

BOARDMAN TOWNSHIP

Draft Zoning Resolution

September 5, 2019

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Article 1: General Provisions

1.01 PURPOSE

The purpose for zoning in Boardman Township, Mahoning County, Ohio, shall be as established under Section 519.02 of the Ohio Revised Code (ORC), except as otherwise provided by law.

1.02 TITLE

This resolution shall be known and may be cited as the "Boardman Township Zoning Resolution", and may be referred to herein as "this resolution" or "this zoning resolution".

1.03 AUTHORITY

(A) General Authority

This resolution establishes the township's zoning regulatory authority as authorized by the ORC.

(B) References to the Ohio Revised Code or the Ohio Administrative Code

Whenever any provision of this resolution refers to or cites a section of the Ohio Revised Code or the Ohio Administrative Code (OAC), and that section is later amended or superseded, this resolution shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.04 JURISDICTION

(A) General Jurisdiction

The provisions of this resolution shall apply to all land, development, use of structures or land, or portions thereof, within the unincorporated areas of Boardman Township, Mahoning County, Ohio, as allowed by the ORC.

(B) Zoning of Annexed Lands¹

Upon annexation of land from Boardman Township into an existing municipal corporation, the zoning regulations then in effect shall remain in full force and shall be enforced by the Zoning Inspector and other township officials until the legislative authority of said municipal corporation shall either officially adopt the existing zoning regulations or new regulations for such land.

1.05 INTERPRETATION AND CONFLICTS

(A) For purposes of interpretation and application, the provisions of this zoning resolution shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity or general welfare as allowable by law.

(B) When the provisions of this zoning resolution are inconsistent with one another or with the provisions found in another adopted resolution, the more restrictive provision shall govern.

(C) Where this zoning resolution imposes a greater restriction than imposed or required by other provisions of law or by other rules, regulations or resolutions, the provisions of this zoning resolution shall control provided it does not conflict with the ORC and federal law.

¹ The purpose of township zoning, for any township in Ohio, is defined in the Ohio Revised Code so the cross-reference will make sure the purposes is always current.

1.06 RELATIONSHIP WITH THIRD-PARTY PRIVATE AGREEMENTS²

- (A)** This zoning resolution is not intended to interfere with or abrogate any third-party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, wherever this zoning resolution proposes a greater restriction upon the use of buildings, structure, or land, upon the location or height of buildings or structures, or upon requirements for open areas than those imposed or required by such third-party private agreements, the provision of this zoning resolution shall govern.
- (B)** In no case shall the township be obligated to enforce the provisions of any easements, covenants, or agreements between private parties unless the township is involved as a party to the agreement.

1.07 COMPLIANCE REQUIRED

- (A)** Except as hereinafter specified, no building or structure shall be located, constructed, erected, reconstructed, enlarged, changed, maintained or used, and no land shall be used in violation of this resolution or in a manner that does not comply with all of the regulations established by this resolution for the applicable zoning district and development.
- (B)** It shall be unlawful for an owner to use or to permit the use of any structure, building, land, or part thereof, hereafter erected, created, changed, converted or enlarged, wholly or partly, until a zoning certificate is issued by the Zoning Inspector in accordance with this resolution. Such certificate shall state that such building, premises or part thereof, and the proposed use thereof, is in conformity with the provisions of this zoning resolution.
- (C)** Existing uses, lots, buildings, and structures that do not comply with this resolution will be subject to the nonconformity provisions of [Article 13: Nonconformities](#).

1.08 SEVERABILITY

- (A)** If any court of competent jurisdiction invalidates any provision of this zoning resolution, then such judgment shall not affect the validity and continued enforcement of any other provision of this zoning resolution.
- (B)** If any court of competent jurisdiction invalidates the application of any provision of this zoning resolution to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (C)** If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

1.09 TRANSITIONAL RULES

(A) Effective Date

- (1)** This resolution became effective on <>³.

² This is intended to provide clarity that the township is not responsible for enforcing private covenants or restrictions that might be part of an approved subdivision.

³ The <> symbol is used to serve as a placeholder for a specific piece of information or a cross-reference that will be added later. In this instance, we will add the date of the effective date of the original resolution since this is an amendment.

- (2) This amendment, and any future amendments, to this zoning resolution shall be in full force and effect as provided in the ORC.

(B) Violations Continue

Any violation of this zoning resolution that applied to a use, structure, property, development, construction, or other activity, prior to the adoption or amendment of this zoning resolution, shall continue to be a violation under this zoning resolution and is subject to penalties and enforcement under [Article 14: Enforcement and Penalties](#), unless the use, structure, property, development, construction, or other activity complies with the provisions of this zoning resolution.

(C) Nonconformities Continue

- (1) Any legal nonconformity under previous versions of this resolution that applied prior to the adoption of this zoning resolution shall continue to be a legal nonconformity under this amendment, as long as the situation that resulted in the nonconforming status under the previous version of the resolution continues to exist.
- (2) If a legal nonconformity under any previous versions of this resolution becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.

(D) Approved Projects

- (1) Any building, structure, or development for which a zoning certificate was issued prior to the effective date of this zoning resolution may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this zoning resolution. Such building, structure, or development shall be considered a legal nonconforming use, if applicable, upon the issuance of a certificate of occupancy from the Mahoning County Building Department.
- (2) If the building, structure, or development is not completed within the time allowed under the original building permit or any extension granted thereof, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this zoning resolution.
- (3) Any application for a project where the zoning certificate has expired shall meet the standards in effect at the time the application is resubmitted.

(E) Vested Rights

The transitional rule provisions of this subsection are subject to Ohio's vested rights laws.

1.10 RESTORATION OF UNSAFE BUILDINGS

Except as provided in [Article 13: Nonconformities](#), nothing contained in this resolution shall hinder the construction of a building or prohibit its use where construction has started before the effective date of this resolution provided that foundations have been put in place before said effective date of this resolution and provided further that such building shall be completed within two years from the date of passage of this resolution.

1.11 REPEAL

This zoning resolution may be repealed in accordance with the provision established in the ORC.

1.12 USE OF GRAPHICS, TABLES, ILLUSTRATIONS, FIGURES, AND CROSS-REFERENCES

- (A)** Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- (B)** In some instances, cross-references between articles, sections, and subsections are provided that include the article, section, or subsection number along with the name of the referenced article, section, or subsection. Where a conflict may occur between the given cross-reference number and name, the name shall control.
- (C)** A table shall be considered text for the purposes of this resolution unless specifically identified as a figure.

1.13 BURDEN OF PROOF

- (A)** The burden of demonstrating that an application, development, or use of land or structures subject to this resolution complies with applicable review and approval standards is on the applicant.
- (B)** Such burden of proof shall also apply to demonstrating that the nonconformity was established legally under a previous amendment of this resolution.
- (C)** The burden is not on the township or other parties to demonstrate that the standards have been met by the applicant or person responsible for the application, development, use of land or structure, or nonconformity with this resolution.

Article 2: Decision-Making Roles and Authorities

2.01 PURPOSE

The purpose of this article is to identify the roles and responsibilities of various elected and appointed boards, and the duties of township staff, in the administration of this zoning resolution.

2.02 BOARD OF TRUSTEES

For the purpose of this zoning resolution, the Boardman Township Board of Trustees, hereafter referred to as the Board of Trustees, shall have the following duties:

- (A) Initiate proposed amendments to the text of this zoning resolution and/or the official zoning map;
- (B) Review and decide on all proposed amendments to the text of this zoning resolution and/or the official zoning map;
- (C) Review and decide on all proposed Planned Unit Development (PUD) preliminary development plan and zoning map amendment applications; and
- (D) Perform all other duties as specified in the ORC and as specified in this zoning resolution.

2.03 REVIEW BOARDS⁴

For the purposes of this resolution, there shall be review boards established for the administration and enforcement of this zoning resolution including the Boardman Township Zoning Commission, the Boardman Township Architectural Review Board⁵, and the Boardman Township Board of Zoning Appeals (BZA).

(A) General Requirements for all Review Boards

(1) Appointment and Organization of Review Boards

- (a) Each review board shall be composed of five members who reside in the unincorporated area of Boardman Township, Mahoning County, Ohio, to be appointed by the Board of Trustees.
- (b) At least one of the Architectural Review Board's members shall be a licensed architect or engineer. If a licensed architect or engineer from the unincorporated township cannot serve, the licensed architect or engineer may be drawn from residents of Mahoning County.
- (c) Members of each review board shall serve five-year terms with the term of one member expiring each year.
- (d) Each member shall serve until his or her successor is appointed and qualified.

⁴ Since the compositions and general rules for the three boards are the same, we have combined all similar language in this section with the specific authorities listed in the next section.

⁵ The current Site Plan Review Board is being renamed to the Architectural Review Board to use the same term as the board authorized by the Ohio Revised Code.

- (e) Members of each review board shall be removable for non-performance of duty, misconduct in office, or other cause, by the Board of Trustees. Such removal may take place after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least 10 days prior to the hearing, either personally or by registered mail or by leaving same at his or her usual place of residence. The member shall be given an opportunity to be heard and answer such charges.
- (f) All complaints alleging non-performance of duty, misconduct in office, or other cause that may justify removal of the subject review board member shall be presented, in writing, to the Board of Trustees. If upon receipt of said written complaint the Board of Trustees determines that the allegations so justify, the Board of Trustees shall proceed with a public hearing as set forth herein.
- (g) Vacancies shall be filled by appointment by the Board of Trustees and shall be for the time remaining in the unexpired term.

(2) Alternates⁶

- (a) The Board of Trustees may appoint up to two alternate members for each of the review boards for a term of two years each.
- (b) An alternate member shall take the place of an absent regular member at any meeting of the applicable review board.
- (c) An alternate member shall meet the same appointment criteria as a regular member.
- (d) When attending a meeting on behalf of an absent member, the alternate member may vote on any matter the absent member is authorized and eligible to vote for and provided the member attended all pertinent public meetings or hearings.
- (e) When a vacancy occurs, alternate members do not automatically become full members of the applicable review board. Alternate members have to be appointed to replace a full member upon a vacancy.

(3) Organization and Bylaws

- (a) Each review board shall elect a chairperson and vice-chairperson from its membership. The vice-chairperson shall serve as the chairperson in the absence of the elected chairperson.
- (b) Each review board may organize and adopt bylaws for its own governance provided they are consistent with state law and with any other resolution of the township.

(4) Meetings

- (a) Meetings shall be held at the call of the chairperson or at such other times as the applicable review board may determine.
- (b) All meetings shall be open to the public, except as exempted by law.

⁶ This language is new and provides the option for the trustees to appoint alternate members who can step in in cases where a regular member cannot attend a meeting/hearing or where there is a conflict. It is not mandatory to have alternates but is something that might be good to include. We have included it for discussion purposes with the steering committee.

- (c) In addition to the above provisions, the chairperson of the BZA may administer oaths and the BZA may compel the attendance of witnesses per the ORC. Furthermore, the BZA may call upon any township department for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the BZA as may reasonably be required.

(5) Quorum and Recommendations or Decision

- (a) Any combination of three or more regular or alternate members of each review board shall constitute a quorum.
- (b) Each review board shall act when three members, who are eligible to vote, concur on a recommendation or decision.⁷

(B) Zoning Commission

The Board of Trustees, for the purpose and intent of this zoning resolution, has hereby created and established the Boardman Township Zoning Commission, hereafter referred to as the Zoning Commission. The Zoning Commission shall have the authority to:

- (1) Initiate proposed amendments to the text of this zoning resolution and/or the official zoning map;
- (2) Review all proposed amendments to the text of this zoning resolution and/or the official zoning map and make recommendations to the Board of Trustees;
- (3) Review all PUD preliminary development plans and related zoning map amendment applications, and make recommendations to the Board of Trustees;
- (4) Review and make decisions on all PUD final development plan applications; and
- (5) Perform all other duties as specified for township zoning commissions in the ORC and as specified in this zoning resolution.

(C) Architectural Review Board

The Board of Trustees, for the purpose and intent of this zoning resolution, has hereby created and established the Boardman Township Architectural Review Board, hereafter referred to as the Architectural Review Board. The Architectural Review Board shall have the authority to:

- (1) Act as the architectural review board for the township as authorized in Section 519.171 of the ORC;
- (2) Participate in the administrative review site plans as established in Section <>;
- (3) Make recommendations regarding site plans to the Board of Zoning Appeals for variance applications related to site plan review applications; and
- (4) Perform all other duties as specified in this zoning resolution.

(D) Board of Zoning Appeals (BZA)

The Board of Trustees, for the purpose and intent of this zoning resolution, has hereby created and established the Boardman Township Board of Zoning Appeals, hereafter referred to as the BZA. The BZA shall have the authority to:

⁷ This is not currently specified but is intended to ensure that all votes of a board are supported by a majority of each review board's full membership. This means that if you only have a quorum of three people, all three people must concur.

- (1) Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, grant, or refusal made by the Zoning Inspector, other township official, or administrative body of the township in the interpretation or enforcement of the provisions of this zoning resolution;
- (2) Hear and make decisions on applications filed for conditional uses. In considering an application for a conditional use, the BZA shall have the power to impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this zoning resolution for the particular conditional use, as the BZA may deem necessary for the protection of adjacent properties and the public interest;
- (3) Authorize upon appeal in specific cases, filed as herein provided, such variances from the provisions or requirements of this zoning resolution as will not be contrary to the public interest, but only in such cases where, owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this zoning resolution would cause unnecessary hardship, and so that the spirit of the resolution shall be observed and substantial justice done. The BZA may attach thereto such conditions regarding the location, character and other features of the proposed structure or use, as it may deem necessary in the interest of the furtherance of the purposes of the zoning resolution and in the public interest;
- (4) Review and provide an interpretation of the zoning map or zoning text whenever there is a question of how the zoned districts or regulations of this resolution are applied;
- (5) Permit the substitution of a nonconforming use existing at the time of enactment of this resolution in compliance with [Article 13: Nonconformities](#); and
- (6) Perform all other duties conferred upon township BZAs in the ORC, or as authorized by the Board of Trustees in compliance with state law.

2.04 ZONING INSPECTOR

The Board of Trustees shall appoint a Zoning Inspector who shall serve as the zoning inspector referenced in the ORC, charged with the general administration and enforcement of this resolution as outlined in the ORC and this resolution.

(A) Roles and Powers

The Zoning Inspector shall have the following roles and powers:

- (1) The Zoning Inspector shall have the authority to conduct inspections of structures and land to determine compliance with this resolution.
- (2) The Zoning Inspector shall have the authority to review and decide on applications for zoning certificates and to ensure compliance with this zoning resolution in accordance with the applicable procedures in this resolution.
- (3) The Zoning Inspector shall have the authority to collect all fees required for all applications.
- (4) The Zoning Inspector shall have the authority to provide input, staff reports, or other guidance to the Board of Trustees, Zoning Commission, and/or BZA, when requested.

- (5)** After written request from a person having a legitimate present or future interest in the property, the Zoning Inspector shall have the authority to issue a zoning certificate for any building or premises existing at the time of enactment of this resolution, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this resolution.
- (6)** After receipt of comments on site plan review applications, the Zoning Inspector shall make decisions on such applications in accordance with Section <>.
- (7)** It shall be the duty of the Zoning Inspector to issue citations of zoning violations and keep adequate records of all violations.
- (8)** The Board of Trustees may also appoint additional personnel to assist the Zoning Inspector in such roles and powers as outlined in this section.
- (9)** The Zoning Inspector shall have the authority to seek the advice of professional consultants, when authorized by the Board of Trustees.
- (10)** The Zoning Inspector shall have the authority to conduct additional duties as designated by the Board of Trustees or as specified in this zoning resolution.

(B) Decisions

- (1)** Any decision of the Zoning Inspector may be appealed in writing to the BZA within 20 days of the Zoning Inspector's decision pursuant to Section [3.08: Appeals](#).
- (2)** The Zoning Inspector shall have appropriate forms for appeal available at the time of denial.

Article 3: Review Procedures

3.01 PURPOSE

The purpose of this article is to identify the review procedures used in the administration of this zoning resolution.

3.02 EXEMPTIONS

(A) Agricultural Use Exemption⁸

- (1) Agricultural uses, and buildings or structures that are incidental to agricultural uses, as defined in the ORC, located on lots with a lot area greater than five acres shall be exempt from the requirements of this zoning resolution pursuant to the ORC.
- (2) Buildings or structures that are incidental to the use of land for agricultural uses, as defined in the ORC, located on lots with a lot area greater than one acre but not greater than five acres, shall be subject to all setbacks, maximum building size, and maximum height requirements of the applicable zoning district as allowed by the ORC.
- (3) All agricultural uses, as defined by the ORC, are prohibited on lots with a lot area of one acre or less except for the raising of fruits, vegetables, grains, trees, and other crops for personal use of the property owners or residents. Such uses shall be permitted on all lots, in all yards.
- (4) Dairying and animal and poultry husbandry shall be regulated as provided for in ORC Section [519.21 \(B\)\(3\)](#).
- (5) Structures that are exempt from the provisions of this zoning resolution pursuant to this section may not be exempt from any applicable building or special flood hazard area regulations established and enforced by Mahoning County.

(B) Energy and Gas Exemptions

The following shall be exempt from the requirements of this resolution in accordance with the ORC:

- (1) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections [5713.30](#) to [5713.37](#) of the ORC for real property tax purposes. "Biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in Section [5713.30](#) of the ORC.
- (2) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections [5713.30](#) to [5713.37](#) of the ORC for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

(C) Public Utility or Railroad Exemption

Public utilities and railroads, as defined by the ORC, shall be exempt from the provisions of this zoning resolution.

⁸ This language can be very confusing but is straight from the ORC in Section 519.21.

3.03 COMMON REVIEW REQUIREMENTS⁹

The requirements of this section shall apply to all development review applications and procedures subject to review under this zoning resolution, unless otherwise stated.

(A) Authority to File Applications

- (1)** The person having legal authority to act in accordance with the approval sought shall file an application for any review in accordance with this zoning resolution. The person having legal authority shall be the recorded property owner, lessee, or the duly authorized agent of the recorded property owner and may be required to provide written proof of such authority at the time of application.
- (2)** The Zoning Commission and Board of Trustees may initiate zoning text and map amendments under this zoning resolution with or without an application from the property owner who may be affected.

(B) Application Contents

(1) Submittal Requirements

- (a)** Applications required under this zoning resolution shall be submitted in a form and in such numbers as established by the township and made available to the public.
- (b)** The applicant shall attest to the truth and correctness of all facts and information presented with the application.

(2) Submission of Fees

- (a)** Applications shall be accompanied by a fee as established by resolution of the Board of Trustees.
- (b)** The township shall charge appropriate fees for any development review applications, certificates, permits, or other review processes established in this zoning resolution to cover the costs of inspection, investigation, legal notices and other expenses incidental to the enforcement of this zoning resolution. Such fees shall be paid to the Boardman Township Board of Trustees, or its designee, and shall be paid in accordance with the official zoning fee schedule as established by the Board of Trustees.

(3) Complete Application Determination

- (a)** The Zoning Inspector shall only initiate the review and processing of applications submitted under this article if such application is determined to be complete.
- (b)** The Zoning Inspector shall decide on whether an application is complete within a reasonable time.
- (c)** If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this resolution.
- (d)** If an application is determined to be incomplete, the Zoning Inspector shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected.

⁹ These are standard that apply to all applications unless specifically exempted.

- (e) If the applicant fails to re-submit a complete application within 60 days of the notice provided by the Zoning Inspector pursuant to Paragraph (d) above, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. No reconsideration of an incomplete application shall occur after expiration of the 60 day period and an applicant in need of further development approval under the zoning resolution shall, pursuant to all of the original requirements of Section 3.03(B): Application Contents, submit a new application and filing fee.
- (f) If any substantive false or misleading information is submitted or supplied by an applicant on an application, that application shall be rejected.

(4) Refund of Fees

Application or review fees are not refundable except where the Zoning Inspector determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant within 60 days.

(C) Submission Schedule

The Zoning Inspector is authorized and shall establish the submission and review schedule (including time frames for review where not established within the ORC) for applications. The Zoning Inspector may amend and update these requirements as determined to be necessary.

(D) Simultaneous Processing of Applications

- (1) Whenever two or more forms of review and approval are required under this code, the Zoning Inspector shall determine the order and timing of review.
- (2) The Zoning Inspector may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(E) Examination and Copying of Application and Other Documents

Documents and/or records may be inspected and/or copied as provided for by state law.

(F) Constructive Notice for All Proceedings

The following shall apply to all public notice requirements, regardless of decision-making body.

- (1) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this zoning resolution, and such finding shall be made available to the decision-making body prior to final action on the request.
- (2) When the records of the township document the publication, mailing, and/or posting of notices as required by this article, it shall be presumed that notice of a public hearing was given as required by this section.

(G) Computation of Time

- (1)** In computing any period of time prescribed or allowed by this zoning resolution, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by Boardman Township where the township offices are closed for the entire day.
- (2)** When the township offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next day which is not a Saturday, a Sunday, or a legal holiday observed by Boardman Township in which the township administrative offices are closed for the entire day.

(H) Conduct of Public Hearing

(1) Rights of All Persons

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(2) Continuance of a Public Hearing or Deferral of Application Review

- (a)** An applicant may request that a review or decision-making body's consideration of an application at a public hearing be deferred by submitting a written request for deferral to the Zoning Inspector prior to the publication of notice as may be required by this resolution. The Zoning Inspector may grant such requests, in which case the application will be considered at the next regularly scheduled meeting.
- (b)** A request for deferral of consideration of an application received by the Boardman Township Zoning Inspector after publication of notice of the public hearing as required by this resolution shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.
- (c)** The review or decision-making body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place.

(3) Withdrawal of Application

Any request for withdrawal of an application shall be either submitted in writing to the Zoning Inspector or made through a verbal request by the applicant prior to action by the review or decision-making body.

- (a)** The Zoning Inspector shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this resolution.

- (b) If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this resolution, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- (c) In all cases where the applicant has requested the withdrawal of an application, the application fee paid shall not be refunded.

(I) Reapplication after Denial of an Application¹⁰

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established in this resolution or allowed by the ORC;
- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. In such cases, any such resubmission must contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Zoning Inspector shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in Section <>. If it does not, the Zoning Inspector shall return the application, with reasons for their determination in writing, along with any paid fees; or
- (3) Submit a new application if the proposed use and design of the site will be entirely different than the originally denied application.

3.04 ZONING TEXT OR MAP AMENDMENT¹¹

(A) Purpose

The purpose of the zoning text and zoning map amendment procedure is to provide a process for amending the zoning map and text of this resolution.

(B) Amendment Initiation

- (1) Amendments or supplements to the zoning resolution or zoning map may be initiated by:
 - (a) A motion of the Zoning Commission;
 - (b) Passage of a resolution by the Board of Trustees; or
 - (c) By the filing of an application by the owners, lessees, or their agents, of property within the area proposed to be changed or affected by the proposed amendment.
- (2) If the Board of Trustees initiates the amendment, the board shall, upon the passage of such resolution, certify such resolution to the Zoning Commission.

(C) Review Procedure

(1) Step 1 – Pre-application Conference (Optional)

- (a) If initiated by the property owners, the applicant may request to meet with the Zoning Inspector and/or Zoning Commission to discuss the initial concepts of the proposed amendment and general compliance with applicable provisions of this zoning resolution prior to the submission of the application.

¹⁰ This is the revised language related to when an original application is denied and what is required to reapply. A version of this language is currently found in the zoning amendment process but we have expanded the language for all applications.

¹¹ We will discuss a procedure for Planned Unit Developments in a later section, which will include a zoning map amendment process.

- (b) Discussions that occur during a pre-application conference or any preliminary meeting with the Zoning Inspector and/or Zoning Commission, or any representative of the township, are not binding on the township and do not constitute official assurances or representations by Boardman Township or its officials regarding any aspects of the plan or application discussed.

(2) Step 2 – Application

- (a) Applications for any change of district boundaries, classifications of property as shown on the zoning map, or changes to the zoning resolution text shall be submitted to the Zoning Commission at the township offices.
- (b) The application shall include all such forms, maps, and information, as may be prescribed by the Zoning Inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (c) Each application initiated by property owners shall be signed by the owners, or the owners' authorized agent, of each property within the area proposed to be reclassified, attesting to the truth and correctness of all facts and information presented with the applications.
- (d) Applications for amendments initiated by the Zoning Commission or the Board of Trustees shall be accompanied by the initiating board's motion or resolution pertaining to such proposed amendment.
- (e) All applications shall be submitted with the required fees as established in the Boardman Township fee schedule.

(3) ¹²Step 3 – Public Hearing and Recommendation by the Zoning Commission

- (a) Upon adoption of a motion, certification of a resolution, or the filing of an application (certified as complete by the Zoning Inspector) for an amendment (Step 2), the Zoning Commission shall set a date for a public hearing regarding the proposed amendment.
- (b) The public hearing shall not be less than 20 or more than 40 days after the date the application (Step 2) was certified as complete by the Zoning Inspector.
- (c) Notification shall be given in accordance with the ORC.¹³
- (d) Within 30 days after the completion of the Zoning Commission's public hearing, the Zoning Commission shall recommend the approval, denial, or modification of the proposed amendment and submit such recommendation together with the subject application or resolution and the text and map pertaining thereto, to the Board of Trustees.

(4) Step 4 – Public Hearing and Decision by the Board of Trustees

- (a) Upon receipt of the recommendation from the Zoning Commission (Step 4), the Board of Trustees shall set a time for a public hearing on such proposed amendment.
- (b) The date of the public hearing shall not be more than 30 days after the date of the receipt of such recommendation from the Zoning Commission.

¹² Due to recent ORC changes, limited home rule townships such as Boardman Township do not have to refer zoning amendments to the county for review so we have made the appropriate change in this text.

¹³ Since the ORC dictates hearing requirements, we suggest a simple cross-reference so if the requirements change, you do not have to change your resolution.

- (c) Notification shall be given in accordance with the ORC.
- (d) Within 20 days after its public hearing, the Board of Trustees shall either adopt or deny the recommendations of the Zoning Commission. If the Board of Trustees denies or modifies the Zoning Commission's recommendations, the majority vote of the Board of Trustees shall be required.
- (e) If approved, a record of the approved amendment shall be maintained by the Township. The master Zoning Map shall be maintained by the Zoning Inspector.

(D) Effective Date and Referendum

- (1) Any amendment adopted by the Board of Trustees shall become effective 30 days after the date of such adoption.
- (2) A referendum of any amendments may be undertaken within the 30 days after the date of the Board of Trustees decision in accordance with the ORC.

(E) Review Criteria

The Zoning Commission and the Board of Trustees shall consider the following in decisions regarding zoning amendments:

- (1) The amendment is in accordance with the basic purpose and spirit of this resolution;
- (2) The amendment has been reviewed to determine the consistency with the Boardman Township Comprehensive Plan, or with the Mahoning County Comprehensive Plan in absence of a township plan, and any other applicable adopted plans or policy documents;
- (3) Conditions have changed since the zoning resolution was initially adopted or there was a mistake with the original zoning resolution, or amendment thereto, that justifies the amendment;
- (4) The amendment will correct an inequitable situation created by the zoning resolution rather than merely granting special privileges;
- (5) The applicant must justify the particular zoning being sought and show that it is best suited for the specific site, based upon the policies of the township;
- (6) The amendment will not result in unlawful exclusionary zoning; and
- (7) Any other substantive factor deemed appropriate by the Zoning Commission or Board of Trustees.

3.05 VARIANCE OR CONDITIONAL USE¹⁴

(A) Purpose

Pursuant to the ORC, the BZA is authorized to review and make decisions on applications for conditional uses and variances to consider special exceptions to this zoning resolution, as may be specifically allowed herein. The following are the specific purposes behind each of these review procedures:

¹⁴ The current language combines the procedures of variances and appeals, however, the review procedure for a conditional use is closer in line with variances so we have combined those procedures with separate review criteria.

(1) Purpose for Conditional Use Review

The purpose of a conditional use procedure is to allow consideration for certain uses that may be allowed in the applicable zoning district, as specified in Section <> but due to the use's unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on a case-by-case basis.

(2) Purpose for Variance Review

The purpose of a variance is to provide limited relief from the requirements of this resolution in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this resolution. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this resolution may impose of property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(B) Review Procedure

The review procedure for variances and conditional uses shall be as follows:

(1) Step 1 – Application

- (a)** An application for a variance or conditional use over which the BZA has original jurisdiction under Section [2.03\(D\): Board of Zoning Appeals \(BZA\)](#), may be made by any property owner or authorized agent.
- (b)** The application shall include all such forms, maps, and information, as may be prescribed by the Zoning Inspector to assure the fullest practicable presentation of the facts for the permanent record.
- (c)** The Zoning Inspector shall transmit a copy of the application to the BZA along with any reports from staff, township departments, or county agencies, as may be applicable or requested.
- (d)** All applications shall be submitted with the required fees as established in the Boardman Township fee schedule.

(2) Step 2 – Public Hearing with the Board of Zoning Appeals

- (a)** Upon application (Step 1), the BZA shall fix a reasonable time for the public hearing on any application.
- (b)** Written notice of the public hearing shall be mailed to any party of interest including each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property that is the subject of the application. Such notice shall be given a minimum of 10 days prior to the date of the public hearing.
- (c)** The township shall also give notice of such public hearing by publishing a legal notice in one or more newspapers of general circulation in the county at least 10 days before the date of such hearing.
- (d)** Upon the day for hearing any application, the BZA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said application. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

(3) Step 3 – Decision

- (a)** Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision to approve, approve with conditions, or deny the application.
- (b)** A copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA. A copy shall be maintained by the Zoning Inspector.
- (c)** In authorizing a variance or conditional use, the BZA may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as the BZA may deem necessary in the interest of the furtherance of the purposes of this resolution. In authorizing a variance or conditional use with conditions, the BZA may require such other evidence, guarantee, or bond as it may deem necessary. The applicant shall be required to comply with the conditions.
- (d)** Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.
- (e)** Any party adversely affected by a decision of the BZA may appeal the decision to the Mahoning County Court of Common Pleas.
- (f)** If the subject development requires a site plan review in addition to a conditional use or variance approval, a zoning certificate shall not be issued until such site plan review is also approved.
- (g)** The BZA's decision on a variance or conditional use shall be duly recorded in the minutes of the BZA. The minutes shall record the findings of fact relative to each application, the grounds for the action taken, and any conditions imposed in conjunction with approval.

(C) Variance Review Criteria¹⁵

- (1)** The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this resolution as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this resolution will result in practical difficulty for an area/dimensional variance or unnecessary hardship for a use variance. The factors for an area/dimensional variance and use variance, as individually specified in this section, shall be considered and weighed by the BZA.

(2) Area/Dimensional Variance

- (a)** The following factors shall be considered and weighed by the BZA to determine practical difficulty:
 - (i)** Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;
 - (ii)** Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

¹⁵ These review criteria are the generally accepted review criteria for dimensional and use variances.

