tractors and agricultural implements and the application of fertilizers, insecticides, pesticides and herbicides. When conducted in accordance with generally accepted agricultural practices, farming may occur at any time on any day, and the resulting noise, odors, dust and fumes are expressly permitted as a part of the exercise of the right to farm.

## **ARTICLE III INTERPRETATION OF STANDARDS**

The provisions of this Resolution shall be interpreted and applied and held to be minimum requirements. Where this Resolution imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, resolutions or restrictions, the provisions of this Resolution shall control; however, where the provisions of this resolution are less restrictive, the more restrictive provision of other laws, rules, regulations, restrictions or resolutions shall control. Where a particular use is not specifically provided for in this Resolution nor reasonably construed to be included within a use otherwise specifically provided for, the particular use shall not be permitted.

## **ARTICLE IV DISTRICTS AND BOUNDARIES**

### **Section 4.01 ZONING DISTRICTS:**

For the purposes of this Resolution, the following districts are hereby created in order that the unincorporated area of Porter Township, Delaware County, Ohio, may be divided into one or more such districts:

A-1	Farm Residence District	ARTICLE VI
A-2	Big Walnut Critical Resource Residence District	ARTICLE VII
R-1	Rural Residence District	ARTICLE VIII
PRD	Planned Residence District	ARTICLE IX
PCD	Planned Commercial and Office District	ARTICLE X
PID	Planned Industrial District	ARTICLE XI

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

### **Section 4.02 DISTRICT BOUNDARIES:**

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

### **Section 4.03 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES:**

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

- A. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the zoning map. If no distance is given, such dimension shall be determined by use of the scale shown on said zoning map.

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

## **ARTICLE V APPLICATION OF RESOLUTION**

### **Section 5.01 CONFORMANCE REQUIRED:**

Except as otherwise provided herein, no building or part thereof shall be moved, erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used or occupied, other than in strict conformance with all the use and development regulation established by this Zoning Resolution for the district in which the structure or land is located. Normal repair and maintenance, interior remodeling, patios, porches, decks and other uninhabitable portions of the dwelling, constructed to conform to the setback limits of the development standards are excepted. The conversion of uninhabitable portions of a dwelling into habitable living space shall require a zoning permit.

### **Section 5.02 AGRICULTURE:**

Nothing contained in this Resolution shall prohibit the use of land for agriculture purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no zoning certificate shall be required for any such use, building or structure. For the purpose of this Resolution, no tract of land, unless it is taxed pursuant to a Current Agricultural Use Valuation, shall be considered agricultural in nature.

### **Section 5.03 PUBLIC UTILITIES AND RAILROADS:**

Nothing contained in this Resolution shall prevent the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any building or structure of any public utility or railroad, whether publicly or privately owned, or the use of land by any public utility or railroad for the operation of its business. The term "operation of its business" shall not be deemed to include general offices or other uses not related directly to the provision of utility services.

### **Section 5.04 CONSTRUCTION:**

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

### **Section 5.05 ISSUED ZONING CERTIFICATES:**

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

Section 5.06 TELECOMMUNICATIONS TOWERS:

Public utilities or other functionally equivalent providers may site a telecommunications tower as a Conditional Use in zones A-1, A-2, R-1 and PRD provided that the following conditions are met (in addition to any other applicable criteria):

A. Application Requirements.

1. A preliminary development plan must be submitted at the time the application for the conditional use permit is submitted. The preliminary development plan shall contain the following:
  - a. The location of all the applicant's existing facilities both within the Township and within one mile of the proposed site.
  - b. The general location of planned future facilities, if known.
  - c. For each location shown on the plan, there shall be listed:
    - 1) the type and size of tower at each location;
    - 2) the type of equipment located or proposed on each tower;
    - 3) the space available on the tower for additional equipment; and
    - 4) a site plan showing the parcel on which any existing or proposed tower, antenna or equipment is located.
  - d. A scaled and dimensioned site plan for the facility that is being applied for shall also be submitted containing:
    - 1) The location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
    - 2) The location of existing and proposed buildings and structures, access drives, circulation and parking areas;
    - 3) Detailed drawings of the screening plan and related design standards;
    - 4) On-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
    - 5) Setbacks from property lines and dwellings within 600 feet of tower;
    - 6) Legal description of the lot on which the tower is to be sited; and
    - 7) Any other information necessary to assess compliance with this section.
  - e. A written certification(s) from a qualified engineer(s) certifying the following:
    - 1) That the tower's design is structurally sound and in compliance with all applicable federal, state and local building laws including, without limitation, the Ohio Basic Building Code and the National Electric Code;

- 2) That the equipment placed on the tower and at the site complies with all current FCC regulations for nonionizing electromagnetic radiation (NIER); and
- 3) That the tower will to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location.

B. General Requirements for all Telecommunications Towers.

1. The applicant or tower provider shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area and that there are no alternative sites reasonably available in any area. This shall include an explanation and accompanying documentation as to why a tower on this proposed site is technically necessary and showing the unavailability of useable sites located in Commercial or Industrial Zoning Districts; a description of the suitability for use of existing towers, other tall structures or technology not requiring the use of the proposed new tower; and a demonstration that a technically suitable location is not reasonably available on an existing tower or tall structure. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, utility buildings and structures over 48 feet in height, power transmission towers, existing antenna support structures or other telecommunications towers.
2. All towers shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate such towers. If the applicable standards and regulations are changed, then the owners/operators of the towers shall, if required by the applicable governmental authority, bring such towers into compliance with the revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the applicable governmental authority.
3. The owner/operator shall remove a tower within 180 days after the tower's use is discontinued. The owner/operator shall annually file during January of each year a declaration with the Zoning Inspector that certifies that the radio frequency transmission and/or reception equipment attached to the tower is in use and is operational.
4. The owner/operator shall provide documentation that a notice has been provided in accordance with the **Ohio Revised Code, Section 519.211**. If a timely notice from any person entitled to object under the **Ohio Revised Code, Section**

**519.211(B)** is made, then the applicant shall comply with all requirements set forth in **Section 6.03**. If a timely objection is not so made, then the telecommunications tower shall be deemed exempt under the **Ohio Revised Code, Section 519.211(A)**. The provisions of this Resolution shall be interpreted and applied in a manner consistent with the **Ohio Revised Code, Section 519.211** and any applicable federal law, rule or regulation.

C. Development Standards for all Telecommunications Towers.

1. No telecommunications tower shall be permitted to be located in any platted subdivision approved under the **Ohio Revised Code, Sections 711.05, 711.09 or 711.10** or in any area consisting of 15 or more lots approved under the **Ohio Revised Code, Sections 711.131** that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least 35 percent of the lots within such subdivision or area are developed with at least one dwelling unit.
2. The maximum height of a tower proposed for one antenna facility for use by a single telecommunications provider shall be 150 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:
  - a. Towers proposed for and designed to support the co-location of a total of two antenna facilities – 165 feet;
  - b. Towers proposed for and designed to support the co-location of a total of three antenna facilities – 180 feet; and
  - c. Towers proposed for and designed to support the co-location of four or more antenna facilities – 195 feet.

Tower height shall be the distance measured from the base of the tower, at grade, to the highest point on the tower, including any antenna. Grade shall be determined as the elevation of the natural or existing topography of the ground level prior to construction of the tower.

3. The tower shall not be placed closer than 500 feet from any existing residential dwelling unit located on a lot contiguous to or directly across the street from the lot on which the tower is proposed to be constructed.
4. Reasonable and safe access and circulation shall be provided to the tower. The location and design of the access drive and circulation areas shall be subject to review and comment by the Fire Chief (or the Chief's designee) of the fire department providing primary fire service to the township.

5. The tower shall be located no closer to a street right-of-way than permitted in the building setback for the applicable district.
6. A tower shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.
7. Security fencing shall be provided to prevent uncontrolled access to the tower site.
8. The lot on which the tower is to be located shall meet the minimum lot area and frontage requirements of the district in which it is located.
9. The tower shall be screened by a six foot high fence or barrier and, outside of and along the fence or barrier, a continuous evergreen hedge, trees or similar landscape materials of a size, type, area and design deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the area on which the tower is to be located is kept free of weeds and trash. The storage of vehicles is prohibited and any equipment must be contained inside the screened area.
10. The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower shall not contain, or be illuminated by, artificial lights, beacons or strobes, unless otherwise required by the **Federal Aviation Administration** (FAA) or the **Federal Communications Commission** (FCC). Any required illumination shall be fully disclosed on the site plan. All surfaces shall be maintained in good condition, absent of flaking or peeling paint and rust. Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a non corrosive monopole design.
11. No advertising is permitted anywhere on the telecommunications tower facility with the exception of one identification sign not to exceed one square foot in size.
12. The tower shall be fully automated and shall be visited only for periodic and necessary maintenance.
13. Where the tower is located on a property which is not owned by the tower operator, the applicant shall present documentation that the owner of the property has approved the application.
14. The applicant shall provide a signed statement indicating that the applicant agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity. Antenna towers are

not permitted to be built to a height that exceeds the applicant's service need as substantiated by the testimony of the applicant's engineer. If the tower must be extended in the future to accommodate co-location, the initial tower foundation must be designed to support this co-location capacity, and the tower must be designed to accommodate this extension capability. This ultimate height shall be specified on the drawings submitted with the application. Unless otherwise approved, the tower height shall not be extended until co-locators are installed. In the event the applicant's (or the applicant's successor's) service needs change such that a substantially lower tower height than initially approved will sufficiently accommodate the applicant's service needs in the reasonably foreseeable future, then the tower shall be reduced to such height. After this reduction, the applicant may extend the tower height to the level originally approved if the applicant's service needs require such extension. A "substantially lower tower height" is defined to mean a height reduction of 20 feet or more.

15. A tower may be attached to a residential or nonresidential building or structure that is a permitted use and structure in the district, provided that the tower's height does not exceed 20 feet above the existing building or structure to which the tower is attached; and further provided that all requirements except those found in Items **Section 5.06-C 2, 7 and 9** are met. All roof-mounted towers shall be screened from view to the extent possible. The outside storage of vehicles or equipment, if not located inside the building or structure on which the tower is located, shall be screened by a minimum six foot high solid fence or barrier and, outside of and along the fence or barrier, a continuous evergreen hedge, trees or similar landscape materials of a size, type and design deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the tower area is kept free of weeds and trash.
16. If the applicant proposes to construct a separate equipment shelter on the site, the equipment shelter shall be shown on the site plan, be designed to be aesthetically and architecturally compatible with the surrounding environment, be located completely within the fenced area of the site, and be in compliance with the accessory building regulations of the district in which it is to be located.

D. Exception to Conditional Use Permit.

Telecommunications towers meeting the following conditions shall not be required to obtain a Conditional Use Permit, but shall be deemed to be permitted uses requiring a Zoning Permit and Certificate of Compliance.

1. Should the owner/operator of a telecommunications tower desire to site a tower on property that falls under the direct ownership and with the consent of the Township Board of Trustees, then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the

requirements found in the following provisions are met: **Section 5.06-A; B 2, 3 and 4; C 10, 11, 13 and 14.**

2. Should a telecommunications carrier desire to co-locate a telecommunications antenna on another existing telecommunications tower or on another “tall structure”, then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: **Section 5.06-A; B 2, 3 and 4; C 4, 5, 7, 9, 10, 11, 12 and 13.** (Telecommunications antenna refers to any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas such as whips and other equipment utilized to serve personal communication services.)
  
3. Should the owner/operator of a telecommunications tower or telecommunications antenna desire to site such a tower or antenna using a no-impact design (specifically meaning that the tower, antenna and all related equipment will be completely invisible to the casual observer by incorporating the tower, antenna and related equipment within an existing structure such as within a light post or inside a steeple), then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: **Section 5.06-A; B 2, 3 and 4; C 4, 5, 7, 9, 10, 11, 12 and 13.**

## **ARTICLE VI FARM RESIDENCE DISTRICT (A-1)**

### **Section 6.01 PURPOSE:**

There is hereby created within Porter Township a Farm Residence District which is hereinafter referred to as the Farm Residence District, to promote, preserve and protect agriculture and rural residential purposes pursuant to the provisions of **Article II** and provide for the development of land in accordance with the ability of such land to support development without central water supply and/or central sewerage disposal facilities, to prevent pollution of such land and underlying aquifers by excessive development and to protect the aquifer recharge areas.

### **Section 6.02 APPLICATION:**

All land within Porter Township not otherwise zoned shall be controlled by the provisions of this Article.

### **Section 6.03 PERMITTED USES:**

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

- A. Agricultural purposes, including any customary agricultural building, structure, nursery or greenhouse.
- B. Roadside sales of agricultural products provided said stand is in operation for not more than 150 days in any year and adequate area exists adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares.
- C. Temporary sawmills for processing timber grown on the premises.
- D. A single family dwelling or a permanently sited manufactured home, as defined in the **Ohio Revised Code, Section 3781.06** per parcel of land that meet the provisions of the Township Zoning Resolution, the provisions of the State of Ohio, Delaware County Building Codes and any other applicable rule or regulation.
- E. Accessory buildings.
- F. Ponds subject to the provisions of **Section 14.06** of this Resolution.
- G. Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
  - 1. The home occupation shall be carried on solely within the confines of the residence structures and accessory buildings which are customarily associated with the use and character of the neighborhood.
  - 2. No outside storage of any kind associated with a home occupation shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.

3. Only one sign not larger than eight square feet and eight feet in height above grade of the surrounding yard or not higher than 15 feet if mounted on a building may be erected advertising the home occupation, all subject to the provisions of **Article XV**.
  4. On-site parking shall be provided for not less than four vehicles so that parking of customer or employee vehicles will not be required on adjoining property, streets or highways.
  5. Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residence use, unless provisions for the disposition of said wastes are acceptable to the **Delaware General Health District** and do not create a burden on adjoining property.
  6. No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference, or other nuisance detectable to normal senses off the lot. All activities, materials, and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- H. Churches or other places of worship provided they occupy three acres plus one acre for each 100 permanent seats in the main assembly area.

Section 6.04 CONDITIONAL USES:

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of **Article XX** of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said use is discontinued for a period in excess of two years. The Board of Zoning Appeals has the authority to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Kennels, catteries or stables.
1. No building or structure used for the purpose of a boarding kennel, boarding/riding stable or animal shelter shall be located closer than 200 feet from the lot line of any residence, church, school or any institution of human care.
  2. Full compliance with the **Delaware General Health District** shall be satisfied.
  3. Suitable fencing and/or screening shall be provided as approved by the Porter Township Board of Zoning Appeals.

4. Such use shall be safely conducted in a manner designed not to cause any interference with the right of quiet enjoyment by the residents of adjoining properties.
- B. Private landing fields for aircraft for use by the owner of the property and his guests provided no commercial activities take place on said premises.
  - C. Public or private schools or colleges provided:
    1. Adequate land area exists to meet required setbacks, water supply, sewage disposal and off-street parking;
    2. Adequate area exists for indoor and outdoor recreation.
    3. Adequate area exists for setbacks or buffering as may be necessary to not disrupt the neighboring residential uses.
  - D. Kindergarten or child care facilities provided the building occupied by the use is compatible with the neighborhood and provisions are made for fences to control access to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards or properties.
  - E. Parks, playgrounds, play fields and picnic areas, provided that the same be opened to the public without fee or membership requirements and with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
  - F. Cemeteries provided they occupy tracts of not less than 40 acres and:
    1. Interment shall not be within 300 feet of a dwelling house, unless the owner of such dwelling house gives his consent or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in **ORC 1721.03**.
    2. A mausoleum shall not be within 300 feet of any property line.
    3. A Crematory or other structure shall not be within 1,000 feet of any property line.
    4. Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with **ORC 1721.09**.
  - G. Manufactured home as temporary housing provided it meets the following conditions:
    1. Temporary residence while a home is under construction or reconstruction for a period not to exceed 18 months.
    2. Water supply and sewage disposal are properly provided and approved by the **Delaware General Health District**.
    3. Manufactured home means a non self-propelled building unit or assembly of closed construction fabricated in an off-site facility and which conforms with the federal construction and safety standards established by the Secretary of Housing and Urban development (HUD) pursuant to the "Manufactured Housing

Construction and Safety Standards Act of 1974” and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to required utilities. A structure’s exterior dimensions are those measured at the largest horizontal projections when erected on site.

4. The manufactured home is removed within 30 days after the occupancy permit is issued.
  
- H. Veterinary, medical-care and related services offices.
  
- I. Township or other government buildings or facilities.
  
- J. Farm Village Planned Unit Development (FDP) provided it meets all criteria in **Article XIII**.
  
- K. Telecommunication towers subject to conditions and procedures as set forth in **Section 5.06**.
  
- L. Campgrounds and golf courses.
  
- M. Bed and Breakfast Home provided that:
  1. A maximum of eight short-term guests may be housed at any one time.
  2. Lighting: All exterior lighting must be down-lighting, so that no light shall be cast onto adjoining residential properties.
  3. Parking: All bed and breakfast homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The additional number of required parking spaces shall be one space per bedroom.
  4. Screening and Trash Receptacles: Landscape drawings shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the bed and breakfast lot. Trash receptacles shall be provided around the bed and breakfast homes for use by guests.

**Section 6.05 PROHIBITED USES:**

Uses not specifically authorized by the express terms of this chapter of the Zoning Resolution shall not be permitted.

- A. For the purposes of this Resolution, the operation of a feed lot for the feeding-for-sale of cattle, sheep or hogs shall be deemed commercial if the number of such animals is greater than five head of cattle or 10 head of sheep or hogs per acre of farmland. The feeding of more than 10,000 chickens, 5,000 turkeys or 1,000 of

other species of poultry at any one time shall be deemed commercial. None of these commercial operations shall be permitted in the Farm Residence District.