- (iii) Whether the variance is the minimum necessary to make possible the reasonable use of the land or structures;
 - (iv) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
 - (v) Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
 - (vi) Whether special conditions or circumstances exist as a result of actions of the owner;
 - (vii) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
 - (viii) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and/or
 - (ix) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
- (b) No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

(3) Use Variance

In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this resolution will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- (a) The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- (b) The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- (c) The variance requested cannot otherwise be resolved by a zoning map amendment;
- (d) The essential character of the neighborhood will not be substantially altered as a result of the variance;
- (e) There is an existing structure that cannot be reasonably used for a permitted use or a conditionally permitted use in the applicable zoning district;¹⁶
- (f) The proposed use is listed in [Table 4.07-1: Permitted Use Table](#);
- (g) The hardship condition is not created by actions of the applicant;
- (h) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (i) The granting of the variance will not adversely affect the public health, safety or general welfare;
- (j) The variance will be consistent with the general spirit and intent of this Resolution;
- (k) The requested use is permitted in another district in this resolution; and

¹⁶ This prevents someone requesting a use variance on a vacant lot when a zoning map amendment would be more appropriate.

(I) The variance sought is the minimum that will afford relief to the applicant.

(D) Conditional Use Review Criteria

In reviewing conditional uses, the BZA shall consider the following:

- (1) The use is a conditional use, permitted with approval by the BZA, in the district where the subject lot is located;
- (2) The use is in accordance with the objectives of the Boardman Township Comprehensive Plan and zoning resolution; and
- (3) The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare.
- (4) The BZA shall also consider the following as applicable to the subject application:¹⁷
 - (a) The proposed conditional use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding properties. The site design shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:
 - (i) The location and screening of vehicular circulation and parking areas in relation to surrounding development;
 - (ii) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development;
 - (iii) The hours of operation of the proposed use. Approval of a conditional use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses; and
 - (iv) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - (b) The proposed conditional use shall not exceed the capacity of existing and available public services, including but not necessarily limited to utilities, public roads, police and fire protection services unless the project proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the conditional use is completed.
 - (c) The location of the proposed conditional use shall minimize the impact of traffic generated. In determining whether this requirement has been met, consideration shall be given to the following:
 - (i) Recommendations of a traffic impact study, if required by Mahoning County;
 - (ii) Proximity and access to major thoroughfares;
 - (iii) Estimated traffic generated by the proposed use;
 - (iv) Proximity and relation to intersections;
 - (v) Adequacy of driver sight distances;
 - (vi) Location of and access to off-street parking;
 - (vii) Required vehicular turning movements; and
 - (viii) Provision of pedestrian traffic.

¹⁷ These are drawn from the township's existing review criteria.

- (d) The proposed conditional use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed in a manner that is detrimental to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.
- (e) The location of the proposed conditional use shall not result in a small residential area being substantially surrounded by nonresidential development, and further, the location of the proposed conditional use shall not result in a small nonresidential area being substantially surrounded by incompatible uses.

(E) Expiration and Effect of Approval

- (1) Upon approval, a conditional use or variance shall be deemed a conforming use permitted in the applicable zoning district, subject to any conditions imposed and final approval of the application. Such approval shall affect only the lot or portion thereof on which the proposed use is located.
- (2) Conditional use and variance approvals shall run with the land and shall not expire or be voided if there is a change in ownership.¹⁸
- (3) A conditional use or variance approval shall be voided if the applicant has not received approved zoning certificates within 12 months of the date the BZA approved such conditional use or variance.
- (4) A conditional use approval shall expire if the allowed conditional use is discontinued for a period of more than six months.
- (5) Upon expiration of a variance or conditional use approval, a new variance or conditional use application, including all applicable fees, shall be required.

(F) Revocation of Approvals

Approval of a conditional use or variance may be revoked by the BZA if construction is not in conformance with the approved plans. In such a case, the Zoning Inspector shall ask that the conditional use or variance be placed on the agenda of the BZA. Written notice shall be provided to the applicant at least 10 days prior to the meeting at which the case will be considered. The applicant shall be given the opportunity to present information and to answer questions. The BZA, as appropriate, may revoke approval if it finds that a violation exists and has not been remedied prior to the notice.

¹⁸ This is different than current provisions that void an approval if there is a change in ownership or tenancy. Provided that the use continues under the approved conditions, it should be allowed to continue regardless of ownership.

3.06 SITE PLAN REVIEW

(A) Purpose

The purpose of Site Plan Review is to provide an opportunity for staff level and board level review of proposed site plans prior to zoning certificate approvals. For the purposes of this resolution, site plan review shall be undertaken administratively with township staff, including the Zoning Inspector, and the chairperson of the Architectural Review Board without a full review of the Architectural Review Board unless the initial administrative review determines a failure to comply with the standards and guidelines of this resolution or if a variance application is required, in which case the full Architectural Review Board shall convene in accordance with this section.¹⁹

(B) Applicability

- (1) Unless specifically exempted in Section <>, no construction, exterior alteration, expansion of floor area, relocation, change in occupancy, or change in use shall be permitted without the review and approval of a site plan pursuant to this section.
- (2) A change in use shall be construed in accordance with the Ohio Basic Building Code where such changes in use would exceed 30 percent of the original use.
- (3) Site plan review shall also be required for the resumption of any use greater than 30 percent of total building square footage that has been vacant for more than six months, or for the expansion of any existing use. "Expansion" shall include a floor space increase of 25 percent or more within any 10-year period, or the introduction of new materials and/or processes not previously associated with the existing use when, in the opinion of the Zoning Inspector, the introduction of new materials and/or processes warrants the review of a revised site plan based upon the impact of said new materials and/or processes on the existing site and surrounding or adjacent properties.

(4) Exemptions

The following shall be exempted from site plan review:

- (a) The construction or enlargement of single-family dwellings, two-family dwellings, or any accessory buildings related to such dwellings;²⁰
- (b) The construction or alteration of any building used exclusively for agricultural uses as defined by the ORC;
- (c) Temporary uses as allowed in Section <>; and
- (d) Construction or alteration of buildings or structure that do not exceed 200 square feet of floor area after construction.

(C) Review Procedure

(1) Step 1 – Pre-application Conference (Optional)

- (a) An applicant may request to meet with the Zoning Inspector and/or Architectural Review Board to discuss the initial concepts of the site plan and general compliance with applicable provisions of this zoning resolution prior to the submission of the application.

¹⁹ This section attempts to clarify the current procedure outlined in the existing resolution and other township materials.

²⁰ We did not have to include home occupations as exempt as they will be a permitted accessory use to dwellings.

- (b) Discussions that occur during a pre-application conference or any preliminary meeting with the Zoning Inspector and/or Architectural Review Board, or any representative of the township, are not binding on the township and do not constitute official assurances or representations by Boardman Township or its officials regarding any aspects of the plan or application discussed.

(2) Step 2 – Application

The applicant shall submit an application for a site plan review and approval prior to submitting for a building permit from Mahoning County. The Zoning Inspector shall acknowledge receipt of these plans by endorsing them with his/her signature and the date of receipt.

(3) Step 3 – Administrative Review

- (a) After determining that the application is complete, the Zoning Inspector shall transmit copies of the proposed site plan to the Chairperson of the Architectural Review Board, Police Chief, Fire Chief, Road Superintendent, and Township Administrator for review and comment. The recipients of the plan have 10 working days to respond to the Zoning Inspector concerning the following:
 - (i) That the site plan should be approved based upon a determination that the proposed plan or project complies with the applicable standards set forth in this resolution;
 - (ii) That the site plan should be denied based upon a determination that the proposed site plan or project does not comply with the applicable standards set forth in this resolution;
 - (iii) That the site plan or project should be approved subject to any conditions, modifications, or restrictions as noted by the respective recipient of the plan, or conditions, modifications or restrictions as required by the Zoning Inspector and Administrator which will assure that the project meets the applicable standards set forth in this resolution; or
 - (iv) That the proposed site plan is subject to a variance application, or will require a variance approval, to comply with the applicable standards set forth in this resolution and should therefore be placed on the Architectural Review Board's next agenda for a full review and recommendation in accordance with Section <>, below.
- (b) The Zoning Inspector shall take all of the recommendations from the recipients and make a final decision to forward the application to the full Architectural Review Board or to approve, approve with conditions, or deny the application.²¹

(4) Step 4 – Review and Recommendations by the Full Architectural Review Board, If Applicable

- (a) If a variance application is required in association with a project that is subject to a site plan review, the application shall be forwarded to the full Architectural Review Board for their next regularly scheduled meeting or a special meeting.
- (b) The Architectural Review Board shall have the authority to:
 - (i) Review the proposed site plan and provide comment regarding the intent and application of the applicable standards of this resolution;

²¹ Ultimately, one person needs to make the decision of what to do with the comments.

- (ii) Make suggestions for improvements or modifications regarding compliance with the applicable standards of this resolution;
 - (iii) Make suggestions and written recommendations to applicants for eliminating the need for variances to this resolution;
 - (iv) Make written recommendations to applicants regarding the final acceptance of the proposed or revised site plans or projects which are presented to the BZA regarding the approval and/or denial of requests and/or applications for variances to this or any other article of this resolution.
- (c) The Chairperson of the Architectural Review Board shall report all findings, suggestions and/or written recommendations of the Architectural Review Board in writing to the Zoning Inspector and applicant. The Zoning Inspector shall provide a copy of such findings to the BZA prior to the BZA's review of the variance application.
- (d) If all necessary variance requests are approved, the applicant shall be required to revise any site plan documents to reflect the approved variances and related conditions and submit the revised plans for administrative review in accordance with Section <>, above.²²

(D) Review Criteria

All applications for a site plan review shall demonstrate conformity with the provisions of this zoning resolution.

(E) Effect of Decision or Recommendation

- (1) If the site plan review application is approved by the Zoning Inspector, such review shall be considered approval of both the site plan and related zoning certificates.²³
- (2) If the site plan review application is approved with conditions by the Zoning Inspector, the applicant shall be required to revise the site plan documents to reflect compliance with any conditions and submit the revised documents to the Zoning Inspector prior to issuance of the zoning certificates.
- (3) If the site plan review application is denied by the Zoning Inspector, the applicant shall have the opportunity to appeal the decision as established in Section <>, Appeals.

(F) Expiration

Approved site plan applications shall be subject to the same standards of expiration as zoning certificates in Section <>.

3.07 ZONING CERTIFICATE

(A) Applicability

- (1) A zoning certificate shall be required for any of the following:
 - (a) New construction or structural alteration (excluding interior-only alterations) of any building or structure, including, but not limited to, accessory structures, signs, fences, walls, or other structures, unless otherwise exempted in this resolution;
 - (b) Establishment of a temporary use or structure that requires a certificate in Section [6.02: Temporary Uses and Structures](#);

²² This will allow the administrative review to lead to a decision after the variance decisions are made.

²³ QUESTION – Is this correct or do they also have to go through the zoning certificate application process?

- (c) Occupancy and use of vacant land, excluding any exempted lands or uses in Section <>;
 - (d) Any change in use in an existing building (not applicable to a change in tenancy when the use remains the same); or
 - (e) Any change in the use of a nonconforming use.
- (2) The Zoning Inspector shall have the authority to develop separate application forms and permits for special purposes that are reviewed in the same manner as the zoning certificate. These special permits may include, but are not limited to, occupancy permits,²⁴ sign permits, temporary use permits, fence permits, etc. For the purposes of this resolution, such permits shall be considered a zoning certificate.
- (3) Where a site plan review is required in Section <>, such site plan review approvals shall be considered an approval of the applicable zoning certificates under this section.

(B) Review Procedure

(1) Step 1 – Application

The applicant shall submit an application for a zoning certificate for review and approval prior to submitting for a building permit from Mahoning County.

(2) Step 2 – Review by the Zoning Inspector

The Zoning Inspector shall review the application for conformance with the provisions of this zoning resolution.

(3) Step 3 – Decision

- (a) Within 10 business days after an application (Step 1) is determined to be complete, the Zoning Inspector shall either approve and issue the zoning certificate or deny the application and state in writing the reasons for the action taken. Such statement of denial shall include, but not be limited to, a list of regulations that would be violated by the proposed use, and shall transmit one copy thereof to the applicant along with one copy of the plot plan, signed, dated, and noted as denied.
- (b) Prior to a denial, the Zoning Inspector may provide comments to the applicant on the reasons for the potential denial and may provide the applicant with up to 30 days to revise the submitted plans to demonstrate compliance with the standards of this resolution.
- (c) In conducting the review of the application, the Zoning Inspector may consult with any department, agency, public body, official, company, or individual necessary to determine whether the application complies with the regulations of this resolution.
- (d) Upon approval, the Zoning Inspector shall give to the applicant one signed copy of the zoning certificate and maintain the second copy of the permit for township records.

(C) Review Criteria

All applications for a zoning certificate shall demonstrate conformity with the provisions of this zoning resolution.

²⁴ This is an example of a separate permit that is reviewed essentially in the same manner as other zoning certificates.

(D) Expiration

- (1) Zoning certificates shall expire within one year of the date of issuance of a zoning certificate and within this period of time, construction shall have been completed on all exterior walls, roofs, doors, and windows of all buildings. The Zoning Inspector may authorize an extension of up to six months if just cause is shown.
- (2) Once construction has begun, all construction must be completed within two years. For large projects, the applicant may submit a phased construction schedule for approval by the Zoning Inspector if just cause can be shown for an extended construction schedule.
- (3) Upon expiration of a zoning certificate, a new zoning certificate application, including all applicable fees, shall be required before construction can recommence.

(E) Revocation of a Zoning Certificate

- (1) The Zoning Inspector shall hereby have the authority to revoke an approved zoning certificate if the information submitted as part of the application is found to be erroneous or fraudulent after the certificate has been issued.
- (2) The Zoning Inspector may also revoke a zoning certificate if the applicant has not conformed with all applicable federal, state, county, and township regulations, resolutions, and rules including, but not limited to, the Mahoning County Planning Commission, Mahoning County Public Health, Mahoning County Engineer, the Mahoning Soil and Water Conservation District, and the applicable water and sewer districts/agencies.

3.08 APPEALS

(A) Appeal Applicability

An appeal to the BZA may be taken by the applicant or any person affected or aggrieved by a decision of the Zoning Inspector or administrative official in the enforcement of this zoning resolution. Such appeal shall be taken within 20 days after receipt of notification of the decision, by filing with the Zoning Inspector and with the BZA, a notice of appeal specifying the grounds thereof including applicable sections of the Boardman Township Zoning Resolution.

(B) Stay

An appeal to the BZA shall stay all proceedings in furtherance of the appealed action, unless the Zoning Inspector certifies to the BZA, that by reason of the facts stated in the appeal, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed other than by an injunction granted by the Court of Common Pleas.

(C) Review Procedure

The review procedure for an appeal shall be as follows:

(1) Step 1 – Filing of Appeal

- (a) Upon the filing of an appeal, the Zoning Inspector shall transmit to the BZA all the documents and other evidence constituting the record.
- (b) The filing of an appeal shall stay all proceedings unless the Zoning Inspector or any affected person certifies to the BZA that, by reason of facts pertaining to the matter in question, a stay, in their opinion, would cause imminent peril to life or property. When such certification is made, proceedings shall not be stayed except by order granted by the BZA.

- (c) All appeals shall be submitted with the required fees, if applicable, as established in the Boardman Township fee schedule.

(2) Step 2 – Public Hearing with the Board of Zoning Appeals

- (a) Upon the filing of an appeal (Step 1), the BZA shall fix a reasonable time for the public hearing on the appeal, give notice in writing at least ten days prior to the hearing to the parties of interest, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the county at least ten days before the date of such hearing.
- (b) Written notice of the public hearing shall be mailed to any party of interest including each owner of property, as shown on the county auditor's current tax list, whose land is contiguous to or directly across a street or roadway from the property that is the subject of the application. Such notice shall be given a minimum of 10 days prior to the date of the public hearing.
- (c) The township shall also give notice of such public hearing by publishing a legal notice in one or more newspapers of general circulation in the county at least 10 days before the date of such hearing.
- (d) Upon the day for hearing any appeal, the BZA may adjourn the hearing in order to obtain additional information or to cause further notice, as it deems proper, to facilitate the discussion and decision on said appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.
- (e) At the hearing, any person may appear in-person or by an attorney.

(3) Step 3 – Decision

- (a) Within 30 days after the hearing concludes (Step 2), the BZA shall decide on the appeal.
- (b) A decision of the BZA shall not become final until the expiration of 30 days²⁵ from the date of such decision unless the BZA shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.
- (c) A certified copy of the BZA's decision shall be transmitted to the applicant or appellant at the applicant's address as shown on the records of the BZA and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him and he shall incorporate the terms and conditions of the decision in the permit to the appellant, whenever the BZA authorizes a zoning certificate.
- (d) The BZA may, in conformity with the provisions of this section, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as necessary; and to that end, shall have all powers of the Zoning Inspector from whom the appeal is taken.
- (e) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.
- (f) Any party adversely affected by a decision of the BZA may appeal the decision to the Mahoning County Court of Common Pleas.

²⁵ This is the time limit for appealing to the Court of Common Pleas.

(D) Appeal Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified by the BZA unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation:

- (1)** Was arbitrary or capricious;
- (2)** Was based on an erroneous finding of a material fact;
- (3)** Was based on erroneous interpretation of this Resolution or zoning law; or
- (4)** Constituted an abuse of discretion.

(E) Record of Decision and Order

- (1)** The BZA shall prepare and retain a record of each appeal, and shall base its decision on this record. This record shall include:
 - (a)** The relevant administrative records and the administrative orders issued thereon relating to the appeal;
 - (b)** The notice of the appeal; and
 - (c)** Such documents, exhibits, plans, photographs, or written reports as may be submitted to the Board for its consideration.
- (2)** The written findings of fact, the decisions, and the conditions imposed by the Board in acting on the appeal shall be entered into the official record, after being signed by the Chairperson of the Board.

Article 4: Zoning Districts and Principal Use Regulations

4.01 ESTABLISHMENT OF ZONING DISTRICTS

The zoning districts listed in [Table 4.01-1](#) are hereby established for the unincorporated territory of Boardman Township, Mahoning County, Ohio.

TABLE 4.01-1: ZONING DISTRICTS	
DISTRICT DESIGNATION	DISTRICT NAME
RESIDENTIAL DISTRICTS	
R-1A	Single-Family Residential District (12,000)
R-1B	Single-Family Residential District (7,500)
R-1C	Single-Family Residential District (5,000)
R-2	Attached Residential District
R-3	Multi-Family Residential District
NONRESIDENTIAL DISTRICTS	
GB	General Business District
RB	Regional Business District
NMB	North Market Business District
I	Industrial District
SPECIAL DISTRICTS	
AG	Agricultural District
PUD	Planned Unit Development District
P-I	Public and Institutional District ²⁶

4.02 ZONING MAP

- (A) The boundaries of the established zoning districts are indicated upon the "Zoning Map of Boardman Township", also known as the "zoning map."
- (B) This zoning map is hereby made a part of this resolution.
- (C) The zoning map and all the quotations, references, and other matters shown thereon, shall be as much a part of this resolution as if the notations, references and other matters set forth by said zoning map were all fully described herein.
- (D) The zoning map is properly attested and is on file in the Boardman Township offices.
- (E) Nothing in this article shall be construed to require the actual location of any zoning district on the zoning map, as it is the intent of this zoning resolution to provide the flexibility in its administration to allow for future expansion and amendments.

²⁶ The purpose of this district is to be able to identify the large areas of public parks and government properties in Boardman Township instead of them being zoned for residential or commercial purposes.

4.03 INTERPRETATION OF DISTRICT BOUNDARIES²⁷

- (A) Where uncertainty exists with respect to the boundaries of any of the aforementioned districts, as shown on the zoning map, the following rules shall apply:
- (1) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
 - (2) Where district boundaries are indicated as approximately following the centerline or right-of-way line of streets or highways or the centerline of alleys, such lines shall be construed to be such district boundaries.
 - (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or right-of-way lines of streets or highways or the centerlines of alleys, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimensions shall be determined by the use of the scale shown on said zoning map.
 - (4) Where a district boundary line is shown as adjoining a railroad, it shall, unless otherwise fixed, be construed to coincide with the nearest boundary line of the railroad right-of-way.
 - (5) Where a district boundary line is indicated as approximately following the centerline of a river, stream, or creek or other waterway, such centerline shall be construed to be such district line.
- (B) All disputes concerning the exact location of zoning district boundaries shall be resolved by the BZA at a public hearing.

4.04 VACATION OF PUBLIC WAYS (NEW)

Whenever any street or public way is vacated in the manner authorized by law, the Board of Trustees or Zoning Commission shall initiate a zoning map amendment (See Section [3.04: Zoning Text or Map Amendment](#).) to establish a zoning district(s) for the vacated public way.

4.05 REFERENCES TO PREVIOUS ZONING DISTRICTS (NEW)

The district classification and names established within this resolution differs, in part, from previous versions of this resolution. In instances where there may be references to the previous zoning district nomenclature, [Table 4.05-1](#) identifies how each of the previous district classifications were renamed for this resolution. This section shall be used for comparison purposes only.

²⁷ The current resolution has some basic language about district boundary interpretation in Article II but it is very confusing and does not seem to apply to any situations that exist on the map. Instead, we have proposed some alternative language that is far more common for other communities.

TABLE 4.05-1: DISTRICT TRANSITION TABLE	
DISTRICT NAME AND DESIGNATION PRIOR TO <>	DISTRICT NAME AND DESIGNATION IN THIS RESOLUTION AS OF <>
RESIDENTIAL DISTRICTS	
R-1: Single-Family Residential District and R-2: Single-Family Residential District	R-1A: Single-Family Residential District (12,000)
	R-1B: Single-Family Residential District (7,500)
	R-1C: Single-Family Residential District (5,000)
R-1A: Duplex District	R-2: Attached Residential District
R-3: Single-Family Residential District	R-3: Multi-Family Residential District
NONRESIDENTIAL DISTRICTS	
B: Business District and C: Commercial District	GB: General Business District
	RB: Regional Business District
C: Commercial District	NMB: North Market Business District
I: Industrial District	I: Industrial District
SPECIAL DISTRICTS	
AG: Agricultural District	AG: Agricultural District
District did not exist	PUD: Planned Unit Development District
District did not exist	Public and Institutional District

4.06 DISTRICT PURPOSE STATEMENTS (NEW)

The following are specific purpose statements for each of the zoning districts. Purpose statements and district specific standards for planned unit developments are established in [Article 5: Planned Unit Development \(PUD\) District](#).

(A) Single-Family Residential District (12,000) (R-1A)

The purpose of the "R-1A" Single-Family Residential District (12,000) is to provide for reasonable development of primarily single-family detached uses at a density that reflects development policies and patterns in Boardman Township where such areas are served by appropriate water and sewer services.

(B) Single-Family Residential District (7,500) (R-1B)

(1) Purpose

The purpose of the "R-1B" Single-Family Residential District (7,500) is to provide for, and protect, moderate to high density single-family detached subdivisions that exist in Boardman Township and were developed based on the growth patterns of nearby communities.

(2) Discontinued District

- (a) The R-1B District is a discontinued district that is maintained in this resolution to address a large number of lots that were previously considered nonconforming due to the lot size and site development standards.
- (b) Applications for amendments to the zoning map to create additional R-1B Districts shall be prohibited after the effective date of this resolution, or amendment thereto.

(C) Single-Family Residential District (5,000) (R-1C)

(1) Purpose

The purpose of the "R-1C" Single-Family Residential District (5,000) is to provide for, and protect, the highest density, single-family detached subdivisions that exist in Boardman Township and were developed based on the growth patterns of nearby communities.

(2) Discontinued District

- (a)** The R-1C District is a discontinued district that is maintained in this resolution to address a large number of lots that were previously considered nonconforming due to the lot size and site development standards.
- (b)** Applications for amendments to the zoning map to create additional R-1C Districts shall be prohibited after the effective date of this resolution, or amendment thereto.

(D) Attached Residential District (R-2)

The purpose of the "R-2" Attached Residential District is to provide for low to moderate intensity attached housing options in Boardman Township that could include up to six units per structure. Additionally, this district is intended to provide for areas within the township that will allow for housing options beyond single-family detached dwellings but that can be designed to serve as an appropriate land use transition between the R-1A, R-1B, and R-1C Districts and the nonresidential districts.

(E) Multi-Family Residential District (R-3)

The purpose of the "R-3" Multi-Family Residential District is to provide for areas in Boardman Township that can accommodate the highest densities of housing allowed in the community with quality design that will serve to meet a broader range of housing options than single-family detached dwellings. Furthermore, this district is intended to also provide for a land use transition between the R-1A, R-1B, and R-1C Districts and the nonresidential districts.

(F) General Business District (GB)

The purpose of the "GB" General Business District is to establish an area of the township for smaller scale retail, office, and services uses that are traditionally located on smaller lots and have more direct access to both arterial roads as well as adjacent neighborhoods with safe access management design and sidewalk connections to provide for local and regional citizens.

(G) Regional Business District (RB)

The purpose of the "RB" Regional Business District is to provide areas for the orderly development of an area that is primarily used for commercial and office uses, particularly larger scale uses that rely heavily on vehicular traffic. Furthermore, these districts incorporate uses that serve both the Boardman Township community as well as the broader region due to the direct access to the highway system.

(H) North Market Business District (NMB)

The purpose of the "NMB" North Market Business District is to establish a district for a unique business area within Boardman Township that has a unique character based on the areas building and site design that stems from the township's historic growth out from Youngstown as well as the areas close proximity to historic residential neighborhoods. Furthermore, the North Market Street corridor is an area that the township has identified as an area that would benefit from additional planning efforts related to buildings and uses on private property as well as the streetscape of the roadway.

(I) Industrial District (I)

The purpose of the "I" Industrial District is to allow for the development of industrial uses that have a minimum impact upon the surrounding environment. This district is primarily designed to accommodate the retention and expansion of existing industrial, office, research and development, and other non-retail types of uses which can be operated in a clean and quiet manner, subject to regulations and performance standards necessary to prohibit congestion and for the protection of adjacent residential and business activities.

(J) Agricultural District (AG)

The purpose of the "AG" Agricultural District is to protect land best suited for agricultural uses from the encroachment of other land uses and to preserve valuable agricultural land for agricultural uses and related activities. The purpose of the AG District is to recognize the long-range physical, social and economic needs of the agricultural community within Boardman Township.

(K) Public and Institutional District (P-1)

The purpose of the P-I District is to establish and protect sites for various governmental, institutional, educational, or other public or quasi-public uses that are integral parts of the community while also ensuring compatibility with the surrounding neighborhoods.

4.07 PERMITTED USES

(A) General Use Regulations**(1) Number of Principal Buildings and Uses (New)**

- (a)** Unless otherwise specifically stated, only one principal building or use shall be permitted on any lot in a residential zoning district.
- (b)** Wherever an agricultural use is exempt from these regulations or permitted in accordance with this resolution, a single-family dwelling may be located on the same lot.
- (c)** Multiple principal buildings may be permitted in the nonresidential zoning districts²⁸ if the lot is sufficient in size to conform to all the use, area, height, parking, and other requirements of this resolution.
- (d)** Multiple principal uses may be permitted within a single principal building within the nonresidential zoning districts.
- (e)** Multiple principal uses may be permitted in a planned unit development district if approved in accordance with [Article 5: Planned Unit Development](#) (PUD) District.

²⁸ The new public and institutional district has been classified as a nonresidential zoning district in the definitions article.

(2) Enclosed Building

- (a) Unless otherwise stated in the name of the use (e.g., outdoors), in the definition of the use type, or within the use-specific standards, all principal uses shall be required to take place in a fully enclosed building.
- (b) Wireless telecommunication facilities, gas wells, and oil wells are exempt from this requirement.

(3) Prohibited Activities

- (a) No activities shall be permitted or authorized to be established which, when conducted in compliance with the provisions of this resolution, are or may become hazardous, noxious, or offensive due to the emission of odor, light, dust, smoke, cinders, gas, fumes, noise, vibrations, electrical interference, refuse matters, or water-carried wastes.
- (b) Any action to abate a nuisance shall be administered by the Board of Trustees or Zoning Inspector in accordance with applicable laws.

(B) Permitted Use Table Summary

[Table 4.07-1](#) sets forth the uses allowed within all zoning districts except planned unit development districts (See [Article 5: Planned Unit Development \(PUD\) District.](#)). The following is a summary of abbreviations and information identified in [Table 4.07-1](#).

(1) Permitted Uses

- (a) A "P" in a cell indicates that a use is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this resolution.
- (b) Permitted uses are approved administratively by the Zoning Inspector through the zoning certificate procedure. Site plan review may be required prior to the approval of a zoning certificate in accordance with Section <>.

(2) Permitted Uses with Standards

- (a) A "PS" in a cell indicates that a use category is allowed by-right in the respective zoning district if it meets the additional standards set forth in the last column of [Table 4.07-1](#). Permitted uses with standards are subject to all other applicable regulations of this resolution.
- (b) Uses permitted with standards under this category are approved administratively by the Zoning Inspector through the zoning certificate procedure. Site plan review may be required prior to the approval of a zoning certificate in accordance with Section <>.

(3) Conditional Uses

- (a) A "C" in a cell indicates that a use may be permitted if approved through the conditional use review (See Section <>.). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 4.07-1](#).
- (b) Conditional uses are subject to all other applicable regulations of this resolution.
- (c) The existence of additional use-specific standards in this resolution shall not be implied to be the only standards the use is required to meet. Any use that is permitted as a conditional use shall be subject to the general review criteria for conditional uses in Section [3.05\(D\): Conditional Use Review Criteria](#).

- (d) Site plan review may be required after a conditional use is approved, prior to the approval of a zoning certificate, in accordance with Section <>.

(4) Prohibited Uses

A blank and/or shaded cell indicates that a use is prohibited in the respective zoning district.

(5) Numerical References

The numbers contained in the "Use-Specific Standards" column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the "Use-Specific Standards" column apply in all zoning districts unless otherwise expressly stated.

(6) Unlisted Uses

If an application is submitted for a use that the Zoning Inspector determines is not defined or established in Table 4.07-1, the use shall be considered prohibited and the Zoning Inspector shall deny any application for such use. The applicant may choose to take one of the following actions:²⁹

- (a) The applicant may appeal the determination of the Zoning Inspector to the BZA pursuant to Section 3.08: Appeals;
- (b) The applicant may submit an application for a zoning text amendment to include the proposed use and applicable standards pursuant to Section 3.04: Zoning Text or Map Amendment; or
- (c) The applicant may present their case to the Zoning Commission and/or Board of Trustees to request that the township initiate a text amendment to address the proposed use and applicable standards.

(C) Permitted Use Table

TABLE 4.07-1: PERMITTED USE TABLE										
PERMITTED USE TYPES P = Permitted Use PS = Permitted with Standards C = Conditional Use Blank Cell = Prohibited	R-1A, R-1B, & R1-C	R-2	R-3	GB	RB	NMB	I	AG	P-I	USE-SPECIFIC STANDARDS SEE SECTION:
AGRICULTURAL USE CLASSIFICATION										
Agricultural Uses on Lots of Greater than Five Acres	Exempt pursuant to Section 3.02(A).									
Agricultural Uses on Lots of Five Acres or Less ³⁰	PS	PS	PS	PS	PS	PS	PS	PS		4.08(A)(1)
Nurseries or Greenhouses				P	P		P			
RESIDENTIAL USE CLASSIFICATION										
Bed and Breakfast Establishments	C							C		4.08(B)(1)
Dwellings, Single-Family	P	P	P							

²⁹ This language prevents us from having to list uses the township wants to specifically prohibit such as the currently listed "boarding houses" and "house trailers" that are in the existing use table but are not allowed in any district.

³⁰ The language contained in the township's current resolution regarding lots that are less than five acres in the AG District does not appear to comply with state law. We have proposed an alternative.

Article 4: Zoning Districts and Principal Use Regulations

4.07: Permitted Uses

TABLE 4.07-1: PERMITTED USE TABLE

PERMITTED USE TYPES P = Permitted Use PS = Permitted with Standards C = Conditional Use Blank Cell = Prohibited	R-1A, R-1B, & R1-C	R-2	R-3	GB	RB	NMB	I	AG	P-I	USE-SPECIFIC STANDARDS SEE SECTION:
Dwellings, Multi-Family (6 or less units)		PS	PS ³¹							
Dwellings, Multi-Family (More than 6 units)			PS							
ORC Section 5119.34(B)(1)(b) Residential Facility ³²	PS	PS or C	PS or C							4.08(B)(2)
ORC Section 5123.19(A)(5) Residential Facility	PS	PS or C	PS or C							4.08(B)(3)
Permanently Sited Manufactured Housing	PS	PS	PS							4.08(B)(4)
Skilled Nursing or Personal Care Facilities	C	C	C	C	C	C	³³	C	PS	4.08(B)(5)
PUBLIC AND INSTITUTIONAL USE CLASSIFICATION³⁴										
Active Parks and Recreation	C	C	C	C	C	C	C	C	PS	4.08(C)(1)
Cemeteries	C	C	C	C	C	C	C	C	PS	4.08(C)(2)
Churches and Places of Worship	C	C	C	PS	PS	PS	PS	C	PS	4.08(C)(3)
Community Centers	C	C	C							
Cultural Institutions	C	C	C	PS	PS	PS	PS	C	PS	
Educational Facilities (Primary and Secondary)	PS	PS	PS	PS	PS	PS	PS	PS	PS	
Educational Facilities, Higher	C	C	C	P	P	P	P	C	PS	
Government Offices and Buildings ³⁵	C	C	C	P	P	P	P	C	PS	
Hospitals				PS	PS		PS		PS	4.08(C)(4)
Passive Parks, Recreation, and Open Space	P	P	P	P	P	P	P	P	PS	
Quasi-Public, Fraternal, or Service Facilities				C	C	C	C		PS	4.08(C)(3)
COMMERCIAL AND OFFICE USE CLASSIFICATION										
Adult Entertainment Establishments ³⁶					C		C			4.08(D)(1)
Assembly Halls and Conference Centers				P	P	C	C		C	
Automotive Repair (Heavy)					C		PS			4.08(D)(2)

³¹ This use is currently allowed in the R-2 (small lot) single-family residential district but we have revised this to push the attached housing to the areas where they are currently located. This may require adjustments to the zoning map. Furthermore, we will include architectural standards for new multi-family uses.

³² The two uses with references to the ORC replace the current use called “state-licensed residential facilities not listed in this table.”

³³ The current resolution allows for a number of residential types, such as nursing homes, in industrial areas. We have eliminated this to protect the industrial areas of the township.

³⁴ We have eliminated the aircraft landing field and heliport from the permitted use. Helipads will be allowed for hospitals.

³⁵ The township currently allows for post offices, police and fire stations, etc., as permitted in all residential districts but we have suggested they should be conditional to provide for some level of consideration of design in a residential setting.

³⁶ Changed the term to “adult uses” to reflect the term used in the ORC.

Article 4: Zoning Districts and Principal Use Regulations

4.07: Permitted Uses

TABLE 4.07-1: PERMITTED USE TABLE										
PERMITTED USE TYPES P = Permitted Use PS = Permitted with Standards C = Conditional Use Blank Cell = Prohibited	R-1A, R-1B, & R1-C	R-2	R-3	GB	RB	NMB	I	AG	P-I	USE-SPECIFIC STANDARDS SEE SECTION:
Automotive Service Uses (Minor Repair)				PS	PS		PS			4.08(D)(3)
Banks and Financial Institutions				P	P	P				
Restaurants and Taverns				P	P	P				
Commercial Entertainment or Recreation (Indoors)				P	P	C	P			
Commercial Entertainment or Recreation (Outdoors)				C	C	C	C			4.08(D)(4)
Day Care Centers (Adult or Child)				PS	PS	PS				4.08(D)(5)
Funeral Homes or Mortuaries				PS	PS	PS	PS			4.08(D)(6)
Fuel Stations				PS	PS	C				4.08(D)(3)
General Offices (Administrative, Professional, Business)				P	P	P	P			
Hotels and Motels				P ³⁷	P					
Kennels (Commercial) and Animal Day Cares				PS	PS	C	PS			4.08(D)(7)
Medical/Dental Clinics or Offices				PS	PS	PS				4.08(D)(8)
Microbrewery, Microdistillery, or Microwinery				PS	PS	PS	PS			4.08(D)(9)
Parking Lots or Garages				C	C	C	C			4.08(D)(10)
Personal Service Establishments				P	P	P	PS			4.08(D)(11)
Retail and Service Commercial Uses				P	P	P	PS			4.08(D)(11)
Theaters				C	P	C				
Vehicle Sales and Leasing				C	C		C			4.08(D)(12)
Vehicle Washing Establishments				C	C					
Veterinarian Offices, Animal Hospitals, or Animal Grooming (No Boarding)				PS	PS	PS				4.08(D)(13)
INDUSTRIAL USE CLASSIFICATION										
Industrial Service Uses							PS			4.08(E)(1)
Industrial Uses, Heavy							C			
Industrial Uses, Light							PS			4.08(E)(1)
Research and Development Facilities							PS			4.08(E)(2)
Self-Storage Facilities (Indoors)				PS	PS		PS			4.08(E)(3)
Self-Storage Facilities (Outdoors)							PS			4.08(E)(3)
Warehouses							P			
Wholesale Businesses							P			
MISCELLANEOUS USE CLASSIFICATION										
Essential Services	Exempt pursuant to Section 3.02.									

³⁷ Hotels and motels are currently conditional in these zoning districts, which is unusual especially since there are several hotels in these districts already.

TABLE 4.07-1: PERMITTED USE TABLE

PERMITTED USE TYPES P = Permitted Use PS = Permitted with Standards C = Conditional Use Blank Cell = Prohibited	R-1A, R-1B, & R1-C	R-2	R-3	GB	RB	NMB	I	AG	P-I	USE-SPECIFIC STANDARDS SEE SECTION:
Gas and Oil Wells	PS	PS	PS	PS	PS	PS	PS			4.08(F)(1)
Mixed-Use Buildings				PS	PS	PS				4.08(F)(2)
Multi-Tenant Developments				P	P	P	P			
Wireless Telecommunication Facilities ³⁸	C	C	C	P	P	P	P	C	P	4.08(F)(3)

4.08 USE-SPECIFIC STANDARDS

(A) Agricultural Use Classification

(1) Agricultural Uses on Lots of Five Acres or Less³⁹

The following standards shall apply to all agricultural uses that are not otherwise exempted from zoning pursuant to [3.02\(A\): Agricultural Use Exemption](#):

- The raising of crops and trees is permitted on any lot by-right and shall not require a zoning certificate.
- All buildings and structures, except fencing, associated with the raising or keeping of livestock on lots that are larger than one acre in area but smaller than five acres, shall be set back a minimum of 100 feet from all lot lines.
- The maximum height of structures shall be the same as the maximum height in the applicable district.
- The raising of livestock on lots less than one acre in area shall be prohibited except for the raising of small livestock as an accessory use. See Section [6.01: Accessory Use Regulations](#).
- The use shall be exempt from the requirement that all activities must be located within an enclosed building.

(B) Residential Use Classification

(1) Bed and Breakfast Establishments⁴⁰

The following standards shall apply to any bed and breakfast establishment:

- Bed and breakfast establishments shall only be permitted within a single-family, detached dwelling.
- The owner of the premises shall reside full-time in the dwelling, or in a dwelling on an adjoining lot.
- No more than five bedrooms in any dwelling may be used for bed and breakfast lodging and at least one bathroom shall be dedicated to guest use.

³⁸ We have greatly expanded on this use based on the ORC.

³⁹ This provides the township with some basic language for regulating livestock as agriculture when under the five-acre exemption.

⁴⁰ These are some common bed and breakfast standards that many communities utilize.

- (d) One off-street parking space shall be provided for each bedroom used for guest lodging in addition to those normally required for the single-family dwelling.
- (e) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the bed and breakfast establishment that will indicate from the exterior that the building is being utilized in part for any purpose other than a dwelling unit.
- (f) Meals provided for cost in a bed and breakfast establishment shall only be served to the guests who are lodging at the bed and breakfast establishment.
- (g) Guests shall be permitted to reside at the facility for not longer than three continuous weeks.

(2) ORC Section 5119.34(B)(1)(b) Residential Facility

- (a) Under ORC § 5119.341(A), any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division of Section 5119.34(B)(1)(b) of the Revised Code as a permitted use in any residential zoning district, specifically the R-1A, R-1B, R-1C, R-2, and R-3 zoning districts. Such facilities must comply with the area, height, yard, and architectural compatibility requirements that apply to all single-family residences within these districts. Such uses shall be permitted with standards as described in Section [4.07\(B\)\(2\): Permitted Uses with Standards](#).
- (b) Under ORC § 5119.341(B), any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in Section 5119.34(B)(1)(b) of the Revised Code as a permitted use in any multi-family residential zoning districts, specifically the R-2 and R-3 zoning districts. Such facilities must comply with the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood applicable in these districts, and must comply with yard, parking, and sign regulations in these districts. Such uses shall be considered as a conditional use as described in Section [4.07\(B\)\(3\): Conditional Uses](#).
- (c) In order to prevent the excessive concentration of such facilities, no such facility shall be located within 1,500 feet of any other Section 5119.34(B)(1)(b) Residential Facility that existed on or before the effective date of this resolution.
- (d) No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify the facility as anything other than a residence.

(3) ORC Section 5123.19(A)(5) Residential Facility

- (a)** Under ORC § 5123.19(M), any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district, specifically the R-1A, R-1B, R-1C, R-2, and R-3 zoning districts. Such facilities must comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within these districts. Such uses shall be permitted with standards as described in Section [4.07\(B\)\(2\): Permitted Uses with Standards](#).
- (b)** Under ORC § 5123.19(N), any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential districts, specifically the R-2 and R-3 zoning districts. Under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to: The architectural design and site layout of these facilities, as well as their location, nature, and height of any walls, screens, and fences shall be compatible with adjoining land uses and the residential character of the neighborhood, as determined by < >. Such facilities shall comply with the yard, parking, and sign regulation in these districts. Such uses shall be considered as a conditional use as described in Section [4.07\(B\)\(3\): Conditional Uses](#).
- (c)** In order to prevent the excessive concentration of such facilities, no such facility shall be located within 1,500 feet of any other Section 5123.19(A)(5) Residential Facility that existed on or before the effective date of this resolution.
- (d)** No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify the facility as anything other than a residence.

(4) Permanently Sited Manufactured Housing

The following standards shall apply to any permanently sited manufactured housing:

- (a)** The housing shall meet the definition of a permanently sited manufactured home as established in the ORC.
- (b)** The housing shall comply with all zoning requirements of a single-family dwelling in the applicable zoning district.
- (c)** Travel trailers, park trailers, and mobile homes, as defined in Section 4501.01 of the ORC, do not qualify as a permanently sited manufactured home and shall be prohibited.

(5) Skilled Nursing or Personal Care Facilities

The following standards shall apply to any skilled nursing or personal care facilities:

- (a)** The principal building shall be set back a minimum of 100 feet from any adjacent residential zoning district or the lot line of an adjacent lot used for residential purposes.
- (b)** All other site development standards of the applicable zoning district shall apply to the site.

- (c)** The maximum density of these facilities varies based on the specific type of facility as established below:
 - (i)** If the proposed facility includes an independent living component (no skilled or personal care services provided), the independent living component shall be limited to the uses and maximum density permitted by the applicable zoning district.
 - (ii)** In a nonresidential zoning district, that maximum density shall be 14 dwelling units per acre⁴¹. Additionally, the independent living component shall not comprise more than 50 percent of the dwelling units or rooms in the proposed development within any nonresidential zoning district.
 - (iii)** The maximum density of congregate housing or assisted living facilities shall be 10 units per acre in the R-5 and R-6 Districts and 20 units per acre in the B-1 and B-2 Districts, regardless if the unit is a complete dwelling unit with separate kitchen facilities.
 - (iv)** All other facilities shall comply with the maximum height and setback requirements of the applicable zoning district and any conditions or requirements set forth as part of the conditional use approval.
 - (v)** The Zoning Commission may set maximum density or intensity requirements as part of the special use approval based on the density or character of surrounding uses.
- (d)** The proposed use shall not have a primary access from a local residential street.

(C) Public and Institutional Use Classification

(1) Active Parks and Recreation

The following standards shall apply to any active parks and recreational activities:

- (a)** Due to the variety of activities that may take place with these uses, the Zoning Commission may consider the intensity of the activity and impact on adjacent properties when establishing minimum setbacks. Activities that may generate excessive noise or light should be set back a minimum of 100 feet from all lot lines of an adjacent residential use.
- (b)** Only retail uses that are customarily accessory or incidental to the main recreational use shall be permitted and shall include such uses as refreshment stands, souvenir stands, and concession stands.
- (c)** The use shall be exempt from the requirement that all activities must be located within an enclosed building.

(2) Cemeteries

The following standards shall apply to any cemetery:

- (a)** The minimum lot area shall be 20 acres.
- (b)** The minimum lot width shall be 300 feet.
- (c)** All chapels, mausoleums, accessory buildings, or other buildings shall be set back a minimum of 100 feet from all street rights-of-way and all lot lines in a residential zoning district.

⁴¹ This is the maximum density of your current multi-family residential district.

- (d) Gravestones or grave markers shall meet all setbacks of the applicable zoning district.
- (e) Except for office uses incidental to cemetery operation, no business or commercial uses of any kind shall be permitted on the cemetery site.
- (f) Interior drives, having a minimum width of 20 feet, shall be identified in all submitted plans.
- (g) Sufficient pull-off areas for vehicles shall be provided throughout the cemetery so as not to hinder traffic flow.
- (h) All maintenance equipment and materials shall be stored in a completely enclosed building.
- (i) Crematoriums may be allowed within the cemetery but shall be set back a minimum of 250 feet from all lot lines in a residential zoning district.
- (j) The use shall be exempt from the requirement that all activities must be located within an enclosed building.

(3) Churches and Places of Worship, Community Centers, Cultural Institutions, Educational Facilities (Primary and Secondary), and Quasi-Public, Fraternal, or Service Facilities

The following standards shall apply to any church, place of worship, community center, cultural institution, educational facility (primary and secondary), or quasi-public, fraternal, or service facility:

- (a) All buildings shall be set back a minimum of 75 feet from all lot lines.
- (b) All parking areas shall be set back a minimum of 25 feet from all lot lines.
- (c) The proposed use shall not have a primary access from a local residential street.

(4) Hospitals

The following standards shall apply to any hospital:

- (a) All buildings shall be set back a minimum of 100 feet from all lot lines.
- (b) The proposed use shall not have a primary access from a local residential street.
- (c) Helipads are permitted but shall be set back a minimum of 250 feet from any residential lot line.

(D) Commercial and Office Use Classification

(1) Adult Entertainment Establishments⁴²

(a) Establishment

- (i) Whereas, the Boardman Township Trustees find that there is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

⁴² These standards are pulled from the township's existing zoning resolution.

- (ii) Whereas, it is recognized that adult entertainment establishments, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and
- (iii) Whereas, the Boardman Township Trustees desire to minimize and control these adverse effects and thereby protect the health, safety, and morals of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and
- (iv) Whereas, the Board of Township Trustees has determined that location criteria alone do not adequately protect the health, safety and morals of the people of this township; and
- (v) Whereas, it is not the intent of this amendment to suppress any speech activities protected by the First Amendment, but to enact a content neutral amendment which addresses the secondary effects of adult entertainment establishments; and
- (vi) Whereas, it is not the intent of the Boardman Township Trustees to condone or legitimize the distribution of obscene material, and the Trustees recognize that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the township.

Be it enacted by the Board Township Trustees the following regulations for adult uses.

(b) Purpose and Findings

- (i) It is the purpose of this amendment to regulate adult entertainment establishments in order to promote the health, safety, morals, and morals of the citizens of the township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment establishments within the township. The provisions of this amendment do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Further, it is not the intent of this amendment to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is the intent nor effect of this amendment to condone or legitimize the distribution of obscene material.

- (ii) The Boardman Township Trustees have received substantial evidence concerning the adverse secondary effects of adult uses of the community in finding incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986) and *Young v. American Mini Theatres*, 426 U.S. 50 (1976); in evidence concerning I the adverse secondary effects of Sexually Oriented Businesses on the community presented in hearings before the Township Trustees; and on studies in other cities including New York, New York; Indianapolis, Indiana; and the State of Minnesota.

(c) Classification⁴³

Adult entertainment establishments are classified and include the following:

- (i) Adult arcade;
- (ii) Adult bookstore;
- (iii) Adult novelty store;
- (iv) Adult video store;
- (v) Adult cabaret;
- (vi) Adult motion picture theatre;
- (vii) Adult theatre;
- (viii) Sexual encounter establishment; and
- (ix) Nude or semi-nude model studio.

(d) Locational Requirements

Adult entertainment establishments may be located only in accordance with the following:

- (i) An adult entertainment establishment may be located only in an Industrial District or on a lot wholly contained in that portion of an RB District located on the south side of South Commons Place, beginning at a point 780 feet east of the South Avenue-South Commons Place intersection.
- (ii) No adult entertainment establishment may be established on any lot which abuts Market Street, South Avenue, or U.S. Rte. 224.
- (iii) No adult entertainment establishment may be established within 500 feet of:
 - A. A church or other place of worship, which is used primarily for religious worship and related religious activities;
 - B. A public or private educational facility (primary or secondary), child day care center, or higher education facility; for educational facilities, this shall include setbacks from the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - C. A boundary of a residential zoning district as defined in this resolution and established on the zoning map;

⁴³ This list has been expanded, as have the definitions, to reflect the language in the ORC.

- D.** An active park and/or recreational facility, passive parks, recreation, or other open spaces including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar land within the Township; or
- E.** An entertainment business which is oriented primarily towards children or family entertainment.

- (iv)** No adult entertainment establishment may be established within 500 feet of the property of a lot devoted to a residential use.
- (v)** No adult entertainment establishment may be established, operated or enlarged within 500 feet of another adult entertainment establishment.
- (vi)** Not more than one adult entertainment establishment shall be established or operated in the same building, structure, or portion thereof, and the floor area of any adult entertainment establishment in any building, structure, or portion thereof containing another adult entertainment establishment may not be increased.

(e) Measurement of Distance

- (i)** For the purposes of Section 4.08(D)(1)(d)(iii) and 4.08(D)(1)(d)(iv) above, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure where an adult entertainment establishment is conducted, to the nearest property line of the premises of a use set forth in Section 4.08(D)(1)(d)(iii) and 4.08(D)(1)(d)(iv).
- (ii)** (9) For purposes of Section 4.08(D)(1)(d)(v) above, the distance between any two adult entertainment establishments shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(f) Advertising and Lighting

- (i)** No displays or exhibits of materials and/or performances at such adult entertainment establishments shall be allowed in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such adult entertainment establishment.
- (ii)** No portion of the interior premises shall be visible from outside the premises.
- (iii)** Nothing contained in this section of the article shall relieve the operator(s) of an adult entertainment establishment from complying with other requirements of this resolution as it may be amended from time to time, or any subsequently amended.

(g) Additional Requirements

- (i)** This amendment shall be enforced from and after November 27, 2002.
- (ii)** Public indecency is prohibited within the State of Ohio.

(2) Automotive Repair (Heavy)

The following standards shall apply to any automotive repair (heavy) use:

- (a) A heavy automotive repair use shall be subject to the same requirements as an automotive service use as established in Section [4.08\(D\)\(3\)](#).
- (b) The storage of non-operational vehicles for longer than one week shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet. All vehicles shall be required to have a valid license plate.
- (c) Parking, storage, or salvaging of junk vehicles, as defined by the ORC, shall be prohibited unless the activity is within an enclosed building.
- (d) The principal building shall be set back a minimum of 100 feet from any adjacent residential lot. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent residential lot.

(3) Automotive Service (Minor Repair) Use or Fuel Station

The following standards shall apply to any automotive service (minor repair) use or fuel stations:

(a) Lot Area and Setback Requirements

- (i) Fuel pumps shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent residential lot lines.
- (ii) Canopies shall be set back a minimum of 10 feet from all lot lines and 50 feet from all adjacent residential lot lines.
- (b) All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.
- (c) Activities shall be limited to:
 - (i) The sale of automotive fuel;
 - (ii) The servicing of motor vehicles with minor repair work;
 - (iii) Hand washing of vehicles within an enclosed building;
 - (iv) The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.
- (d) Space for overnight parking, overnight accommodations, or the inclusion of showers within the building shall be prohibited.
- (e) Any major repair work, including automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as "automotive repair (heavy)" and shall be subject to Section [4.08\(D\)\(2\)](#).
- (f) Vehicles being serviced or awaiting same shall be stored for no longer than seven days on the site if in unenclosed areas.
- (g) The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable federal, state, and local requirements.
- (h) Outdoor solid waste and recyclable storage areas shall be screened in accordance with [Article 10: Landscaping Standards](#).

(4) Commercial Entertainment or Recreation (Outdoors)

The following standards shall apply to any outdoor commercial entertainment or recreational uses:

- (a)** All structures shall be set back a minimum of 100 feet from all lot lines.
- (b)** Any outdoor areas utilized for such use shall be set back a minimum of 250 feet from all residential lot lines.
- (c)** The BZA may require portions of the site with high activity areas to be enclosed by a fence having a minimum height of six feet.
- (d)** The proposed use shall not have a primary access from a local residential street.

(5) Day Care Centers (Child or Adult)

- (a)** All buildings shall be set back a minimum of 50 feet from all other lot lines and 100 feet from any the lot line of any lot occupied by residential uses.
- (b)** Day care centers are permitted in residential zoning districts and the industrial district only when accessory to another permitted public and institutional use. See Section <>.
- (c)** A drop-off/pick-up location shall be provided to ensure the safety of the children and adults. Such location shall not impede traffic on or off the site.
- (d)** The center and its staff shall be in full compliance with all applicable federal, state and local laws and regulations, including facility licensure to begin and continue operation.
- (e)** The proposed use shall not have a primary access from a local residential street.

(6) Funeral Homes or Mortuaries

The following standards shall apply to any funeral homes or mortuaries:

- (a)** The required number of off-street parking spaces shall be designed in parallel aisles so as to facilitate the structuring of funeral processions that leave from the funeral home site to travel to the cemetery.
- (b)** The principal building and any accessory structure used in conjunction with the typical activities of a funeral home or mortuary shall be set back a minimum of 50 feet from any adjacent residential lot line.
- (c)** If the use includes a crematorium, the portion of the building or site used for the crematorium shall be set back a minimum of 250 feet from adjacent residential lot lines.

(7) Kennels (Commercial) and Animal Day Cares

Kennels may be permitted in a residential district as an agricultural use if meets the agricultural use exemption requirements of Section 3.02(A). In such cases, the kennel shall not be subject to the standards of this resolution. All other commercial kennels and animal day cares shall be subject to the following:

- (a)** All structures and activities related to the subject kennel use shall be located a minimum distance of 100 feet from side and rear property lines, except that when located adjacent to a residential district, the following additional restrictions shall apply:
 - (i)** All non-soundproofed structures or area where animals are confined shall be located a minimum distance of 500 feet from any residential district.

- (ii) Soundproofed, air-conditioned buildings shall be located a minimum distance of 100 feet from any residential district.
- (iii) All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of six feet in height located within 50 feet of the structure.
- (iv) Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

(b) There shall be no burial or incineration of animals on the premises.

(8) Medical/Dental Clinics or Offices

The design of a medical/dental clinic or office shall be sufficient to accommodate staff, clients, patients and visitors without waiting or queuing outside of the building.

(9) Microbrewery, Microdistillery, or Microwinery

- (a) A microbrewery, microdistillery, and microwinery shall be allowed in the GB, RB, and NMB Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts.
- (b) A microbrewery, microdistillery, and microwinery in the I District may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 25 percent of the total footprint of the use.

(10) Parking Lots or Garages

Parking lots or garages can be approved as a principal use of a lot if the parking lot or garage is providing parking or loading facilities for an adjacent lot.

(11) Personal Service Establishments and Retail and Service Commercial Uses⁴⁴

The following standards shall apply to any personal service establishment or a retail and service commercial use in the I District:

- (a) The use shall not occupy more than 10 percent of the principal building.
- (b) Such uses shall not be permitted within an accessory building.

(12) Vehicle Sales and Leasing

The following standards shall apply to any vehicle sales or leasing use:

- (a) Only repair of vehicles customarily associated with sales or leasing establishments shall be permitted and shall be in compliance with Section 4.08(D)(3).
- (b) No scrap metal, scrap or salvaged parts, junk vehicles or used oil, antifreeze, transmission or other such fluids shall be stored outside, above ground, unless completely screened from view.

(13) Veterinary Offices, Animal Hospitals, or Animal Grooming (No Boarding)

The following standards shall apply to any veterinary office, animal hospital, or animal grooming facility:

⁴⁴ This will allow for some minor service or supplemental uses within the industrial district as support services.

- (a) The boarding of animals shall be restricted to short-term overnight lodging only as necessary for animals receiving medical attention, and there shall be no outside runs or kennels associated with the veterinary office.
- (b) Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.
- (c) All waste material shall be removed from the site on a daily basis and no animal carcass or animal waste shall be buried on site or be allowed to accumulate on the premise.

(E) Industrial Use Classification**(1) Industrial Service Uses and Light Industrial Uses**

All work shall be performed entirely within an enclosed building; and all storage of supplies, parts and merchandise shall be within an enclosed building except as provided elsewhere in this resolution.

(2) Research and Development Facilities

The following standards shall apply to any laboratory or research and development facility:

- (a) All work shall be performed entirely within an enclosed building; and all storage of supplies, parts and merchandise shall be within an enclosed building except as provided elsewhere in this resolution.
- (b) Uses that employ hazardous materials as defined and classified in the H-1, H-2, H-3, and H-4 Use Groups in Chapter 3 of the Ohio Basic Building Code shall be specifically prohibited.

(3) Self-Storage Facilities

The following standards shall apply to any both indoor and outdoor self-storage facilities:

- (a) The Boardman Township Fire Department shall be provided with 24-hour access to the grounds. A lockbox shall be provided for its use.
- (b) The only commercial uses permitted on-site shall be the rental of storage space and the pick-up and/or deposit of goods on the property in storage. Storage spaces, including outdoor storage areas, shall not be used to manufacture, fabricate, or process goods; service or repair vehicles, small engines, or electrical equipment; or to conduct similar activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on-site.
- (c) Temporary auction sales of storage unit contents may be permitted up to four times per calendar year.
- (d) Units shall not be used for housing or any form of residence.

(e) Self-Storage Facilities (Outdoors)

The following standards shall only apply to self-storage facilities (outdoors)

- (i) There shall be a minimum setback of 150 feet between all residential lot lines and all buildings related to the self-service storage use.
- (ii) A solid fence or wall shall be required around the perimeter of the storage area. Ornamental gates may be used for ingress and egress.

- (iii) Outdoor storage is permitted with the exception of junk vehicles, as defined in the ORC.
- (iv) All buffering required by [Article 10: Landscaping Standards](#) shall be located outside of any fencing area.

(F) Miscellaneous Use Classification**(1) Gas and Oil Wells**

The following standards shall apply to any gas or oil well:

(a) Purpose

The purpose of the standards in this section are to provide for health, safety, and the welfare of the public through the regulation of drilling and operation of wells for oil, gas or other hydrocarbons in gaseous or liquid form within the boundaries of Boardman Township.

(b) State Standards

Gas and oil wells shall be subject to all applicable state regulations established in both the ORC and the OAC.

(c) Standards for Gas and Oil Wells

- (i) Exploration for, drilling of, and production of oil or gas or oil and gas wells may be conducted in all zoning districts if the owner or operator of the well or wells holds all necessary mineral and surface rights, and a lawful and valid permit for said well or wells from the Ohio Department of Natural Resources (ODNR), Division of Oil and Gas, hereafter referred to as the Division of Oil and Gas.
- (ii) No zoning certificate shall be required for the drilling, operation, production, plugging or abandonment of any gas or oil well. However, all owners and operators of oil and gas wells in the township must complete an application for registration of the well or wells, prior to the commencement of any site work for oil and/or gas operations on the site, and submit the application to the Zoning Inspector. Such registrations shall be updated, as necessary, to be valid and up-to-date at all times.
- (iii) The applicant shall provide the Zoning Inspector with a plat of all buried and surface transmission lines serving or connected to the well, for which the applicant must have written and recorded easements or leases. All buried transmission lines crossing or intersecting any township road shall be marked by a permanent marker on both sides of the road in a location and format acceptable to the township. The minimum depth of such lines below roads, perennial or intermittent streams, and ditches shall be established by the township prior to the excavation to install such lines. No transmission lines intended for burial under Township roads shall be covered until the installed line is inspected by the township. The applicant also shall coordinate the laying of transmission lines with all public utilities servicing the township.

- (iv) At no time shall an operator of an oil or gas well move drilling equipment or any equipment onto a township road without prior written approval of the Board of Trustees and issuance of proper permits and road maintenance bonds in the amounts specified by the Board of Trustees. This rule shall be in effect from the time drilling commences until the oil or gas well is unproductive and plugged.
- (v) All storage tanks, separators and well installations shall be entirely enclosed by a six-foot-high chain link type fence, with three strands of barbed wire above the fence. The fence shall be set back a minimum of five feet outside of all tanks, pumps, separators, and any related miscellaneous apparatus.
- (vi) All fenced in areas that exceed 300 square feet in area shall have two exits remote from each other with a minimum width of four feet to facilitate orderly and safe firefighting operations. All fences and gate installations shall be inspected by the authorized inspector before the producing operation commences. All gates, including the drive entrance gate, shall be locked and keyed the same and a key shall be given to the Boardman Township Fire Department. Fences and gates shall be kept in a good state of repair until the well is abandoned and tanks, separators, and pump equipment are removed.
- (vii) Access roads shall be paved with suitable road materials to prevent mud deposits on public roads and to provide emergency vehicular access during inclement weather. Access roads for the exclusive use of the oil or gas well owner or operator, shall have a gate with a locking device, keyed as required above, installed at or near the public road entrance to prevent unauthorized entry from the public road. Before any drilling equipment moves onto the property, the Zoning Inspector shall be notified to make an inspection of the drive and pad area.
- (viii) The use shall be exempt from the requirement that all activities must be located within an enclosed building.