- B. Any parcel of land located in the Farm Residence District and containing less than five acres shall not contain more than one large animal per acre of land. For the purposes of this Resolution a large animal is defined as being any animal weighing over 100 pounds. No animal, except household pets, shall be kept on any parcel of less than five acres unless the building housing such animals is at least 50 feet from any lot line. This subsection shall apply only to those parcels where the total land holdings of the using party is less than five acres and shall not be construed to apply to individual pens, pastures or fields of less than five acres if part of a larger tract of land devoted to agricultural uses.
- C. Outdoor storage of motor vehicles, machinery, trailers of any kind, boats, manufactured homes or any recreational vehicles that are inoperable or unlicensed for a period exceeding 90 days is prohibited if visible from any adjoining property or roadway.
- D. No motor home, recreational vehicle or camper of any type may be occupied by a guest of the residence owner or the owner for more than 30 days in any one year.
- E. Except where permitted under **Conditional Uses, Section 6.04 G**, mobile homes and manufactured homes that do not qualify as permanently sited manufactured homes as defined in the **Ohio Revised Code, Section 3781.06** are prohibited.
- F. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land which creates an eyesore, hazard or nuisance to the neighborhood.
- G. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which original use was other than that of a storage building, shall be used as a storage or outbuilding.

**Section 6.06 DEVELOPMENT STANDARDS:**

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

- A. **Lot Area** No parcel of land in the Farm Residence District which has an area of less than two acres (87,120 square feet) exclusive of common access drive (CAD) as defined in the Delaware County Subdivision Regulations or right-of-way or access strip shall be used for residential purposes.
- B. **Lot Frontage:** All parcels of land in the Farm Residence District used for residential purposes and created after the effective date of this amendment shall:
  - 1. Have a minimum frontage on a public road of 400 feet, exclusive of common

access drive (CAD) as defined in the Delaware County Subdivision Regulations.

2. In the event a lot or parcel of land fronts on more than one public road, such lot or parcel of land shall have a minimum of 400 feet frontage on one of the public roads.
3. Tier (flag) Lot:
  - a. Have a minimum width parallel to a public roadway of 400 feet at the building setback line, exclusive of common access drive as defined in the Delaware County Subdivision Regulations or 60 foot access strip.
  - b. Any parcel of land which at the building setback line is separated or removed from the public road by more than one other parcel of land shall be accessed only by a common access drive (CAD).
  - c. In no case shall the parcel or lot frontage at the right-of-way line be less than 60 foot and shall not be decreased at any point forward of the building setback line of the principal residence located on the premises.

C. Building Height Limits No building in this district shall exceed 35 feet in height measured from the finished grade established not closer than 15 feet to the exterior wall of the structure. Barns, silos, grain handling conveyors, church spires, domes, flag poles and windmills are exempt from any height regulation and may be erected to any safe height. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract.

D. Building Dimensions No dwelling shall be constructed in this district of Porter Township unless the same shall have at least the minimum square feet of living area exclusive of porches, breezeways, utility areas and garages as set forth in the following schedule of dwelling types:

One-story	1,100 square feet of living area above grade.
One and one-half story	1,500 square feet of living area with at least 1,000 square feet on the first floor above grade.
Earth-berm and underground	1,100 square feet of living area.
Split-level	1,100 square feet of living area in the adjacent levels above grade.
Bi-level	1,100 square feet above grade.
Two-story	1,800 square feet of living area with at least 900 square feet on the first floor above grade.

E. Building Setback No building shall be located closer than 105 feet to the center line of any adjoining street or road or, for a flag lot, 75 feet from the front property line parallel to the road.

F. Side Yard Setback No building or structure shall be located closer than 50 feet to

any side lot line or 25 feet to any side lot line contiguous to a CAD or access strip or right-of-way to a flag lot.

- G. Rear Yard Requirements No principal dwelling may be located closer than 40 feet to the rear line of any lot and no accessory building shall be located closer than 15 feet to said rear lot line.
- H. Maximum Lot Coverage On no lot or parcel in this zoning district shall buildings be constructed which cover more than 25 percent of the lot area.
- I. Parking Off-street parking shall be provided with adequate provisions for ingress and egress according to the standards set forth in **Article XIV** of this Resolution.
- J. Foundations All single family residences shall be constructed on a permanent foundation consisting of concrete block, poured walls or pre-cast concrete.

## ARTICLE VII BIG WALNUT CRITICAL RESOURCE RESIDENCE DISTRICT (A-2)

### Section 7.01 PURPOSE:

There is hereby created within Porter Township a Big Walnut Critical Resource Residence District which is hereinafter referred to as the Big Walnut Critical Resource Residence District. This district is established in recognition of the importance of protecting the Big Walnut Creek watershed. The intent is to preserve the natural resources by strictly limiting development of undrained wetlands, steep slopes, ravines, floodplains and soils not suited for building as well as to preserve historic and archaeological resources as identified in the Delaware County Regional Planning Commission Master Plan. Additionally, it is to provide for the development of land in accordance with the ability of such land to support development without central water supply and/or central sewerage disposal facilities, to prevent pollution of such land and underlying aquifers by excessive development, and to protect the aquifer recharge areas.

### Section 7.02 APPLICATION:

The Big Walnut Critical Resource Residence District is defined as all that land lying within 1,000 feet of either side of Big Walnut Creek.

### Section 7.03 PERMITTED USES:

Within the Big Walnut Critical Resource Residence District the following uses developed in accordance with all other provisions of this Zoning Resolution shall be permitted:

- A. Agricultural purposes, including any customary agricultural building, structure, nursery or greenhouse.
- B. Roadside sales of agricultural products provided said stand is in operation for not more than 150 days in any year and adequate area exists adjacent thereto for parking so as not to interfere with traffic on adjacent thoroughfares.
- C. Temporary sawmills for processing timber grown on the premises.
- D. A single family dwelling or a permanently sited manufactured home as defined in **Ohio Revised Code, Section 3781.06** per parcel of land that meets the provisions of this Zoning Resolution, the provisions of the State of Ohio, Delaware County Building Codes and any other applicable rule or regulation.
- E. Accessory buildings.
- F. Ponds subject to the provisions of **Section 14.06** of this Resolution.
- G. Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
  - 1. The home occupation shall be carried on solely within the confines of the residential structures and accessory buildings, which are customarily associated with the use and character of the neighborhood.

2. No outside storage of any kind associated with a home occupation shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.
  3. Only one sign not larger than eight square feet and eight feet in height above grade of the surrounding yard or not higher than 15 feet if mounted on a building may be erected advertising the home occupation, all subject to the provisions of **Article XV**.
  4. On-site parking shall be provided for not less than four vehicles so that parking of customer or employee vehicles will not be required on adjoining property, streets or highways.
  5. Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the **Delaware General Health District** and do not create a burden on adjoining property.
  6. No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference, or other nuisance detectable to normal senses off the lot. All activities, materials, and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- H. Churches or other places of worship provided they occupy three acres plus one acre for each 100 permanent seats in the main assembly area.

Section 7.04 CONDITIONAL USES:

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of **Article XX** of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said use is discontinued for a period in excess of two years. The Board of Zoning Appeals has the authority to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Kennels, catteries or stables.
  1. No building or structure used for the purpose of a boarding kennel, boarding/riding stable or animal shelter shall be located closer than 200 feet from the lot line of any residence, church, school or any institution of human care.
  2. Full compliance with the **Delaware General Health District** shall be satisfied.

3. Suitable fencing and/or screening shall be provided as approved by the Porter Township Board of Zoning Appeals.
  4. Such use shall be safely conducted in a manner designed not to cause any interference with the right of quiet enjoyment by the residents of adjoining properties.
- B. Private landing fields for aircraft for use by the owner of the property and his guests provided no commercial activities take place on said premises.
- C. Public or private schools or colleges provided:
1. Adequate land area exists to meet required setbacks, water supply, sewage disposal and off-street parking;
  2. Adequate area exists for indoor and outdoor recreation.
  3. Additional setbacks or buffering as may be necessary to not disrupt the neighboring residential uses.
- D. Kindergarten or child care facilities provided the building occupied by the use is compatible with the neighborhood and provisions are made for fences to control access to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards or properties.
- E. Parks, playgrounds, play fields and picnic areas, provided that the same be opened to the public without fee or membership requirements and with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
- F. Cemeteries provided they occupy tracts of not less than 40 acres and:
1. Interment shall not be within 300 feet of a dwelling house, unless the owner of such dwelling house gives his consent or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in **ORC 1721.03**.
  2. A mausoleum shall not be within 300 feet of any property line.
  3. A Crematory or other structure shall not be within 1,000 feet of any property line.
  4. Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with **ORC 1721.09**.
- G. Manufactured home as temporary housing provided it meets the following conditions:
1. Temporary residence while a home is under construction or reconstruction for a period not to exceed 18 months.
  2. Water supply and sewage disposal are properly provided and approved by the **Delaware General Health District**.
  3. Manufactured home means a non self-propelled building unit or assembly of

closed construction fabricated in an off-site facility, and which conforms with the federal construction and safety standards established by the Secretary of Housing and Urban development (HUD) pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974" and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to required utilities. A structure's exterior dimensions are those measured at the largest horizontal projections when erected on site.

4. The manufactured home is removed within 30 days after the occupancy permit is issued.
  
- H. Veterinary, medical care and related services offices.
  
- I. Township or other government buildings or facilities.
  
- J. Farm Village Planned Unit Development (FPD) provided it meets all criteria in **Article XIII**.
  
- K. Telecommunication towers subject to conditions and procedures as set forth in **Section 5.06**.
  
- L. Campgrounds and golf courses.
  
- M. Bed and Breakfast Home provided that:
  1. A maximum of eight short-term guests may be housed at any one time.
  2. Lighting: All exterior lighting must be down-lighting, so that no light shall be cast onto adjoining residential properties.
  3. Parking: All bed and breakfast homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The additional number of required parking spaces shall be one space per bedroom.
  4. Screening and Trash Receptacles: Landscape drawings shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the bed and breakfast lot. Trash receptacles shall be provided around the bed and breakfast homes for use by guests.

**Section 7.05 PROHIBITED USES:**

Uses not specifically authorized by the express terms of this chapter of the Zoning Resolution shall not be permitted.

- A. For the purposes of this Resolution, the operation of a feed lot for the feeding-for-

sale of cattle, sheep or hogs shall be deemed commercial if the number of such animals is greater than five head of cattle or 10 head of sheep or hogs per acre of farmland. The feeding of more than 10,000 chickens, 5,000 turkeys or 1,000 of other species of poultry at any one time shall be deemed commercial. None of these commercial operations shall be permitted in the Big Walnut Critical Resource Residence District.

- B. Any parcel of land located in the Big Walnut Critical Resource Residence District and containing less than five acres shall not contain more than one large animal per acre of land. For the purposes of this Resolution a large animal is defined as being any animal weighing over 100 pounds. No animal, except household pets, shall be kept on any parcel of less than five acres unless the building housing such animals is at least 50 feet from any lot line. This subsection shall apply only to those parcels where the total land holdings of the using party is less than five acres and shall not be construed to apply to individual pens, pastures or fields of less than five acres if part of a larger tract of land devoted to agricultural uses.
- C. Outdoor storage of motor vehicles, machinery, trailers of any kind, boats, manufactured homes or any recreational vehicles that are inoperable or unlicensed for a period exceeding 90 days is prohibited if visible from any adjoining property or roadway.
- D. No motor home, recreational vehicle or camper of any type may be occupied by a guest of the residence owner or the owner for more than 30 days in any one year.
- E. Except where permitted under Conditional Uses **Section 7.04 G**, mobile homes and manufactured homes that do not qualify as permanently sited manufactured homes as defined in **Ohio Revised Code, Section 3781.06** are prohibited.
- F. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land which creates an eyesore, hazard or nuisance to the neighborhood.
- G. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which original use was other than that of a storage building, shall be used as a storage or outbuilding.

Section 7.06 DEVELOPMENT STANDARDS:

All lands and uses within the Big Walnut Critical Resource Residence District shall be developed in strict compliance with the following standards and limitations:

- A. Lot Area No parcel of land in the Big Walnut Critical Resource Residence District which has an area of less than three acres (130,680 square feet) exclusive of common access drive (CAD) as defined in the Delaware County Subdivision Regulations or right-of-way or access strip shall be used for residential purposes.

- B. Lot Frontage All parcels of land in the Big Walnut Critical Resource Residence District used for residential purposes and created after the effective date of this amendment shall:
1. Have a minimum frontage on a public road of 400 feet exclusive of common access drive (CAD) as defined in the Delaware County Subdivision Regulations.
  2. In the event a lot or parcel of land fronts on more than one public road, such lot or parcel of land shall have a minimum of 400 feet frontage on one of the public roads.
  3. Tier (flag) Lot:
    - a. Have a minimum width parallel to a public roadway of 400 feet at the building setback line, exclusive of common access drive as defined in the Delaware County Subdivision Regulations or 60 foot access strip.
    - b. Any parcel of land which at the building setback line is separated or removed from the public road by more than one other parcel of land shall be accessed only by a common access drive (CAD).
    - c. In no case shall the parcel or lot frontage at the right-of-way line be less than 60 feet and shall not be decreased at any point forward of the building setback line of the principal residence located on the premises.
- C. Building Height Limits No building in this district shall exceed 35 feet in height measured from the finished grade established not closer than 15 feet to the exterior wall of the structure. Barns, silos, grain handling conveyors, church spires, domes, flag poles and windmills are exempt from any height regulation and may be erected to any safe height. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract.
- D. Building Dimensions No dwelling shall be constructed in this district of Porter Township unless the same shall have at least the minimum square feet of living area exclusive of porches, breezeways, utility areas and garages as set forth in the following schedule of dwelling types:

One-story	1,100 square feet of living area above grade.
One and one-half story	1,500 square feet of living area with at least 1,000 square feet on the first floor above grade.
Earth-berm and underground	1,100 square feet of living area.
Split-level	1,100 square feet of living area in the adjacent levels above grade.
Bi-level	1,100 square feet above grade.
Two-story	1,800 square feet of living area with at least 900 square feet on the first floor above grade.

- E. Building Setback No building shall be located closer than 105 feet to the center

line of any adjoining street or road, or for a flag lot, 75 feet from the front property line parallel to the road.

- F. Side Yard Setback No building or structure shall be located closer than 50 feet to any side lot line or 25 feet to any side lot line contiguous to a CAD or access strip or right-of-way to a flag lot.
- G. Rear Yard Requirements No principal dwelling may be located closer than 40 feet to the rear line of any lot and no accessory building shall be located closer than 15 feet to said rear lot line.
- H. Maximum Lot Coverage On no lot or parcel in this zoning district shall buildings be constructed which cover more than 25 percent of the lot area.
- I. Parking Off-street parking shall be provided with adequate provisions for ingress and egress according to the standards set forth in **Article XIV** of this Resolution.
- J. Foundations All single family residences shall be constructed on a permanent foundation consisting of concrete block, poured walls or pre-cast concrete.

## ARTICLE VIII RURAL RESIDENCE DISTRICT (R-1)

### Section 8.01 PURPOSE:

There is hereby created within Porter Township a Rural Residence District to promote the use of appropriate land for the construction of single family dwellings on large lots or parcels of land with abundant green space so as to preserve the natural resources, scenic areas, wildlife habitat and the historical and unique natural features of the land. Additionally this district shall provide for development of land in accordance with its ability to support development without central water supply and/or central sewerage disposal facilities, to prevent pollution of this land and the underlying aquifers by excessive development and to protect the aquifer recharge areas.

### Section 8.02 APPLICATION:

The provisions of this Article of the Zoning Resolution may be applied only to land in the Township that has been approved for a zoning map amendment or designated as Rural Residence District, formerly known as Farm Residence District. An owner of land in the Township may submit an application for change to Rural Residential District zoning under the provisions of this Article. The action of the Township upon an application processed pursuant to this Section shall be considered a legislative act, subject to referendum.

### Section 8.03 PERMITTED USES:

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

- A. Agricultural purposes, including any customary agricultural building, structure, nursery or greenhouse.
- B. A single family dwelling or a permanently sited manufactured home, as defined in **Ohio Revised Code, Section 3781.06** per parcel of land that meets the provisions of the Township Zoning Resolution, the provisions of the State of Ohio, Delaware County Building Codes and any other applicable rule or regulation.
- C. Accessory buildings.
- D. Ponds subject to the provisions of **Section 14.06** of this Resolution.
- E. Churches or other places of worship provided they occupy three acres plus one acre for each 100 permanent seats in the main assembly area.
- F. Home occupations conducted by the resident of a permitted dwelling subject to the following restrictions:
  - 1. The home occupation shall be carried on solely within the confines of the residential structures and accessory buildings which are customarily associated with the use and character of the neighborhood.
  - 2. No outside storage of any kind associated with a home occupation shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.

3. Only one sign not larger than eight square feet and eight feet in height above grade of the surrounding yard or not higher than 15 feet if mounted on a building may be erected advertising the home occupation, all subject to the provisions of **Article XV**.
4. On-site parking shall be provided for not less than four vehicles so that parking of customer or employee vehicles will not be required on adjoining property, streets or highways.
5. Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the **Delaware General Health District** and do not create a burden on adjoining property.
6. No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference, or other nuisance detectable to normal senses off the lot. All activities, materials, and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.

Section 8.04 CONDITIONAL USES:

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of **Article XX** of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said use is discontinued for a period in excess of two years. The Board of Zoning Appeals has the authority to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Kennels, catteries or stables.
  1. No building or structure used for the purpose of a boarding kennel, boarding/riding stable or animal shelter shall be located closer than 200 feet from the lot line of any residence, church, school or any institution of human care.
  2. Full compliance with the **Delaware General Health District** shall be satisfied.
  3. Suitable fencing and/or screening shall be provided as approved by the Porter Township Board of Zoning Appeals.
  4. Such use shall be safely conducted in a manner designed not to cause any interference with the right of quiet enjoyment by the residents of adjoining properties.