(2) Mixed-Use Buildings

- (a) Developments consisting of multiple principal uses shall incorporate only those use types permitted in the applicable zoning district.
- (b) Mixed use developments may also include attached residential dwellings as part of a mixed-use building where office or nonresidential uses are located on the first floor and residential uses are located on the upper floors.
- (c) When determining peripheral buffer requirements for parcels with multiple principal uses, the proposed use that requires the most extensive buffer according to [Article 10: Landscaping Standards](#), shall govern.
- (d) The presence of a home occupation and/or a residential business in conjunction with a residential use shall not constitute a mixed-use building.
- (e) The maximum residential gross density for mixed-use buildings (mix of residential and nonresidential in the same structure) shall be eight dwelling units per acre.
- (f) Residential dwelling units shall be prohibited on the first floor of mixed-use buildings.

- (g) Mixed-use buildings shall be subject to the architectural standards of [Article 9: Architectural Standards](#), regardless if the building contains residential uses.

(3) Wireless Telecommunication Facilities

(a) Purpose

These regulations are established to provide for the construction and use of wireless telecommunication towers and facilities as permitted uses and conditional uses depending on the specific land areas of the township in which such facilities are proposed to be located. The purpose of these regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996, Public Law 104-104, and the interests of the township in regulating wireless telecommunication towers and related facilities for the following purposes:

- (i) To protect property values;
- (ii) To regulate a commercial use so as to provide for orderly and safe development within the township;
- (iii) To provide for and protect the health, safety, morals and general welfare of the residents of the township;
- (iv) To protect residential properties, parks, open spaces and the non-intensive commercial zoning districts which are characteristic of the township from the adverse effects of towers and related facilities;
- (v) To promote co-location of wireless telecommunication facilities in order to decrease the number of towers in the township; and
- (vi) To maintain, where possible, the integrity of the existing regulations contained in the zoning resolution.

(b) Procedure

Any applicant that plans to construct a wireless telecommunications facility in a residential zoning district shall provide written notice in accordance with ORC § 519.211(B).

(i) Trustee Action

- A.** If the Board of Trustees receives notice from a property owner under this section within the time specified or if a board member makes an objection to the proposed location of the telecommunications tower within 15 days after the date of mailing of the notice sent under this section, the Board of Trustees shall request that the Township Fiscal Officer send the person proposing to construct the tower written notice that the tower is subject to a conditional use review (See Section [3.05: Variance or Conditional Use](#)). The notice shall be sent no later than five days after the earlier of the date the Board of Trustees first receives such a notice from a property owner or the date upon which a Board of Trustees member makes an objection. Upon the date of mailing of the notice to the person, Sections 519.02 to 519.25 of the ORC shall apply to the tower.

- B.** If the Board of Trustees receives no notice under this section within the time prescribed by that division or no Board of Trustees member has an objection as provided under this section within the time prescribed, the tower or facility shall be allowed as a permitted use.

(c) Conditional Use Review Requirements

All wireless telecommunications towers and facilities that are subject to conditional use review shall submit the following items in addition to the submittal requirements for a conditional use:

- (i)** The application shall include a detailed description of the wireless telecommunications tower or facility's capacity including the number and types of antenna that it can accommodate.
- (ii)** The applicant shall demonstrate that the telecommunications tower or facility must be located where it is proposed in order to service the applicant's service area, including an explanation of why a tower or facility and this proposed site is technically necessary.
- (iii)** Where the wireless telecommunications facility is located on a property with another principal use, the applicant shall present documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that the vehicular access is provided to the facility.
- (iv)** Documentation shall be provided that certifies the wireless telecommunication facility complies with all current Federal Communications Commission (FCC) regulations for non-ionizing electromagnetic radiation (NIER);
- (v)** The applicant shall post a performance bond in the amount set by the Board of Trustees for the purpose of insuring that an abandoned, obsolete or destroyed wireless telecommunication facility shall be removed in compliance with Section 4.08(F)(3)(e). Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond.

(d) Development Standards

Any wireless telecommunication tower or facility subject to conditional use review shall be located in the township only in compliance with the following regulations and upon issuance of a zoning certificate from the Zoning Inspector

- (i)** In order for the BZA to consider the location of a wireless telecommunication tower and facility as a conditional use in a residential district, the applicant shall document that:
 - A.** There is no technically suitable space for the applicant's antenna(s) and related facilities in nonresidential zoning district where wireless telecommunication facilities are permitted; or
 - B.** If an area in a nonresidential zoning district is technically suitable, the applicant shall provide evidence of written contact showing that it has requested all property owners with technically suitable locations to permit it to locate a tower facility in all technically suitable area(s) under reasonable terms and that each request was rejected; or

- C.** If another tower, building or structure in the township, in an area technically suitable for the facility, the applicant shall provide evidence of written contact showing that it has requested to co-locate on the existing tower(s), building(s) or structure(s) and that each co-location request was rejected by the owner of the tower, building or structure.
- (ii)** As part of a conditional use approval, the applicant shall submit evidence that a technically suitable location is not available in any area set forth in Section 4.08(F)(3)(d)(i) and shall list the locations of every tower, building or structure and all of the areas set forth in Section 4.08(F)(3)(c)(ii) that could support the proposed antenna(s) so as to allow it to serve its intended function, and the reasons why such towers, buildings, structures or areas have been determined not to be technically suitable, or not available as set forth in 4.08(F)(3)(d)(i).
- (iii)** As part of a conditional use approval, the owner/operator of the telecommunications tower shall agree to allow co-location until said tower has reached full antenna capacity, but in no event shall the owner/operator agree to allow fewer than two antenna platforms for additional providers unrelated to the owner/operator. The opportunity to co-locate on the tower shall also be made available to the township and/or county safety forces upon request, provided that such use will not interfere with the owner/operator's use or that of any other provider unrelated to the owner/operator. Agreement to this provision shall be included in the applicant's lease with the landowner, if different from the owner/operator of the tower. Written documentation shall be presented to the Zoning Inspector evidencing that the owner of the property on which the tower is to be located has agreed to the terms of this subsection as well as all other applicable requirements, regulations and standards set forth in this section.
- (iv)** Towers shall be located, to the extent possible, to minimize any adverse impacts on residential property.
- (v)** The minimum setback of the tower from all property lines shall comply with the following:
 - A.** A distance equal to the height of the tower plus 50 feet; or
 - B.** When it is demonstrated, because of its design and construction, that in case of collapse, adjacent property will not be affected, the minimum setback shall be 40 feet from any property line abutting a nonresidential lot or 100 feet from any property line abutting a residential lot, provided that the base of the tower and required enclosure shall comply with the front yard setbacks for the district in which it is located.
- (vi)** All towers shall be of a monopole design. Lattice-type towers shall be prohibited.

- (vii) All towers shall be the minimum height necessary for adequate transmission and reception of telecommunication signals and to accommodate the antennae, and shall be no taller than existing towers housing similar antennae. In addition, towers shall comply with the following maximum height requirements, as measured from the neutral grade at the base of the tower:
- (viii) The maximum height of any tower shall be 150 feet.
- (ix) All poles having a height greater than 95 feet shall be designed to accommodate at least three antennae.
- (x) Any accessory structure related to the wireless telecommunication facility shall not exceed a height of 10 feet.
- (xi) The base of the tower and all related facilities shall be completely enclosed with a secure, non-electrified, chain linked fence with barbed wire at the top, having a minimum height of eight feet. Such fence shall be completely screened from view by a landscape buffer area of not less than 15 feet in depth, consisting of hardy evergreen shrubbery and other appropriate landscaping that achieves the screening objective. The initial plantings shall be no less than six feet tall and shall be maintained and restored, if necessary.
- (xii) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent feasible.
- (xiii) The antennae and support structures shall be camouflaged or disguised in order to minimize visibility of the structure and blend, to the maximum extent feasible, with the existing surroundings. At a minimum, towers shall be painted a non-contrasting gray or similar color, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- (xiv) Wireless telecommunications towers shall be artificially lighted only when the height of the tower is equal to or greater than 100 feet or when required by the Federal Aviation Administration (FAA). Any lighting so required shall be installed to minimize the impact on adjoining properties.
- (xv) All buildings and shelters accessory to the wireless telecommunications facility shall comply with the setback regulations set forth in the applicable zoning district. The maximum size of such accessory building or shelter shall be 300 square feet for a single shelter, and a combined total of 750 square feet when more than one wireless telecommunication facilities is located on the site. The outside storage of equipment related to a telecommunications facility shall be prohibited.

(e) Abandoned Telecommunication Facilities

- (i) The owner or operator of a wireless telecommunication facility shall notify the township within 30 days of a wireless telecommunication facility's permanent abandonment. Such facility shall be removed by the applicant and the site restored to its original state within 120 days from the date of notification to the township.

- (ii) Any tower that has had no antenna mounted upon it for a period of six months, or if the antenna mounted thereon are not operated for a period of three months, shall be considered abandoned, and the owner thereof shall remove the tower within and restore the site to its original state within 120 days after receipt of a notice from the Zoning Inspector to do so.
- (iii) In the event that more than one wireless communication service provider is using the antenna support structure, the antenna support structure shall not be considered abandoned until all such users cease using the structure as provided in this section.

4.09 AREA, SETBACK, AND OTHER SITE DEVELOPMENT STANDARDS

(A) Measurements, Computations, and Exceptions⁴⁵

(1) Lot Area Measurements

- (a) The area of a lot includes the total horizontal surface area within the lot's boundaries.
- (b) For nonconforming lots, see Section [13.07: Nonconforming Lots of Record](#).
- (c) With the exception of approval of a smaller lot as part of a planned unit development district or governmental acquisition of land as provided for in [Article 13: Nonconformities](#), no lot shall be reduced in area so that the lot area per dwelling unit, lot width, yards, building area, or other requirements of this resolution are not met.

(2) Lot Width Measurements

- (a) The lot width shall be measured as the distance between the side lot lines, as measured along a straight line at the minimum front yard setback line.
- (b) For corner lots, the lot width shall be measured as the distance between the side lot line and the front lot line directly opposite, as measured along a straight line at the minimum front yard setback line.⁴⁶

(3) Setbacks, Yards, and Lot Type Requirements

(a) Yards Required for Buildings

A yard or other open space required for any structure shall be located on the same lot as the structure and shall not include any yard or open space areas from an adjacent lot.

(b) Measurements

Setbacks refer to the unobstructed, unoccupied open area between the furthestmost projection of a structure and the property line of the lot on which the structure is located. Setbacks shall not contain any structure except when in conformance with this resolution. See [Figure 4.09-A](#).

⁴⁵ Most of this section is new or comes from the current zoning definitions.

⁴⁶ We will create a graphic for this measurement.

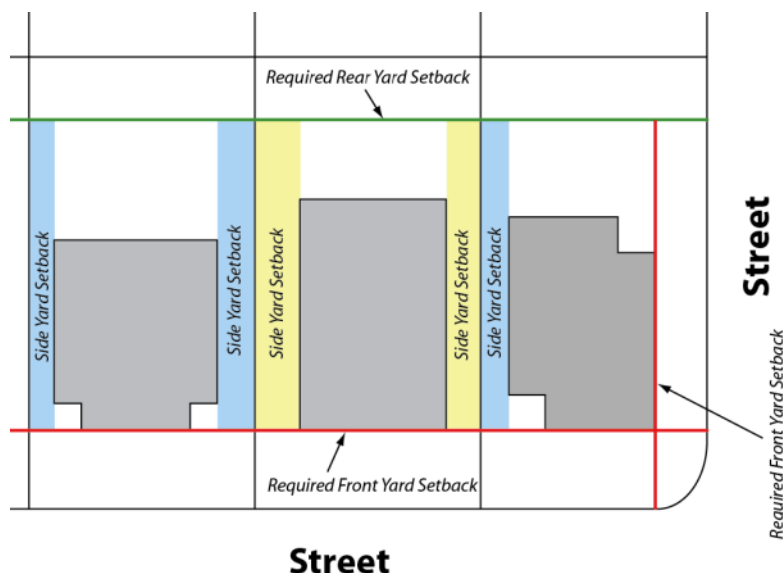


Figure 4.09-A: Measurement of typical front, side, and rear yard setbacks.

(c) Yards and Obstructions

- (i)** Every part of a required yard shall be open to the sky and unobstructed except:
 - A.** As otherwise provided in this section;
 - B.** For accessory buildings as allowed in Section [6.01: Accessory Use Regulations](#);
 - C.** For the ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting into the yard a distance not to exceed 12 inches;
 - D.** Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet; and
 - E.** The ordinary projections of chimneys and flues may be permitted by the Mahoning County Building Department when placed so as not to obstruct light and ventilation but not closer than two feet to any lot line.
- (ii)** Terraces, uncovered porches, platforms and ornamental features which do not extend more than three feet above the floor level of the ground (first) story may project into a required front or rear yard, but shall maintain a minimum of seven feet in setback from the front lot line and three feet from all other lot lines.
- (iii)** An open unenclosed porch, or paved terrace may project into a front yard for a distance not exceeding five feet but cannot encroach upon the setbacks.
- (iv)** Awnings and canopies may extend into any required setback but shall maintain a minimum setback of one foot from all lot lines.

(d) Front Yard Exception

In any residential zoning district, a minimum front yard setback shall not be required to exceed the average front yard setbacks of lots with similar uses and sharing the same street frontage, within 150⁴⁷ feet of the applicable lot. Modification of the front yard in accordance with this section will not create a nonconforming lot unless the lot or structure does not meet other applicable provisions of this resolution. See [Figure 4.09-B](#).

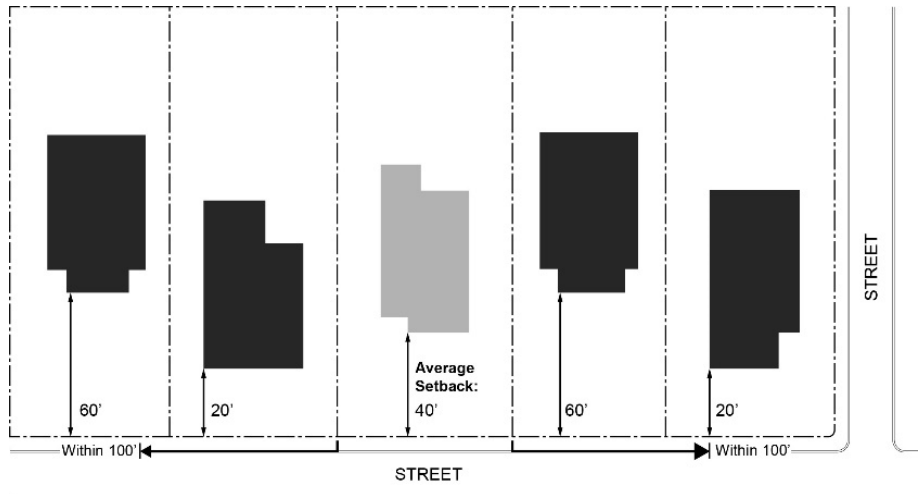


Figure 4.09-B: Illustrative example of the provision for a front yard exception where structures on nearby lots do not meet the minimum front yard setback.

(e) Interior Lots (Side and Rear Yards)

- (i)** The required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See [Figure 4.09-C](#).
- (ii)** The lot line located directly behind the rear of the structure, as determined by the Zoning Inspector, shall be the rear lot line and the rear yard setback shall be applied. See [Figure 4.09-C](#).
- (iii)** All other lot lines shall be considered the side lot line and the side yard setback shall be applied. See [Figure 4.09-C](#).

⁴⁷ The image needs to be adjusted to show the 150 feet requirement.

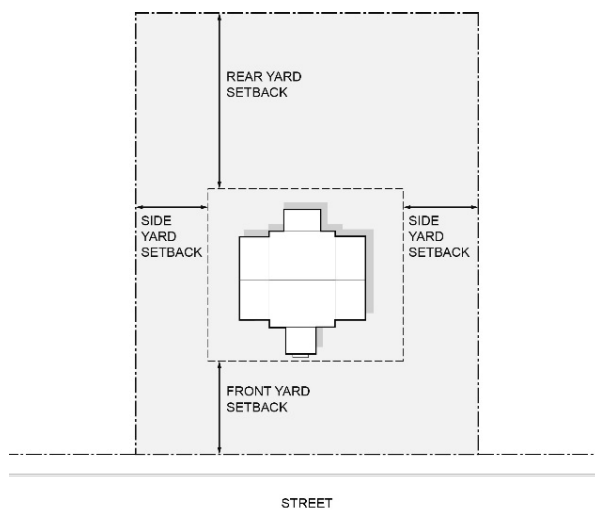


Figure 4.09-C: Typical setback and yard locations for an interior lot.

(f) Corner Lots

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

- (i) The required minimum front yard setback shall be provided from each street right-of-way or, where a right-of-way is not identified, the lot line adjacent to the street. See [Figure 4.09-D](#). An alley shall not be considered a street for the purposes of determining a corner lot.
- (ii) The lot line that runs parallel with the lot line along the narrowest street frontage shall be the rear lot line and the minimum rear yard setback shall be applied from such lot line. See [Figure 4.09-D](#).
- (iii) All other lot lines shall be a side lot line and the minimum side yard setback shall be applied from such lot lines. See [Figure 4.09-D](#).

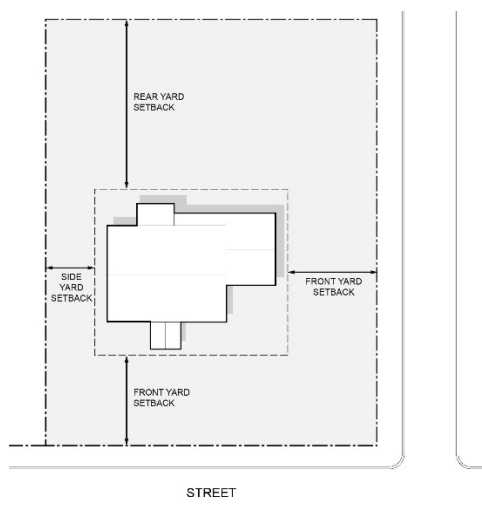


Figure 4.09-D: Typical setback and yard locations for a corner lot.

(g) Double Frontage (Through) Lots

Double frontage lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Zoning Inspector. Double frontage lots shall be subject to the following regulations:

- (i) Where a lot is considered a double frontage (through lot) lot, the required minimum front yard setback shall be provided on all lot lines that abut a street. See [Figure 4.09-E](#).
- (ii) The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each side lot line. See [Figure 4.09-E](#).

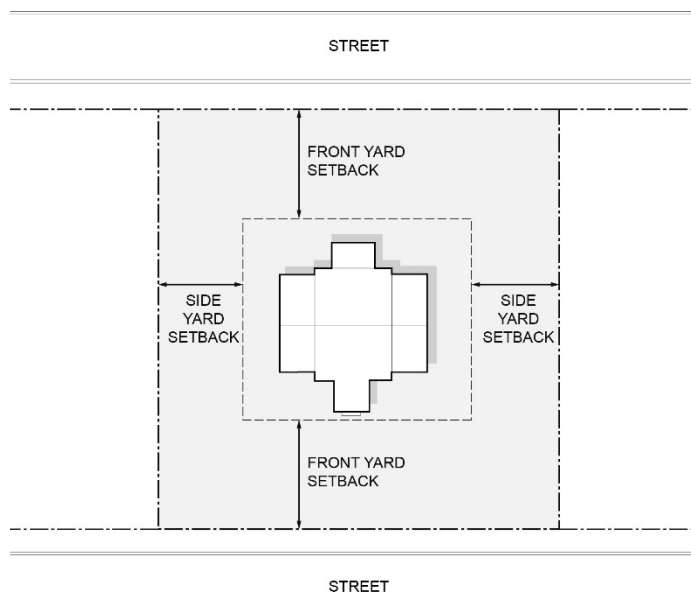


Figure 4.09-E: Yard locations on double frontage (through) lots.

- (iii) For the purposes of allowing accessory uses, including fences, which are allowed in a rear yard, the yard that is located to the rear of the principal building shall be considered the rear yard and the setbacks of Section <>, shall apply to all accessory uses or structures.
- (iv) Where alleys exist in the township, any lots that have frontage along the alley shall be not be considered a double frontage (through) lot and shall either be regulated as an interior lot or corner lot depending on the location of the subject lot within the block.

(h) Flag (Panhandle) Lots

Panhandle lots (flag) lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the Zoning Inspector. Panhandle (flag) lots shall be subject to the following regulations:

- (i) Panhandle (flag) lots shall not be used to avoid the construction of a street.

- (ii) The area of the “panhandle” portion of the lot connecting the lot to the public street shall not be included in the area of the lot for the purposes of determining compliance with the required minimum lot area for the district in which the lot is located.
- (iii) The stacking of panhandle (flag) lots shall be prohibited. See [Figure 4.09-F](#).

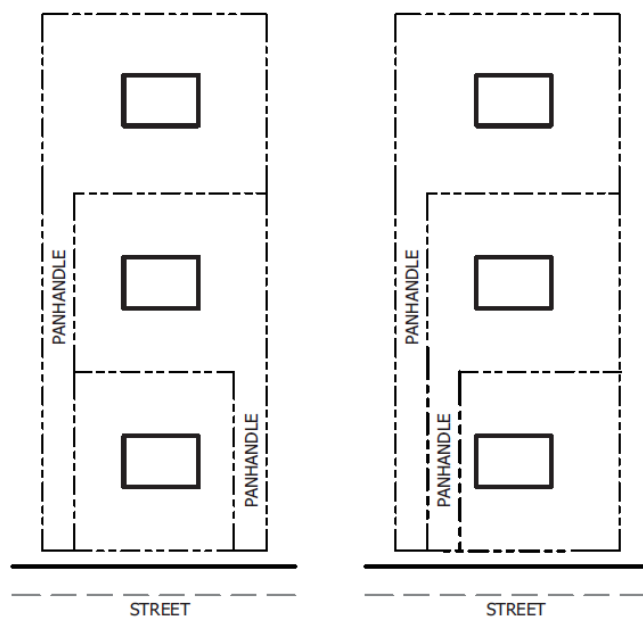


Figure 4.09-F: The above illustration shows the stacking of flag (panhandle) lots, which is prohibited.

- A.** The panhandle shall have a minimum width of 20 feet along the entire width of the panhandle. The maximum width shall be 40 feet and anything with a width of 40 feet or greater shall be consider an interior, corner, or double frontage lot as may be applicable.
- B.** No structures, except for fences and walls allowed by this resolution, shall be permitted in the panhandle portion of the lot.
- C.** The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot as illustrated in [Figure 4.09-G](#).

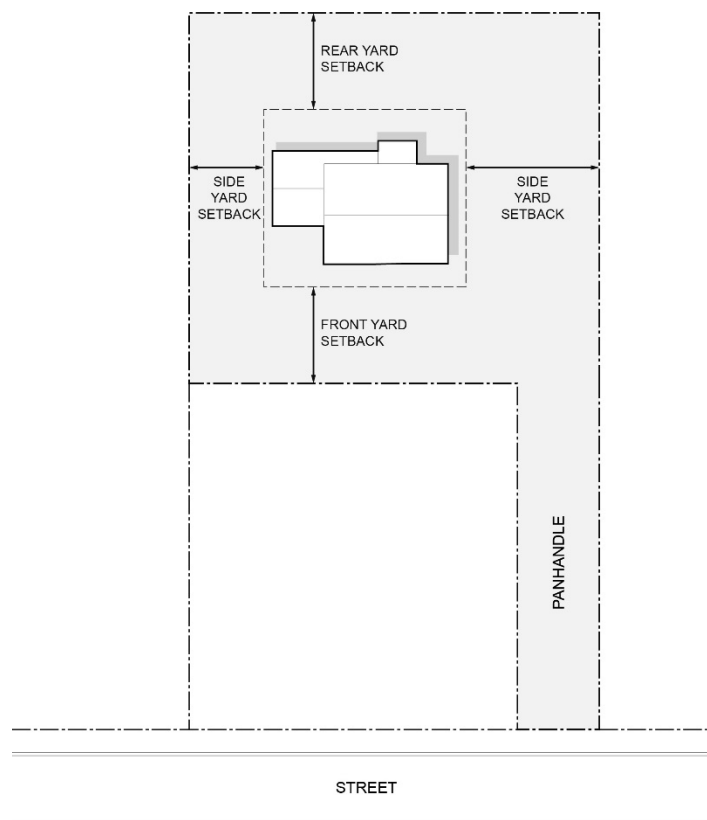


Figure 4.09-G: Yard locations on flag (panhandle) lots.

(i) Cul-de-Sac or Curved-Street Lot

- (i)** For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line (lot line). See [Figure 4.09-H](#).
- (ii)** On a cul-de-sac roadway, knuckle, or eyebrow, the required street frontage shall be required and measured at the street right-of-way on the curve of the cul-de-sac, knuckle, or eyebrow.

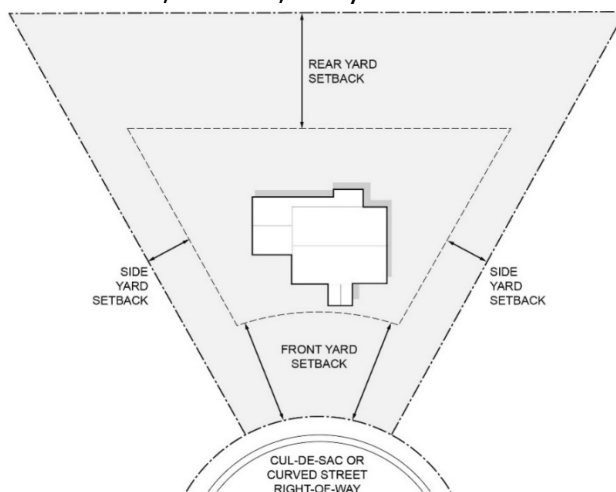


Figure 4.09-H: Setback line of a lot with frontage on a curved street or cul-de-sac.

(j) Other Lot Configuration

For any type of irregular lot not addressed in this section, the Zoning Inspector shall determine the location of the front, side, and rear yard taking into consideration the effect on adjoining properties.

(4) Lot Width and Street Frontage Measurements

Lot width is the distance between the side lot lines measured along the front yard setback line. See [Figure 4.09-I](#).

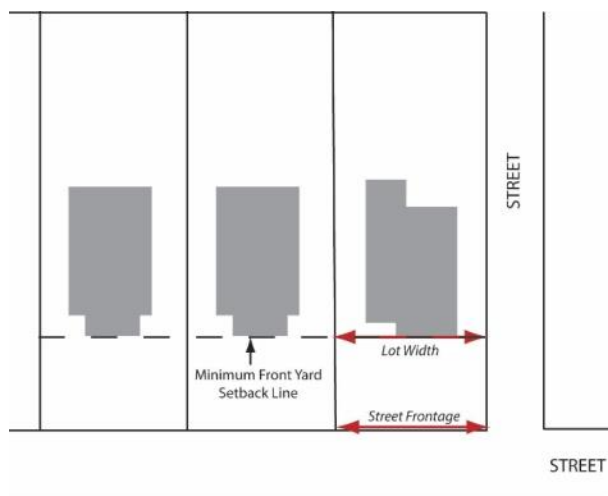


Figure 4.09-I: Measurement location of lot width and street frontage

(5) Height Measurement and Exceptions

(a) Height Measurement

- (i)** Where specified in stories, building height shall be measured in number of stories above the finished grade for any elevation fronting on a public street including attics, half-stories, mezzanines, and at-grade structured parking. This excludes features that are less than one-half story or completely below grade, such as basements, cellars, crawl spaces, sub-basements, and underground parking structures.
- (ii)** Where specified in feet, the building height shall be measured from the average grade at the corners of the structure to the highest point on the roof, regardless of roof type. See [Figure 4.09-J](#).

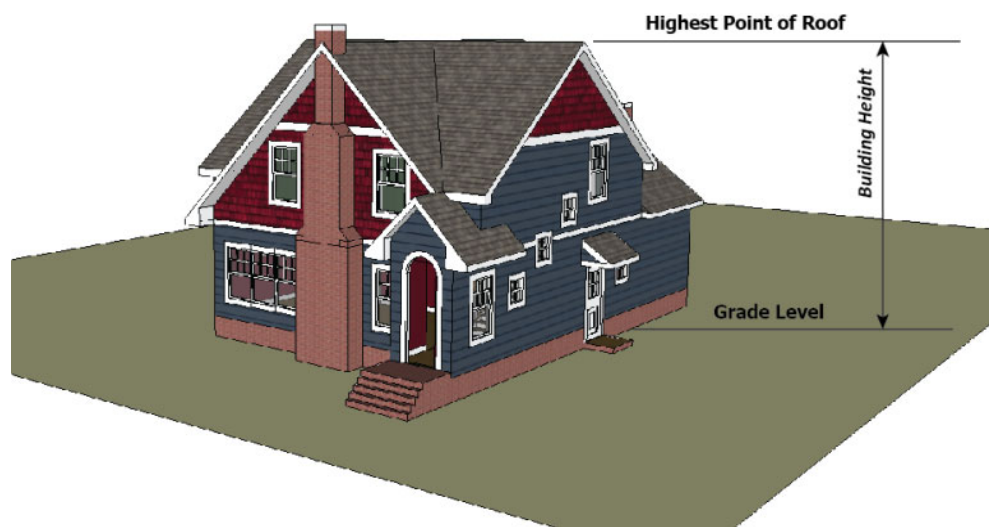


Figure 4.09-J: Measurement of building or structure height

- (b) Where specified, fencing and wall height shall be measured in accordance with Section 7.02: [Fencing, Walls, Hedges, and Similar Structures](#).
- (c) The height of all other structures shall be measured from the lowest grade adjacent to the structure to the highest point of the structure.
- (d) **Exceptions to Height Limits**
Height limitations stipulated in this resolution shall not apply:
 - (i) To barns, silos or other agricultural buildings or structures on farms (not located in an improved platted subdivision); to church spires, belfries, cupolas and domes, monuments, chimneys, smokestacks, flag poles; to parapet walls extending not more than four feet above the limiting height of the building.
 - (ii) To bulkheads, elevator penthouses, water tanks, monitor and lookout towers, provided:
 - A. The height of any such structure shall not be greater than the number equal to the height of the first story of the principal structure; and
 - B. The total footprint of the structure shall not exceed 60% of the footprint of the principal structure and shall have the same materials as the principal structure unless an alternative material is approved by the Zoning Inspector.

(B) General Site Development Standards

(1) Height Limit at Street Corners (Traffic Safety Visibility Triangle) (New)

Development proposed adjacent to any public or private street, in every district, shall be designed to provide a clear visibility area for pedestrian and traffic safety.