Farm Village Planned Unit Development (FPD) provided it meets all criteria in **Article XIII**.

- B. Kindergarten or child care facilities provided the building occupied by the use is compatible with the neighborhood and provisions are made for fences to control access to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards or properties.
- C. Manufactured home as temporary housing provided it meets the following conditions:
  - 1. Temporary residence while a home is under construction or reconstruction for a period not to exceed 18 months.
  - 2. Water supply and sewage disposal are properly provided and approved by the **Delaware General Health District**.
  - 3. Manufactured home means a non self propelled building unit or assembly of closed construction fabricated in an off-site facility, and which conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development (HUD) pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974" and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320, or more, square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to required utilities. A structure's exterior dimensions are those measured at the largest horizontal projections when erected on site.
  - 4. The manufactured home is removed within 30 days after the occupancy permit is issued.
- E. Veterinary, medical-care and related services offices..
- F. Parks, playgrounds, play fields and picnic areas, provided that the same be opened to the public without fee or membership requirements and with adequate off-street parking areas, water supply, sanitation facilities, fencing to control accessibility of children to hazardous conditions and any other improvement necessary to protect users from harm or danger.
- G. Township or other government buildings or facilities.
- H. Telecommunication towers subject to conditions and procedures as set forth in **Section 5.06**.
- I. Bed and Breakfast Home provided that:
  - 1. A maximum of eight short-term guests may be housed at any one time.
  - 2. Lighting: All exterior lighting must be down-lighting, so that no light shall be cast

onto adjoining residential properties.

3. Parking: All bed and breakfast homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The additional number of required parking spaces shall be one space per bedroom.
4. Screening and Trash Receptacles: Landscape drawings shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the bed and breakfast lot. Trash receptacles shall be provided around the bed and breakfast homes for use by guests.

#### Section 8.05 PROHIBITED USES:

Uses not specifically authorized by the express terms of this chapter of the Zoning Resolution shall not be permitted.

- A. For the purposes of this Resolution, the operation of a feed lot for the feeding-for-sale of cattle, sheep or hogs shall be deemed commercial if the number of such animals is greater than five head of cattle or 10 head of sheep or hogs per acre of farmland operated by the proprietor in Porter Township. The feeding of more than 10,000 chickens, 5,000 turkeys or 1,000 of other species of poultry at any one time shall be deemed commercial. None of these commercial operations shall be permitted in the Rural Residence District.
- B. Any parcel of land located in the Rural Residence District and containing less than five acres shall not contain more than one large animal per acre of land. A large animal is defined, for the purposes of this section, as being any animal weighing over 100 pounds. No animal, except household pets, shall be kept on any parcel of less than five acres unless the building housing such animals is at least 50 feet from any lot line. This subsection shall apply only to those parcels where the total land holdings of the using party is less than five acres and shall not be construed to apply to individual pens, pastures or fields of less than five acres if part of a larger tract of land devoted to agricultural uses.
- C. Outdoor storage of motor vehicles, machinery, trailers of any kind, boats, manufactured homes or any recreational vehicles that are inoperable or unlicensed for a period exceeding 90 days is prohibited if visible from any adjoining property or roadway.
- D. No motor home, recreational vehicle or camper of any type may be occupied by a guest of the residence owner or the owner for more than 14 days in any 12 month period. On any parcel of land that does not have a permanent residence or a permanent residence under construction, no motor home, recreational vehicle or camper of any type may be left on the parcel of land for more than a total of 60 days in any twelve month period and in no case for more than 14 consecutive days.

- E. Except where permitted under **Conditional Uses Section 8.04 D** mobile homes and manufactured homes that do not qualify as permanently sited manufactured homes are prohibited.
- F. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which original use was other than that of a storage building, shall be used as a storage or outbuilding.
- G. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land which creates an eyesore, hazard or nuisance to the neighborhood.

Section 8.06 DEVELOPMENT STANDARDS:

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

- A. Lot Area No parcel of land within the Rural Residence District shall be used for residential purposes which have an area of less than two acres exclusive of right-of-way.
- B. Lot Frontage All parcels of land in the Rural Residence District shall have the following minimum frontage on a public road. In the event a lot or parcel of land fronts on more than one public road, such lot or parcel of land shall have the following minimum frontage on one of the public roads.

Two acres but less than three acres	225 Feet
Three acres but less than four acres	250 Feet
Four acres but less than five acres	275 Feet
Five acres or larger	300 Feet

- C. Building Height Limits No building in this district shall exceed 35 feet in height measured from the finished grade established not closer than 15 feet to the exterior wall of the structure. Barns, silos, grain-handling conveyors, church spires, domes, flag poles and windmills are exempt from any height regulation and may be erected to any safe height. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract.
- D. Building Dimensions No dwelling shall be constructed in this zoning district of Porter Township unless the same shall have at least the minimum square feet of living area exclusive of porches, breezeways, utility areas and garages as set forth in the following schedule of dwelling types:

One-story	1,100 square feet of living area above grade.
One and one-half story	1,500 square feet of living area with at least

	1,000 square feet on the first floor above grade.
Earth-berm and underground	1,100 square feet of living area.
Split-level	1,100 square feet of living area in the adjacent levels above grade.
Bi-level	1,100 square feet above grade.
Two-story	1,800 square feet of living area with at least 900 square feet on the first floor above grade.

- E. Building Setback No building shall be located closer than 105 feet to the centerline of any adjoining street or road.
- F. Side Yard Setback No building or structure shall be located closer than 50 feet to any side lot line.
- G. Rear Yard Requirements No principal dwelling may be located closer than 40 feet to the rear line of any lot and no accessory building shall be located closer than 15 feet to said rear lot line.
- H. Maximum Lot Coverage On no lot or parcel in this zoning district shall buildings be constructed which cover more than 25 percent of the lot area.
- I. Parking Off-street parking shall be provided with adequate provisions for ingress and egress according to the standards set forth in **Article XIV** of this Resolution.
- J. Foundations All single family residences shall be constructed on a permanent foundation consisting of concrete block, poured walls or pre-cast concrete.

## **ARTICLE IX PLANNED RESIDENCE DISTRICT (PRD)**

### **Section 9.01 PURPOSE:**

There is hereby created in Porter Township a Planned Residence District for the promotion of residential dwellings on land which is serviced by both central sewage and water systems. All dwellings within the district are to take into account all natural factors and features of the land, contemporary and proven land use concepts and are to provide a balanced residential environment while preserving and enhancing the historical features, natural environment, health, safety and general welfare of the inhabitants of the township.

### **Section 9.02 APPLICATION:**

The provisions of this Article of the Zoning Resolution may be applied only to land in the Township that has been approved for a zoning map amendment to the Planned Residence District. An owner of land in the Township that is served by centralized water and sanitary sewer may submit an application for change to Planned Residence District zoning under the provisions of this Article. The action of the Township upon an application processed pursuant to this Section shall be considered a legislative act, subject to referendum.

### **Section 9.03 PERMITTED USES:**

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

- A. Residential structures including but not limited to detached, semi-detached, attached, cluster, patio, common wall or any reasonable variation on the same theme, and customary accessory buildings.
- B. Non-residential uses of a religious, cultural, educational or recreational nature or character designed and intended to serve the residents of the Planned Residence District. Said facilities may be designed to serve adjoining neighborhoods or residents if they are located in such proximity to major thoroughfares as to permit access without burdening residential streets.

### **Section 9.04 CONDITIONAL USES:**

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of **Article XX** of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said use is discontinued for a period in excess of two years. The Board of Zoning Appeals has the authority to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Home occupations conducted by the resident of a permitted dwelling or residence subject to the following restrictions:
  - 1. The home occupation shall be carried on solely within the confines of the residential structure and architecturally compatible accessory buildings, which are customarily associated with the residential use and character of the neighborhood.

2. No outside storage of any kind associated with a home occupation shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.
  3. Only one sign, not larger than two square feet and eight feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be located at eye level if mounted flat against a building.
  4. The home occupation shall occupy no more than 20 percent of the total floor area of the dwelling unit or 50 percent of the floor area in any garage or accessory building.
  5. Not more than one non resident employee shall work on said premises.
  6. On-site parking shall be provided for not less than four vehicles so that parking of customer or employee vehicles will not be required on adjoining streets or highways.
  7. Waste materials, solid or liquid, shall not be created on the premises at a level greater than are normal for the residential use, unless provisions for the disposition of said wastes are acceptable to the **Delaware General Health District** and do not create a burden on adjoining property.
  8. No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference, or other nuisance detectable to normal senses off the lot. All activities, materials, and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.
- B. Kindergarten or child care facilities provided the building occupied by the use is compatible with the neighborhood and provisions are made for fences to control access to adjoining hazardous conditions such as roads, streets, lakes, ponds, etc. or adjacent yards or properties.
  - C. Conversion of existing residential structures to permit occupancy by more than one family.
  - D. Veterinary, medical care and related services offices.
  - E. Township or other government buildings or facilities.
  - F. Farm Village Planned Unit Development (FPD) provided it meets all criteria in **Article XIII**.

- G. Telecommunication towers subject to conditions and procedures as set forth in **Section 5.06.**
- H. Bed and Breakfast Home provided that:
  1. A maximum of eight short-term guests may be housed at any one time.
  2. Lighting: All exterior lighting must be down-lighting, so that no light shall be cast onto adjoining residential properties.
  3. Parking: All bed and breakfast homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The additional number of required parking spaces shall be one space per bedroom.
  4. Screening and Trash Receptacles: Landscape drawings shall be required and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the bed and breakfast lot. Trash receptacles shall be provided around the bed and breakfast homes for use by guests.

**Section 9.05 PROHIBITED USES:**

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

- A. Outdoor storage of motor vehicles, machinery, trailers of any kind, boats, manufactured homes, or any recreational vehicles that are inoperable, unlicensed or unused for a period exceeding seven days are prohibited if visible from any adjoining property or roadway.
- B. No motor home, recreational vehicle or camper of any type may be occupied by a guest of the residence owner or the owner for more than 14 days in any twelve month period.
- C. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object which original use was other than that of a storage building shall be used as a storage or outbuilding.
- D. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land which creates an eyesore, hazard or nuisance to the neighborhood.

**Section 9.06 DEVELOPMENT STANDARDS:**

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

- A. Lot Area: Residential lots served with approved central water and sanitary sewer systems may be developed for such use if they have a net lot area not less than 20,000 square feet exclusive of right-of-ways and if the overall project's gross

density remains at two acres per residential unit as approved by the township and subject to terms and provisions imposed by the township.

- B. Lot Frontage: All lots or parcels developed within this district shall have a minimum lot width of 100 feet. Lots or parcels having less than the above listed minimum frontage on the right-of-way line of the adjoining approved road or street must have a minimum lot width at the front building setback line of 100 feet. In no case shall the parcel or lot frontage at the right-of-way line be less than 60 feet and shall not be decreased at any point forward of the building setback line of the principal residence located on the premises.
  
- C. Building Height Limits: No building in this district shall exceed 35 feet in height measured from the finished grade established not closer than 15 feet to the exterior wall of the structure. No aerial, antenna or tower shall be constructed to a height greater than the distance from the center of the base to the nearest property line of said tract.
  
- D. Building Dimensions: No dwelling shall be constructed in said zoning district of Porter Township unless the same shall have at least the minimum square feet of living area exclusive of porches, breezeways, utility areas and garages as set forth in the following schedule of dwelling types:

One-story	1,100 square feet of living area above grade.
One and one-half story	1,500 square feet of living area with at least 1,000 square feet on the first floor above grade.
Earth-berm and underground	1,100 square feet of living area.
Split-level	1,100 square feet of living area in the adjacent levels above grade.
Bi-level	1,100 square feet above grade.
Two-story	1,800 square feet of living area, with at least 900 square feet on the first floor above grade.

- E. Building Setback No building shall be located closer than 105 feet to the center line of any adjoining street or road.
  
- F. Side Yard Setback No building or structure shall be located closer than 15 feet to any side lot line.
  
- G. Rear Yard Requirement No principal dwelling shall be located closer than 65 feet to the rear line of any lot and no accessory building shall be located closer than 15 feet to said rear lot line.

- H. Maximum Lot Coverage On no lot or parcel in this zoning district shall dwellings be constructed which cover more than 25 percent of the lot area.
- I. Parking Off-street parking shall be provided with adequate provisions for ingress and egress.
- J. Signs Except as provided under the provisions of this article for home occupations and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the sign is located. Such sign shall not exceed six square feet in area per side. The developer of a subdivision or similar area may, upon the condition and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding 32 square feet in area per side advertising said subdivision or development.
- K. The intent of this Section is to provide for the development of planned residential districts which are density neutral at two acres per residential unit.

Section 9.07 PROCEDURE:

In addition to any other procedures or limitations set forth in this Resolution, all applications for amendments to the zoning map to rezone land to Planned Residence District shall follow the procedures hereinafter set forth:

- A. Application: The owner or owners of lots or parcels of land within the township may request that the zoning map be amended to include such tracts in the Planned Residence District in accordance with the provisions of this Resolution.
- B. Development Plan: Fifteen copies of the development plan shall be submitted with the application, which plan shall include in text and map form:
  1. The proposed size and location of the Planned Residence District.
  2. The general development character of the tract including the limitations or controls to be placed on residential and related uses, with specific lot sizes, setbacks, use restrictions and all other development features including landscaping.
  3. Architectural design criteria specifications and elevations for all structures and criteria for proposed signs with proposed control procedures.
  4. The proposed provisions for water, sanitary sewer and surface drainage with engineering feasibility studies, any other evidence of reasonableness and cost estimates.
  5. The proposed traffic patterns showing public and private streets and other transportation facilities, including their relationship to existing conditions, topographically and otherwise.
  6. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

7. The proposed time schedule for development and the existing and probable uses of the surrounding areas.
  8. The proposed time schedule for development including developing the land in phases; all phases to be developed after the first which in no event shall be less than 10 acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.
  9. Evidence of the ability of the applicant to carry forth the plan by control of the land, the engineering feasibility of the plan, and financial capability of developer.
  10. Specific statements of any divergence from the development standards set forth in this Resolution.
  11. Evidence of the applicant's ability to post bond if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- C. CRITERIA FOR APPROVAL: In approving an application for Planned Residence District the reviewing authorities shall determine:
1. If the proposed development is consistent in all respects with the purpose, intent and applicable standards of this Zoning Resolution.
  2. If the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
  3. If the proposed development advances the general welfare of the township and the immediate vicinity.
- D. EFFECT OF APPROVAL: The Development Plan as approved by the Board of Township Trustees shall constitute an amendment to the Zoning Resolution as it applies to the lands included in the approved amendment. The approval shall be for a period of three years to allow the preparation of plats required by the Regional Planning Commission of Delaware County, Ohio. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development plan. Unless the required plats are properly recorded and work on said development commenced within three years, the approval shall be voided and the land shall automatically revert to its original District unless the application for the time extension is timely submitted and approved.
- E. EXTENSION OF TIME OR MODIFICATION: An extension of the time limit as a modification of the approved development plan may be approved by the Board of Township Trustees subject to recommendation of the Township Zoning Commission. Such approval shall be given only upon a finding of the purpose and necessity for such change or extension and evidence of reasonable effort toward the accomplishment of the original development plan, and that such extension or modification is not in conflict with the general health, welfare and safety of the public or development standards of the district. No extension of the time shall be granted except on application filed with the Township Zoning Inspector no later than 30 days before the expiration of the three year period prescribed in **Section 9.07-D.**

- F. PLAT REQUIRED: In the Planned Residence District, no use shall be established or changed and no structure shall be constructed or altered until the required subdivision plat for single family residences has been prepared and recorded in accordance with Subdivision Regulations for Delaware County, Ohio, and these regulations. The subdivision plat shall be in accord with the approved development plan and shall include:
1. Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public rights-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
  2. Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for nonresidential uses.
  3. In the event that any public service facilities not otherwise guaranteed by a public utility have not been constructed prior to recordation of the plat, the owner of the project shall post a performance bond in favor of the Board of Township Trustees and the Delaware County Engineer in a satisfactory amount assuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building until such time as the facilities for the phase in which the building is located are completed.

Section 9.08 INITIAL DISCUSSIONS:

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to PRD. No statement by an official of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws (**ORC 121.22**) and may be required to be held in an open public meeting.

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

Section 9.09 REQUIRED FINDINGS FOR PRD APPROVAL:

The Zoning Commission and Trustees may approve an application requesting that property be included in the PRD zoning district, provided they find that the proposed use complies with all of the following requirements:

- A. That the proposed development is consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution.

- B. That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.
- C. That the proposed development promotes the health, safety and general public welfare of the township and the immediate vicinity.
- D. That the proposed plan meets all of the design features required in this Resolution.
- E. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
- F. That the proposed development will be compatible in appearance with surrounding land uses.
- G. That the development promotes greater efficiency in providing public utility services and encourages innovation in the planning and building of all types of development.

Section 9.10 PROCESS FOR AMENDMENT:

Applications for amendment to rezone property to the PRD Zoning District may be approved according to one of the following procedures:

- A. The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PRD. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PRD. (This is a legislative act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and **not** subject to referendum.) This procedure shall only be used if the real estate proposed for rezoning consists of at least 10 acres.
- B. The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PRD and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).
- C. In addition to the procedures set forth in this Zoning Resolution, all applications for amendment to rezone property to the PRD district shall comply with the procedures outlined in **Ohio Revised Code, Section 519.12.**
- D. Following the filing of an application for a PRD, the Zoning Commission may schedule a walkabout on the site with the applicant to familiarize all parties with

the lay of the land, and the general design intent of the applicant. If a majority of the Zoning Commission is present the meeting must be advertised in accordance with the **Porter Township Zoning Code** and the **Ohio Revised Code** and minutes kept.

Section 9.11 EFFECT OF PROPERTY OWNER INITIATED PRD ZONING

AMENDMENT:

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

Section 9.12 PRELIMINARY DEVELOPMENT PLAN:

A. Preliminary Development Application – Upon application for a PRD District, the owner(s) or lessees of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site.

With the PRD application, seven copies and one electronic file of the preliminary development plan shall be submitted to the Zoning Commission. The plan shall include in text and map form, the following:

1. The proposed size and location of the PRD district at a scale not less than one inch equal to 200 feet showing topographic contours at not less than two foot intervals, wooded areas, wetlands, adjacent structures (within 200 feet) and 100-year floodplains.
2. Suggested architectural designs for all structures and signs.
3. The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.
4. The relationship of the proposed development to existing and probable uses of surrounding areas including easements, right-of-ways, proposed drainage and public utilities.
5. A design of the open space and proposed description of its use and maintenance.
6. Specific statements of divergence, if any, from the development standards in this **Article** or the general standards of this resolution such as setbacks, parking, landscaping, lighting, signage and so forth.
7. Proposed location of all structures and uses.
8. Preliminary Traffic Impact Analysis based upon new-trip generation.
9. All required design features.
10. Emergency service provisions (written statements from Fire and Police departments).
11. Phasing plans, if any.
12. Calculation of net developable acreage and proposed project density.
13. Proposed permitted and accessory uses.

B. Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRD district.

### Section 9.13 FINAL DEVELOPMENT PLAN

- A. The applicant shall submit seven copies and one electronic file of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PRD district, the Zoning Commission shall be the review authority for the final development plan.

The review and approval of the final development plan is an administrative, not legislative act, unless the final development plan is simultaneously submitted with application for the zoning district change.

If, in the opinion of the Zoning Commission, there is a substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence. The final development plan shall include in text and map form the following:

A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PRD District. The plan will be at a scale not less than one inch to 100 feet and will show the proposed uses of the site, location of buildings and structures, streets and roadways and parking areas, all required design features, and the following:

- 1) The general development character and the permitted and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, with proposed lot sizes and minimum setback requirements. Other development features including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities, common open space areas, and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, the landscape plan shall identify each plant, shrub or tree, its name, its size at planting and rendering of how that section of the development would look in elevation.

- 2) Environmentally sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20 percent shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation and contours in excess of six percent shall be maintained.
- 3) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require reapproval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.
- 4) Building heights and dimensions.
- 5) Off-street parking.
- 6) Signs.
- 7) Lighting: All exterior and interior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- 8) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
- 9) A traffic impact analysis by a competent traffic engineer showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- 10) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- 11) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
- 12) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- 13) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.
- 14) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

- 15) Specific statements of divergence from the development standards of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the final development plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.
- 16) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- 17) The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.
- 18) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PRD district.
- 19) The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:
  - a) Fire and Explosion Hazards: All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the **Occupational Safety and Health Administration** shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the **Ohio Environmental Protection Agency**.
  - b) Air Pollution: No emission of air pollutants shall be permitted which violate the **Clean Air Act Amendments of 1977** or later amendments as enforced by the **Ohio Environmental Protection Agency**.
  - c) Glare, Heat and Exterior Lighting: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
  - d) Dust and Erosion: Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
  - e) Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment shall be permitted. The standards of the **Ohio Environmental Protection Agency** shall apply.
  - f) Vibrations and Noise: No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.



- E. Plat Required- If a plat is required by applicable law, no use shall be established or changed, and no building, structure, or improvement shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the **Subdivision Regulations** for Delaware County, Ohio, and this Resolution. The subdivision plat and plan shall be in accordance with the approved development plan and shall include:
- 1) Site arrangement including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways, and land reserved for non-highway service use with indication of the nature of such use.
  - 2) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon and the activities of occupants, including those applicable to areas within the tract to be developed for nonresidential uses.
  - 3) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.
  - 4) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three years after the approval of the final development plan or within such other period as approved per plan.
- F. Extension of Time/ Modification of Final Development Plan
- 1) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed 30 days prior to the expiration of the established approval period.
  - 2) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

- 3) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:
- a) A change in the use or character of the development;
  - b) An increase in overall lot coverage of structures and off-street parking;
  - c) An increase in the density;
  - d) An increase in the problems of traffic circulation and public utilities;
  - e) A reduction in approved open space;
  - f) A reduction of off-street parking and loading space;
  - g) A reduction in required pavement widths;
  - h) A reduction of the acreage in the planned development;
  - i) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

Divergences- The Township, as a part of either preliminary or final development plan approval, may grant divergences from any standard or requirement in this Article that is noted “as approved per plan.” An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.

**ARTICLE X PLANNED COMMERCIAL and OFFICE DISTRICT (PCD)**

Section 10.01 PURPOSE:

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

Section 10.02 APPLICATION:

The provisions of this article shall apply to all areas zoned Planned Commercial and Office District.

Section 10.03 PERMITTED USES:

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

The full text of the listings in the **NAICS 2002** or subsequent edition shall be used to define the uses permitted within the PCD as set forth below and is hereby adopted as part of **Article X**.

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

Note: The **NAICS** code numbers are inclusive in ascending order. All three-digit sector numbers listed in the left hand column below include as permitted uses all three to six-digit numbers beginning with those two-digits. All three-digit codes include all four to six-digit codes beginning with those three-digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 52 means that any use listed in the 2002 or subsequent NAICS code under Sector 52 (such as 52212 Savings Institutions) is permitted.

2002 NAICS Code	2002 NAICS Title
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
441	Motor Vehicle and Parts Dealers

442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers, (except Adults Only Entertainment establishments and 45393 Manufactured Home Dealers)
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental
53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
6221	General Medical and Surgical Hospitals
623	Nursing and Residential Care Facilities
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels (except casino) and Motels
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services).
811	Repair and Maintenance
812	Personal and Laundry Services
813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration

<p>No NAICS Code Number</p>	<p>Multifamily dwellings. Rental apartments shall not exceed 25 percent of the total number of multifamily residential units within the PCD development plan. Maximum density is four units per net developable acre. Such residences shall be specifically designed as part of the architecture of the structure in a village setting. All living units constructed within this district shall contain the following minimum living area:</p> <table data-bbox="344 493 1031 604"> <tr> <td>One bedroom unit-</td> <td>800 square feet</td> </tr> <tr> <td>Two bedroom unit-</td> <td>900 square feet</td> </tr> <tr> <td>Three or more bedroom units-</td> <td>1000 square feet</td> </tr> </table>	One bedroom unit-	800 square feet	Two bedroom unit-	900 square feet	Three or more bedroom units-	1000 square feet
One bedroom unit-	800 square feet						
Two bedroom unit-	900 square feet						
Three or more bedroom units-	1000 square feet						
	<p>No commercial or business activity shall be conducted in a unit designed for residential use without consent of the Zoning Commission.</p>						
	<p>Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use. The permit shall be valid for six months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. <b>The Delaware General Health District</b> may require provisions for sanitary waste disposal, solid waste disposal and water supply, as it deems necessary. The Board of Township Trustees shall establish the fees for such permit and renewals. Said temporary structure shall be removed no later than 10 days after expiration of said permit. No unit shall be occupied as a residence without approval of the Township Zoning Inspector.</p>						

**Section 10.04 PROHIBITED USES:**

Uses not specifically authorized by the express terms of this chapter of the Zoning Resolution shall not be permitted.

- A. Outdoor storage of inoperable, unlicensed or unused motor vehicles, machinery, trailers of any kind, boats, manufactured homes, or recreational vehicles for a period exceeding seven days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- B. Except as provided in the plan of development no trailer of any type, boats, motor homes or equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is

located on the tract of land or lot, the building line shall be considered to be the front wall of the structure even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed, or the development plan.

- C. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which original use was other than that of a storage building, shall be used as a storage or outbuilding.
- D. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land.
- E. Except as specifically permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.
- F. No motor home, mobile home or camper of any type may be occupied by a guest of the residence owner or the owner.
- G. NAICS code # 711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air facilities.

#### Section 10.05 INITIAL DISCUSSIONS:

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to PCD. No statement by an official of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws (**ORC 121.22**) and may be required to be held in an open public meeting.

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

#### Section 10.06 REQUIRED PCD DESIGN FEATURES:

Every development plan shall incorporate the following standards:

- A. Access- Requires frontage on and direct access to one or more dedicated and improved public arterial roads and also requires provision for future connections to other public roads as required by the Township, the County Engineer and/or the Regional Planning Commission.

- B. Tract Size- Minimum 10 acres or as approved per plan.
- C. Impervious Surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): Maximum 50 percent of net developable area or as approved per plan.
- D. Permitted density- Maximum of four units per net developable acre for multi-family dwellings.
- E. Commercial floor space requirements: as approved per development plan.
- F. Open space- shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.
- G. Minimum lot width- at the building line as approved per plan.
- H. Minimum side yards- for non-residential structures shall equal one-third the sum of the height and depth of the structure, but in no case shall be less than 100 feet from any residential district or as approved per plan.
- I. Minimum rear yard- for non residential structures shall equal one-third the sum of the height and width of the structure, but in no case shall be less than 100 feet from any residential district, or as approved per plan.
- J. Perimeter area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract or as approved per plan.
- K. Walkways and street trees- The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the five foot green strip if permitted by the county engineer and/or Township or as approved per plan.
- L. Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.
- M. Preservation areas- Wetlands, steep (over 20 percent) slopes, forests, 100-year floodplains, ravines and wildlife habitat shall be preserved to the greatest extent possible.

- N. Floodplain- No residential dwelling structures shall be constructed within the 100-year floodplain.
- O. Utilities- Centralized water supplies and sanitary sewage disposal systems shall be provided subject to Delaware County Sanitary Engineer, **Delaware General Health District** and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.
- P. Building design- The project architect shall give due regard to the footprint building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.
- Q. Building height limits- as approved per plan.
- R. Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, shall be approved as a part of the final development plan.
- S. Parking- Off-street parking shall be provided at the time of construction of the main structure or building with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated, or a divergence requested.
- T. Signs- shall conform to provisions of this resolution or request a divergence and be as approved per plan.
- U. Lighting- All exterior lighting and interior lighting that cast out shall be as specifically approved as part of the final development plan.
- V. Supplemental conditions and safeguards- The Zoning Commission and Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed, landscaping, improvements and maintenance of open space areas, and other development characteristics.

Section 10.07 REQUIRED FINDINGS FOR PCD APPROVAL:

The Zoning Commission and Trustees may approve an application requesting that property be included in the PCD zoning district, provided they find that the proposed use complies with all of the following requirements:

- A. That the proposed development is consistent in all aspects with the purpose, criteria, intent and standards of this Zoning Resolution.
- B. That the proposed development is in conformity with the comprehensive plan or portion thereof as may apply.
- C. That the proposed development promotes the health, safety and general public welfare of the township and the immediate vicinity.
- D. That the proposed plan meets all of the design features required in this Resolution.
- E. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
- F. That the proposed development will be compatible in appearance with surrounding land uses.
- G. That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 10.08 PROCESS FOR AMENDMENT:

Applications for amendment to rezone property to the PCD Zoning District may be approved according to one of the following procedures:

- A. The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PCD. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PCD. (This is a legislative act and is subject to referendum.) A final development plan shall be subsequently submitted to the Zoning Commission for review and approval. (This is an administrative act and **not** subject to referendum.) This procedure shall only be used if the real estate proposed for rezoning consists of at least 10 acres.
- B. The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PCD and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum.)
- C. In addition to the procedures set forth in this Zoning Resolution, all applications for amendment to rezone property to the PCD district shall comply with the procedures outlined in **Ohio Revised Code, Section 519.12.**

D. Following the filing of an application for a PCD, the Zoning Commission may schedule a walkabout on the site with the applicant to familiarize all parties with the lay of the land and the general design intent of the applicant. If a majority of the Zoning Commission is present, the meeting must be advertised in accordance with the **Porter Township Zoning Code** and **Ohio law** and minutes kept.

Section 10.09 EFFECT OF PROPERTY OWNER INITIATED PCD ZONING

AMENDMENT:

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

Section 10.10 PRELIMINARY DEVELOPMENT PLAN:

A. Preliminary Development Application – Upon application for a PCD District, the owner(s) or lessees of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site.

With the PCD application, seven copies and one electronic file of the preliminary development plan shall be submitted to the Zoning Commission. The plan shall include in text and map form, the following:

1. The proposed size and location of the PCD district at a scale not less than one inch equal to 200 feet, showing topographic contours at not less than two foot intervals, wooded areas, wetlands, adjacent (within 200 feet) structures and 100-year floodplains.
2. Suggested architectural designs for all structures and signs.
3. The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows and potential needed upgrades must be documented.
4. The relationship of the proposed development to existing and probable uses of surrounding areas including easements, rights-of-way, proposed drainage and public utilities.
5. A design of the open space and proposed description of its use and maintenance.
6. Specific statements of divergence, if any, from the development standards in this **Article** or the general standards of this resolution such as setbacks, parking, landscaping, lighting, signage and so forth.
7. Proposed location of all structures and uses.
8. Preliminary Traffic Impact Analysis based upon new-trip generation.
9. All required design features.
10. Emergency service provisions (written statements from Fire and Police departments).
11. Phasing plans, if any.
12. Calculation of net developable acreage and proposed project density.
13. Proposed permitted and accessory uses.

B. Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD district.

Section 10.11 FINAL DEVELOPMENT PLAN:

A. Final Development Plan– The applicant shall submit seven copies and one electronic file of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PCD district, the Zoning Commission shall be the review authority for the final development plan.

The review and approval of the Final Development Plan is an administrative, **not** legislative, act unless the final development plan is simultaneously submitted with application for the zoning district change.

If, in the opinion of the Zoning Commission, there is a substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence. The final development plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PCD District.
2. The plan will be at a scale not less than one inch equal to 100 feet and will show the proposed uses of the site, location of buildings and structures, streets, roadways and parking areas, all required design features, and the following:
  - a) The general development character and the permitted and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, with proposed lot sizes and minimum setback requirements. Other development features including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities, common open space areas, and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, the landscape plan shall identify each plant, shrub or tree, its name, its size at planting and a rendering of how that section of the development would look in elevation.

- b) Environmentally sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20 percent shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent shall be maintained.
  - c) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.
  - d) Building heights and dimensions.
  - e) Off-street parking.
  - f) Signs.
  - g) Lighting: All exterior and interior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
3. The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
  4. A traffic impact analysis by a competent traffic engineer showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
  5. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
  6. Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
  7. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
  8. If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.
  9. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
  10. Specific statements of divergence from the development standards of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.
  11. Evidence of the applicant's ability to post a bond or an irrevocable letter of

credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

12. The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.

13. The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PCD district.

14. The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:

a) Fire and Explosion Hazards: All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the **Occupational Safety and Health Administration** shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the **Ohio Environmental Protection Agency**.

b) Air Pollution: No emission of air pollutants shall be permitted which violate the **Clean Air Act Amendments of 1977** or later amendments as enforced by the **Ohio Environmental Protection Agency**.

c) Glare, Heat and Exterior Lighting: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.

d) Dust and Erosion: Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.

e) Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the **Ohio Environmental Protection Agency** shall apply.

f) Vibrations and Noise: No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.

g) Odors: No use shall be operated so as to produce the continuous, frequent or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the **Ohio Environmental Protection Agency** shall be met.

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

B. Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development plan has been filed with and approved by the Township, and such application for approval shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the **Zoning Resolution** then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD District.

C. Phasing- Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development.

D. Failure to Maintain- If the organization established to own and maintain the open space, or the owners of dwelling units within the PCD shall, for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, such failure shall constitute a breach of the development plan and a violation of the zoning resolution. The Board of Township Trustees or its designee may serve written notice upon such organization of the deficiencies and demand that corrective action be taken immediately and pursue enforcement of the zoning resolution.

E. Plat Required- If a plat is required by applicable law, no use shall be established or changed, and no building, structure, or improvement shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the **Subdivision Regulations** for Delaware County, Ohio, and this Resolution. The subdivision plat and plan shall be in accordance with the approved development plan and shall include:

1. Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations, including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways; and land reserved for non-highway service use with indication of the nature of such use.
2. Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3. In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.
4. A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three years after the approval of the final development plan or within such other period as approved per plan.

F. Extension of Time/ Modification of Final Development Plan

1. An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed 30 days prior to the expiration of the established approval period.
2. A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.
3. In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:
  - a) A change in the use or character of the development;
  - b) An increase in overall lot coverage of structures and off-street parking;
  - c) An increase in the density;
  - d) An increase in the problems of traffic circulation and public utilities;
  - e) A reduction in approved open space;
  - f) A reduction of off-street parking and loading space;
  - g) A reduction in required pavement widths;
  - h) A reduction of the acreage in the planned development;
  - i) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

Administrative Review- All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for administrative review to ensure substantial compliance with the

development plan as approved.

Divergences- The Township, as a part of either preliminary or final development plan approval, may grant divergences from any standard or requirement in this **Article** that is noted “as approved per plan.” An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.

## **ARTICLE XI PLANNED INDUSTRIAL DISTRICT (PID)**

### **Section 11.01 PURPOSE:**

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

### **Section 11.02 APPLICATION:**

The provisions of this article shall apply to all areas zoned Planned Industrial District (PID).