- (a) A traffic safety visibility triangle area, which may include private property and/or public right-of-way, is a triangle area defined by measuring 30 feet from the intersection of the extension of the front and side street curb lines (or the right-of-way lines where there is no curb) and connecting the lines across the property. See [Figure 4.09-K](#).

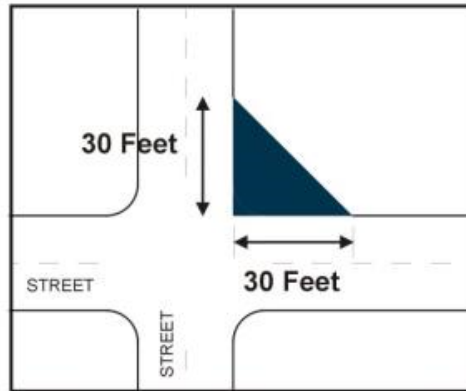


Figure 4.09-K: Traffic safety visibility triangle for intersecting streets.

- (b) For intersections of streets and driveways, the traffic safety visibility area shall be created by measuring 25 feet from the edge of the driveway along the street and 20 feet along the driveway, perpendicular from the street. See [Figure 4.09-L](#).
- (c) This requirement shall not apply to lots with single-family or two-family dwellings.

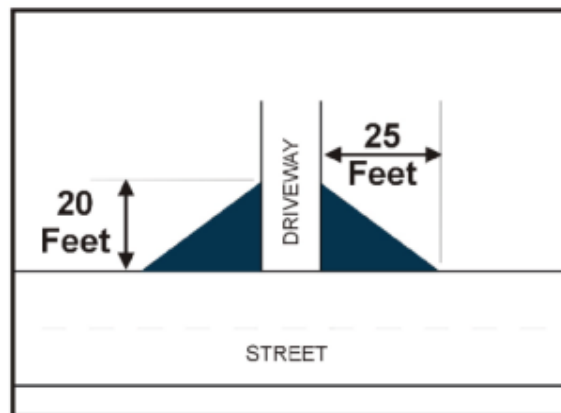


Figure 4.09-L: Traffic safety visibility triangle for driveway and street intersections.

- (d) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb, within the traffic safety visibility area, unless approved by the Zoning Inspector.
- (e) An exception to this requirement shall be for existing trees where the canopy is trimmed to a minimum of eight feet above grade.

(C) Site Development Standards for the Agricultural and Residential Zoning Districts

- (1) [Table 4.09-1](#) establishes the minimum site development standards for residential zoning districts.

- (2)** All dwellings shall have at least one story above ground level.
- (3)** Development on any lot must be connected to a centralized water and sewer system, regardless if privately or publicly owned (i.e., no on-site wells or septic systems allowed in these districts), if the lot is adjacent to a centralized water or sewer system.

(4) Floor Area and Footprint Requirements

- (a)** In order to promote healthful living conditions and to stabilize the value and character of residential areas, dwelling units shall be erected, altered, moved, maintained and occupied only in accordance with the following minimum livable floor area requirements. For the purposes of calculating the floor area, areas such as unfinished basements, garages, accessory structures, and other spaces not designed for habilitation, shall not be included.
 - (i)** The total minimum livable floor area for a single-family dwelling unit shall be 1,000 square feet.
 - (ii)** The total minimum floor area for a dwelling unit in multi-family dwelling shall be 700 square feet per unit.⁴⁸
- (b)** The footprint of the principal building in the R-3 District shall not exceed 10 percent of the total lot area.

(5) Conversion of Dwelling to More Units (New)

A residence may not be converted to accommodate an increased number of dwelling units unless:

- (a)** The number of dwelling units in the principal building is permitted in the applicable zoning district;
- (b)** The lot will still meet all applicable lot area, setback, and use standards as established in this resolution;
- (c)** The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district; and
- (d)** The conversion is in compliance with all other relevant codes and resolutions.

⁴⁸ This is a suggested floor area for multi-family dwellings. The township currently requires 1,000 square feet, regardless of dwelling type, which is large for a multi-family dwelling. The township might want to consider a slightly smaller size for mixed-use buildings.

Article 4: Zoning Districts and Principal Use Regulations
4.09: Area, Setback, and Other Site Development Standards

TABLE 4.09-1: SITE DEVELOPMENT STANDARDS FOR RESIDENTIAL ZONING DISTRICTS⁴⁹

MINIMUM LOT AREA [1] (SQUARE FEET)		MINIMUM LOT WIDTH (FEET) ⁵⁰	MINIMUM LOT DEPTH (FEET)	MINIMUM SETBACKS			MAX. BUILDING HEIGHT (FEET) [3]
				FRONT YARD (FEET) [2]	SIDE YARD (FEET) ⁵¹	REAR YARD (FEET)	
AGRICULTURAL (AG)							
43,560		125	200	75	20	75	35
SINGLE-FAMILY RESIDENTIAL DISTRICT (12,000) (R-1A)							
12,000		70	150	50 (20)	9 ⁵²	40	35
SINGLE-FAMILY RESIDENTIAL DISTRICT (7,500) (R-1B)							
7,500		60	125	40 (15)	6	40	35
SINGLE-FAMILY RESIDENTIAL DISTRICT (5,000) (R-1C)							
5,000		50	120	35 (15)	5	40	35
ATTACHED RESIDENTIAL DISTRICT (R-2)							
Single-Family Dwellings							
12,000		70	150	50 (15)	9	40	35
STRUCTURES WITH 2 TO 6 DWELLING UNITS							
16,000		100	150	50	20	40	35
MULTI-FAMILY RESIDENTIAL DISTRICT (R-3) [4]							
SINGLE-FAMILY DWELLINGS							
12,000		70	150	50 (20)	9	40	35
STRUCTURES WITH 2 TO 6 DWELLING UNITS							
16,000		100	150	50	25	50	45
STRUCTURES WITH MORE THAN 6 DWELLING UNITS							
21,780		200	200	70	50	60	83
NOTES:							
[1] Mahoning County Public Health may require a larger lot area than established for the applicable zoning district if an on-site wastewater system (e.g., septic system) is required.							
[2] The number in parenthesis is the minimum front yard setback that applies to the side street line of a corner lot. ⁵³							
[3] Building heights are the maximum heights except as provided in Section 4.09(A)(5)(d): Exceptions to Height Limits .							
[4] The maximum density of development in the R-3 District shall be 14 dwelling units per acre.							

⁴⁹ We attempted to check current requirements against what is on the ground and revised many numbers or made other adjustments in order to reduce nonconformities. Furthermore, given that agricultural uses are exempt, we have modified the AG District requirements to deal primarily with residential uses.

⁵⁰ Given that the vast majority of lots in the township are rectangular, we have removed the street frontage requirement and revised the lot width standard to reflect typical lot sizes.

⁵¹ We need to have a discussion about how best to regulate side yards, requirement for each yard or separation from adjacent dwellings. This is especially true for the R-1B and R-1C Districts.

⁵² We spotted checked some of the newer subdivisions and the current requirement of a total of 24 feet (12 feet each side) seems too much. Furthermore, 12 feet is a large setback for this type of lot. We recommend going with 9 feet, which is allowed under certain circumstances in the current resolution.

⁵³ This will require a small modification to the corner lot illustration to identify the side street line.

(D) Site Development Standards for Nonresidential Zoning Districts

- (1) [Table 4.09-2](#) establishes the minimum site development standards for nonresidential zoning districts.
- (2) There can be more than one principal building on an individual lot. When multiple principal buildings are located on an individual lot, the spacing between the buildings shall be reviewed and approved by the Boardman Township Fire Chief or their designee.
- (3) Side yard setbacks shall not apply if the subject building is located across multiple lots, under the same ownership, or if the adjacent lot is within the same zoning district.⁵⁴

TABLE 4.09-2: SITE DEVELOPMENT STANDARDS FOR NONRESIDENTIAL ZONING DISTRICTS				
DISTRICT	FRONT YARD SETBACK (FEET)	SIDE YARD SETBACK (FEET) [2]	REAR YARD SETBACK (FEET) [2]	MAX. BUILDING HEIGHT (FEET) [3]
GB	35 (10)	15	40	45 ⁵⁵
RB	35 (10)	15	40	45
NMB	20 (5)	10	35	45
I	50 (20)	50	50	60
P-I	35 (10)	15	40	45

NOTES:

[1] The number in parenthesis is the minimum front yard setback that applies to the side street line of a corner lot.

[2] Additional side and/or rear setbacks may be required to accommodate landscaping and buffering requirements in [Article 10: Landscaping Standards](#).

[3] Building heights are maximum heights except as provided in Section [4.09\(A\)\(5\)\(d\): Exceptions to Height Limits](#).

⁵⁴ We added this for a number of reasons, but most importantly because of the lot and building layout in North Market Street.

⁵⁵ We have increased the maximum height slightly to accommodate the extra height that is often commonly seen in commercial districts.

Article 5: Planned Unit Development (PUD) District⁵⁶

5.01 PURPOSE

- (A) The purpose of the Planned Unit Development (PUD) District is to provide a means for encouraging ingenuity, imagination, and flexibility in the planning and designing of land areas and permitting uses and intensities of development which could cause adverse impact in other zoning categories. The PUD regulations provide a controlled flexibility by utilizing objectives and performance standards rather than rigid design requirements, the intent being to encourage developments which possess greater amenities than that resulting under standard zoning district requirements.
- (B) It is not the intent of the PUD to allow applications to circumvent the intent of this resolution to permit residential density, housing types, commercial or industrial uses, or street and utility layouts that conflict with adopted township plans and policies or the character of the area.
- (C) It is furthermore the purpose of the PUD regulations to:
 - (1) Encourage creative and high-quality developments that are compatible with surrounding land uses, achieve a high degree of pedestrian-vehicular separation, and contribute to the overall quality of Boardman Township;
 - (2) Protect natural features such as topography, trees, and drainage ways in the existing state as much as possible;
 - (3) Provide for appropriate, adequate and usable open space where there is a residential component to the proposed PUD;
 - (4) Ensure that there are adequate services and infrastructure to serve the proposed development and not decrease the services or infrastructure for existing uses; and
 - (5) Promote a harmonious design among the various elements and uses within the development while mitigating any potential negative impact on surrounding properties.

5.02 SCOPE AND APPLICABILITY

- (A) The intent of the PUD regulations is to provide a means for applying comprehensive and flexible planning and design techniques on properties substantially sized to accommodate such a plan. As such, the minimum size of any PUD project or plan shall be five acres. PUD proposals shall not be applied to small areas as a means of bypassing traditional district regulations.
- (B) The Zoning Inspector may authorize an application for a smaller PUD if the applicant demonstrates that the proposed development is of such a mixture of uses and such a development intensity, not otherwise allowed in the base zoning districts in this resolution, but that is otherwise in line with the adopted plans and policies of the township that such development warrants a special review by the township.

⁵⁶ This is essentially all new language for the township since the current resolution only states that a planned unit development is permitted but does not identify the review procedure or establish any standards. This is a fairly basic PUD district that provides the township with flexibility but establishes a minimum set of design standards.

5.03 PUDs APPROVED PRIOR TO THE EFFECTIVE DATE OF THIS RESOLUTION

Any Planned Unit Development (PUD) approved prior to the effective date of this resolution shall continue in accordance with the approved plans. Modifications, amendments, and expansion of existing PUDs shall be in accordance with Section <>.

5.04 PUD REVIEW PROCEDURE

(A) In order to submit an application for PUD review, the lot(s) included within the proposed PUD shall be under a single ownership or control, or shall be subject to a joint application by the owners of all property included within the proposal.

(B) Basic Review Procedure Information and Options

- (1)** All applications for a PUD shall include a separate application for a zoning map amendment that shall take place simultaneously with the submission and review of the PUD Preliminary Plan. The Zoning Commission and Township Trustees shall approve the initial plans by resolution using the notice and procedure requirements for as zoning map amendment as established in Section [3.04: Zoning Text or Map Amendment](#).
- (2)** All applications for PUD review shall be required to submit both a PUD Preliminary Plan and PUD Final Plan. Preliminary and final plans may be submitted and approved simultaneously where an application is for a development that has less than 25 acres in total project area.

(C) PUD Review Procedure

(1) Step 1 – Pre-Application Conference

A pre-application conference shall be required for all applications. The procedure and requirements for a pre-application conference shall be as established in Section [3.04\(C\)\(1\)](#), however for PUDs it shall be mandatory and not optional.

(2) Step 2 – PUD Preliminary Plan and Zoning Map Amendment

- (a)** The applicant shall apply for a zoning map amendment for a PUD and shall submit all of the submittal requirements for a zoning map amendment as well as a PUD Preliminary Plan.
- (b)** All applications shall be submitted with the required fees as established in the Boardman Township fee schedule.
- (c)** The procedure for this the PUD Preliminary Plan and zoning map amendment review shall comply with the requirements of Section [3.04: Zoning Text or Map Amendment](#).
- (d)** The Zoning Commission shall review the PUD Preliminary Plan and make a recommendation to the Township Trustees to:
 - (i)** Approve;
 - (ii)** Approve with modifications; or
 - (iii)** Deny the application.
- (e)** The recommendation shall be made based on review of the application using the review criteria for a zoning map amendment and the review criteria for PUDs as established in this article.

- (f) The Zoning Commission may, in its recommendation to the Township Trustees, require that the PUD Final Plan be submitted in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the PUD Preliminary Plan and phased development schedule.
- (g) In accordance with the zoning map amendment review process, the Township Trustees shall hold a public hearing on the PUD Preliminary Plan and zoning map amendment and decide to approve, approve with modifications, or deny the application using the criteria contained in this article.
- (h) The Township Trustees' decision on the PUD Preliminary Plan and zoning map amendment is a legislative action of the Township Trustees and is subject to the same effective date and referendum provisions as set forth in Section [3.04\(D\): Effective Date and Referendum](#). After approval of the PUD Preliminary Plan and zoning map amendment, and after the subsequent referendum period has ended, the zoning map shall be changed to reflect this amendment.
- (i) In making its recommendations or decisions, the Zoning Commission and/or Township Trustees may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Zoning Commission and/or Township Trustees may permit the applicant to revise the plan and resubmit it as a PUD Preliminary Plan within 60 days of such action. Such resubmission shall be made to the board that imposed such conditions.
- (j) Approval of the PUD Preliminary Plan shall include density, intensities, land uses and their inter-relationship, general design standards, and building locations. Location of buildings (if applicable) and uses may be altered slightly due to engineering feasibility which is to be determined in the subsequent preparation of the detailed final development plans.

(3) Step 3 – PUD Final Plan Review

- (a) Within one year after the approval of the PUD Preliminary Plan, the applicant shall file a PUD Final Plan for the entire development, or when submitting in phases, for the first phase of the development.
- (b) If more than one year passes from the date of approval of the PUD Preliminary Plan and the PUD Final Plan has not been submitted for approval or a request for up to a one-year extension, for good cause shown, has been filed with the Zoning Inspector, the PUD Preliminary Plan shall be deemed expired and the applicant must resubmit such plan. In no case shall a PUD Preliminary Plan be valid for more than two years. After the PUD Preliminary Plan has expired, the PUD zoning designation shall remain in place, but no development shall be authorized unless the property owner, or authorized agent, submits a new PUD Preliminary Plan for review pursuant to this article, or applies for a zoning map amendment to another zoning district. The Zoning Commission or Township Trustees may also initiate a zoning map amendment after the expiration of a PUD Preliminary Plan.

- (c) Preliminary subdivision plat review by Mahoning County may occur concurrently with the PUD Final Plan approval. The applicant is responsible for ensuring the proposed plan complies with the Mahoning County Subdivision Regulations. Boardman Township shall not be required to waive any standards if the proposed plan does not comply with the Mahoning County's Subdivision Regulations.
- (d) An applicant shall submit a PUD Final Plan for review. The application shall be subject to the common review requirements of Section [3.03: Common Review Requirements](#), and the required fee shall be submitted, as established in the Boardman Township fee schedule.
- (e) Upon determination by the Zoning Inspector that the PUD Final Plan application is complete, such plans shall be submitted to the Architectural Review Board for review at its next regularly scheduled meeting, or at a special meeting.
- (f) The Architectural Review Board will review the PUD Final Plan to determine whether it conforms to all substantial respects to the previously approved PUD Preliminary Plan and to all other applicable standards of this resolution.
- (g) The Architectural Review Board shall hold a public meeting on the PUD Final Plan and decide to approve, approve with modifications, or deny the application using the criteria contained in this article.
- (h) In its decision, the Architectural Review Board may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the Architectural Review Board may permit the applicant to revise the plan and resubmit it as a PUD Final Plan within 60 days of such action. Such conditions shall be made a part of the terms under which the development is approved. Any violation of such conditions shall be deemed a violation of this section and no zoning certificate will be issued.

(4) Step 4 - Zoning Certificate Issuance

- (a) Zoning certificates shall not be issued until the lot or applicable subdivision has been fully recorded in the office of the Mahoning County Recorder's Office and public improvements have been installed in accordance with the applicable subdivision regulations.
- (b) Zoning certificates shall only be approved when the proposed zoning certificate applications shows compliance with the approved PUD Preliminary and Final Plan as well as any other applicable section of this resolution.

(D) Time Limits for the PUD Final Plan

- (1) Any PUD Final Plan shall be valid for a period of two years after the date of approval by the Zoning Commission. If no development has begun (development being defined as the start of construction of the required public/private improvements as shown on the approved Final Plan for one or more phases of the project) in the PUD within two years from the date of approval, such approval of the PUD Final Plan shall lapse and be of no force and effect.
- (2) Two, one-year extensions of the time limit set forth in Subsection <> hereof, may be granted by the Architectural Review Board if such extension is not in conflict with the most current adopted township plans or policies and that such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension.

- (3) If an approved PUD Final Plan lapses as provided in <> hereof, the originally approved PUD Preliminary Plan shall also be considered void. Notice of such lapse shall be filed by the Zoning Commission and forwarded to the Township Trustees.
- (4) Voiding of the PUD Preliminary and Final Plans shall not rezone the property. After such plans are voided, the Zoning Commission, the Township Trustees, or property owners may initiate a rezoning to a base zoning district in accordance with Section <> or the property owner, or their agent, may resubmit a new PUD Preliminary Plan in accordance with the procedures of this article.

(E) Waiver of Standards

- (1) To encourage ingenuity, imagination and flexibility in the design of PUDs and prevent unnecessary hardships, the Zoning Commission may choose to waive specific standards cited in this article during the review of the PUD Preliminary Plan. By motion, the Zoning Commission may waive specific standards based on one of two following findings:
 - (a) The waiver will allow for improvement in overall design of the development and will enhance the proposal's compliance with the general criteria for approval in this article; or
 - (b) The waiver will remedy a standard causing practical difficulty or unnecessary hardship to the property owner. The difficulty or hardship caused is due to exceptional circumstances applying to the property but not caused by the owner. Financial hardship shall not be a consideration. The waiver is necessary for preservation of substantial property rights possessed by others in the same PUD District. After the waiver is approved the development will continue to comply with the general criteria for approval in this article.
- (2) The applicant shall identify each requested waiver at the time of application and explain in writing how the waiver meets one of the two findings. Prior to making an overall recommendation regarding the PUD application, the Zoning Commission shall, by motion, accept or reject the requested waiver. Any recommendation of the Zoning Commission shall be by a simple majority of the full membership of Zoning Commission.

(F) Changes or Modifications to Approved PUDs

- (1) A PUD shall be constructed and completed in accordance with the approved PUD Final Plan and all supporting data. The PUD Final Plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the PUD as set forth therein.
- (2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with Section [3.05: Variance or Conditional Use](#).
- (3) Any request to change or otherwise modify the approved PUD Final Plan as it applies to more than one property owner, shall be reviewed based on whether the change is considered major or minor, in accordance with this subsection.

(4) Major Change

- (a)** Major changes to a PUD require the prior approval of the Zoning Commission and the Township Trustees in the same process, and with the same hearings, as that used to review of the PUD Preliminary Plan. The Zoning Inspector shall have the authority to determine if a proposed change is a major change. Such changes include, but are not limited to:
 - (i)** Expansion of the PUD project beyond the original tract coverage;
 - (ii)** Removal or subtraction of land from the original tract coverage; and
 - (iii)** Proposed changes that will result in an increase in residential dwelling units of more than 5 percent of the total dwelling units proposed or an aggregate increase of more than 10 percent in nonresidential square footage.
- (b)** Changes that require the approval of only the Zoning Commission at a public hearing include, but are not limited to, the following:
 - (i)** Changes in the plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PUD; and
 - (ii)** Amendments to the conditions that were attached to the PUD Preliminary Plan or PUD Final Plan approval.

(5) Minor Changes

- (a)** Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved PUD Preliminary Plan and which are essentially technical in nature, as determined by the Zoning Inspector.
- (b)** Examples of minor changes include but are not limited to: change in the intensity of lighting, changes in the size and location of water and sewer lines within approved easements and changes in the location and number of fire hydrants.
- (c)** The Zoning Inspector shall notify the Zoning Commission of all such approved minor changes.

(G) Limitation on Resubmission

Whenever an application for a PUD has been denied, the applicant shall be subject to the standards of Section [3.03\(I\): Reapplication after Denial of an Application](#).

(H) Revocation

- (1)** In the event of a failure to comply with the approved plan or any prescribed condition or approval, including failure to comply with the stage development schedule, the Zoning Commission may, after notice and hearing, revoke the approval of the PUD Preliminary or Final Plan. The Zoning Commission shall at the same time recommend whether to maintain the PUD zoning district or initiate a zoning map amendment to another zoning district.
- (2)** The revocation shall become final 30 days after the Township Trustees passes a resolution to rezone the property to a non-PUD zoning category or a decision by the Zoning Commission to revoke the approved plans but retain the PUD zoning.
- (3)** Where the PUD zoning remains without an approved PUD Preliminary Plan or a Final Plan, the property owner or agent shall be required to submit a new PUD Preliminary Plan in accordance with the review procedures of this article.

(I) Review Criteria

(1) General Review Criteria

All PUD applications shall be reviewed based on the following general criteria and the applicable review body shall consider such criteria in the creation of their specific findings of fact when making recommendations and decisions regarding PUD applications, especially for the review of the PUD Preliminary Plan:

- (a)** The proposed development is in conformity with the township's adopted goals, policies, and any applicable plans;
- (b)** The proposed development meets the intent and spirit of this resolution and all other applicable township resolutions;
- (c)** The development provides an environment of stable character that promotes a harmonious relationship between land uses within the site and a harmonious relationship with surrounding development, utilizing adequate buffers where necessary;
- (d)** The proposed development provides a development pattern which preserves and utilizes the natural topography, geologic features, scenic vistas, natural vegetation and natural drainage patterns of the site;
- (e)** The proposed development maximizes the opportunity for privacy within residential areas and minimizes nuisances between residential areas and other land uses;
- (f)** The proposed development, while compatible with its surroundings, provides a more diverse environment for living, shopping and/or working than would be possible under strict application of the standard minimum design requirements of other districts provided within this resolution;
- (g)** The proposed development promotes greater efficiency in the use of land and does not impose an undue burden on public services and facilities such as fire and police protection, schools, water supply and wastewater disposal due to excessive population densities;
- (h)** The proposed development is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (i)** The proposed development is accessible from public thoroughfares adequate to accommodate the traffic which shall be imposed on them by the proposed development, and the proposed streets and parking areas within the site are adequate to serve the proposed arrangement of land uses;
- (j)** The proposed development minimizes pedestrian, bicycle, and vehicle conflicts;
- (k)** The proposed development provides a higher quality and more useful design of landscaping and open space and amenities than would normally be required under the strict application of existing zoning requirements;
- (l)** The proposed development contains such proposed covenants, easements, association by-laws and other such provisions as may reasonably be required for the public health, safety, and welfare;

- (m) The proposed development is designed in such a way that each individual section of the development as well as the total development, can exist as an independent section capable of creating an environment of sustained desirability and stability or that adequate assurance has been provided that such an objective shall be attained;
- (n) The proposed development can be substantially completed within the time specified in the schedule of development submitted by the developer; and
- (o) The PUD plans have been transmitted to all other agencies and departments charged with responsibility of review and any identified issues have been reasonably addressed by the applicant.

(2) Additional Review Criteria for the PUD Final Plan

In addition to the general review criteria above, the following criteria shall serve as conditions that should generally be satisfied before the approval of the PUD Final Plan:

- (a) Where common open space is required, appropriate arrangements with the applicant have been made which will ensure the reservation of common open space as indicated on the PUD Preliminary Plan and Final Plan. If deemed necessary by The Township Trustees during the PUD Preliminary Plan review process, the Township Trustees may require the applicant to hold bond to ensure the successful and proper reservation of open space. Furthermore, the PUD Final Plan shall demonstrate how the open spaces shall be duly transferred to a legally established homeowner's association or has been dedicated to the Township or another public or quasi-public agency;
- (b) Appropriate agreements with the applicant have been made to ensure the proper completion of public improvements in compliance township and Mahoning County regulations;
- (c) The proposed PUD Final Plan for the individual section(s) of the overall PUD is consistent in contents (building location, land uses, densities and intensities, yard requirements, and area and frontage requirements) with the approved PUD Preliminary Plan;
- (d) Each individual phase of the development can exist as an independent unit that can create an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained;
- (e) That any exception from the design standards provided in the Preliminary Plan is warranted by the design and amenities incorporated in the detailed Final Plan;
- (f) That the internal streets and thoroughfares proposed are suitable and adequate to accommodate the anticipated traffic within and through the development; and
- (g) The PUD Final Plan has been transmitted to all other agencies and departments charged with responsibility of review.

5.05 PERMITTED USES

(A) Principal Uses

- (1) Only those uses listed in [Table 4.07-1](#), whether permitted, permitted with standards, or conditionally permitted, may be considered in the application of a PUD.

- (2) In general, any standards that applies to a specific use in a zoning district shall also apply to those same uses in a PUD. However, the Zoning Commission and the Township Trustees may adjust or waive any of those use-specific standards.
- (3) As part of any approval, the Zoning Commission and the Township Trustees shall approval a list of acceptable uses permitted in the PUD. Such list of uses only include uses established in [Table 4.07-1: Permitted Use Table](#).
- (4) Planned Unit Developments that are surrounded by residential zoning districts shall be restricted to uses, and related accessory uses, that are permitted in the residential zoning districts.
- (5) Planned Unit Developments that share a boundary with a GB or RB District located along the Market Street (Route 7) and Boardman Poland Road (Route 224) corridors, or that will result in the rezoning of a GB or RB District, may include a mixture of uses with the following conditions.
 - (a) If this type of PUD results in the rezoning of an existing residential zoning district adjacent to the GB or RB District then the PUD shall be required to incorporate a mixture of uses, including residential uses.
 - (b) Such PUD shall include a minimum of 40 percent of the land area dedicated to residential uses and another 35 percent of the land area dedicated to commercial or office uses. Such percentages shall be of the any land area not dedicated to parks, recreation, and open space uses, or other lands dedicated to public and institutional uses.
 - (c) The land area dedicated to residential uses may include a portion or all of the area dedicated to commercial or office uses if the minimum density of dwellings in the area is six units per acre and all of the uses are designed in a manner to create an interconnected, mixed-use neighborhood.
- (6) No land or structure shall be used or occupied to create any nuisance or hazard involving fire, explosion, noise, vermin, brilliant light, vibration, smoke, dust, fumes, odor, heat, cold, disease, dampness, electrical or electronic disturbance, radiation and/or toxic agents.
- (7) Any changes in uses within an approved PUD shall be required to be reviewed as part of a major PUD amendment.

(B) Accessory Uses

Unless modified by the Zoning Commission or Trustees during the PUD Preliminary Plan or PUD Final Plan approval, accessory uses in a PUD District shall be subject to the following standards:

- (1) Accessory uses and structures related to single-family residential uses in a PUD District shall be subject to the standards applied to accessory uses in the R-1A District.
- (2) Accessory uses and structures related to multi-family residential uses in a PUD District shall be subject to the standards applied to accessory uses in the R-3 District.
- (3) Accessory uses and structures related to nonresidential uses in a PUD District shall be subject to the standards applied to the GB District.

5.06 DEVELOPMENT STANDARDS

Except as otherwise authorized by the Zoning Commission and the Township Trustees, PUD Districts shall comply with the following development standards:

(A) Minimum Site or Lot Requirements

- (1)** Yard, setback, lot size, type of dwelling unit, height, frontage and floor area requirements and related limitations, and use restrictions contained in other articles of this resolution, may be waived for a PUD, provided that the spirit and intent of this resolution and this section are met as determined by the Zoning Commission and The Township Trustees.
- (2)** Every building in a PUD shall have access either to a public street, walkway or other area dedicated to common use.
- (3)** In PUDs with residential dwelling units, the privacy of future residents shall be assured by yards, creative building arrangements, screening and other design elements. At a minimum, residential dwellings shall meet the following standards in a PUD:
 - (a)** The minimum distance between structures shall not be less than 15 feet or one-half the height of the higher structure, whichever is greater.
 - (b)** The minimum setback permitted from public rights-of-way shall be 25 feet for streets identified on adopted policies or plan related to the township, or other related plans for transportation, and for streets designed to provide access to property adjoining the development.
 - (c)** Balconies, decks and patios shall be screened from each other when closer than 50 feet from each other.
- (4)** For developments without any residential component, the minimum spacing between interior buildings shall be subject to approval by the township, but in no case shall be less than 20 feet or one-half the height of the taller building whichever is greater. All buildings along the perimeter of a PUD that is larger than five acres in size shall be set back a minimum of 50 feet along any existing residential district, park, or school property, and 25 feet along any other district or property. These perimeter setbacks shall be doubled if the proposed use is a use type that falls under the Industrial Use Classification in [Table 4.07-1](#). Perimeter setbacks may only be reduced using the waiver procedure found in [Section 5.04\(E\): Waiver of Standards](#).

(B) Maximum Building Height Standards

- (1)** Residential buildings or mixed-use buildings that contain residential dwellings may exceed 35 feet only if the Zoning Commission determines the proposed building allows adequate fire emergency access and is of an appropriate scale to its surroundings.
- (2)** All other buildings shall not exceed 80 feet in height; however, the Boardman Township Fire Department may further restrict the maximum height of nonresidential buildings for safety purposes, based on fire protection capabilities.

(C) Land Use Density and Intensity

- (1)** Final land use density and intensity of uses shall be subject to approval of the Zoning Commission and The Township Trustees during the PUD Preliminary Plan review.
- (2)** In general, the overall gross density of a residential component of a PUD shall comply with the township's adopted plans and policies. Residential densities shall not exceed 14⁵⁷ dwellings units per gross acre.

⁵⁷ There continues to be discussion about this maximum density but in a survey of over 1,000 residents, participants were asked about the appropriateness of different types of housing and densities, including example illustrations, and densities higher than this were not seen as appropriate to Boardman Township.

- (3) Increased net densities or lot coverage may be permitted by the Zoning Commission where it is satisfied that the applicant has provided a proportionate increase in the amount and amenity of common open space. Such density increases shall not exceed 15% of the maximum densities established in this section.
- (4) For nonresidential uses, the overall intensity of development shall be compatible with the recommendations of adopted plans and policies, and with the capacity of public streets, drainage facilities and utilities and not violate the following standards:
 - (a) The impervious surface of the site shall not exceed 80% of the total site excluding public rights of way.
 - (b) The aggregate floor area of all buildings shall not be greater than 60% of the total area of the site excluding public rights of way.
- (5) The preceding density guidelines may be varied at the discretion of the Zoning Commission and the Township Trustees if it can be demonstrated that a variance to a guideline is necessary to achieve an improved site design, that surrounding neighborhoods and public facilities will not be adversely affected, and that a common open space will be provided. However, the approved density in the PUD shall not exceed more than 15% the density which is permitted in this section.
- (6) Where there are mixed-use structures that contain both residential and commercial or commercial and industrial uses, the applicant shall provide information indicating the appropriate use groups for various areas within such structures and type of construction separating them. No highly combustible, toxic or otherwise hazardous materials shall be permitted within residential areas of the development. In addition:
 - (a) Adequate information shall be provided to the Fire Department and Building Inspector for each to determine that the mixed-use building(s) shall meet State and local building and fire codes.
 - (b) Adequate security shall be provided between uses in mixed-use structures. Interior common areas serving dwellings shall not be accessible to the public at large.

(D) Design and Development Standards

Unless otherwise stated below, or waived by the Zoning Commission or Township Trustees through Section [5.04\(E\): Waiver of Standards](#), the proposed development shall be subject to the regulations and standards of this code including, but not limited to, outdoor lighting, off-street parking and mobility, signs, architectural standards, etc.

(1) Landscaping and Buffering

- (a) All PUDs shall comply with the applicable landscaping and buffering requirements of [Article 10: Landscaping Standards](#), which shall be established as the minimum landscaping and buffering requirements.
- (b) The percentage of retained and proposed landscaped areas to total area shall not be less than 20 percent of the entire lot.
- (c) In general, all unpaved areas of a lot shall be landscaped, or a bond or irrevocable letter of credit submitted to guarantee the installation of landscaping prior to occupancy of a principal building.
- (d) Every effort shall be made to preserve mature stands of trees and other natural features having intrinsic, aesthetic value.

- (e) Where this is not practical, attractive groupings of nursery materials shall be planned.
- (f) The amount of landscaping shall be comparable to the intensity of the development proposed. Care shall be taken to introduce trees and other landscaping into parking and other paved areas.
- (g) PUDs that contain nonresidential uses or residential uses of a higher density or intensity of adjacent residential uses shall be required to provide a permanent open space buffer consisting of mounding and vegetative plantings sufficient to protect the privacy and amenity of such adjoining areas. The buffer area shall be a minimum of 50 feet in width unless otherwise approved by the Zoning Commission through the waiver procedure of Section [5.04\(E\): Waiver of Standards](#).
- (h) The buffer area shall be maintained by the land owner or owner association in such a manner as to insure its effectiveness.
- (i) Outdoor areas or containers holding or storing trash, garbage, recycled or reused materials shall be screened on three sides from adjoining properties, streets and other public areas. Such areas or containers shall be screened in accordance with this resolution and shall include a decorative gate for access.

(2) Vehicular Access Points

- (a) The number of ingress and egress points shall be limited to reduce the number of potential accident locations with streets.
- (b) Adequate and properly arranged facilities for internal pedestrian and traffic circulations shall be provided.
- (c) Topography, landscaping and existing vegetative clusters shall be utilized as necessary to make the project attractive and provide buffers between areas of substantially different character.
- (d) The street and thoroughfare network shall be designed to provide enhanced connectivity in between neighborhoods as well as providing connections between neighborhoods and business activity centers.
- (e) Truck loading areas shall be physically isolated from residences or enclosed.

(3) Improvement Standards

- (a) Unless alternative standards are approved as part of the PUD approval process, all PUDs shall comply with the applicable subdivision improvement and design standards including, but not limited to, sidewalks, street design, drainage, and utilities.
- (b) All streets proposed within a PUD shall be public streets unless approved by the Zoning Commission, Township Trustees, and Mahoning County Planning Commission. In considering the approval of any application that proposes the use of private streets, the Zoning Commission and The Township Trustees shall consider the following:
 - (i) All private streets shall be designed in accordance with the standards of the Mahoning County Subdivision Regulations except that curbs and gutters may be waived and street width reduced if adequate provision has been made for storm drainage, guest parking and for access by emergency vehicles and trash collection trucks.

- (ii) Private streets shall be oriented and designed to discourage through traffic movement.
- (iii) Private streets should not be designed for extension into any adjacent development or provide access to future development which may occur on adjacent undeveloped land.
- (iv) Private streets shall have no more than 30 residential lots per entrance to a public street.
- (v) Any development proposed containing private streets shall also contain a description of the method by which such streets are to be maintained, such as the by-laws of a homeowners' association.
- (c) In addition to any sidewalk requirements required by the applicable subdivision standards, any PUD that contains residential uses shall provide for adequate pedestrian walkways connecting residences to existing and proposed recreational facilities, schools, neighborhood shopping, other residential areas, and adjoining sidewalks.

(4) Common Open Spaces

- (a) Common open space shall be required in all applications where there is a proposed PUD that contains any residential uses.
- (b) The common open space requirements for a PUD shall be based on the proposed residential density and shall be in accordance with [Table 5.06-1](#).
- (c) In the case of phased developments, open space shall be provided in proportion with each developed phase.

TABLE 5.06-1: PUD COMMON OPEN SPACE REQUIREMENTS⁵⁸

PROPOSED RESIDENTIAL DENSITY (GROSS DENSITY)	COMMON OPEN SPACE REQUIREMENTS
Under 4 Dwelling Units Per Acre	5 Percent
4 to Less than 8 Dwelling Units Per Acre	10 Percent
8 or More Dwelling Units Per Acre	15 Percent

- (d) The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
- (e) When open space is required, such space shall be areas that have been improved for active use by residents or members of the public that may include, but is not limited to, in-ground swimming pools, playgrounds, tennis courts, jogging trails, or similar outdoor recreational uses. Passive uses, such as trails, may be included in the open space calculation if an integral part of other open space improvements, as approved by the Zoning Commission and Township Trustees.
- (f) Retention or naturalized stormwater management areas, as well as dry stormwater detention basins, which are designed to be an amenity, as determined by the Zoning Commission, can be considered as open space.

⁵⁸ The Steering Committee will be revisiting these numbers based on additional discussions following the online survey.

- (g)** The following areas shall not be counted toward compliance with open space requirements:
 - (i)** Private and public roads, and associated rights-of-way;
 - (ii)** Public or private parking spaces, access ways, and driveways related to any residential use;
 - (iii)** Required minimum spacing between buildings and required yard setbacks;
 - (iv)** Vehicular use areas;
 - (v)** Land that is subject to pre-existing conservation easements or other similar protected open spaces;
 - (vi)** Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
 - (vii)** Substations, public utility easements;
 - (viii)** Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the Zoning Commission or Zoning Inspector, as may be applicable based on the review procedure.
- (h)** All common open space shall be designed in accordance with the following:
 - (i)** The location, shape, size and character of common open space shall be suitable for the proposed residential uses in relation to the location, number and types of dwelling units it is intended to serve. In any case, it shall be highly accessible to all residents or users of the PUD.
 - (ii)** The common open space shall be used for amenity and/or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the PUD in relation to its size, density, expected population, topography and the type of dwellings.
 - (iii)** The common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriate to the uses which are authorized for the common open space and shall conserve and enhance the amenities of the common open space regarding its topography and unimproved condition.
 - (iv)** Where appropriate, open space should be arranged in order to provide connections to existing or future open space areas, trails, or similar features on adjoining parcels.

(5) Protection and Maintenance of Common Open Space

Adequate provision shall be made for the long-term maintenance and/or operation of all common open space in accordance with this section.

(a) Reclamation of Disturbed Open Space

Any required land areas designated for use as open space that are disturbed during construction or otherwise not preserved in its natural state, shall be landscaped with non-invasive vegetation that appeared in those respective areas prior to construction or with other native vegetation. The planting of invasive plant species is prohibited.

(b) Future Subdivision and Development of Open Space

All required open space shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to Boardman Township and duly recorded in the office of the Mahoning County Recorder. Subject to permanent restrictions as set forth above, required open space in an open space residential subdivision shall be owned by an homeowners' association, Boardman Township (with its consent), a land trust or other conservation organization recognized by Boardman Township, or by a similar entity. Required open space may be held by the individual members of a homeowners' association as tenants-in-common or may be held in common ownership by a homeowners' association, community association, or other similar legal entity.

(c) Conservation Easements

With the permission of Boardman Township, the owner(s) of required open space may, in accordance with the applicable provisions of the ORC, grant or transfer a conservation easement to any entity described in the ORC, provided that the entity and the provisions of the conservation easements are acceptable to Boardman Township. When a deed restriction is proposed as the method of restricting further subdivision of land designated as open space, Boardman Township shall be named as a party to such deed restrictions with approval authority over any changes thereto. The conveyance must contain appropriate provision for assignment of the conservation easement to another entity authorized to hold conservation easements under the ORC, in the event that the original grantee becomes unwilling or unable to ensure compliance with the provisions of the conservation easement.

(d) Homeowners' Associations

The following shall apply where a homeowners' association will be established to maintain any open space or other common areas as required by this article:

- (i)** A homeowners' association shall be established to permanently maintain all open space, common areas and conservation easements related to the open space.
- (ii)** All homeowners' association agreements shall be submitted for approval as part of a zoning certificate, conditional use, planned development overlay, or planned development application, as applicable. Copies of the proposed covenants, articles of incorporation, and bylaws of the association shall be submitted with said agreements. No set of proposed covenants, articles of incorporation, or bylaws of a homeowners' association shall permit the abrogation of any duties set forth in this section.

- (iii)** All homeowners' associations shall guarantee maintenance of all open space and common areas within the boundaries of the development. In the event of a failure to maintain such open space or common areas, the township may do any of the following:

 - A.** If the open space or common area is owned by the township, township approved land trust or other qualified organization, county, state or park district, the township may remedy the failure to maintain at its own cost and seek reimbursement from the homeowner's association, or seek to enforce the homeowner's association's duty to maintain through an injunction or any other civil remedy.
 - B.** If the open space or common area exists pursuant to a conservation easement in which the township is a party to such easement, the township may seek to enforce the terms of the conservation easement as provided in [Section 5.06\(D\)\(5\)\(c\)](#).
 - C.** If the open space or common area is owned jointly or in common by the owners of the building lots, or by any other owner of the property to be maintained, the township may seek to enforce the association's non-performance of its obligations and duties through an injunction or any other civil remedy.

Article 6: Accessory and Temporary Use Regulations

6.01 ACCESSORY USE REGULATIONS⁵⁹

(A) Purpose

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses permitted in accordance with this resolution.

(B) General Provisions

- (1) Accessory structures and uses shall be incidental to and customarily found in connection with a principal building or use permitted in the district in which it is located.
- (2) An accessory structure and/or use shall be subordinate to and serves the principal building or use.
- (3) An accessory structure and/or use shall be located on the same lot as the principal use for which it serves.
- (4) An owner shall be required to apply for and receive a zoning certificate unless exempted or not required by this section.
- (5) An accessory use or structure shall not be established unless a principal use has first been established on a site in conformance with the applicable provisions of the zoning resolution.
- (6) Accessory uses and structures are prohibited in any lot, open space area, or other protected common space that is preserved by a covenant deed restriction, or other private agreement.
- (7) Accessory structures used for agricultural purposes that are exempt from the requirements of this resolution (See Section <>) shall be exempt from these regulations.
- (8) No accessory building or structure shall be used to operate a business, store equipment, or supplies used for a business, or be a location where employees meet or park, in any residential district, or recorded residential subdivision, unless specifically allowed as a home occupation.

(C) Size Requirements and Location

(1) Setbacks

- (a) Accessory uses such as garages and carports, that are attached or an integral part of the principal use shall be regulated as part of the principal use and comply with all applicable setbacks.
- (b) Unless otherwise specified in this section, detached accessory structures shall be set back a minimum of five feet⁶⁰ from the principal building. This setback shall not apply to fences, walls, or hedges that are regulated by Section [7.02: Fencing, Walls, Hedges, and Similar Structures](#).

⁵⁹ Per the code evaluation, this section consolidates all regulations related to accessory uses into one chapter.

⁶⁰ There is special language in certain sections allowing these structures to sit closer to the lot lines on smaller lots.

- (i) Detached accessory structures shall be set back a minimum of five feet from all side and rear lot lines except in the R-1B and R-1C Districts⁶¹ where the minimum set back may be reduced to three feet.
- (c) Detached accessory structures shall be set back a minimum of 50 feet from any street right-of-way, regardless of what yard they are permitted within.

(2) Number and Size Requirements

- (a) Accessory buildings and structures in all zoning districts shall be subject to lot coverage standards in Sections <>⁶².
- (b) Table 6-1, below, identifies the maximum number of certain accessory structures permitted on any single lot.

TABLE 6-1: LIMITS OF CERTAIN ACCESSORY STRUCTURES	
Accessory Structure	Maximum Number of Structures
Detached Accessory Buildings	1 if a detached garage or carport is located on, or proposed for the same lot, otherwise there shall be a maximum of 2
Ground-Mounted Solar Energy Systems	1
Swimming Pools	1
Other Accessory Structure similar in nature to the above-mentioned structures, as determined by the Zoning Inspector	1

(3) Maximum Height

Unless otherwise specified in this section, the maximum height of accessory structures or buildings shall be 20 feet or the maximum height of the principal building, whichever is less. The height shall be measured as defined in Section [4.09\(A\)\(5\): Height Measurement and Exceptions](#).

(D) Permitted Accessory Uses

[Table 6.01-2](#) lists the accessory uses and structures allowed within all zoning districts. The following is an explanation of the abbreviations and columns in [Table 6.01-2](#).

(1) Permitted Use (P)

- (a) A "P" in a cell indicates that an accessory use or structure is permitted by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this resolution.
- (b) Permitted uses or structures are approved administratively by the Zoning Inspector through the zoning certificate procedure (See Section [3.07: Zoning Certificate](#)).⁶³

⁶¹ QUESTION – Should the reduced setback only apply to the smallest of lots in the R-1C?

⁶² There is still ongoing discussions with staff regarding whether there will be lot coverage standards for each zoning district. If so, this is a cross-reference to those standards. We also want to discuss the size allowances for certain structures to create an approach that works for the township.

⁶³ QUESTION – For projects that require a site plan review, do you want to mandate that all accessory uses be reviewed through the same process or should they just be through the standard zoning certificate process?

(2) Permitted Use with Use-Specific Standards (PS)

- (a)** A "PS" in a cell indicates that the accessory use or structure category is allowed by-right in the respective zoning district if it meets the additional standards set forth in the last column of [Table 6.01-2](#). Permitted uses with standards are subject to all other applicable regulations of this resolution.
- (b)** Uses or structures permitted with standards under this category are approved administratively by the Zoning Inspector through the zoning certificate procedure (See Section [3.07: Zoning Certificate](#)).

(3) Conditional Use (C)

- (a)** A "C" in a cell indicates that an accessory use or structure may be permitted if approved through the conditional use review (See Section [3.05: Variance or Conditional Use](#)). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 6.01-2](#).
- (b)** Conditional uses are subject to all other applicable regulations of this resolution.
- (c)** The existence of additional use-specific standards in this resolution shall not be implied to be the only standards the use is required to meet. Any use that is permitted as a conditional use shall be subject to the general review standards for conditional uses in Section [3.05\(D\): Conditional Use Review Criteria](#).

(4) Prohibited Uses

A blank and/or shaded cell indicates that an accessory use or structure is prohibited in the respective zoning district.

(5) Zoning Certificate Required

The "Zoning Certificate Required" column identifies if a zoning certificate is required for the applicable accessory use or structure.

(6) Yards Permitted

The "Yards Permitted" column identifies in which yards the applicable accessory use or structure is permitted. See also Section [4.09\(A\): Measurements, Computations, and Exceptions](#), for more information about specific yard locations for interior, corner, through, flag or panhandle, cul-de-sac, or curved street lots, etc.

(7) Numerical References (Last Column)

The numbers contained in the "Use-Specific Standards" column are references to additional standards and requirements that apply to the use and structure type listed. Standards referenced in the "Use-Specific Standards" column apply in all zoning districts unless otherwise expressly stated and may apply to a conditionally permitted use and/or a permitted use with use-specific standards.

(8) Unlisted Uses

If an application is submitted for a use that the Zoning Inspector determines is not defined or established in [Table 6.01-2](#), the applicant may choose to take one of the actions identified in Section [4.07\(B\)\(6\): Unlisted Uses](#).

(9) Accessory Uses in Planned Unit Development Districts

Accessory uses for development within a planned unit development district shall be regulated based on the principal use. Accessory uses for residential principal uses shall be as regulated for residential zoning districts in [Table 6.01-2](#). Accessory uses for nonresidential principal uses shall be as regulated for nonresidential zoning districts in [Table 6.01-2](#).

TABLE 6.01-2: PERMITTED ACCESSORY USE TABLE					
PERMITTED USES P = PERMITTED USE PS = PERMITTED WITH ADDITIONAL USE-SPECIFIC STANDARDS C = CONDITIONAL USE BLANK CELL = PROHIBITED	AG, R-1A, R-1B, R-1C, R-2, R-3, & P-I	GB, RB, NMB, & I	ZONING CERTIFICATE REQUIRED	YARDS PERMITTED F = FRONT S = SIDE R = REAR	USE-SPECIFIC STANDARDS SEE SECTION
Accessibility Ramps	PS	PS	Yes	F, S, or R	6.01(E)(1)
Accessory Dwelling Units	C	X	Yes	R	6.01(E)(2)
Amateur Radio Antennas	PS		Yes	S or R	6.01(E)(3)
Automated Teller Machines (ATM)		PS	Yes	S or R	6.01(E)(4)
Basketball Hoops	PS	PS	No	F, S, or R	6.01(E)(5)
Bike and Skateboard Ramps	PS	PS	Yes	R	6.01(E)(6)
Community Gardens	PS	PS	Yes	F, S, or R	6.01(E)(7)
Detached Accessory Buildings and Structures	PS	PS	Yes	S or R	6.01(E)(8)
Drive-Through Facilities		PS in B-1 and B-2	Yes	S or R	6.01(E)(9)
Farm Markets	PS	PS	No	F, S, or R	6.01(E)(10)
Home Occupations	PS		Yes	Inside principal building	6.01(E)(11)
Nursery Schools or Day Care Centers (Children or Adults)	PS	PS	Yes	Inside principal building	6.01(E)(12)
Outdoor Dining		PS	Yes	F, S, or R	6.01(E)(13)
Outdoor Display or Sales		PS	Yes	See 6.01(E)(14)	6.01(E)(14)
Outdoor Storage and Bulk Sales		PS	Yes	See 6.01(E)(15)	6.01(E)(15)
Outdoor Vending Machines and Drop Boxes		PS	No	See 6.01(E)(16)	6.01(E)(16)
Playsets, Treehouses and Trampolines	PS		See Section 6.01(E)(17) .		
Porches or Decks	PS	PS	Yes	F, S, or R	6.01(E)(18)
Raising of Small Livestock	PS		No	S or R	6.01(E)(19)
Satellite Dishes	See 6.01(E)(20)				
Small Wind Energy Conservation Systems	C	C	Yes	S or R	6.01(E)(21)
Solar Panels	PS or C	PS or C	Yes	R	6.01(E)(22)
Swimming Pools and Hot Tubs	PS	PS	Yes	S or R	6.01(E)(23)
Type-B day care homes (1-6 children) ⁶⁴	P		Yes	Inside principal building	
Unenclosed Patios	PS	PS	No	F, S or R	6.01(E)(24)

⁶⁴ QUESTION – Does the township want to allow for the larger sized home day cares (Type A) in residential districts?

(E) Use-Specific Standards**(1) Accessibility Ramps (New)**

Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right-of-way, or street.

(2) Accessory Dwelling Units

- (a)** Accessory dwelling units shall only be permitted when accessory to a single-family dwelling on an individual lot with a minimum lot area of 12,000 square feet.
- (b)** Accessory dwelling units may be constructed within an existing dwelling unit (interior apartment with separate entrance) or as a separate or converted accessory structure (e.g., converted garage, carriage house, unit above a garage).
- (c)** An accessory dwelling unit that is constructed within the principal dwelling (interior apartment) shall comply with the following:
 - (i)** May occupy a basement, first, or second story of a main residence if it is designed as an integral part of the main residence and meets the setbacks required for the main residence.
 - (ii)** Any separate external entrance shall be located on the side or in the rear of the building.
- (d)** An accessory dwelling unit that is in a separate, detached building or is added to a detached building shall be constructed in a manner that reflects the architectural style, materials, colors, and roof design of the principal dwelling.
- (e)** Only one accessory dwelling unit is permitted on an individual lot.
- (f)** The maximum size of an accessory dwelling unit shall be 750 square feet and shall not contain more than two bedrooms.
- (g)** One off-street parking space shall be provided in addition to any spaces required in Section <>.
- (h)** The owner of the lot shall reside in either the principal dwelling or accessory dwelling unit as long as both dwelling units are occupied as residences.

(3) Amateur Radio Antennas (New)⁶⁵

- (a)** Towers used to support amateur radio antenna shall not exceed 70 feet in height.
- (b)** Such tower shall be set back a minimum of one foot from each lot line for every one foot in height. All guy wires, if applicable, shall be set back a minimum of ten feet from all lot lines.
- (c)** Any tower and related structures shall be installed in accordance with the instructions furnished by the manufacturer of the tower model. An antenna mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

⁶⁵ It is our understanding that the township has to allow for the reasonable use of amateur radio systems. As such, we have provided some basic regulations for your consideration.

(4) Automated Teller Machines (ATM) (New)

- (a) If the ATM is part of a drive-through facility, the ATM shall be subject to the vehicle stacking requirements of Section <>.
- (b) ATMs that are located within the interior of the building shall be regulated as part of the principal use.
- (c) Stand-alone ATMs shall be permitted only as a conditional use with approval required by the Police Department.

(5) Basketball Hoops

- (a) Basketball courts shall be subject to the standards of Section <>.
- (b) Movable basketball hoops shall not be located in rights-of-way or be so located as to require play in any right-of-way.

(6) Bike and Skateboard Ramps

Bike ramps and skateboard ramps shall be set back at least 15 feet from all lot lines.

(7) Community Gardens (New)

- (a) Community gardens may be allowed as an accessory use when associated with public or institutional principal use (e.g., religious institution or educational facility).
- (b) Community gardens may be located in an open space area if the space is maintained by a homeowners' association.
- (c) The owner of the property shall have an established set of operating rules addressing the governance structure of the garden; hours of operation; maintenance and security requirements and responsibilities; and distribution of garden plots.
- (d) The name and telephone number of the owner and any person designated as the person in-charge of garden coordination along with a copy of the operating rules shall be kept on file with the Zoning Inspector.
- (e) The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent properties.
- (f) There shall be no retail sales on site, except for produce grown on the site.
- (g) Benches, bike racks, raised/accessible planting beds, picnic tables, seasonal farm stands, garden art, and rain barrel systems may be permitted if the community garden is located on a lot where the principal use of the lot is public, institutional, or commercial.
- (h) Fences and walls shall be subject to the provisions of Section [7.02: Fencing, Walls, Hedges, and Similar Structures](#).

(8) Detached Accessory Buildings

The provisions of this section shall apply to any accessory building not identified elsewhere in Table <> that may include detached garages and carports, detached storage/utility sheds, gazebos, pool houses, and other similar buildings as determined by the Zoning Inspector.

- (a) Detached garages and carports shall be served by a paved driveway.
- (b) No detached accessory building shall be used for permanent habitable purposes.

(c) Setbacks

Detached accessory buildings shall be set back a minimum of 30 feet from the front foundation line of the principal building.⁶⁶ For the purposes of corner lots, this setback may be reduced to a minimum setback of 10 feet from the side foundation, which is determined to be the foundation that runs along the side of the building, facing the second street.

(d) Size⁶⁷

- (i)** The maximum square footage of any detached garage or carport shall be 700 square feet⁶⁸, except for garages or carports serving dwellings with three or more units, in which case, and additional 336 square feet may be added for each additional dwelling unit.
- (ii)** The maximum size of all other detached accessory buildings shall be 225 square feet.

(9) Drive-Through Facilities (New)

- (a)** Drive-through facilities shall be subject to the vehicle stacking requirements of Section <>.
- (b)** Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall be set back a minimum of 250 feet from any residential dwelling unit and shall be subject to all applicable noise resolutions and ordinances.
- (c)** No service shall be rendered, deliveries made, or sales conducted within the required front yard; customers served in vehicles shall be parked to the sides and/or rear of the principal structure.
- (d)** All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.

(10) Farm Markets (New)

Farm markets may be permitted with standards when they are used in conjunction with any lawful agricultural use pursuant to the ORC and shall be subject to the following standards and any other applicable sections of this resolution:

- (a)** A farm market shall only be permitted where 50% or more of the gross income received from the farm market is derived from produce raised on farms owned or operated by the market operator in a normal crop year.
- (b)** The farm market shall be located on the same property where the produce is raised.
- (c)** The structure shall not exceed 800 square feet.

⁶⁶ This is from the township's current language for gazebos.

⁶⁷ We will be revisiting these numbers following extended discussions with staff and the committee.

⁶⁸ A suggestion was made to allow for a slightly larger detached garage. The current allowance of 676 square feet is considered a fairly reasonable size garage, especially when detached, but we have allowed for an additional 24 square feet to provide some flexibility. In all cases, people are still subject to the coverage requirements.

- (d) The structure and sign shall be set back a minimum of 30 feet from all side and rear lot lines.
- (e) The structure, signs, and required off-street parking shall be located and set back in such a manner as to not create a traffic hazard as determined by the Zoning Inspector.
- (f) Any signage located on the site shall not be illuminated and shall be subject, where applicable, to the standards of [Article 12: Signage Standards](#).

(11) Home Occupations

- (a) Home occupations shall be conducted entirely within the dwelling unit.
- (b) Home occupations shall not change the character of the residential use and shall not adversely affect the uses permitted in the residential district of which they are a part.
- (c) The nature of home occupation as an accessory use relative to its location and conduct of activity is such that the average neighbor, under normal circumstances, would not be aware of its existence.
- (d) Any home occupation activities on the property shall be conducted only by persons residing in the dwelling unit⁶⁹.
- (e) No building or structure shall be used to operate a business, store equipment, or supplies used for a business, or serve as a location where more than four employees meet or park prior to going to work off-site but where such employees do not work anywhere on the property.
- (f) The maximum floor area the use may cover shall not exceed 20 percent of the total floor area of the dwelling unit.
- (g) Home occupations which provide a service shall not have more than two customers (including those arriving and waiting for service) at any one time.
- (h) The storage of all equipment, machinery, supplies, materials, files, and the like, shall be stored completely within the residence or accessory buildings.
- (i) Any need for parking generated by the conduct of such home occupation shall be accommodated on off-street parking spaces or areas that are paved for the purpose of parking.
- (j) No traffic shall be generated by such home occupation in greater volume than is normally expected for the residential neighborhood.
- (k) An auto repair business, shop, or use shall only be allowed when all work is completed within an enclosed garage and where there is no storage of vehicles being serviced outside of such garage.
- (l) The following are examples of permitted types of home occupations, all other types of home occupations shall be prohibited⁷⁰:
 - (i) Clerical and other similar business services;
 - (ii) Instruction in music, dance or other type of teaching with a maximum number of two students at a time;

⁶⁹ QUESTION – Has the township ever run into an issue with not allowing at least one other person to work in the home occupation?

⁷⁰ This should eliminate the need to have a second list of prohibited home occupations.

- (iii) The office of a professional accountant, attorney, broker, consultant, insurance agent, realtor, architect, engineer, sales representative, and similar office oriented occupations;
- (iv) Artists, sculptors, photographers, and other providers of home crafts;
- (v) Barber shop/beauty salon with a maximum of one chair;
- (vi) Workshops for a tailor, dressmaker, and milliners;
- (vii) Caterers with no on-site catering;
- (viii) A licensed massage therapist who provides massage therapy for a maximum of one client at any given time; or
- (ix) Any similar use as determined by the Zoning Inspector.

(12) Nursery Schools or Day Care Centers (Children or Adults)

Nursery schools or day care centers may only be permitted as accessory uses to permitted and conforming nonresidential uses including places of worship and educational institutions. Such use shall be located within the principal building.

(13) Outdoor Dining (New)

- (a) Outdoor dining areas shall be located along a sidewalk adjacent to the principal building or between the principal building and parking areas. Outdoor dining areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the café/food service areas and the principal building.
- (b) A minimum of five feet of clear walking space shall be maintained on the sidewalk for pedestrian traffic.
- (c) Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
- (d) Enclosing outdoor dining areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a new zoning certificate.
- (e) Any roof designed to cover patrons, including roofs over areas for waiting, smoking, etc., shall be structurally attached to the principal building and permanent in nature.

(14) Outdoor Displays or Sales (New)

Facilities for outdoor display or sales (e.g., garden supply sales, news and flower stands, and similar uses) that are accessory to another principal use may be permitted upon compliance with the following:

- (a) Outdoor display and sales areas shall require the issuance of a zoning certificate. Such uses shall not be placed within the street right-of-way, within an interior drive, or in a location which will interfere with vehicle sight distance.
- (b) Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.
- (c) Any outdoor displays or sales not related to the principal use shall be regulated as a temporary outdoor sale in accordance with Section <>.

- (d) Outdoor display and sales areas may be permitted provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building.
- (e) Outdoor display and sales areas may also be permitted in any side or rear yard.
- (f) In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent residential lot.
- (g) The placement of the use shall not result in the reduction of the number of parking spaces required to serve the principal use(s) on the site.
- (h) The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- (i) The outdoor display and sales areas shall be maintained in good order and appearance.
- (j) A specific schedule of operation shall be filed and approved as part of the submitted application.
- (k) The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section [6.01\(E\)\(15\): Outdoor Storage and Bulk Sales](#).

(15) Outdoor Storage and Bulk Sales (New)⁷¹

Outdoor storage and bulk sale activities that are accessory to another principal use may be permitted upon compliance with the following:

- (a) The outdoor storage of goods shall be prohibited on vacant lots.
- (b) The outdoor storage of materials shall include the storage of goods, materials, or products associated with the principal use.
- (c) Areas devoted to outdoor storage shall be located in the side and rear yard only and shall comply with the building setbacks set forth in the applicable zoning district. Outdoor storage may also be located in the front yard when placed on a sidewalk area located within ten feet of the front façade of the principal building.
- (d) No outdoor storage area shall be permitted to occupy or interfere with traffic circulation, required parking areas, sidewalks, or pedestrian access.
- (e) The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 20 percent of the ground floor area of the principal building.
- (f) Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.
- (g) The outdoor storage area may also be used for a sales area for the related principal use.
- (h) In all cases, any areas designated for outdoor storage areas shall be set back a minimum of 50 feet from any adjacent residential lot.