### **Section 11.03 PERMITTED USES:**

Within the Planned Industrial District (PID) the following uses according to their North American Industrial Classification System (NAICS) code number may be permitted when developed in strict compliance with the approved development plan and standards. The precise use or type of use of the tract shall be specified in the plan as submitted and approved.

The full text of the listings in the NAICS 2002 or subsequent edition shall be used to define the uses permitted within the PID as set forth below and is hereby adopted as part of **Article XI**.

Note: The **NAICS** code numbers are inclusive in ascending order. All three-digit sector numbers listed in the left-hand column below include as permitted uses all three to six-digit numbers beginning with those two-digits. All three-digit codes include all four to six-digit codes beginning with those three-digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 42 means that any use listed in the 2002 NAICS code under Sector 42 (such as 42374, Refrigeration Equipment and Supplies and Merchant Wholesalers) is permitted.

Manufacturing and related uses, as specifically described by the 2002 NAICS Code Number below:

2002 NAICS Code	2002 NAICS Title
	Building, Developing and General Contracting
3112	Grain and Oilseed Milling
3113	Sugar and Confectionery Product Manufacturing
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3115	Dairy Product Manufacturing
3118	Bakeries and Tortilla Manufacturing
3119	Other Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
315	Apparel Manufacturing

3162	Footwear Manufacturing
321	Wood Product Manufacturing, <b>except “321114 Wood Preservation”</b>
3212	Veneer, Plywood, and Engineered Wood Product Manufacturing
3219	Other Wood Product Manufacturing
32221	Paperboard Container Manufacturing
32222	Paper Bag and Coated and Treated Paper Manufacturing
32223	Stationery Product Manufacturing
325314	Fertilizer (Mixing Only) Manufacturing
3254	Pharmaceutical and Medicine Manufacturing
325510	Paint and Coating Manufacturing
3261	Plastics Product Manufacturing
3271	Clay Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3273	Cement and Concrete Product Manufacturing, <b>Provided no hazardous wastes are burned in kilns</b>
3323	Architectural and Structural Metals Manufacturing
3325	Hardware Manufacturing
3326	Spring and Wire Product Manufacturing
333	Machinery Manufacturing
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance, and Component Manufacturing
3363	Motor Vehicle Parts Manufacturing
3364	Aerospace Product and Parts Manufacturing
3366	Ship and Boat Building
336991	Motorcycle, Bicycle, and Parts Manufacturing
3399	Other Miscellaneous Manufacturing
Wholesaling	
42	Wholesale Trade, <b>Except, “42393 Recyclable Material Merchant Wholesalers,” which are prohibited.</b>
Retail Uses	
44111	New Car Dealers
44121	Recreational Vehicle Dealers
44122	Motorcycle, Boat, and Other Motor Vehicle Dealers
4413	Automotive Parts, Accessories, and Tire Stores, <b>Except “441310 Auto Used Parts Sales”</b>
447	Gasoline Stations
45291	Warehouse Clubs and Super Centers
45393	Manufactured (Mobile) Home Dealers
4541	Electronic Shopping and Mail Order Houses
45431	Fuel Dealers
484	Truck Transportation

485	Transit and Ground Passenger Transportation
487	Scenic and Sightseeing Transportation
491	Postal Service
492	Couriers and Messengers
493	Warehousing and Storage
51	Information, <b>Except those allowing adult entertainment.</b>
532	Rental and Leasing Services
5416	Management, Scientific, and Technical Consulting Services
5418	Advertising and Related Services
5419	Other Professional, Scientific, and Technical Services
561	Administrative and Support Services
562991	Septic Tank and Related Services
61	Educational Services
72	Accommodation and Food Services
722	Food Services and Drinking Places, <b>Except those allowing adult entertainment.</b>
811	Repair and Maintenance
No NAICS Code Number	Commercial Establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the development plan such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation or other personal enrichment facilities provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved plan for the PID.
	Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use which shall be valid for six months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The <b>Delaware General Health District</b> may require provisions for sanitary waste disposal, solid waste disposal and water supply as it deems necessary. The Board of Township Trustees shall establish the fees for such permit and renewals. Said temporary structure shall be removed no later than 10 days after expiration of said permit. No unit shall be occupied as a residence without approval of the Township Zoning Inspector.

Section 11.04 CONDITIONAL USES:

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of **Article XX** of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one year from the date of Board of Zoning Appeals approval, or if said use is discontinued for a period in excess of two years. The Board of Zoning Appeals has the authority to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

- A. Other uses not specifically provided for and deemed proper and beneficial to the health, safety and general welfare of the Township are permitted.

Section 11.05 PROHIBITED USES:

- A. Outdoor storage of inoperable, unlicensed or unused motor vehicles, machinery, trailers of any kind, including trailers detached from semi-tractors, boats, manufactured homes, or recreational vehicles for a period exceeding seven days is prohibited. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.
- B. Except as provided in the plan of development no trailer of any type, boats, motor homes or equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed, or the development plan.
- C. No trailer, camper, motor home, truck or any other motor or recreational vehicle, or part thereof, or any other manufactured object, which original use was other than that of a storage building, shall be used as a storage or outbuilding.
- D. No trash, debris, unused property, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any other garbage, refuse or junk shall be permitted to accumulate on any lot or parcel of land.
- E. Except as specifically permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.
- F. No residential uses of any kind, except for a caretaker for a permitted use, shall be permitted.

Section 11.06 INITIAL DISCUSSIONS:

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to PID. No statement by an official of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws (**ORC 121.22**) and may be required to be held in an open public meeting.

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

Section 11.07 PROCESS FOR AMENDMENT:

Applications for amendment to rezone property to the PID Zoning District may be approved according to one of the following procedures:

- A. The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PID. (This is a legislative act and is subject to referendum.) A final development plan shall be subsequently submitted to the Zoning Commission for review and approval. (This is an administrative act and **not** subject to referendum.) This procedure shall only be used if the real estate proposed for rezoning consists of at least 10 acres.
- B. The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum.)

In addition to the procedures set forth in this Zoning Resolution, all applications for amendment to rezone property to the PID district shall comply with the procedures outlined in **Ohio Revised Code, Section 519.12**.

Following the filing of an application for a PID, the Zoning Commission may schedule a walkabout on the site with the applicant to familiarize all parties with the lay of the land, and the general design intent of the applicant. If a majority of the Zoning Commission is present, the meeting must be advertised in accordance with **Porter Township Zoning Code** and **Ohio Revised Code**, and minutes kept.

Section 11.08 REQUIRED PID DESIGN FEATURES:

Every development plan shall incorporate the following standards:

- A. Access- Requires frontage on and direct access to one or more dedicated and improved public arterial roads and also requires provision for future connections to other public roads as required by the Township, the County Engineer and/or the Regional Planning Commission.
- B. Tract Size- Minimum 10 acres or as approved per plan.
- C. Impervious Surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): Maximum 50 percent of net developable area or as approved per plan.
- D. Floor space requirements: as approved per development plan.
- E. Open space- shall be distributed throughout the development as part of a unified open space system which shall serve to unify the development visually and functionally and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.
- F. Minimum lot width- at the building line as approved per plan.
- G. Minimum side yards- for structures shall equal one-third the sum of the height and depth of the structure, but in no case shall be less than 100 feet from any residential district or as approved per plan.
- H. Minimum rear yard- for structures shall equal one third-the sum of the height and width of the structure, but in no case shall be less than 100 feet from any residential district, or as approved per plan.
- I. Perimeter area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract, or as approved per plan.
- J. Walkways and street trees- The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the five-foot green strip if permitted by the county engineer and/or Township, or as approved per plan.
- K. Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

- L. Preservation areas- Wetlands, steep (over 20 percent) slopes, forests, 100-year floodplains, ravines and wildlife habitat shall be preserved to the greatest extent possible.
- M. Floodplain- No structures shall be constructed within the 100-year floodplain.
- N. Utilities- Centralized water supplies and sanitary sewage disposal systems shall be provided subject to Delaware County Sanitary Engineer, **Delaware General Health District** and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.
- O. Building design- The project architect shall give due regard to the footprint, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.
- P. Building height limits- as approved per plan.
- Q. Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan prepared by a licensed landscape architect showing the caliper, height, numbers, name and placement of all material, shall be approved as a part of the final development plan.
- R. Parking- Off-street parking shall be provided at the time of construction of the main structure or building with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated or a divergence requested.
- S. Signs- shall conform to provisions of this resolution or request a divergence and be as approved per plan.
- T. Lighting- All exterior lighting and interior lighting that cast out shall be as specifically approved as part of the final development plan.
- U. Supplemental conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed, landscaping, improvements and maintenance of open space areas, and other development characteristics.

- V. Freight Loading Areas- When any use within this district requires pick up or delivery of merchandise or supplies, an adequate loading area for such activity shall be provided on the lot occupied by the use. No such area shall be located on any public street or alley. Such loading area shall be adequate in size to accommodate tractor-trailer (semi) units with adequate room to permit entry to such loading area without interfering with traffic on adjacent streets or highways.

Section 11.09 REQUIRED FINDINGS FOR PID APPROVAL:

The Zoning Commission and Trustees may approve an application requesting that property be included in the PID zoning district provided they find that the proposed use complies with all of the following requirements:

- A. That the proposed development is consistent in all aspects with the purpose, criteria, intent and standards of this Zoning Resolution.
- B. That the proposed development is in conformity with the comprehensive plan or portion thereof as may apply.
- C. That the proposed development promotes the health, safety and general public welfare of the township and the immediate vicinity.
- D. That the proposed plan meets all of the design features required in this Resolution.
- E. That the proposed development is in keeping with the existing land use character and physical development potential of the area.
- F. That the proposed development will be compatible in appearance with surrounding land uses.
- G. That the development employs greater efficiency in providing public utility services and encourages innovation in the planning and building of all types of development.

Section 11.10 EFFECT OF PROPERTY OWNER INITIATED PID ZONING

AMENDMENT:

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

Section 11.11 PRELIMINARY DEVELOPMENT PLAN:

- A. Preliminary Development Application – Upon application for a PID District, the owner(s) or lessees of lots or land within the Township shall simultaneously submit a preliminary development plan. The preliminary development plan shall show the intended layout of the site.

With the PID application, seven copies and one electronic file of the preliminary development plan shall be submitted to the Zoning Commission. The plan shall include in text and map form, the following:

- 1) The proposed size and location of the PID district at a scale not less than one inch equal to 200 feet, showing topographic contours at not less than two foot intervals, wooded areas, wetlands, adjacent (within 200 feet) structures and 100-year floodplains.
- 2) Suggested architectural designs for all structures and signs.
- 3) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows and potential needed upgrades must be documented.
- 4) The relationship of the proposed development to existing and probable uses of surrounding areas including easements, rights-of-way, proposed drainage and public utilities.
- 5) A design of the open space and proposed description of its use and maintenance.
- 6) Specific statements of divergence, if any, from the development standards in this **Article** or the general standards of this resolution such as setbacks, parking, landscaping, lighting, signage and so forth.
- 7) Proposed location of all structures and uses.
- 8) Preliminary Traffic Impact Analysis based upon new-trip generation.
- 9) All required design features.
- 10) Emergency service provisions (written statements from Fire and Police departments).
- 11) Phasing plans, if any.
- 12) Calculation of net developable acreage and proposed project density.
- 13) Proposed permitted and accessory uses.

- B. Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one-year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one-year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID district.

Section 11.12 FINAL DEVELOPMENT PLAN:

- A. Final Development Plan– The applicant shall submit seven copies and one electronic file of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PID district, the Zoning Commission shall be the review authority for the final development plan.

The review and approval of the Final Development Plan is an administrative, **not** legislative, act unless the final development plan is simultaneously submitted with application for the zoning district change.

If, in the opinion of the Zoning Commission, there is a substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence. The final development plan shall include in text and map form the following:

1. A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PID District.
2. The plan will be at a scale not less than one inch equal to 100 feet and will show the proposed uses of the site, location of buildings and structures, streets, roadways and parking areas, all required design features, and the following:
  - a. The general development character and the permitted and accessory uses to be located on the tract including the limitations or controls to be placed on all uses, with proposed lot sizes, and minimum setback requirements. Other development features including landscaping, entrance features, signage, pathways, sidewalks, recreational facilities, common open space areas, and all commonly owned structures shall be shown in detail which identifies the quantity and type and typical section of each. For example, the landscape plan shall identify each plant, shrub or tree, its name, its size at planting and a rendering of how that section of the development would look in elevation.
  - b. Environmentally sensitive areas such as the 100-year floodplain, wetlands, and slopes greater than 20 percent shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six percent shall be maintained.
  - c. Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.
  - d. Building heights and dimensions.
  - e. Off-street parking.
  - f. Signs.

- g. Lighting: All exterior and interior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.
- h. The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.
- i. A traffic impact analysis by a competent traffic engineer showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.
- j. The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.
- k. Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.
- l. The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.
- m. If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.
- n. The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.
- o. Specific statements of divergence from the development standards of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.
- p. Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.
- q. The development plan shall bear the seal of an architect, landscape architect, and professional engineer licensed to practice in the state of Ohio.
- r. The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PID district.
- s. The manner in which the applicant will mitigate any nuisance effects of the proposed uses such as, but not limited to:
  - 1) Fire and Explosion Hazards: All activities, including storage, involving flammable or explosive materials shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the **Occupational Safety and Health Administration** shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the **Ohio Environmental Protection Agency**.

- 2) Air Pollution: No emission of air pollutants shall be permitted which violate the **Clean Air Act Amendments of 1977** or later amendments as enforced by the **Ohio Environmental Protection Agency**.
  - 3) Glare, Heat and Exterior Lighting: Any operation producing intense light or heat, such as high temperature processing, combustion, welding, or other, shall be performed within an enclosed building and not be visible beyond any lot line bounding the property whereon the use is conducted.
  - 4) Dust and Erosion: Dust or silt shall be minimized through landscaping or paving in such a manner as to prevent their transfer by wind or water to points off the lot in objectionable quantities.
  - 5) Liquid or Solid Wastes: No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment, shall be permitted. The standards of the **Ohio Environmental Protection Agency** shall apply.
  - 6) Vibrations and Noise: No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property line of the subject premises.
  - 7) Odors: No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor-causing substances in such concentrations as to be readily perceptible at any point at or beyond the lot line of the property on which the use is located. The applicable standards of the **Environmental Protection Agency** shall be met.
- t. The Township Zoning Commission may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed, landscaping, development, improvement and maintenance of common open space and any other pertinent development characteristics.

B. Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development plan has been filed with and approved by the Township, and such application for approval shall

be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the **Zoning Resolution** then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID District.

- C. Phasing- Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development.
  
- D. Failure to Maintain- If the organization established to own and maintain the open space shall for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, such failure shall constitute a breach of the development plan and a violation of the zoning resolution. The Board of Township Trustees or its designee may serve written notice upon such organization of the deficiencies and demand that corrective action be taken immediately and pursue enforcement of the zoning resolution.
  
- E. Plat Required- If a plat is required by applicable law, no use shall be established or changed, and no building, structure, or improvement shall be constructed or altered until the required subdivision plat has been prepared and recorded in accordance with the **Subdivision Regulations** for Delaware County, Ohio, and this Resolution. The subdivision plat and plan shall be in accordance with the approved development plan and shall include:
  - 1. Site arrangement, including building setback lines and space to be built upon within the site; water, fire hydrants, sewer, all underground public utility installations including sanitary sewers, surface drainage and waste disposal facilities; easements, access points to public right-of-way, parking areas and pedestrian ways, and land reserved for non-highway service use with indication of the nature of such use.
  - 2. Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.
  - 3. In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.
  - 4. A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three years after the approval of the final development plan or within such other period as approved per plan.

- F. **Extension of Time/ Modification of Final Development Plan**
1. An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed 30 days prior to the expiration of the established approval period.
  2. A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.
  3. In the case of a request for a modification or amendment to the approved preliminary development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:
    - a. A change in the use or character of the development;
    - b. An increase in overall lot coverage of structures and off-street parking;
    - c. An increase in the density;
    - d. An increase in the problems of traffic circulation and public utilities;
    - e. A reduction in approved open space;
    - f. A reduction of off-street parking and loading space;
    - g. A reduction in required pavement widths;
    - h. A reduction of the acreage in the planned development;
    - i. Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.
- G. **Administrative Review**- All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for administrative review to ensure substantial compliance with the development plan as approved.
- H. **Divergences**- The Township, as a part of either preliminary or final development plan approval, may grant divergences from any standard or requirement in this **Article** that is noted “as approved per plan.” An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.

## **ARTICLE XII OLIVE GREEN-EAST LIBERTY OVERLAY**

### **Section 12.01 PURPOSE:**

In as much as the only platted villages located within the township are Olive Green and East Liberty, and each village is more than 150 years old, and these villages create unique circumstances which need to be regulated in a fair and reasonable manner, there is hereby created in the Porter Township Zoning Resolution an Olive Green-East Liberty overlay to allow property improvement within the villages, and to make the Resolution more realistic to the two villages.

The Olive Green-East Liberty Overlay shall apply to all nonconforming lots included within the plat of Olive Green filed for record in Plat Book 2, Page 13, minus those portions of the plat which have been vacated and all nonconforming lots included within the plat of East Liberty filed for record in **Plat Book 2, Page 9** minus those portions of the plat which have been vacated.

### **Section 12.02 OVERLAY PROVISIONS:**

In place of and in substitution for the development standards contained in **Sections 8.06 E, F, G and H** of this Resolution, all lands and uses within the Olive Green-East Liberty Overlay shall be developed in strict compliance with the following standards and limitations:

- A. **Building Setback** No building shall be located closer to the centerline of the adjoining road or street than the building existing on the lot or neighboring lot as of the date of this overlay.
- B. **Side Yard Setback** No building or structure shall be located closer than 10 feet to any side lot line.
- C. **Rear Yard Requirements** No principal dwelling or accessory building shall be located closer than 10 feet to the rear lot line.
- D. **Maximum Lot Coverage** On no lot affected by this overlay shall buildings be constructed which cover more than 50 percent of the lot area.
- E. All other standards of the underlying district shall apply.