⁷¹ This would be for items such as mulch sales, sheds, and similar large items.

(i) Screening

- (i)** All aspects of outdoor operations including outdoor storage of goods and materials shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six feet.
- (ii)** If the wall or fence needs to exceed eight feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.
- (iii)** All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
- (iv)** Outdoor storage of materials shall not include a junkyard or similar storage.

(16) Outdoor Vending Machines and Drop Boxes (New)

- (a)** Outdoor drop boxes shall be prohibited in the TC District.
- (b)** No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location which will interfere with required site visibility requirements (See Section <>.).
- (c)** The placement of the facility shall not result in the reduction of the number of parking spaces below the number of spaces required for the principal use by this resolution.
- (d)** The facility or equipment shall be maintained in good operating order and appearance.
- (e)** Vending machines shall only be placed along the façade of the principal building. See [Figure 6.01-A](#).



Figure 6.01-A: The above is an image of a vending machine that is appropriately located along the façade of the building.

- (f)** Drop boxes shall only be permitted in the side or rear yard.

- (g) A maximum of one drop box and two vending machines are permitted on any single lot. One additional drop box and one vending machine shall be permitted on a lot for each two acres of lot area in excess of an initial two-acre lot. This limitation on the number of boxes or machines shall not apply to dumpsters outside of the building or vending machines located within the building.
- (h) Signage shall be limited to a maximum of six square feet on each vending machine and drop box and shall not count toward the sign area allowed in [Article 12: Signage Standards](#).
- (i) The township shall have the authority to place more than one drop box on a single lot when providing recycling services to the general public.

(17) Playsets, Treehouses and Trampolines

Playsets, treehouses, and trampolines shall be permitted in any rear yard, without a zoning certificate provided that the use is less than 200 square feet. Any use that has a larger footprint or that is an enclosed structure shall be regulated as a detached accessory building in accordance with Section <>.

(18) Porches or Decks

- (a) Porches or decks that are enclosed (with screening or other materials), have a roof, that are physically attached to the principal structure, or that extend more than three feet above the average grade shall meet the setback requirements for principal buildings in the applicable zoning district. See Section [4.09: Area, Setback, and Other Site Development Standards](#).
- (b) All other porches or decks may extend into the required front yard provided it shall not extend closer than 10 feet from the front lot line.⁷²
- (c) All other porches or decks may extend into the required rear yard provided it shall not extend closer than 25 feet from the rear lot line.
- (d) All porches and decks shall comply with the side yard setbacks established for principal uses in Section <>.

(19) Raising of Small Livestock (New)⁷³

The keeping of up to four chickens, rabbits, or similarly sized livestock is permitted on lots with an area of less than one acre provided that:

- (a) The principal use is a single-family dwelling;
- (b) No person shall keep any rooster;
- (c) No person shall slaughter any of the livestock for commercial sales;
- (d) The livestock shall be provided with a covered enclosure for protection from the elements; and
- (e) Livestock must always be confined within a fenced area of the yard at all times.

⁷² We will confirm there is no conflict with other encroachment provisions of this resolution.

⁷³ This language may be subject to further discussion after the community survey.

(20) Satellite Dishes (Revised)

- (a)** Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this section on accessory uses and shall not require a zoning certificate. To the maximum extent possible, the dish should be located in the side or rear yard.
- (b)** Dishes that exceed one meter in diameter shall only be permitted in a nonresidential zoning district if approved as a conditional use. Such dish shall only be permitted in a rear yard.

(21) Small Wind Energy Conservation Systems (New)

Small wind energy conservation systems may be permitted as a conditional use when compliant with the following regulations and any other applicable sections of this resolution:

- (a)** Systems that are five megawatts or larger in capacity are regulated by the Ohio Public Utilities Commission.
- (b)** Blade Tip Power System Turbines (BTPS)⁷⁴ are the only type permitted as part of these regulations.
- (c)** The minimum lot area shall be five acres.
- (d)** Any post or pole that the BTPS system is attached to must be affixed to the principal building.
- (e)** The tip of the rotor blades shall not extend more than 10 feet above the highest point of existing roofline.
- (f)** No portion of a turbine, including the rotor blades, shall be located within 20 feet of the ground if ground-mounted. There are no clearance requirements for roof-mounted systems.
- (g)** No portion of a turbine may extend over parking areas, driveways, or sidewalks.
- (h)** The maximum rotor diameter shall be six feet.
- (i)** All portions of a ground-mounted BTPS system shall be set back a minimum of 50 feet from all lot lines.
- (j)** Small wind energy conversion systems shall not exceed 55 dbA, measured five feet above ground level at the closest lot line. The sound level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms with sustained winds of 58 miles per hour or 50 knots.
- (k)** All small wind energy conversion systems shall be equipped with manual (electronic or mechanical) and automatic over-speed controls to limit the blade rotation speed to within the design limits of the small wind energy conversion system.
- (l)** No small wind energy conversion system shall be installed until evidence has been given that the electrical utility company has been informed of, and approved the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- (m)** Small wind energy conversion systems shall not be artificially lighted, except as required by the FAA.

⁷⁴ These are the smaller wind turbines that can be placed on the top of a building, typically large scale buildings.

- (n) The applicant or owner shall be responsible for acquiring all necessary approvals from other applicable agencies, including but not limited to the FAA.
- (o) Any small wind energy conversion system that is not operated on a functional basis for a period of six consecutive months shall be deemed abandoned. The Zoning Inspector may order the repair or removal of said small wind energy conversion system, in accordance with these provisions. The applicant, owner, or other person responsible for the facility shall repair or remove the same within 60 days of receipt of notification by certified mail. If said facility is not either operational or removed after 60 days, the township may remove the system at the owner's expense.

(22) Solar Panels

- (a) Freestanding solar panels shall require approval as a conditional use and shall be limited to a maximum height of 10 feet. Such freestanding solar panels shall be located in the rear yard where they shall be set back a minimum of 25 feet and shall not cover more than 200 square feet in lot area.
- (b) Roof-mounted solar panels on the front side of a roof facing a street shall be flush-mounted to the roof.
- (c) Roof-mounted solar panels that do not face a street may be mounted flush or at an angle to the roof but shall not exceed 36 inches in height from the roof plane as measured from the roof plane to the furthest point of the solar panel.
- (d) Roof-mounted solar panels shall require a zoning certificate or may be reviewed as part of the zoning certificate for the principal building.

(23) Swimming Pools and Hot Tubs

- (a) Any receptacle for water having a water surface area of more than 100 square feet and a depth greater than 24 inches shall be considered to be a swimming pool for the purpose of this resolution and shall be subject to the following restrictions:
 - (i) The edge of any pool shall be set back a minimum of 10 feet from all lot lines.
 - (ii) Every pool subject to these provisions shall be completely surrounded by a fence or wall with a minimum height of four feet and a maximum height of six feet. Such fence or wall shall be constructed so as to have no openings, holes, or gaps larger than four inches in any dimension, except for doors or gates, which shall be equipped with suitable locking devices to prevent unauthorized intrusion. An accessory building may be used in or as part of the enclosure. The height shall be measured from the grade to the top of the fence or wall, measured vertically.
 - (iii) Above-ground pools with vertical surfaces of at least four feet in height shall not be required to have fences, walls, or gates except in areas where access may be gained to the pool.
 - (iv) If pool meets the manufacturer's child proof regulation, fencing would not be required.⁷⁵

⁷⁵ This would accommodate automatic covers, which is a newer technology.

- (v) The only pools that are permitted as accessory uses in nonresidential districts shall be those that are accessory to an existing residential dwelling or accessory to a permitted hotel or motel. Any other pools shall be located inside the principal dwelling.
- (vi) The construction, plumbing, and electrical requirements, inspection, and other safety facilities shall be regulated by the county codes.
- (vii) For the purpose of these regulations, ponds that are used primarily for agricultural or domestic water supply, decoration, wildlife preservation or fishing shall not be considered as structures or swimming pools.

(viii) Temporary Portable Swimming Pools for Summer Use Only

- A. "Summer use only" means the pool cannot be erected before May 1st and must be dismantled by October 1st of each year. If a temporary portable pool is left up beyond the above-mentioned dates it becomes a permanent pool and the rules for permanent above ground pools shall apply.
- B. The edge of the pool shall be set back a minimum of 10 feet from all lot lines.
- C. A zoning certificate shall not be required for a temporary portable swimming pool provided it complies with the provisions of this subsection.

(b) Hot tubs shall be set back a minimum of 10 feet from all lot lines.⁷⁶

(24) Unenclosed Patios

All unenclosed patios shall meet the required setbacks of the applicable district unless otherwise permitted in [Section 4.09\(A\)\(3\): Setbacks](#).

6.02 TEMPORARY USES AND STRUCTURES

(A) Purpose⁷⁷

This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses and structures do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.

(B) General Standards Applicable to All Temporary Uses and Structures

- (1) All temporary uses and structures shall be reviewed in accordance with this section and all other applicable sections of this zoning resolution.
- (2) All temporary uses and structures shall:
 - (a) Require the issues of a zoning certificate;

⁷⁶ Currently the township requires a 25-foot setback which is over twice as is required for swimming pools so we suggest bringing those setbacks into alignment.

⁷⁷ Currently, the township requires a BZA review of temporary use permits for a lot of construction related items, model homes (offices). We are proposing to change that somewhat to allow for those types of uses to be administratively approved with additional standards.

- (b) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
 - (c) Be compatible with the principal uses taking place on the site;
 - (d) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
 - (e) Not include permanent alterations to the site;
 - (f) Not maintain temporary signs associated with the use or structure after the activity ends;
 - (g) Not violate the applicable conditions of approval that apply to a site or use on the site;
 - (h) Not interfere with the normal operations of any permanent use located on the property; and
 - (i) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement.
- (3) Temporary tents, seasonal covers, and temporary carports are prohibited with the exception that a temporary tent may be permitted as part of a special event. See Section [6.02: Temporary Uses and Structures](#).⁷⁸

(C) Permitted Temporary Uses and Use-Specific Standards

(1) Gravel Surface Parking Lot

- (a) A gravel surface parking lot may be permitted while a site is under construction but shall only be permitted in areas for parking as established in the approved plans associated with the zoning certificate.
- (b) The gravel parking area must be paved in accordance with Section <> or the approved plans prior to the issuance of an occupancy permit by the County. The applicant may also remove the temporary gravel surface parking lot as an alternative to paving but in such case, the area that was used as a gravel lot shall be returned to its previously state or as a landscaped area.
- (c) A solid surface or gravel driveway shall be provided so vehicles may access the parking lot from a public street.

(2) Temporary Structures for Construction Purposes

Temporary structures for construction operations may be permitted in any district if such structures are deemed necessary, provided:

- (a) The use of such structures shall be limited to offices, buildings for the storage of lumber, equipment, and other building material, temporary toilets, and construction dumpsters.
- (b) All temporary structures shall be set back a minimum of 25 feet from the nearest occupied residential dwelling.
- (c) No structure may be placed on the site no sooner than two weeks before the start of grading or construction.

⁷⁸ **QUESTION** – Does the township want to allow a certain size temporary tent/cover, etc. as long as they are in the rear yard?

- (d) The structure shall not be located within a floodplain, in the right-of-way, or in any other location that will obstruct drainage or traffic flow.
- (e) The structure shall not block or prevent access to any fire hydrant.
- (f) All temporary structures for construction operations shall be removed within 30 days after the completion of work on the premises or in the subdivision for which a certificate has been issued or if construction is not pursued diligently. In no instance, shall the zoning certificate for the construction structure allow for its placement for longer than three years.
- (g) For real estate offices and/or model homes, the following shall apply:
 - (i) One temporary real estate sales office or model home, per builder or developer, shall be permitted in a section or phase of a new residential or nonresidential development, provided that the use complies with this section on temporary uses and the standards of this subsection.
 - (ii) The office or home shall be located on a lot approved as part of the subject development.
 - (iii) The office or homes shall be operated by a developer or builder active in the same phase or section where the use is located.
 - (iv) The office shall be removed, if not within a home, or the model home shall be converted into a permanent residential use once 80% occupancy in the section or phase of the development is reached. For the purposes of these standards, occupancy shall include both the physical occupancy of buildings by the resident or tenant or sale of a completed building to a private party beyond the builder or developer.

(3) Portable Storage Units

The placement and use of portable storage units shall comply with the following:

- (a) Only one portable storage unit shall be permitted on a single lot at any one time.
- (b) Portable storage units shall be permitted on any one lot for a total period of 30 days per calendar year.⁷⁹
- (c) Portable storage units shall be placed on a paved surface.
- (d) Portable storage units shall not be located in the floodplain, block a drainage path, and shall not block sidewalks, fire lanes, or bike paths.
- (e) No part or former part of a semi-trailer or trailer shall be utilized as a portable storage unit or permanent accessory structure in any zoning district. A trailer or semi-trailer with all wheels and tires and valid license may be utilized as a portable storage unit, but shall conform to all requirements for portable storage units.

(4) Temporary Dwelling

- (a) A temporary home may be any form of a temporary dwelling including a mobile home or manufactured home provided it complies with all applicable health and building codes.
- (b) A temporary dwelling shall be allowed only on a lot where a single-family detached dwelling is permitted by the provisions of this code.

⁷⁹ This gives a little flexibility in that if they want to have it for a week to load, they can have it back at a different time to unload or, if they need it for a quick renovation, they may not need to move it at all.

- (c) A temporary dwelling shall be allowed only in a case where a single-family dwelling has been destroyed or damaged by fire or other disaster to the extent which makes such dwelling uninhabitable and only when such dwelling is to be rebuilt or replaced.
- (d) Occupancy of the temporary dwelling shall terminate immediately upon completion of the dwelling on the same lot; but in no event shall the time exceed the limit set forth in this section.
- (e) In no case shall a temporary dwelling be permitted for more than one year.
- (f) Additional conditions and requirements may be deemed necessary by the Zoning Administrator upon review of a particular application for a temporary dwelling and such temporary permit shall be subject to all such conditions and requirements.

(5) Temporary Outdoor Sales

Temporary outdoor sales of seasonal items, including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

- (a) If the propose temporary outdoor sale is intended to be seasonal, in the same area, on an annual basis, the use shall be considered an accessory use and shall be regulated as an outdoor display and sales area in accordance with Section <>.
- (b) Temporary outdoor sales shall be limited to a maximum of 30 days in any one calendar year, on any single lot.

(c) Location

- (i) The property contains an area not actively used by another use that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing open space, landscaping, traffic movements, or parking space availability.
- (ii) The sale of goods shall not occur within the public right-of-way, or within 100 feet of a dwelling.

(d) Range of Goods Limited

The range of goods or products available for sale shall be limited to non-processed products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; bees and beekeeping products; seafood; and dairy products.

(e) Hours of Operation

The hours of operation of the seasonal sale of agricultural products shall be from 7:30 A.M. to 10:00 P.M., or the same hours of operation as a principal use on the same lot, whichever is more restrictive.

(6) Temporary Special Events

- (a)** A zoning certificate for temporary special events such as festivals, circuses, concerts, tents, and similar uses shall be valid for no more than 10 consecutive days provided the applicant receives other applicable permits from the Mahoning County Building Department and the Boardman Township Police and Fire Department.
- (b)** Temporary tents for outdoor sales may be permitted for a 14-day period twice in one calendar year. The use of a temporary tent shall require review by the Zoning Inspector and the Boardman Township Fire Department as part of the zoning certificate review. Temporary tents may also require a building permit from Mahoning County.
- (c)** Outdoor weddings and similar private events are exempt from this standard but organizers of such events are encouraged to notify the Zoning Inspector to determine if special accommodations should be made to address traffic and circulation. These private events are subject to all applicable noise resolutions and ordinances.

(7) Temporary Structures for Public or Institutional Uses

Temporary structures serving educational institutions shall comply with the following standards:

(a) Location

- (i)** The use shall be located to the side or rear of the principal structure(s) and at least five feet from any other structure.
- (ii)** The use shall not be permitted within required off-street parking, required open space areas, or required landscaping areas.

(b) Standards

- (i)** Under skirting or other materials shall be used to prevent unauthorized access underneath the structure.
- (ii)** Parking shall be provided for the temporary structure in conformance with [Article <>](#).

(c) Approval and Duration

This use is permitted if approved by the Zoning Inspector, and may remain on the site for no more than two years. This period may be renewed for two additional uses, for good cause shown, upon approval of a written request, submitted to the Zoning Inspector at least 30 days prior to the expiration of the zoning certificate or business use certificate, as applicable. In no event, however, shall such extensions allow the temporary structure to remain on the site for more than five years.

Article 7: General Development Standards

7.01 EXTERIOR LIGHTING⁸⁰

(A) Purpose

The purpose of this exterior lighting section is to regulate outdoor lighting in order to reduce or prevent light pollution and to minimize lighting impacts on surrounding properties. This means to the extent reasonably possible the reduction or prevention of glare and light trespass, the conservation of energy, and promotion of safety and security.

(B) Applicability

- (1) All outdoor lighting fixtures shall be subject to review as part of this article except that single-family and two-family dwellings shall be exempt from all requirements except Section 7.01(C) and Section 7.01(D).
- (2) A photometric plan showing the following shall be submitted as part of any site plan review application where any new light fixtures are being proposed on a site⁸¹:
 - (a) The proposed intensity levels of the lighting throughout the site indicating foot-candle measurements;
 - (b) The lighting levels for the proposed site and an area extending a minimum of 30 feet onto adjacent properties;
 - (c) The locations of each of the proposed lighting fixtures (wall mounted and pole);
 - (d) The minimum, maximum, and average intensity/illumination for the site;
 - (e) Details of all proposed outdoor lighting fixtures indicating manufacturer, model and style of the fixture. A graphic representation of the fixture is required. The fixture lamp type (i.e. low-pressure sodium, metal halide, etc.) shall be indicated on the proposed plans;
 - (f) The proposed height of the lighting fixtures;
 - (g) The hours of use of the lighting fixtures; and
 - (h) Any additional submittal requirements as may be determined by the Zoning Inspector.
- (3) **Exemptions**
 - (a) All exterior lighting fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps are exempt from the requirements of this section.
 - (b) All temporary emergency lighting needed by the police, fire department, other emergency service vehicles, and public service vehicles, as well as all vehicular luminaries, shall be exempt from the requirements of this section including flashing or blinking lights.
 - (c) Street lights shall be exempt from the provisions of this section.

⁸⁰ This is an expansion on the township's current lighting guidelines found under the site plan review. This provides more standards over general regulations.

⁸¹ In this case, wherever existing light fixtures will remain, they will not have to submit a lighting plan.

(4) Prohibited Lights

- (a) Search lights, beacons, laser source lights, or any similar high-intensity or flashing lights are prohibited, except in emergencies by police and/or fire department personnel.
- (b) No open lights, such as strings of light bulbs, shall be permitted. This prohibition shall not include holiday lighting or those used for decorative purposes over outdoor patios, seating areas, or similar places of gathering.

(C) General Provisions Applicable to All Districts and Development

- (1) Exterior lighting shall be installed in a manner to deflect from adjacent residential developments.
- (2) All exterior lighting for residential and nonresidential uses shall be located, screened, or shielded so adjacent lots located in residential districts or recorded subdivisions are not directly illuminated. Shielding may also be required for high intensity light fixtures to prevent glare to adjacent uses, public rights-of-way, and drives. Perimeter lighting, when adjoining residential districts or recorded subdivisions, shall be by shielded fixtures to prevent light trespass onto adjacent properties.
- (3) No exterior lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers, pedestrians or adjacent properties. Shields and/or filters are required for light fixtures with high intensity and glare potential.

(D) Lighting for Residential Uses

Lighting for single-family and two-family dwellings shall be exempt from most provisions of this article with the exception that for light fixtures that are not attached to the house or to an accessory building, there shall be a maximum height of 12 feet from the finished grade adjacent to the base of the light fixture to the top most point of the fixture. The light bulb shall not produce more than 1,600 lumens.

(E) Exterior Lighting Requirements**(1) Type of Fixtures**

- (a) All light fixtures shall be full cut-off type fixtures except for decorative light fixtures. See [Figure 7.01-A](#).
- (b) Decorative light fixtures shall not flash or otherwise create a sense of motion.
- (c) Non-cutoff lighting may only be used for decorative purposes when located adjacent to the building. See [Figure 7.01-A](#).

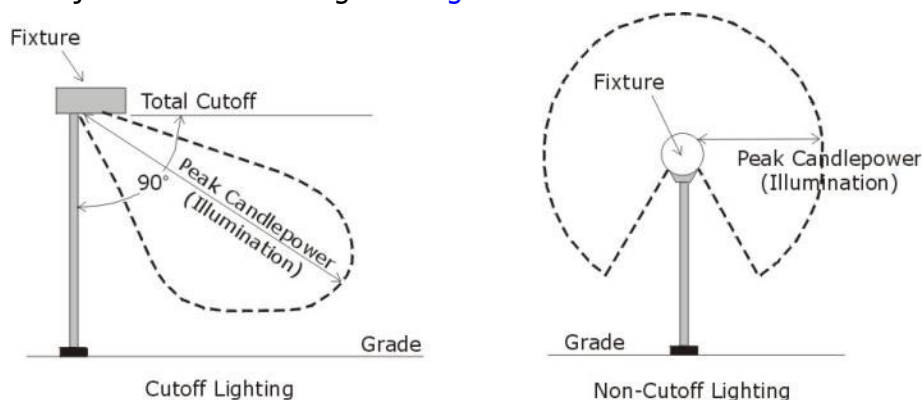


Figure 7.01-A: Illustration of cutoff lighting versus non-cutoff lighting

(2) Height of Fixtures

- (a)** In all districts, the maximum height of any non-cutoff light fixture shall be 12 feet.
- (b)** All cut-off exterior lighting shall be designed, located, and mounted with the maximum height as follows:
 - (i)** The maximum height of light fixtures in the R-2, R-3, and NMB districts, as well as for nonresidential uses in the AG and all residential zoning districts shall be 15 feet.
 - (ii)** The maximum height of light fixtures in the GB, RB, and I districts shall be 30 feet.
 - (iii)** The maximum height for residential uses or areas in a PUD District shall be 15 feet while the maximum height for nonresidential uses shall be 24 feet.
- (c)** In no case shall the height of light fixtures exceed the maximum permitted building height within the applicable zoning district.
- (d)** Lighting located under canopies shall be flush mounted or recessed within the canopy.
- (e)** Height shall be measured from the finished grade adjacent to the base of the light fixture to the top most point of the fixture.

(3) Illumination

- (a)** Exterior lighting shall be designed and located to have the following maximum illumination levels. The levels shall be measured at the finished grade at the lot line as demonstrated by a lighting plan:
 - (i)** The maximum illumination at a lot line that abuts a lot zoned or used for residential purposes shall be 0.0 foot-candles.
 - (ii)** The maximum illumination at a lot line that abuts a lot in a nonresidential district shall be 1.0 foot-candles.
 - (iii)** The maximum illumination at a lot line for properties used for outdoor sports and recreation shall be reviewed for compliance with regard to the intent of these guidelines to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.
 - (iv)** In parking areas, the light intensity shall average a minimum of 0.5-foot candles, measured five feet above the surface.
 - (v)** In pedestrian areas, the light intensity shall average a minimum of 2.0-foot candles, measured five feet above the surface.
 - (vi)** The illumination across any property shall be designed so as to not create excessively dark spots that may create safety issues.
- (b)** All applicants are strongly encouraged to submit lighting plans with components that reduce light pollution including, but not limited to, automatic shut-off of fixtures, auto-dimming to adjust lighting based on ambient lighting, and the use of as little lighting as necessary without creating safety issues.

(4) Modifications

Should any exterior light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the Zoning Inspector for approval, together with adequate information to assure compliance with this section, which must be received prior to substitution.

7.02 FENCING, WALLS, HEDGES, AND SIMILAR STRUCTURES

(A) Applicability

- (1) Fences, walls, retaining walls, hedges and other similar structures may be permitted in all zoning districts in accordance with this section.
- (2) Fences, walls, and hedges related to an exempt agricultural use (See Section [3.02\(A\): Agricultural Use Exemption](#).) shall also be exempt from these regulations.

(B) Zoning Certificate Required

- (1) The construction of fences, walls, and similar permanent structures shall require the issuance of a zoning certificate.
- (2) The planting of hedges shall not require a zoning certificate but shall be done in a manner that will comply with the location and height requirements of this section.

(C) Decorative Fencing Exemption

Small portions of fences, such as decorative fencing used for landscaping, that are not longer than 20 feet in length but which comply with the height, yard and maintenance requirements set forth in this subsection, shall not require a zoning certificate.

(D) General Standards

- (1) No fence, wall, or hedge shall be constructed and maintained so as to be hazardous to existing or future neighboring uses.
- (2) The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced.
- (3) When erected near a property or lot line, the entire fence and any of its supporting structures or appurtenances shall be contained within the lot or property of the person erecting or having erected said fence.
- (4) All fences, walls, and hedges shall be maintained in a neat and orderly manner.
- (5) Barbed wire fencing and razor fencing shall only be permitted on top of other fencing in the I District for security purposes. Such fencing shall only be permitted in the side and rear yards.
- (6) Electric fencing is prohibited except as part of fencing for agricultural uses exempt from zoning.

(E) Location and Height Standards

- (1) No fencing, walls, or hedges shall be located in a utility easement or a right-of-way. Fences, walls, hedges, or other similar structure constructed in these areas may be subject to removal from the authority having jurisdiction.
- (2) The property owner shall assume responsibility for determining the legal, proper placement of the fence, wall, hedge, or similar structure, upon the subject property.

(3) Front Yards

- (a)** Fences or walls in the front yard setback area⁸² shall not exceed three feet in height.
 - (i)** For corner lots, the above maximum height shall apply to the front yard setback for each street frontage.⁸³
 - (ii)** For through lots, the above maximum height shall apply to the street on which the front of the house faces.
- (b)** Hedges and other plantings of any height may be planted in the front yard.
- (c)** All fencing, walls, hedges, and similar structures or landscaping shall be subject to the sight clearance regulations of Section 4.09(B)(1).

(4) Side and Rear Yards

- (a)** Fences and walls located in the side or rear yards shall not exceed a height of six feet in residential zoning districts and eight⁸⁴ feet in nonresidential zoning districts.
- (b)** Informal plantings, trees, and hedges may be taller than the above maximum height.

(F) Measurement⁸⁵

- (1)** The maximum fence or wall height shall be measured from the lowest point of the finished grade within three feet on either side of the fence to the top most portion of the fence. See Figure 7.02-A.

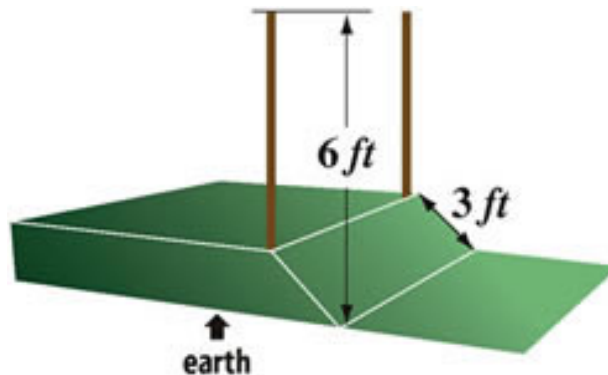


Figure 7.02-A: Fencing shall be measured from the lowest point within three feet on either side of the fence.

- (2)** Fencing or walls should follow the natural contour of the land on which it is located. See Figure 7.02-B.

⁸² We can add a graphic but this appears to reflect your current rules where a three-foot fence is the maximum height for fences within the front yard setback, regardless of where the building is actually built.

⁸³ QUESTION – This is a more traditional approach, because there are essentially two front-yards, but currently the township allows one side to only have the three-foot height requirement for 16 feet, maximum. What does the township want to do?

⁸⁴ There does not appear to be any fencing standards for commercial or industrial districts so we have proposed some additional provisions to address those districts.

⁸⁵ New approach to measuring fences to keep people from mounding up land underneath the fencing.

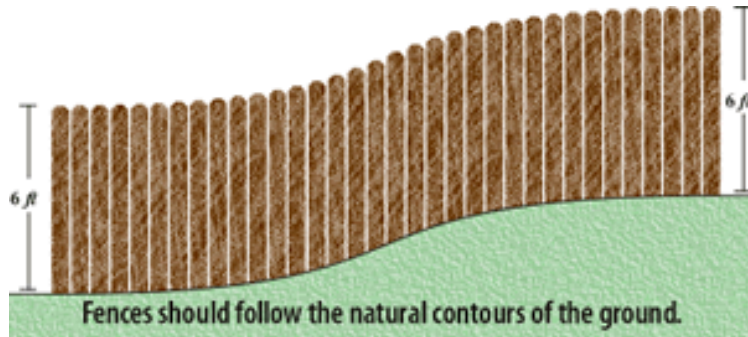


Figure 7.02-B: This illustrates how fencing is measured along a natural contour.

- (3) A fence may be erected on top of a wall but the combined height of the fence and wall shall not exceed the heights specified within this section for a fence or wall.
- (4) If the wall is designed to be a retaining wall, a fence may be approved on top of the retaining wall for safety purposes and shall be measured from the top of the retaining wall to the top of the fence in accordance with this section.

7.03 EROSION, SEDIMENTATION CONTROL, GRADING, AND DRAINAGE⁸⁶

(A) Purpose and Intent

- (1) The purpose of these regulations is to establish technically feasible and reasonable standards to achieve a level of water management, grading, clearing, and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the public health and safety.
- (2) These regulations are further intended to:
 - (a) Allow development while minimizing increases in downstream flooding, erosion, and sedimentation;
 - (b) Address general issues with the clearing, grading, and storage of soils on properties; and
 - (c) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.

(B) Words and Terms Defined

For the purpose of these regulations, the terms used herein shall have the meaning as set forth in Article <> (Definitions) and the most recently adopted version of the Mahoning County Erosion and Sediment Control Rules. Said terms are adopted and made a part of these regulations as though fully rewritten herein.

(C) Applicability

- (1) Section <> (7.04 (D)) shall apply to all earth moving or disturbing activities on any lot in the township, regardless of size, as well as the storage of mulch, soil, and vegetative materials on a lot.

⁸⁶ This expands on the township's current erosion and sedimentation controls to address some ongoing issues including clearing of properties and drainage.

- (2) Sections <> through <> shall apply to all of the permitted and conditional buildings, structures, and uses set forth in every zoning district in this resolution if there will be earth-disturbing activities of one acre or more, except as otherwise provided herein.

(D) Requirements for All Lots⁸⁷

Wherever there is any clearing, earth-moving, or earth-disturbing of any size, in any district, the following requirements shall apply:

- (1) Positive drainage shall be maintained to existing stormwater systems or natural drainage.
- (2) If no development or construction will occur following the applicable activity, the site shall be cleared of tree stumps and graded, seeded, and/or mulched within 30 days of the completion of the applicable activity.
- (3) If soil is placed or stored on a site for temporary purposes longer than 30 days, such soil shall be seeded.
- (4) There shall be no storage of mulch or other materials that will block any natural drainage way, sidewalk, or street.
- (5) The Zoning Inspector may extend the 30-day time period in this section for one additional 30-day time period if good cause is shown.