## **ARTICLE XIII FARM VILLAGE PLANNED UNIT DEVELOPMENT (FPD)**

### **Section 13.01 PURPOSE:**

The purpose of this conditional use is to permanently preserve viable farmland while still permitting residential growth by offering farmers alternatives to standard tract subdivision of their farms; to encourage a less sprawling form of community development that requires shorter networks of streets and utilities and which requires less consumption of farmland by clustering house lots in a portion of a farm surrounded by preserved open space, and to preserve natural topography and wooded areas.

### **Section 13.02 DEFINITIONS**

- A. Net Developable area- The net developable area is the gross tract acreage minus each of following, measured in acres :
1. Fifteen percent of the gross tract (attributable to paved roads and utilities within conventional street right-of-ways),
  2. Jurisdictional wetlands as defined by the US Army Corps of Engineers' Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss. Jurisdictional wetlands as regulated by Section 404 of the Clean Water Act consist of a.) hydric soils, b.) hydrophytic vegetation and c.) wetland hydrology (this generally means they support more than 50 percent wetland vegetation, and are poorly drained soils which are periodically inundated or saturated ).
  3. Floodplains – areas that lie within a FEMA 100-year floodplain, either within elevations determined by FEMA or mapped by FEMA.
  4. Slopes greater than 20 percent including ravines shown to be critical resource areas on the Delaware County Regional Planning Commission Comprehensive Land Use Plan.
  5. Utility right-of-ways and easements for above-ground and currently existing utilities, such as exposed pipelines and overhead transmission (not local service) wires that exist prior to the Farm Village Application.
  6. Existing bodies of water.
- B. Permitted density- the permitted maximum density (number of allowable dwelling units in the development) shall be determined by dividing the net developable acreage by 1.75; fractions shall be rounded to the nearest whole number.
- C. Adjustments to density for dedication- Land dedicated to public use as part of the Farm Village where public buildings occupy less than 30 percent of the tract so dedicated may be included in the net developable area for density calculations. If the buildings on the public dedication tract comprise more than 30 percent of the land area of the dedicated tract, the amount of acreage in excess of 30 percent lot coverage of the dedicated tract shall be subtracted from the net developable area and reduce overall allowable project density.

- D. Open space- The land within the development that shall not be built upon and may be classified as “common,” “natural,” or “agricultural” open space, or a combination. Open space does not include the areas of individual fee simple lots conveyed to farm village lot owners. Open space land may either be owned by the homeowners’ association, or may be owned by a third party if protected by an open space easement which permanently and irrevocably transfers the development rights from the open space land to the homeowners’ association of the Farm Village.
- E. Categories of permitted open space
1. Common area- open space set aside for, and owned in common by the farm village residents for active or passive recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses. If deemed appropriate by the Board of Zoning Appeals, common area may incorporate land for on-site wastewater disposal.
  2. Natural area- open space set aside for the benefit and enjoyment of the residents of the farm village as an area to be permanently in its natural condition.
  3. Agricultural open space- land intended to be preserved in agricultural use as defined in **Section 13.03 B 7** herein.
- F. Open space easement- a recorded legal instrument that transfers all development rights other than for approved open space uses from the open space to the farm village lot owners. The easement shall be tied to the title of the land regardless of the subsequent ownership of the land.
- G. Homeowners’ Association- A private non-profit corporation, association or other non-profit entity established by the developer to maintain such open space and facilities as may be dedicated to the village lot owners. Membership in such an association shall be mandatory for farm village lot owners and made a required covenant in any deed issued. It shall provide voting and use rights in the open space areas when applicable and may charge dues to cover expenses, which may include tax liabilities of common areas, recreational or utility facilities. Articles of association or incorporation must be recorded pursuant to subdivision plat approval.
- H. Single family dwellings- detached, individual dwelling units which accommodate one family related by blood or marriage or up to five unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform either to the most current **International Residential Code**, be classified as an Industrialized Unit under the most current **Ohio Basic Building Code**, or conform to the **Ohio Revised Code, Sections 519.212 and 3781.06 (C)(6)** definition of permanently sited manufactured housing.

### Section 13.03 CONDITIONS NEEDED TO CREATE A FARM VILLAGE

- A. The Board of Zoning Appeals shall find that:
1. The preliminary plan conforms to the purposes of this section.
  2. The preliminary plan complies with all requirements of this section.
  3. The preliminary plan is in keeping with the existing land use character of the area.
- B. Process- The Board of Zoning Appeals shall convene a hearing on the Farm Village conditional use application. The following conditions shall be met on the preliminary development plan in order for the BZA to grant the conditional use permit:
1. Permitted uses: Single family detached houses, one farm market or village store as provided herein, open space as provided herein.
  2. Density: The number of house lots conforms to the permitted density.
  3. Minimum lot size: Unless otherwise approved by the Township Board of Zoning Appeals as part of the preliminary development plan, the minimum lot size for each house lot in a farm village shall be 20,000 square feet.  
If on-lot well and/or septic and leach systems are required, lots shall be sized according to **Delaware General Health District** requirements, or sewage treatment systems may be located within open space areas. If centralized sewage disposal is proposed with a treatment plant and land application of the treated effluents, suitable area in agriculture or managed open space must be preserved for permanent irrigation easements.
  4. Open Space- For every dwelling unit proposed in the village area, at least 1.75 acres of open space shall be permanently preserved. Common areas, natural areas, and land dedicated for public purpose (school, fire station, etc.) may count for up to 30 percent of the required open space.
  5. Agricultural Buffer- A minimum 60 foot deep landscaped or grassed buffer shall separate all house lots from abutting agricultural uses. House lots abutting agriculture shall be fenced for safety. This grassed buffer area counts towards the required 1.75 acres per dwelling unit of agricultural open space.
  6. Easement-Language on the preliminary development plan shall indicate an easement is to be placed on the open space land that permanently and irrevocably transfers its development rights to the Farm Village Homeowners Association.
  7. Agricultural Uses permitted -The use of the preserved agricultural lands includes all uses defined by **Ohio Revised Code, Section 519.21** except feed lots, swine operations, poultry husbandry and the production of poultry or poultry products, fur bearing animal farms or nuisance agricultural uses specified in the open space easement recorded at the time of platting. Such restriction may be incorporated by the grantor of the easement and be a part of any lease arrangement of the agricultural lands.
  8. Frontage- Each Farm Village house lot shall have access from and front on an internal village street, either public or private, for a distance of 100 feet unless otherwise approved by the Township Board of Zoning Appeals as part of the preliminary development plan. Second tier back lots may be permitted with 30 feet of frontage provided the lot maintains a minimum 100-foot lot width at the building line.

9. Road design- Roads should:
    - a. Parallel and preserve existing fence lines, tree lines and hedgerows.
    - b. Minimize alterations of natural site features.
    - c. Secure attractive views.
    - d. Minimize the area devoted to motor vehicle travel.
  10. Water and Sewer- The water supply and wastewater treatment systems for a farm village shall comply with **Ohio Environmental Protection Agency** requirements. Approval of the feasibility of these designs is required as part of the preliminary subdivision plan. Actual utility system approvals shall be approved as part of the final subdivision plat.
  11. Farm Market -A farm market as defined by **Ohio Revised Code, Section 519.21(c)** may be located within the farm village or the protected easement if so approved by the homeowners association and shown on the plat and development plan.
  12. Village Store- Farm Villages in excess of 100 dwelling units may construct one village store (in addition to a farm market) no larger than 2,500 square feet or as approved per plan to sell consumer grocery and convenience products. The village store shall be shown on the development plan and shall meet the following criteria.
    - a. The store shall adhere to the aesthetic standards approved for the village approved as part of the development plan. Architectural renderings are required.
    - b. The store or farm market each may erect/mount on the storefront fascia one sign as approved per plan and not to exceed 32 square feet. A ground sign as approved per plan may be erected outside the adjacent road right-of-way to advertise the farm market. Such sign may not exceed 20 square feet, and the height of the sign may not exceed eight feet in height measured from the ground to the top of the sign. No plastic internally lit signs shall be permitted. If illuminated, the sign shall be lighted by exterior light source.
    - c. Parking shall be provided at the ratio of one parking space per 200 square feet of retail space. A landscape plan shall be required as part of the development plan.
  13. Qualifying Sites: Land may be developed for FPD if either:
    - a. It is appraised for real estate taxes under Current Agricultural Use Valuation, or
    - b. Scores at least 212.5 on the Delaware County Land Evaluation Site Evaluation (LESA) rating sheet from the US Department of Agriculture.
- C. Supplementary Conditions. In granting a conditional use application for a Farm Village, the Board of Zoning Appeals may prescribe appropriate conditions, safeguards and restrictions upon the use as may be necessary to ensure compliance with the requirements for such use, or to minimize potentially injurious effects of such use, or to carry out the general purpose and intent of this resolution. Conditions, safeguards and restrictions may include but are not limited to, limitations on the extent of development or request for additional screening by fence or landscaping, a change in the proposed method or plan for

lighting, control of access or other conditions of development as may be required by the Board of Zoning Appeals. Violation of any such condition, safeguard or restriction, when made part of the terms under which the conditional use is granted, shall be deemed a violation of this resolution.

- D. Effect of Approval. Within a reasonable period of time not to exceed 63 days after concluding the public hearing, the Board of Zoning Appeals shall approve, approve with supplementary conditions, or disapprove the application for a conditional use and the preliminary plan. The Board of Zoning Appeals shall, within 30 days after approval, forward the application to the Township Zoning Commission to hold hearings on the final development plan. The approval by the Board of Zoning Appeals of the conditional use application and preliminary development plan shall constitute the approval designating the property as a FPD; provided, however, that no use or development of such property shall occur unless and until a final development plan that conforms with the remaining provisions of this article is approved by the township Board of Zoning Appeals.

#### Section 13.04 FINAL DEVELOPMENT PLAN

- A. A final development plan shall be reviewed by the Township Zoning Commission. The applicant shall schedule a walkabout with the Zoning Commission on the site at a mutually agreeable time prior to the public hearing. The Zoning Commission may request the Delaware County Regional Planning Commission review and comment on the plan. No statement by an official of the Township or County made prior to formal submission of a development plan and application to the Zoning Commission shall be binding. Any and/or all such informal consultations may be subject to Ohio's open meeting laws (**ORC 121.22**) and may be required to be held in an open public meeting.
- B. The Development Plan shall show proposed engineering, landscaping and architectural design criteria. It shall be prepared and/or stamped by a licensed registered landscape architect, architect, and professional engineer.
- C. The final development plan shall incorporate:
1. All requirements for the preliminary and final development plans at a scale not less than one inch equal to 100 feet.
  2. Centrally located open space(s) in the village area such as a town common, square, park or similar areas. Heritage structures, natural features, (ravines, views, vegetation, waterways, etc.) shall be preserved and incorporated into the overall design wherever possible.
  3. An architectural rendering of all structures with exterior materials and colors stipulated. The use of natural materials and colors is strongly advised. The project architect shall give due regard to the footprint, building orientation, massing, roof shape and pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.

4. Sidewalks or paths shall be provided in the village area and shall be designed to facilitate future linkage. Unless otherwise recommended on the final development plan by the Zoning Commission and approved by the Board of Zoning Appeals, sidewalks shall be separated from the paved street surface by at least five feet of landscaped or grassed green strip.
  5. Street trees planted (or saved) at the rate of one per 60 feet of frontage on both sides of the street. Trees may be placed in the five foot green strip if permitted by the Board of Township Trustees and the County Engineer; otherwise they shall be placed in the front lawn of the residences.
  6. Setbacks- Structures shall be set back a minimum of 50 feet from the village street centerline or as approved per plan. Garages shall be adequately set back to permit at least two off-street parking spaces in the driveway in front of the garage without blocking the sidewalk.
  7. Minimum Lot Width at the building line shall be 100 feet or as approved per final development plan.
  8. Minimum Side yards shall be 10 feet (both sides) for structures.
  9. Minimum Rear yard shall be 50 feet for houses and attached garages; 10 feet for detached garages.
  10. Street lighting, if provided, must be of white light shaded to cast down, with light standards of traditional design, maximum height of 20 feet.
  11. All signage and entrance features shall be illustrated in the development plan as part of the development plan submission.
  12. The design should seek to preserve, wherever possible, some element of natural features if such areas exist, such as wetlands, floodplains, slopes greater than 20 percent, ravines, or dense woods, as well as structures from the township's agricultural heritage and shall facilitate the interconnection and continuity of neighboring features.
  13. Other required provisions.
- D. Recommendation by Zoning Commission to Board of Zoning Appeals - The Zoning Commission shall hold a public hearing to determine whether the final development plan meets the standards of this section. The Zoning Commission shall complete its review and make a recommendation on the final development plan to the Board of Zoning Appeals, which shall then act upon the final development plan.
- E. Subdivision Plat Following the approval of a final development plan by the Board of Zoning Appeals, the applicant shall, within 18 months, submit a subdivision plat to the Delaware County Regional Planning Commission for approval.

### Section 13.05 SUBDIVISION PLAT

The Delaware County Regional Planning Commission must approve a Farm Village subdivision plat for it to become effective. The plat shall conform to the final development plan.

- A. The open space shall be protected by:
  - 1. Subdivision plat restrictions (at the time of platting).
  - 2. Zoning – the development plan approved as part of the conditional use.
  - 3. Permanent easement permanently and irrevocably transferring the development rights from the preserved open space to the Farm Village Homeowners Association, and prohibiting any use of the preserved lands other than for agriculture or as permanent open space.
  - 4. The open space shall either be:
    - a. Held by the homeowners association of the farm village in fee simple, or
    - b. Held by others, but restricted by open space easement which grants all development rights to the homeowners association of the farm village or to an approved conservation trust.
    - c. The easement shall run with the land and shall stipulate:
      - 1) The open space shall be maintained in perpetuity for agriculture or as managed open space as approved by the development plan.
      - 2) Lease terms, if the land is to be leased for agricultural use.
      - 3) Specific terms regarding nuisance operations and hours of operation as may be agreeable between the farmer and the homeowners association.
      - 4) How the agricultural easement may be amended relative to item 3) above.
      - 5) When the open space is to be used for agriculture, the easement document shall also advise all residential purchasers of village lots in their deeds that agriculture by nature has some inherent noise, dust and odors attributed with it that residents of the village should be prepared to accept. Purchasers of village lots shall sign said nuisance waiver. Such mutual agreements as may be appropriate to the specific village should be spelled out for the benefit of the agricultural and the residential use of the adjacent lands.
- B. Phasing - Phasing the development is permitted provided the plat and deed restrictions that accomplish the required open space preservation have been recorded with the Delaware County Recorder. All required open space or open space development rights for each phase shall be platted and transferred to the village lot owners upon the initial sale of that phase of farm village lots.
- C. A homeowners association shall be established to:
  - 1. Maintain private roads.
  - 2. Maintain community water and sewer systems.
  - 3. Maintain such open space areas as may be dedicated to it.

Section 13.06 EXTENSION OF TIME OR MODIFICATION OF FINAL DEVELOPMENT PLAN

- A. In the event the applicant fails, within the allotted time period(s), to either submit a plat for approval or to record an approved subdivision plat, the conditional use permit shall expire and no work may commence or continue without a new conditional use approval from the Board of Zoning Appeals.
- B. An extension of the time limit for either filing the required subdivision plat or recording the approved subdivision plat may be granted by the Township Board of Zoning Appeals provided such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation.
- C. A request for minor changes to the final development plan may be approved by the Board of Zoning Appeals without being subject to the same procedures as the original application.
  - 1. In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of approval as the original application. The following shall be considered substantial departures from the original application.
    - a. A change in the use or character of the development,
    - b. An increase in overall lot coverage of structures and off-street parking,
    - c. An increase in the density,
    - d. An increase in the problems of traffic circulation and public utilities;
    - e. A reduction in approved open space,
    - f. A reduction of off-street parking and loading space,
    - g. A reduction in required pavement widths,
    - h. A reduction of the acreage in the planned development, and
    - i. Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

## **ARTICLE XIV GENERAL DEVELOPMENT STANDARDS**

### **Section 14.01 GENERAL:**

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

### **Section 14.02 PARKING:**

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

- A. **Dimensions** : All parking spaces shall be not less than nine feet wide and 20 feet long. Such spaces shall be measured rectangularity and shall be served by aisles of sufficient width to permit easy access to all parking spaces.
- B. **Paving** : Except in districts A-1 and R-1 all parking areas and adjacent aisles or driveways shall be paved with asphalt material or concrete.
- C. **Driveways** : All driveways serving parking lots for five or more vehicles shall be not less than 20 feet in width but adequate to permit easy access to parking spaces. No driveway shall be located so that it enters a public road within 100 feet of the intersection of any two public roads unless there are two driveways serving the lot, one of which is in excess of 100 feet and the other not less than 40 feet from said intersection. All driveways shall be located so that vehicular traffic entering a public road has an unobstructed sight distance of at least 300 feet.
- D. **Parking Area Location** : Except in the Districts A-1 and R-1 no parking lot or parking area shall be located nearer than 10 feet to the side or rear line of the tract on which the structure is located. Parking in front of the main structure may be permitted if approved as part of the plan of development.
- E. **Required Off-Street Parking Spaces** : The user of any tract shall provide off-street parking for all employees, customers, visitors and invitees. The following table shall specify the minimum parking areas to be provided

#### **Use**

#### **Required Parking Space**

1) Single family residence

Four per dwelling unit (inclusive of garages and driveways).

2) All other residences

Three per dwelling unit (inclusive of

	garages and driveways).
3) Hotels, motels, lodges (without public meeting facilities)	One per rental unit plus one per employee on the largest shift plus one for each four seats in the dining room or restaurant area.
4) Hotels, motels, lodges (with public meeting facilities)	One per rental unit plus one per employee on the largest shift plus one per 75 square feet of floor area used for exhibition or assembly purposes plus one per four seats in any restaurant therein.
5) Churches or places of public assembly	One for each three seats or one for each 45 square feet of assembly area, whichever is greater.
6) Hospitals	One and one half for each bed plus one for each employee of the largest shift.
7) Nursing homes	One for each two beds plus one for each employee on the largest shift.
8) Museums, libraries, etc.	One for each 400 square feet of public area plus one for each employee on the largest shift.
9) Primary or elementary schools	Four for each classroom.
10) Secondary schools, colleges, trade schools, etc.	Four for each classroom plus one for each four students.
11) Restaurants	One for each two seats plus one for each employee on the largest shift or not less than 25 parking spaces, whichever is greater.
12) Offices	One for each 300 square feet of floor area.
13) Funeral Homes	One for each 25 square feet of public area.
14) Retail stores	Five per 1000 square feet of gross leasable area.

15) All industrial warehousing

Twenty plus one for each two employees plus one for each vehicle maintained on the premises.

16) Industrial manufacturing

One for every two employees on the largest shift plus one per 10,000 square feet.

Any application for initial construction or use or for the expansion of any structure or use shall include plans for adequate off-street parking as required herein.

Section 14.03 EXCEPTIONS TO HEIGHT LIMITATIONS:

The building height limitations set forth in this resolution shall not apply to church spires, domes, flag poles, windmills, chimneys, cooling towers, elevator bulkheads, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers, tanks, water towers or necessary mechanical appurtenances which may be erected to any safe and lawful height. Windmills, aerials, antennas or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract.

Section 14.04 STRUCTURE SEPARATION:

No building shall be located closer than 25 feet to another structure unless the adjacent walls of both structures are masonry in which event said buildings shall be no closer than 15 feet. No building shall be closer than 15 feet to another unless one of said structures has as its exterior facing wall a firewall, free of any opening and capable of stopping the spread of any fire.

Section 14.05 SANITARY SEWER REQUIREMENTS AND POLLUTION

CONTROL:

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

Section 14.06 WATER IMPOUNDMENTS:

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

- A. No impoundment or body of water shall be located closer to any lot line than that allowed for the construction of a dwelling.
- B. All in-ground swimming pools or the entire property upon which a pool is located shall be walled or fenced to deter uncontrolled access by individuals from the street or adjacent properties. Said fence or wall shall be not less than four feet in height and shall be maintained in good condition with a gate and lock.

Section 14.07 LANDSCAPING:

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

Section 14.08 DRAINAGE:

All construction within this township shall be accomplished in a manner consistent with maintenance of good surface drainage. In all improvements or uses where submittal of drainage plans is not specifically required every reasonable effort shall be made to ensure that proper drainage on the subject property and adjacent or subservient properties is maintained or improved.

In no event shall any person interdict or interfere with any existing tile or surface drain channel unless approved by the Delaware Soil and Water Conservation District.

Section 14.09 FLOODPLAIN REGULATION:

Certain limited areas of Porter Township may lie within a floodplain. The Federal Emergency Management Agency (FEMA) maintains, subject to public examination, a current map delineating the boundaries within the township of any lands designated "Floodplain."

- A. Open space uses shall be permitted within the floodplain to the extent that they are permitted within the zoning district controlling use of said land and provided they do not require structures, fill or storage of material or equipment.
- B. No use shall be permitted within the floodplain which will adversely affect the efficiency or which will restrict the capacity of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.
- C. No fill shall be deposited within the floodplain without permission from the Board of Zoning Appeals. Showing must be made that such fill is for some beneficial purpose and will be protected against erosion by riprap, vegetation cover or bulkheading.
- D. No structure of any kind shall be permitted within the floodplain except on issuance of special permission by the Board of Zoning Appeals. Such structures shall not be permitted unless it is shown that:
  - 1. The structure has low flood damage potential.
  - 2. The location of the building or structure will not impede the flow of floodwaters.
  - 3. So far as possible or practicable, the structure is elevated out of the flood level.
  - 4. All structures are firmly anchored to prevent flotation and all heating and electrical equipment is located above the flood level.
- E. The attention of anyone considering construction or alteration of a structure within a floodplain is directed to the "Flood Damage Prevention Regulations" adopted by the Delaware County Commissioners.

Section 14.10 DRIVEWAY REGULATION:

Residential access must be constructed and maintained in such a manner as to allow safe access to and from the roadway.

Section 14.11 OUTDOOR LIGHTING:

- A. General Requirements: All lighting shall be controlled to avoid shining on the neighboring properties or into the sky. Examples of ways in which this shall be accomplished are:
1. Using light fixtures on which the light source is directed and shielded or covered;
  2. Direct light fixtures downward rather than upward;
  3. Shielding the light in such a manner that the light emitting portion of the fixture cannot be seen at a reasonable distance.
  4. Searchlights are a prohibited use under any conditions.
- B. Specific Requirements:
1. Where used for security purposes or to illuminate walkways, roadways, equipment yards or parking lots, only shielded style outdoor light fixtures shall be used.
  2. Where used for signs, decorative effects, or recreational facilities, such as for building landscaping or sports-field illumination, the outdoor light fixtures shall be equipped with automatic timing devices and shielded and focused to minimize light pollution.
  3. All outdoor light pole fixtures shall not exceed a maximum height of 30 feet above the surrounding grade.
- C. Exemptions:
1. All outdoor fixtures producing light directly from fossil fuel, such as kerosene lanterns or gas lamps are exempt from this article.
  2. All low-voltage lighting and holiday lighting shall be exempted from this article.
  3. All illuminated United States flags are exempted from this article.

## **ARTICLE XV SIGN AND BILLBOARD REGULATION**

### **Section 15.01 PURPOSE:**

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

### **Section 15.02 PERMITTED SIGNS-NO PERMIT REQUIRED:**

The following signs shall be permitted in the township subject to the regulations set forth herein. No zoning permit shall be required for any sign constructed or erected under the terms of this article. No sign shall obstruct visibility when entering or leaving said property.

- A. **Signs For Sale, Lease or Rent or Identifying the Builder or Contractor of the Premises on Which the Sign is Located:** No more than two signs shall be displayed on any lot or parcel. Such signs shall not be illuminated, shall not exceed six square feet of area per side and shall not have more than two sides. All signs shall be removed within 30 days after occupancy.
- B. **Signs for Home Occupations:** One sign per lot shall be permitted in any residence district for the purpose of announcing a home occupation which has complied with all conditions imposed by the Board of Zoning Appeals.
- C. **Vehicular Signs:** Directional or other incidental signs pertaining to vehicular or pedestrian control on private property shall be permitted provided said signs are located outside the right-of-way of any public road, do not exceed two square feet of area per side and do not interfere or obstruct visibility when entering or leaving said property.
- D. **Name and Address of Occupant:** The name and address of an occupant of a residence in A-1 or R-1 Districts provided that such sign is no more than two square feet in area per side and is located outside the right-of-way of any public road. Said sign shall not be higher than three feet above the ground and not more than one sign shall be permitted.
- E. **Political Signs:** The erection of political signs shall be permitted in any district of the township provided that said signs:
  - 1. Are located outside the right-of-way limits of the road and do not interfere with visibility of vehicular traffic entering or leaving the highway.
  - 2. Are erected or posted not more than 90 days prior to the election and are removed within 15 days following primary elections by the losing candidates and within 15 days following the general election by both winning and losing candidates.
  - 3. Are capable of posting and removal without destruction of public or private property.

4. Designate the name and address of the person charged with removal of the sign.
- F. Temporary Signs: Temporary signs announcing special public or institutional events. Such signs shall not exceed 32 square feet in area per side and shall not be permitted more than 30 days prior to the planned event nor more than seven days after said event. Such sign shall designate the person charged with the duty of removing said sign.
  - G. Signs Approved in Planned Residence District: Signs approved in Planned Residence District plan of development provided that the approved sign is constructed in strict compliance with the approved guidelines.
  - H. Farm Signs: Farm signs denoting the name and address of the occupants, the produce or products on the premises and membership in organizations. No more than one sign of any type may be permitted and it shall be located outside the road right-of-way. Advertising signs may not exceed 32 square feet of area per sign and all other signs shall be limited to eight square feet per side.
  - I. Signs Approved as Part of a Conditional Use Permit: Signs approved as part of a conditional use permit in residential zoning districts provided such signs are constructed in strict compliance with the imposed conditions.

**Section 15.03 SIGNS PERMITTED-PERMIT REQUIRED:**

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

- A. Outdoor Advertising : Outdoor advertising for a product or service not located upon the premises on which the sign is located shall be classified as a business use and shall be permitted in all commercial, agricultural and industrial districts.
  1. No billboard shall exceed 300 square feet in area per side nor have more than two sides.
  2. No billboard shall exceed 15 feet in height nor have a length in excess of four times the height of the sign face.
  3. All billboards shall be located behind the building setback lines established for the district in which the sign is located and shall be located no closer than 1200 feet from the closest residential property.
- B. Commercial or Industrial Signs : Commercial or industrial signs are to be free standing, building mounted or ground signs identifying or advertising commercial or industrial uses on the premises. If the signs are located within a planned commercial zone or are erected pursuant to a conditional use permit, the location of said signs must be in strict compliance with the plan or permit in addition to any restrictions imposed herein.
  1. No sign shall have a surface area of greater than 40 square feet per side.

2. No business, industry or use shall maintain a total sign area on the premises in excess of 200 square feet. This area shall be computed by adding the total sign area of all signs on the premises advertising the business use.
3. No sign shall be located closer than 50 feet to the right-of-way line of the adjoining thoroughfare.

**Section 15.04 PROHIBITED SIGNS:**

All signs not specifically permitted by the express terms of the Porter Township Zoning Resolution shall be prohibited in Porter Township.

**Section 15.05 GENERAL REGULATIONS:**

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

- A. **Location:** No sign shall be located within the right-of-way of any public or private road within the township. Said sign or signs shall be located in strict compliance with this resolution, an approved development plan or restrictions imposed by the Board of Zoning Appeals.
- B. **Lighting:**
  1. No sign shall be illuminated to a level which causes unreasonably high light levels on adjacent residential lots or residences.
  2. No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent roadways or right-of-ways thereby creating a hazard to vehicular traffic.
  3. No flashing, rotating, or moving light source shall be permitted on any sign within this township.
- C. **Height:** No sign within Porter Township shall be erected to a height greater than 15 feet.
- D. **Sight Interference:** No sign shall be permitted in Porter Township which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on roadways or rights-of-way.
- E. **Maintenance:** All signs or billboards constructed or erected within Porter Township shall be maintained in good repair and in a proper state of preservation.
- F. **Abandoned Signs:** If any sign or billboard shall become abandoned, such sign or billboard is declared a public nuisance by reason that continued lack of use results in a lack of reasonable and adequate maintenance, causing a deteriorating and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any one of the following criteria:
  1. Any sign or billboard associated with an abandoned nonconforming use.

2. Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least 180 consecutive days. Seasonal businesses are exempted from this determination.
3. Any sign or billboard that is not maintained in accordance with this resolution.

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

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

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

**Section 15.06 NONCONFORMING SIGNS OR BILLBOARDS:**

Any sign or billboard in existence within the Township prior to November 1981 that does not conform to the provisions of this Resolution is considered to be nonconforming.

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

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

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

- A. The size and structural shape shall not be changed or altered.
- B. The copy may be changed provided that the change applied to the original nonconforming use associated with the sign or billboard. The copy area shall not be enlarged. Any subsequent owner or user shall bring the sign or billboard into compliance.

- C. In the case where damage occurs to the sign or billboard to the extent of 50 percent or more of either structure or replacement value of the sign or billboard, the sign or billboard shall be brought into compliance. Where the damage to the sign or billboard is less than 50 percent of the structure or its replacement value, the sign or billboard shall be repaired within 60 days or **Section 15.05 F** shall be enforced.

Section 15.07 PERMIT:

No sign, except as provided for in **Article 15.02** of this Resolution, shall be erected prior to the issuance of a permit by the Township Zoning Inspector.

- A. Fees: The applicant for a permit herein shall pay such fee as is prescribed by the Board of Township Trustees. Such fees shall be prescribed annually, or more often, by the trustees.
- B. Term of Permit: The zoning permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.
- C. Inspection: All signs and billboards erected within this township are subject to inspection, whether a permit is required or not, prior to erection. The Township Zoning Inspector or any other official of the township is hereby authorized to enter upon any property or premises to ascertain compliance with the provisions of this Resolution. Such inspection may be made at any reasonable time and the Township Zoning Inspector may order the removal of any sign or billboard that is not maintained in accordance with the provisions of this Resolution.
- D. Cancellation of Permit: In the event that the owner of any sign on a property fails to comply with the terms of this Zoning Resolution, said permit may be revoked upon compliance with the following terms:
  - The Township Zoning Inspector shall notify the owner of any deficiency or violation of this Resolution. Notice shall be served personally or by ordinary mail at the last known address of the permit holder. The permit holder may seek a hearing to appeal said notice by complying with the provisions of **Article XX** of this resolution. Failure to correct deficiencies or to appeal the decision of the Zoning Inspector within 30 days will result in cancellation of the permit for such sign and said sign shall then be removed as provided by this Resolution.
- E. Removal of Signs: The Township Zoning Inspector may effect the removal of any sign illegally placed within this township. The Zoning Inspector shall store said sign and shall notify the owner thereof of its location by certified mail. If the owner of any sign fails to claim the same within 60 days after mailing of notice by the Zoning Inspector said sign may be destroyed.

## **ARTICLE XVI NONCONFORMING USES**

### **Section 16.01 CONTINUANCE:**

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

### **Section 16.02 RESTORATION:**

Except for single family residences, when a structure, the use of which does not conform to the provisions of this Zoning Resolution, is damaged by fire, explosion, flood, wind, earthquake or other calamity outside the control of the owner or occupant to the extent that the cost of restoration is more than 60 percent of its value, it shall not be restored unless in conformity with the provisions set forth in the Zoning Resolution, as amended, for the district in which it is located, or unless a conditional use permit is issued by the Board of Zoning Appeals pursuant to **Article XX**. Such restoration shall be commenced within 90 days of such calamity and diligently continued until completed. For the purpose of this section, "value" shall be defined as the reproduction cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue guidelines for the structure.

### **Section 16.03 ENLARGEMENT:**

No nonconforming building or use may be enlarged, completed, restored, reconstructed, substituted, extended or otherwise expanded except upon the granting of a variance issued by the Board of Zoning Appeals pursuant to **Article XX**.

A nonconforming single-family residence which violates any front, rear or side setback may be expanded in any direction except that in which the violation occurs without obtaining a variance. The new addition must not encroach further on the violated setback.

The Board of Zoning Appeals shall have power to permit changes and extensions on nonconforming uses as follows:

- A. A nonconforming use less objectionable in nature may be substituted for an existing nonconforming use.
- B. An existing, legal nonconforming use which occupies only a portion of an existing structure or premises may be extended throughout such structure or premises.
- C. The alteration or reconstruction of a nonconforming use or building provided that such will make the nonconforming use substantially more in character with its surroundings.
- D. Except for single family residences and mobile homes, any extension, alteration or reconstruction shall not be greater than 50 percent of the size of the nonconforming

use that existed at the time of passage of this Zoning Resolution as amended.

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

Section 16.04 NONCONFORMING LOTS:

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record at the time of the initial enactment of this resolution in November of 1981. Variance of any development standard other than minimum lot area and /or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of **Article XX**. Such nonconforming lots must be in separate ownership and not of continuous frontage with other land in the same ownership. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

Section 16.05 REPLACEMENT OR SUBSTITUTION OF AN EXISTING NONCONFORMING MANUFACTURED/MOBILE HOME:

A legally existing nonconforming manufactured / mobile home may be replaced or may have a new mobile home substituted subject to obtaining a permit from the Zoning Inspector and to the following conditions:

- A. The replacement home shall be large enough to meet the square footage required of a single-family residence in the district in which it is located.
- B. The replacement home shall be no more than seven years old.
- C. The replacement home shall be placed on a permanent foundation of concrete block, poured walls or pre-cast concrete.
- D. The home shall be installed in compliance with the rules and regulations established by the **Delaware General Health District**.

## ARTICLE XVII TOWNSHIP ZONING INSPECTOR - ZONING CERTIFICATES AND APPLICATIONS

### Section 17.01 TOWNSHIP ZONING INSPECTOR:

The Board of Township Trustees shall appoint a Township Zoning Inspector, together with such assistants as may be necessary. It shall be the duty of the Township Zoning Inspector to compare each zoning certificate application with the then existing zoning map. The Township Zoning Inspector, before entering upon the duties of his office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, signed by two or more freeholders having real estate in the value double the amount of the bond, over and above all encumbrances to the State, in the sum of not less 1,000 dollars or more than 5,000 dollars as fixed by the Board of Township Trustees. Such surety company or real estate bond shall be approved by the Board of Township Trustees and the bond shall be conditioned upon the faithful performance of such Zoning Inspector's official duties. Such bond shall be deposited with the Township Fiscal Officer. The compensation for such Zoning Inspector shall be set and paid by the Board of Township Trustees.

### Section 17.02 ZONING CERTIFICATE REQUIRED:

No structure shall hereafter be located, constructed, reconstructed, enlarged or structurally altered nor shall any work be started upon same, nor shall any use of land be commenced until a zoning certificate for same has been issued by the Township Zoning Inspector, which certificate shall state that the proposed building and use comply with all the provisions of this Zoning Resolution. No zoning certificate shall be required for any agricultural building to be erected on land that meets the definition of agriculture in **ARTICLE V, SECTION 5.02** nor shall a certificate be required for use of land or building or construction of any building used for public utility or railroad purposes.

### Section 17.03 PROCEDURES FOR OBTAINING ZONING CERTIFICATE:

No zoning certificate shall be issued by the Township Zoning Inspector until the zoning certificate application shows that the property is being or is to be used in complete conformity with this Zoning Resolution and the official Zoning Map. No zoning certificate shall be issued by the Township Zoning Inspector until the applicant for said zoning certificate has submitted a plan of the area upon which the applicant's use or structure is proposed. Said plan shall show the proposed use, structural dimensions at the ground, lot dimensions, side, front, and rear yard setbacks, compliance with all applicable development standards and a signed statement that said applicant will conform with all zoning regulations then in force for said area.

### Section 17.04 CONDITIONS OF CERTIFICATE:

No zoning certificate shall be effective for more than one year unless the use specified in the permit is implemented in accordance with the approved plans within said period or timetable attached to said plans.

### Section 17.05 CERTIFICATE OF COMPLIANCE:

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance shall have been issued

therefore by the Zoning Inspector stating that the proposed use of the building or land conforms to the requirements of this Resolution.

Section 17.06 TEMPORARY CERTIFICATE OF COMPLIANCE:

A temporary certificate of compliance may be issued by the Zoning Inspector for a period not exceeding six months during alterations or partial occupancy of a building pending its completion. Such permit may be renewed twice at the discretion of the zoning inspector.

Section 17.07 ZONING CERTIFICATE - CHANGE OF USE:

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

Section 17.08 NONCONFORMING USE:

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

Section 17.09 RECORDS:

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

Section 17.10 COMPLAINTS:

All complaints submitted to the Zoning Inspector regarding alleged violations of this Zoning Resolution shall be in writing and signed by the complainant. The zoning inspector may investigate these complaints and shall report finding to the Board of Township Trustees.

Section 17.11 FEES:

For all actions of the Township Zoning Inspector the Board of Township Trustees shall establish fees to be deposited with each application. Such fees shall be set annually or at other intervals determined by the Board of Township Trustees.

## **ARTICLE XVIII TOWNSHIP ZONING COMMISSION**

### **Section 18.01 TOWNSHIP ZONING COMMISSION:**

The Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The Commission shall be composed of five members who reside in the unincorporated area of the township, to be appointed by the Board of Township Trustees, and the terms of the members shall be of such length and so arranged so that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified.

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

### **Section 18.02 COMPENSATION AND EXPENSES:**

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

### **Section 18.03 FUNCTIONS OF THE TOWNSHIP ZONING COMMISSION:**

The Township Zoning Commission shall initiate or review all proposed amendments to this resolution or to the comprehensive plan and make recommendations to the in accordance with both the provisions of the Zoning Resolution and applicable law, and shall perform such other functions as provided for herein.

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

No township trustee may be employed by the Township Zoning Commission.

The Zoning Commission shall make use of such information and counsel as is available from appropriate public officials, departments, and agencies.

### **Section 18.04 ZONING SECRETARY:**

To assist in the administration of this Zoning Resolution, the Board of Township Trustees shall appoint a Zoning Secretary or Secretaries whose duties it shall be to maintain township zoning records, confirm information in applications, process all notices required under this Zoning Resolution, record the minutes of the Zoning Commission, record the minutes of the Board of Zoning Appeals, assist the Zoning Inspector and perform such other duties relating to this Zoning Resolution as the Board of Township Trustees may from time to time direct. A Zoning

Secretary shall be compensated at rates set from time to time by the Board of Township Trustees. The Township Fiscal Officer may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

Section 18.05 MEETING AND AGENDA OF THE TOWNSHIP ZONING

COMMISSION:

Unless otherwise approved by the Board of Township Trustees, the Township Zoning Commission shall meet on the second Thursday of each month at the township hall or if said date is a holiday, the meeting will be cancelled. The Commission shall consider all items on the agenda. In event there are no items on the agenda, no meeting need be held. The Commission shall adopt rules or procedures governing the conduct of each meeting. Special meetings can be called by the chairman of the Commission or chairman of the Board of Township Trustees upon 10 days written notice to all commission members. All meetings of The Zoning Commission shall be open to the public.

Section 18.06 MINUTES:

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

Section 18.07 FEES:

For all actions of the Township Zoning Commission the Board of Township Trustees shall establish fees to be deposited with each application. Such fees shall be set annually or at other intervals determined by the Board of Township trustees.

## **ARTICLE XIX AMENDMENTS**

### **Section 19.01 AMENDMENTS:**

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

Upon the adoption of such motion, or the certification of such resolution or the filing of such application, the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than 20 nor more than 40 days from the date of the certification of such application, or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the Township Zoning Commission by one publication in two newspapers of general circulation in the Township at least 10 days before the date of such hearing. For rezoning of a specific property, notice of such hearing shall be given by the Township Zoning Commission by a sign large enough to be read from a vehicle and posted on the property and one publication in two newspapers of general circulation in the Township at least 10 days before the date of such hearing.

For rezoning of a specific property written notice of such hearing shall be mailed by the Township Zoning Commission by first class mail, at least 10 days before the date of the public hearing to the 10 closest different property owners and all adjacent property owners of the exterior boundaries of the land proposed to be rezoned or redistricted to the addresses of such owners as appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment or supplement.

The published and mailed notices shall set forth the time and place of the public hearing, the nature of the proposed amendment or supplement and a statement that after the conclusion of such hearing the matter will be referred for further determination to the Delaware County Regional Planning Commission and to the Board of Township Trustees as the case may be and any additional information as may be required under the provisions of the **Ohio Revised Code, Section 519.12**.

Within five days after the adoption of such motion or the certification of such resolution or the filing of such application the Township Zoning Commission shall transmit a copy thereof together with text and map pertaining thereto to the **Delaware County Regional Planning Commission**.

The **Delaware County Regional Planning Commission** shall recommend the approval or denial of the proposed amendment or the approval of some modification thereof and shall submit such recommendations to the Township Zoning Commission. Such recommendation shall be

considered at the public hearing held by the Township Zoning Commission on such proposed amendment.

The Township Zoning Commission shall, within 30 days after such hearing, recommend the approval or denial of the proposed amendment or the approval of some modification thereof and submit such recommendation together with such application or resolution, the text and map pertaining thereto, and the recommendation of the **Delaware County Regional Planning Commission** thereon to the Board of Township Trustees.

The Board of Township Trustees shall upon receipt of such recommendation set a time for a public hearing on such proposed amendment, which date shall not be more than 30 days from the date of the receipt of such recommendation from the Township Zoning Commission. Notice of such hearing shall be given by the Board of Township Trustees by one publication in two newspapers of general circulation in the Township at least 10 days before the date of such hearing. For rezoning of a specific property, notice of such hearing shall be given by the Board of Township Trustees by a sign large enough to be read from a vehicle and posted on the property and one publication in two newspapers of general circulation in the Township at least 10 days before the date of such hearing.

The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment and such additional information as may be required under the provisions of the **Ohio Revised Code, Section 519.12.**

Within 20 days after such public hearing the Board of Township Trustees shall either adopt or deny the recommendations of the Zoning Commission or adopt some modification thereof. In the event the Board of Township Trustees denies or modifies the recommendation of the Township Zoning Commission; the unanimous vote of the Board of Township Trustees shall be required.

Such amendment adopted by the Board of Township Trustees shall become effective in 30 days after the date of such adoption unless within 30 days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the township equal to not less than eight percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at the next primary or general election. The petition shall comply with the requirements of the **Ohio Revised Code, Sections 519.12 and 3501.38.**

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

Within five working days after an amendment's effect date, the Board of Township Trustees shall file the text and maps of the amendment in the office of the County Recorder and with the **Delaware County Regional Planning Commission**.

Section 19.02 FORM OF APPLICATION:

All applications not originated by the Township Zoning Commission to amend the Township Zoning Resolution and/or the zoning map shall be submitted on such forms as designated and approved by the Board of Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application. In addition to any other criteria or requirement, an application for any proposed amendment shall also contain the following:

- 1) Name, address and telephone number of the owner(s) and, if different, the applicant.
- 2) Legal description of the property and, if available, the street address.
- 3) Present use and zoning district.
- 4) Proposed use and zoning district.
- 5) A vicinity map at a scale approved by either the Zoning Commission or Board of Trustees showing property lines, streets, existing and proposed zoning and such other matters as either the Commission or Board may require.
- 6) For applications involving six or more acres, a sketch plan at a scale approved by either the Zoning Commission or Board of Trustees, showing the following:
  - a) The approximate number of lots intended to be created as well as the approximate lot dimensions and acreage if property is to be subdivided;
  - b) The anticipated layout of the lots, as well as existing and anticipated streets;
  - c) The location of existing natural features such as drainage courses, woods and waterways;
  - d) Method for proposed provision of water and sewer services.
- 7) A list of the 10 closest different property owners and all adjacent property owners of the exterior boundaries of the land proposed to be rezoned.
- 8) A fee as established by the Board of Trustees.
- 9) Such other information as the Zoning Commission or Board of Trustees may request.

Section 19.03 RECORD:

On any application for an amendment to the Zoning Resolution at which the applicant desires a record to be made, the applicant shall give notice to the Secretary of the Zoning Commission or Fiscal Officer of the Board of Township Trustees, as the case may be, requesting that a court reporter be retained to make such record. The applicant shall make such request not less than 10 days prior to the scheduled hearing and shall deposit with his request cash in the amount established by the Trustees to be used to defray the expense incurred in making the record. In all hearings wherein no timely request has been made for a record, the notes of the Zoning Secretary of the Township Zoning Commission or of the Fiscal Officer, as the case may be, shall serve as the sole transcript of such hearing.

Section 19.04 FEES:

The owner or lessee of property filing an application to amend this **Zoning Resolution** shall deposit with such application a fee prescribed by the Board of Township Trustees to defray the cost of advertising, mailing and other expenses. This fee shall be required generally for each application and the amount of such fee shall be established annually by the Board of Township Trustees.

## **ARTICLE XX BOARD OF ZONING APPEALS**

### **Section 20.01 BOARD OF ZONING APPEALS:**

A Township Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five members who shall be appointed by the Board of Township Trustees and who shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five years and so arranged that the term of one member will expire each year. Each member of the Board of Zoning Appeals shall serve until his successor is appointed and qualified. Members of the Board of Zoning Appeals shall be removable for the reason specified and in compliance with the procedure established in the **Ohio Revised Code, Chapter 519**. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term.

### **Section 20.02 ORGANIZATION:**

The Board of Zoning Appeals shall organize, electing a chairman and vice-chairman, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees at the Township Hall, and shall be public record. The concurring vote of three members of the Board of Zoning Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Inspector or to decide in favor of an applicant on any matter which the Board of Zoning Appeals is required to hear under the Porter Township Zoning Resolution. The failure of an applicant to secure at least three concurring votes shall constitute a decision for disapproval of the application and, in the case of an appeal, shall be deemed a confirmation and affirmation of the decision of the Zoning Inspector. The Board of Township Trustees, the Township Fiscal Officer and the Zoning Inspector shall be notified in advance of all meetings conducted by the Board of Zoning Appeals.

### **Section 20.03 COMPENSATION AND EXPENSES:**

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

Section 20.04 POWERS OF THE BOARD OF ZONING APPEALS:

The Township Board of Zoning Appeals may:

A. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the **Ohio Revised Code, Sections 519.02 to 519.25** or of any resolution adopted pursuant thereto.

B. Authorize, in specific cases, variances that relate solely to area requirements from the provisions of this resolution as will not be contrary to the public interest. 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.

Such area variances shall be granted only in cases of special conditions, involving physical conditions of the land, whereby strict application of such provisions or requirements would result in practical difficulty that would deprive the owner of the beneficial use of the land and buildings involved. No variance from the strict application of any provision of this Resolution shall be granted by the Board of Zoning Appeals unless it finds that, based upon the relevant facts and circumstances, that applicant has established by a preponderance of the evidence that the applicant has encountered practical difficulties and that a strict application of an area zoning requirement, e.g. frontage, setback, is inequitable.

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

1. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
2. Whether the variance is substantial.
3. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties or the comprehensive plan for the community would suffer a substantial detriment as a result of the variance.
4. Whether the variance would adversely affect the delivery of governmental services.
5. Whether the property owner purchased the property with knowledge of the zoning restriction.
6. Whether the owner's predicament feasibly can be obviated through some method other than a variance; and
7. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

C. Grant conditional zoning certificates for the use of land, buildings, or other structures if such certificates are provided for in the Zoning Resolution.

D. Revoke an authorized conditional zoning certificate if any condition of the certificate is violated.

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

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

Section 20.05 PROCEDURE ON HEARING APPEALS:

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

Section 20.06 PROCEDURE ON APPLICATION FOR VARIANCE:

The Township Board of Zoning Appeals, appointed by the Township Board of Trustees, may upon application, grant such variances from the provisions or requirements of this Resolution as will not be contrary to the public interest, and shall provide written notice of its decision to the applicant.

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

A. Public Notice: Written application for a variance shall be made to the Township Zoning Inspector who shall transmit said application to the Board of Zoning Appeals. The Board of Zoning Appeals shall schedule a public hearing and give 10 days written notice by ordinary mail to the applicant and the 10 closest different property owners and all adjacent property owners to the boundaries of the land for which a variance is requested. The application for a variance shall be advertised at least once, 10 days in advance of the time set for the public hearing in two newspapers of general circulation within the township. These notices shall state the time and place of the public hearing and the nature of the proposed variance. A sign large enough to be read from a vehicle bearing the time and date of the public hearing shall be posted on the subject property.

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

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

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

In granting any variance under the provisions of this section, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions as deemed necessary to secure the objectives of the standards set forth in this Article and to carry out the general purpose and intent of this Resolution.

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

#### Section 20.07 PROCEDURE ON APPLICATION FOR CONDITIONAL USE

##### PERMIT:

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

A. Application: An application for a Conditional Use permit shall be submitted on such forms as designated and/or approved by the Board of Township Trustees. No application shall be considered unless the same is fully completed and accompanied by all required information on said application together with plot plans or drawing as necessary.

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

C. Notice: The Board of Zoning Appeals shall give 10 days written notice by ordinary mail of the application for a Conditional Use Permit and the hearing thereon to the applicant and the 10 closest different property owners and all adjacent property owners to the boundaries of the land for which the permit is requested. A notice of the application and hearing shall be published at least once 10 days in advance of the public hearing in two newspapers of general circulation within the township. This notice shall include the time and place of the hearing as well as the general nature of the requested conditional use permit. A sign bearing the time and date of the public hearing and large enough to be read from a vehicle shall be posted on the subject property.

D. Decision: The Board of Zoning Appeals shall make its decision within a reasonable time after the hearing. If the Board of Zoning Appeals, in its discretion, approves the Conditional Use permit, it may impose such conditions, safeguards and restrictions as it deems necessary to ensure that the use will be conducted in the best interest of the zoning district.

In addition to the specific requirements for conditional uses specified in the district regulations, a proposed conditional use shall meet all of the following requirements:

1. The use is in fact a conditional use as established under the district regulations.
2. The use is of such nature and will be designed, constructed, operated and maintained so as to be harmonious and appropriate with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. The use will not pose a discernible hazard to existing adjacent uses.
4. The use will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
5. The use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
6. The use will be consistent with the objectives of this Zoning Resolution and the Comprehensive Plan.

Failure to comply with the terms of a conditional use permit shall result in a zoning violation and potential cancellation of the use permit.

Section 20.08 DECISION OF BOARD OF ZONING APPEALS:

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

Section 20.09 RECORD:

For any hearing a court recorder shall be retained to make a record.

Section 20.10 FEES:

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

Section 20.11 ALTERNATES:

The Board of Township Trustees may appoint two alternate members to the Board of Zoning Appeals for such terms as determined by the Board of Township Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Township Trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.

## **ARTICLE XXI ENFORCEMENT**

### **Section 21.01 VIOLATIONS:**

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

### **Section 21.02 REMEDIES:**

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

### **Section 21.03 PENALTY:**

Whoever violates the provisions of this **Zoning Resolution** and amendments hereto or of the **Ohio Revised Code, Chapter 519** shall be fined not more than \$500.00 for each offense or the maximum fine or imprisonment as provided by law, whichever is greater.

## **ARTICLE XXII SEVERABILITY AND REPEAL**

### **Section 22.01 SEVERABILITY:**

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

### **Section 22.02 REPEAL:**

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

### **Section 22.03 REPEAL OF CONFLICTING RESOLUTION:**

The Township Zoning Resolution or parts thereof previously in effect in Porter Township, Delaware County, Ohio, not otherwise adopted as part of this amended **Zoning Resolution** are hereby repealed. However, all civil legal proceedings and/or all prosecutions resulting from violation of any **Zoning Resolution** or part thereof heretofore in effect, which are now pending in any of the courts of the State of Ohio or of the United States, shall not be abated or abandoned by reason of the adoption of any amendment to this **Zoning Resolution** but shall be prosecuted to their finality the same as if amendments to this **Zoning Resolution** had not been adopted; and any and all violations of existing **Zoning Resolution** prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this Zoning Resolution shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted.

## **ARTICLE XXIII DEFINITIONS**

All words in this Zoning Resolution shall, unless otherwise defined herein, be given the precise meaning or significance as that which is normally attributed to such word or as the same is defined in the current edition of Random House-Webster's Unabridged Dictionary.