(E) Erosion and Sediment Control Plans for One Acre Lots or Larger

Erosion and Sediment Control (ESC) Plans are required for any principal permitted, accessory, or conditional buildings, structures, or uses, or off-street parking, loading/unloading areas allowed by this resolution, or any additions or alterations thereto disturbing one acre of land area or more.

(1) Requirements and Application Procedures⁸⁸

- (a) The contents of the ESC Plan shall meet all requirements and recommendations for erosion and sediment control contained in the most recent version of the Mahoning County Erosion and Sediment Control Rules.
- (b) If the lot owner is required to prepare a Storm Water Pollution Prevention Plan (SWP3) in accordance with the Ohio Environmental Protection Agency's (EPA) NPDES Permit No. OHC000002, or the most recent version thereof, this SWP3 may be submitted in lieu of a separate ESC Plan. In situations of conflict between OEPA requirements and these regulations, the most restrictive shall prevail.

⁸⁷ This is an entirely new section for the township that looks to address issues that are not large enough to warrant a ESC Plan but pose problems for the overall township.

⁸⁸ We have deleted the number of ESC plans that need to be included in applications because that should be part of the check list the township maintains for applications, outside of the resolution. I left in the reference to requirements for the plans to give the township some teeth on what information needs to be in the plans.

- (c) The zoning inspector shall review the ESC Plans submitted under this resolution and approve for compliance or return for revisions with comments and recommendations for revisions within 20 calendar days after receipt of the Plan. The zoning inspector shall advise applicants that the ESC Plan may be forwarded to the Mahoning County Engineers and Mahoning SWCD for technical assistance and review. A disapproved Plan shall receive a narrative report citing specific problems and procedures violated and the procedures for filing a revised Plan to ensure compliance with the Mahoning County Erosion and Sediment Control Rules. At the time the zoning inspector receives a revised Plan, another 20-day review period shall begin.
- (d) Soil disturbing activities shall not begin and zoning certificates or conditional zoning certificates shall not be issued without a ESC Plan approved by the zoning inspector in accordance with these regulations.
- (e) Any addition or alteration to the site design as shown on the approved ESC Plan may require the resubmission of said Plan in accordance with these regulations. In making a determination regarding such resubmission, the zoning inspector may consult with the Mahoning County Engineers and/or Mahoning SWCD. The Zoning Inspector shall determine if any addition or alteration requires the issuance of a new zoning certificate or conditional use zoning certificate.

(2) Compliance with State and Federal Regulations

- (a) Approvals issued in accordance with these regulations do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from federal, state, and/or county agencies. Such permits and/or approvals shall be obtained before any zoning certificate or conditional zoning certificate is issued. If requirements vary, the most restrictive requirement shall prevail.
- (b) Soil-disturbing activities regulated under these regulations shall not begin until all necessary state and federal permits have been granted to the lot owner. These permits may include, but are not limited to, the following:
 - (i) Ohio EPA NPDES Permits authorizing storm water discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the lot owner explaining why the NPDES Permit is not applicable.
 - (ii) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application, public notice, or project approval, or a letter from the lot owner verifying that a qualified professional has surveyed the lot and found no waters of the United States. Such a letter shall be noted on site plans submitted to the zoning inspector. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the Ohio EPA and U.S. Army Corps of Engineers at the time of application of this regulation.

- (iii)** Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application, public notice, or project approval or a letter from the lot owner verifying that a qualified professional has surveyed the lot and found no waters of the State. Such a letter shall be noted on site plans submitted to the zoning inspector. Isolated wetlands shall be delineated by protocols accepted by the Ohio EPA at the time of application of these regulations.
- (iv)** Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, if an Individual Permit is required for the development project, public notice, or project approval. If an Individual Permit is not required, the lot owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:

 - A.** A letter from the lot owner verifying that a qualified professional has surveyed the site and found no waters of the United States. Such a letter shall be noted on site plans submitted to the zoning inspector.
 - B.** A site plan showing that any proposed fill of waters of the United States conforms to the general and specific conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of these regulations.
- (v)** Ohio Dam Safety Law: Proof of compliance shall be a copy of the Ohio Department of Natural Resources (ODNR) Division of Water permit application, a copy of the project approval letter from the ODNR Division of Water, or a letter from the lot owner or a qualified professional explaining why the Ohio Dam Safety Law is not applicable.

Article 8: Riparian Corridor Setbacks

8.01 PURPOSE AND SCOPE⁸⁹

It is hereby determined that the system of rivers, streams, and other natural watercourses within Boardman Township contributes to the health, safety, and general welfare of the residents of the township. The specific purpose and intent of this regulation is to regulate uses and developments within riparian setbacks that would impair the ability of riparian areas to:

- (A) Reduce flood impacts by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow;
- (B) Assist stabilizing the banks of watercourses to reduce woody debris from fallen or damaged trees, stream bank erosion, and the downstream transport of sediments eroded from watercourse banks;
- (C) Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses;
- (D) Reduce pollutants in watercourses by filtering, settling, and transforming pollutants in runoff before they enter watercourses;
- (E) Provide watercourse habitats with shade and food;
- (F) Reduce the presence of aquatic nuisance species to maintain a diverse aquatic system;
- (G) Provide habitat to a wide array of wildlife by maintaining diverse and connected riparian vegetation;
- (H) Benefit Boardman Township by minimizing encroachment on watercourse channels and the need for costly engineering solutions such as gabion baskets and rip rap to protect structures and reduce property damage and threats to the safety of watershed residents; and
- (I) Contributing to the scenic beauty and environment of Boardman Township, and thereby preserving the character of Boardman Township, the quality of life of the residents of Boardman Township, and corresponding property values.

For these reasons, the regulations of this chapter have been established to protect and enhance these functions of riparian areas by providing reasonable controls governing structures and uses within a riparian setback along designated watercourses in Boardman Township.

8.02 APPLICABILITY

- (A) This regulation shall apply to all zoning districts within Boardman Township.
- (B) This regulation shall apply to all structures and uses on lands containing a designated watercourse as defined in this article, except as otherwise stated.
- (C) No approvals, permits, or certificates shall be issued by Boardman Township without full compliance with the terms of this article.
- (D) Any violation of this article shall be considered a violation of this resolution, subject to the enforcement and penalty provisions in Chapter <>.

⁸⁹ The provisions on riparian setbacks established in the current resolution have largely been maintained with some revision to make it more of a component of the resolution that a stand alone resolution as well as minor revisions for clarity and consistency purposes. We were able to remove the section on conflicts as it is addressed by the general conflict language in Article 1. We also removed unnecessary language such as cross-reference to the variance/appeals section and the penalties, all of which are handled elsewhere.

8.03 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS

- (A)** Designated watercourses shall include those watercourses meeting any one of the following criteria:
- (1)** All watercourses draining an area greater than one-half ($\frac{1}{2}$) square mile;
 - (2)** All watercourses draining an area less than one-half ($\frac{1}{2}$) square mile and having a defined bed and bank. In determining if watercourses have a defined bed and bank, Boardman Township may consult with a representative of the Mahoning County SWCD or other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant; or
 - (3)** All previously natural watercourses that are channelized, enclosed by pipe, or captured.
- (B)** Riparian setbacks on designated watercourses are established as follows:
- (1)** A minimum of 120 feet on either side of all watercourses draining an area greater than 20 square miles and up to 300 square miles.
 - (2)** A minimum of 75 feet on either side of all watercourses draining an area greater than one-half ($\frac{1}{2}$) square mile and up to 20 square miles.
 - (3)** A minimum of 25 feet on either side of all watercourses draining an area of one-half ($\frac{1}{2}$) square mile or less, and having a defined bed and bank as determined by Boardman Township in Section <>⁹⁰ of this article.
- (C)** The following conditions shall apply in riparian setbacks:
- (1)** Riparian setbacks shall be measured in a horizontal direction outward from the ordinary high-water mark of each designated watercourse.
 - (2)** Riparian setbacks shall be measured in a horizontal direction outward from the outside diameter of the outermost pipe.
 - (3)** Riparian setback shall be measured in a horizontal direction outward from the center of the captured stream.
 - (4)** Except as otherwise provided in this regulation, riparian setbacks shall be preserved in their natural state.
 - (5)** Where the 100-year floodplain is wider than a minimum riparian setback on either or both sides of a designated watercourse, the minimum riparian setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA. If a FEMA defined floodplain does not exist for a designated watercourse, Boardman Township may require a site-specific floodplain delineation in conformance with standard engineering practices and approved by Mahoning County Engineer's Office. Any costs associated with reviewing this site-specific floodplain delineation may be assessed to the applicant.

⁹⁰ QUESTION – We need a clarification on the correct cross-reference. The current regulations appear to incorrectly cross-reference the conflict language (Section C) rather than a determination section.

- (6) Where a wetland is identified within a minimum riparian setback, the minimum riparian setback width shall be extended to the outermost boundary of the wetland. Wetlands shall be delineated through a site survey prepared by a qualified wetlands professional retained by the landowner using delineation protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation. Any costs associated with reviewing these delineations may be assessed by Boardman Township to the applicant.

8.04 APPLICATIONS

- (A) The applicant shall be responsible for delineating riparian setbacks as required by this article and shall identify such setbacks on any applications for zoning certificates, site plan review, conditional uses, or planned unit developments. The plans or maps illustrating the riparian corridors and setbacks shall be prepared by a professional engineer or surveyor, as determined by Boardman Township, and shall be based on a survey of the affected land.
- (B) Boardman Township may, in reviewing the applications, consult with the Mahoning County SWCD or other such experts. Any costs associated with this review may be assessed to the applicant. The applications with riparian setback information shall not take the place of a soil erosion and sedimentation control plan and/or a storm water pollution prevention plan.
- (C) If soil disturbing activities will occur within 50 feet of the outer boundary of the applicable riparian setback as specified in this regulation, the riparian setback shall be clearly identified by the applicant on site with construction fencing as shown on the application plans and maps. Such identification shall be completed prior to the initiation of any soil disturbing activities and shall be maintained throughout soil disturbing activities.
- (D) No approvals or permits shall be issued by Boardman Township prior to identification of riparian setbacks on the affected land in conformance with this article.

8.05 PERMITTED STRUCTURES AND USES WITHOUT ZONING CERTIFICATE

The following structures and uses are permitted in the riparian setback without a zoning certificate. No structures or uses permitted under this regulation shall allow trespass on, or public access to, privately held lands.

- (A) Hiking, fishing, hunting, picnicking, and similar passive recreational uses, as permitted by federal, state, and local laws.
- (B) Damaged or diseased trees may be removed.
- (C) Riparian setbacks may be revegetated and/or reforested with native, noninvasive plant species.
- (D) Water supply wells for the purpose of serving permitted structures or uses on lots of record shall be allowed.

8.06 PERMITTED STRUCTURE AND USES WITH ZONING CERTIFICATE

The following structures and uses may be permitted in a riparian setback, subject to the approval of an application for a zoning certificate. When reviewing and making a decision on zoning certificates for the following uses, the zoning inspector may, for good cause, attach such conditions as it deems appropriate.

(A) Crossings

- (1)** Crossings of designated watercourses through riparian setbacks with roads, driveways, easements, bridges, culverts, utility service lines, or other means may be permitted provided such crossings minimize disturbance in riparian setbacks and mitigate any necessary disturbances. Such crossings shall be designed by a professional engineer and only be undertaken upon approval of a crossing plan by the Zoning inspector. Any costs associated with review of crossing plans may be assessed to the applicant.
- (2)** If work will occur below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a US Army Corps of Engineers Section 404 Permit (either a Nationwide Permit, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification), shall also be provided to Boardman Township. Proof of compliance shall be the following:
 - (a)** A site plan showing that any proposed crossing conforms to the general and special conditions of the applicable Nationwide Permit;
 - (b)** A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under the applicable Nationwide Permit; or
 - (c)** A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.

(B) Streambank Stabilization Projects.

- (1)** Streambank stabilization projects along designated watercourses may be allowed, provided that such measures use natural stream channel design principles. Such streambank stabilization measures shall only be undertaken upon approval of a Streambank Stabilization Plan by the zoning inspector. Any costs associated with review of Streambank Stabilization Plans may be assessed to the applicant.
- (2)** If streambank stabilization work is proposed below the ordinary high water mark of the designated watercourse, proof of compliance with the applicable conditions of a US Army Corps of Engineers Section 404 Permit (either a Nationwide Permit 13, including the Ohio State Certification Special Conditions and Limitations, or an Individual Permit, including Ohio 401 water quality certification) shall be provided to Boardman Township. Proof of compliance shall be the following:
 - (a)** A site plan showing that any proposed crossing conforms to the general and special conditions of Nationwide Permit 13;
 - (b)** A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under Nationwide Permit 13; or
 - (c)** A copy of the authorization letter from the U.S. Army Corps of Engineers approving activities under an Individual Permit.

8.07 USES PROHIBITED IN RIPARIAN SETBACKS

Any use not authorized under this article shall be prohibited in riparian setbacks. By way of example, the following uses are specifically prohibited, however, prohibited uses are not limited to those examples listed here:

- (A)** There shall be no buildings or structures of any kind related to construction.
- (B)** There shall be no filling, dredging, or dumping of soil, spoils, liquid, or solid materials.

- (C) There shall be no fences or walls, except as specifically permitted under this article.
- (D) There shall be no roads or driveways, except as specifically permitted under this article.
- (E) There shall be no parking spaces, parking lots, stacking spaces, or loading/unloading spaces.
- (F) There shall be no use, parking, or storage of motorized vehicles, except as specifically permitted under this article.
- (G) There shall be no disturbance of natural vegetation within riparian setbacks except for the following:
 - (1) Maintenance of lawns, landscaping, shrubbery, or trees existing at the time of passage of this regulation;
 - (2) Cultivation of lawns, landscaping, shrubbery, or trees in accordance with an approved Landscaping Plan submitted in conformance with this regulation; and
 - (3) Conservation measures designed to remove damaged or diseased trees or to control noxious weeds or invasive species.
- (H) Riparian setbacks shall not be used for the disposal or treatment of sewage, except as necessary to repair or replace an existing home sewage disposal system in accordance with local health district regulations.
- (I) Riparian setbacks shall not be used for storm water retention and detention facilities.

8.08 VARIANCES WITHIN RIPARIAN SETBACKS

- (A) The BZA may grant a variance to the regulations of this article as provided in this resolution. In determining whether there is unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback as established in this regulation, such as to justify the granting of a variance, the BZA shall consider the potential harm or reduction in riparian functions that may be caused by a proposed structure or use.⁹¹
- (B) In making a determination under Section <> above, the BZA may consider the following:
 - (1) The natural vegetation of the property as well as the percentage of the parcel that is in the 100-year floodplain;
 - (2) The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the riparian setback. This determination shall be based on sufficient technical and scientific data;
 - (3) The degree of hardship, with respect to the use of a property or the degree of practical difficulty with respect to maintaining the riparian setback as established in this regulation, placed on the landowner by this regulation and the availability of alternatives to the proposed structure or use;
 - (4) Soil-disturbing activities permitted in the riparian setback through variances should be implemented to minimize clearing to the extent possible and to include Best Management Practices necessary to minimize erosion and control sediment;

⁹¹ There was a provision that stated that the BZA cannot essentially allow for a use variance. Given that we had to allow for a provision for all variances for a use variance (hardship and pre-existing building), we believe that language had to be removed from this section and have done so.

- (5) The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in the riparian setback compromises its benefits to Boardman Township. Variances should not be granted for asphalt or concrete paving in the riparian setback; and/or
 - (6) Whether a property, otherwise buildable under Boardman Township resolutions, will be made unbuildable because of this regulation.
- (C) In order to maintain the riparian setback to the maximum extent practicable, the BZA may consider granting variances to other area or setback requirements imposed on a property by this resolution.
- (D) In granting a variance under this regulation, the BZA, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of the provisions of this article.

8.09 INSPECTION OF RIPARIAN SETBACKS

- (A) The identification of riparian setbacks shall be inspected by Boardman Township.
- (B) Prior to soil disturbing activities authorized under this regulation, the applicant shall provide Boardman Township with at least 15 working days written notice prior to starting such soil disturbing activities.
- (C) The Zoning Inspector shall have the authority to inspect activities in a riparian setback any time evidence is brought to the attention of Boardman Township that uses or structures may be in violation of the provisions of this article.

Article 9: Architectural Standards

9.01 PURPOSE⁹²

The purpose of architectural standards is to ensure the exterior of new construction and additions to existing buildings are well designed, detailed, and crafted to embody high standards of architectural design and to ensure the long-term viability of commercial structures in the township.

9.02 AUTHORITY TO REVIEW

- (A) For the purposes of this section, the Architectural Review Board⁹³ shall be authorized to review and make decisions on architectural standards as provided for in Section 519.171 of the Ohio Revised Code.
- (B) Such review shall take place through the site plan review procedure or the planned unit development review procedure, whichever is applicable.

9.03 ARCHITECTURAL STANDARDS FOR MULTI-FAMILY DWELLINGS⁹⁴

(A) Applicability

The standards of this section shall apply to all multi-family dwellings, including those in any planned unit development district.

(B) Standards

- (1) Front facades shall incorporate variation in mass through one or more of the following methods, every thirty feet of façade frontage:
 - (a) Wall offsets in the form of projections and/or recesses in the façade plane. Wall offsets shall have a minimum depth of two feet;
 - (b) Bay windows;
 - (c) Façade color changes;
 - (d) Use of pilasters, columns or other detailing to articulate the façades; or
 - (e) Roofline changes when coupled with correspondingly aligned façade material changes.
- (2) In addition to wall offsets, front facades and side façades on buildings on corner lots, shall provide a minimum of three of the following design features for each residential unit fronting onto the street:
 - (a) One or more dormer windows or cupolas;
 - (b) A recessed entrance;
 - (c) A covered porch;
 - (d) Pillars, posts, or pilasters;
 - (e) One or more bay windows with a minimum twelve inch projection from the façade plane;

⁹² Based on the responses to the survey, we have provided some very basic architectural requirements for new nonresidential buildings and multi-family buildings for consideration by the township.

⁹³ A reminder that this is the revised name of the Site Plan Review Board, to be consistent with the ORC.

⁹⁴ We have included architectural standards for multi-family units based on the feedback from the online survey.

- (f) Eaves with a minimum 6- inch projection from the façade plane;
- (g) A parapet wall with an articulated design, which entails design variation rather than a simple rectilinear form; or
- (h) Multiple windows with a minimum four inch wide trim.



Figure 9.03-A: This image illustrates how multiple design features are incorporated into the design to de-emphasize the fact that this is a single structure.



Figure 9.03-B: This multi-family development lacks sufficient façade variation yielding a monotonous appearance

- (3) Individual multi-family dwelling structures served by common entryways an internal access to individual dwelling units, containing six or fewer units, shall be constructed to give the appearance of a large single-family detached home (See [Figure 9.03-C](#)).



Figure 9.03-C: These images demonstrate how an attached residential structure of six or fewer units can be constructed to appear as a large detached residential structure.

- (4) To the maximum extent practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or configured to have a minimal visual impact as seen from the street.

9.04 ARCHITECTURAL STANDARDS FOR NONRESIDENTIAL BUILDINGS

(A) Applicability

The standards in this section shall apply to all nonresidential development in GB, RB, and NMB Districts as well as all nonresidential development in a PUD. The standards shall also apply to all mixed-use buildings.

(B) Standards

(1) General Requirements for all Nonresidential and Mixed-Use Buildings

- (a) Buildings shall be parallel to the street they front unless an alternate orientation is consistent with existing, adjacent development.
- (b) The primary entrances of buildings shall be oriented:
 - (i) Towards a street along the perimeter of the development;
 - (ii) Towards streets in the interior of the development if none of the building's facades has frontage on a public street; or
 - (iii) In another direction as approved by the Architectural Review Board.

(2) Unified Theme

Where there are multiple buildings within a single development, the architectural design of buildings, including freestanding outparcel structures, should be organized around a consistent architectural theme in terms of the character, materials, texture, color, and scale of buildings. Themed restaurants, retail chains, and other franchise-style structures should adjust some aspects of their standard architectural model to be consistent with a development's architectural character.

(3) Building Facades

Building facades shall comply with the following standards:

- (a) Blank building walls facing streets are prohibited.

- (b) These requirements shall not apply to those walls that are not visible from a street and only visible from an alley, the rear yard of another nonresidential or mixed-use site, or completely hidden due to topography or natural features preserved as open space.



Figure 9.04-A: This figure shows two methods of using architectural features to create wall surface relief on wall elevations that are not the primary elevation.

(4) Multi-Sided Architecture for Nonresidential Uses

Although the front façade of a building is expected to be the focal point in terms of the level of architectural character and features, all sides of buildings that are visible from a public roadway, an adjacent building, or other private way not subject to buffering requirements in [Article 10: Landscaping Standards](#), shall incorporate architectural detailing on all facades that is consistent with the front façade.

(5) Ornamentation

All visible elevations shall include decorative features such as cornices, pilasters, and friezes. Building recesses and protrusions are strongly encouraged on larger buildings to break long uninterrupted building walls. See [Figure 9.04-B](#).



Figure 9.04-B: The above image illustrates a building that contains pilasters, cornices, and a series of façade setbacks (recesses) to visually break up the appearance of the large facade.

(a) Façade Offset Required

Front façades 60 feet wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset shall have a minimum width of 20 feet. See [Figure 9.04-C](#).

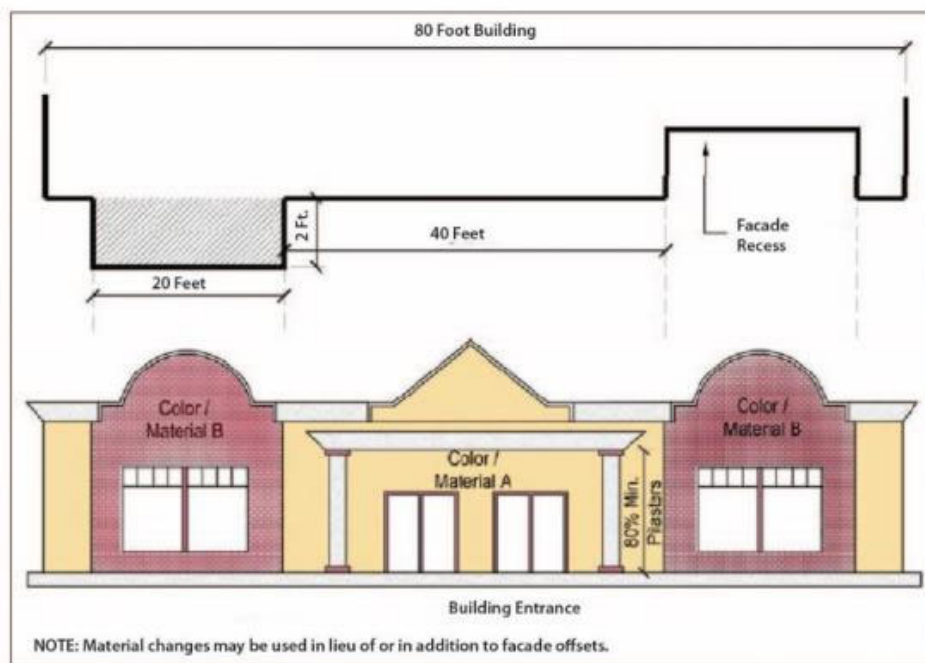


Figure 9.04-C: Illustration of how the façade offset provisions may be applied.

(b) Offset Alternatives

The following alternatives can be used in place of the required front façade offsets as shown in [Figure 9.04-C](#):

- (i)** Façade color changes following the same dimensional standards as the offset requirements;
- (ii)** Pilasters having a minimum depth of one foot, a minimum width of one foot, and a minimum height of 80 percent of the façade's height; and/or
- (iii)** Roofline changes when coupled with correspondingly aligned façade material changes.

(6) Roofs

(a) Roof Styles

The height of any pitched roof shall not exceed one-half of the overall building height.

(b) Roof Line Changes

- (i)** Roofline changes shall include changes in roof planes or changes in the top of a parapet wall, such as extending the top of pilasters above the top of the parapet wall.
- (ii)** When roofline changes are included on a façade that incorporates wall offsets or material or color changes, roof line changes shall be vertically aligned with the corresponding wall offset or material or color changes. See [Figure 9.04-D](#).



Figure 9.04-D: Illustration of roofline changes along a long façade wall

(c) Flat Roofs

- (i)** When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them.
- (ii)** The cornice shall include a perpendicular projection a minimum of eight inches from the parapet façade plane.
- (iii)** Thin parapets that are less than four feet in depth shall not extend more than two feet above the roof unless necessary to conceal mechanical equipment.

(d) Asymmetric or Dynamic Roofs

Asymmetric or dynamic roof forms allude to motion, provide variety and flexibility in nonresidential building design, and allow for unique buildings. Asymmetric or dynamic roof forms shall be permitted on nonresidential buildings as an alternative to flat roofs. See [Figure 9.04-E](#), for an example of buildings with a dynamic roof form.



Figure 9.04-E: An example of dynamic roof lines

(e) Roof Mounted Mechanical Equipment

Building walls, parapets, and/or roof systems shall be designed to conceal all roof-mounted mechanical equipment from view from adjacent properties and public rights-of-way. Such equipment shall also be screened from view from any properties that may see the building from above (e.g., if adjacent properties are along higher elevations). See [Figure 9.04-F](#).

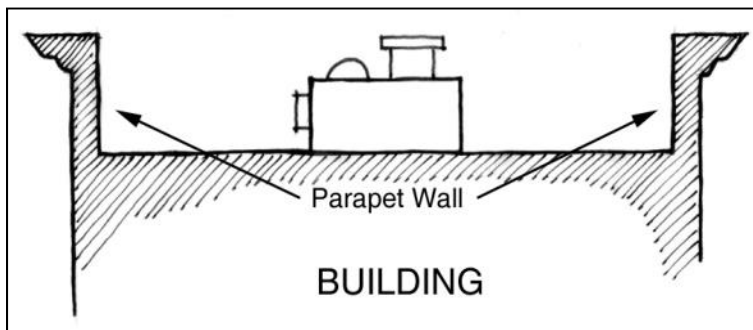


Figure 9.04-F: Example of how parapet walls are utilized to screen roof mounted mechanical equipment.

(7) Customer Entrances

For buildings with a total gross square footage of 25,000 square feet or more, customer entrance shall be provided in accordance with this subsection.

(a) Required Entrances

Each side of a building facing a public street shall include at least one customer entrance, except that no building shall be required to provide entrances on more than two sides of the structure that face public streets. See [Figure 9.04-G](#).

(b) Entrance Design

Buildings shall have clearly defined, highly visible customer entrances that include no less than three of the following design features.

- (i)** Canopies/porticos above the entrance;

- (ii) Roof overhangs above the entrance;
- (iii) Entry recesses/projections;
- (iv) Arcades that are physically integrated with the entrance;
- (v) Raised corniced parapets above the entrance;
- (vi) Gabled roof forms or arches above the entrance;
- (vii) Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
- (viii) Display windows that are directly adjacent to the entrance;
- (ix) Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; or
- (x) Integral planters or wing walls that incorporate landscaped areas or seating areas.



Figure 9.04-G: This large retail center utilized several different design features to articulate the individual facade and customer entrances.

(C) Additional Architectural Standards for the NMB District⁹⁵

In addition to the standards established for all nonresidential and mixed-use buildings in this article, buildings in the NMB District shall be subject to the following requirements.

(1) General Requirements for all Nonresidential Buildings

- (a) Buildings shall be parallel to the street they front unless an alternate orientation is consistent with existing, adjacent development.
- (b) The primary entrances of buildings shall be oriented:
 - (i) Towards a street along the perimeter of the development;
 - (ii) Towards streets in the interior of the development if none of the building's facades has frontage on a public street; or
 - (iii) In another direction as approved by the Zoning Commission.
- (c) No overhead garage doors are permitted facing a street.

⁹⁵ We have proposed these additional requirements for the NMB for discussion purposes since this appears to be the area where the township would like to see more of a historic/downtown type development character.

(2) Architectural Styles

Traditional architecture is favored in the NMB District, rather than radical design themes, structures and roof forms, which would draw unnecessary attention to the buildings. Building facades that incorporate canopies or walls with mock gables must provide a roof component to provide depth and give a more authentic appearance.

(3) Building Facades

Building facades shall comply with the following standards:

- (a)** Blank building walls facing streets are prohibited.
- (b)** These requirements shall not apply to those walls that are not visible from a street and only visible from an alley, the rear yard of another nonresidential or mixed-use site, or completely hidden due to topography or natural features preserved as open space.

(4) Colors

A limited number of colors shall be utilized on a single structure. Muted or natural tones (or earth tones) shall be the preferred color for any applicable structure reviewed under this Article. Painting elements such as windows, trim, and cornices in white, gray or black may complement the main building color and is encouraged.

(5) Wall Openings (Doors and Windows)

- (a)** Building elevations that are visible from a public street should contain windows that occupy:
 - (i)** Between 50 and 70 percent of the total wall surface area on the first floor; and
 - (ii)** Between 20 and 60 percent of the total wall surface area on the second and higher floors.
- (b)** The bottom edge of the windows shall not be higher than three feet above grade on the ground floor.
- (c)** Up to a maximum of 20 percent of the windows that can be seen from all public rights-of-way, excluding alleys, may be opaque, including spandrel glass.
- (d)** The percent of the wall surface area used for windows that is less than this minimum requirement may be approved by the Zoning Commission during the PDO review process after taking into account the architectural style, general design, arrangement, texture, materials, and color of other structures and premises in the area.
- (e)** Doors and windows should be positioned to create a uniform pattern or visual rhythm along the building elevation.
- (f)** All doors and windows shall be articulated through the use of lintels, sills, and thresholds. Windows larger than 20 square feet that are not used for display purposes shall be divided into panes through the use of mullions and/or sashes.

(6) Awnings

Awnings shall be permitted on buildings as follows:

- (a)** All awnings must be made from a heavy-duty canvass fabric or similar water-proof material, rather than metal, aluminum, plastic, or rigid fiberglass. However, awnings that are a permanent part of the building architecture may be constructed of metal, wood, or other traditional building materials where they will add diversity and interest to the facade, and only if the design and materials are consistent with the overall design of the building.
- (b)** All awnings shall be attached directly to the building, rather than supported by columns or poles.

Article 10: Landscaping Standards

10.01 PURPOSE

The purpose of landscaping, buffering and screening regulations are to:

- (A) Promote attractive development and preserve the appearance and character of the surrounding area using effective landscaping methods;
- (B) Eliminate or minimize conflicts between potentially incompatible, but otherwise permitted land uses on adjoining lots using a suitable combination of setbacks, natural buffers and physical barriers;
- (C) Prescribe standards for the installation and maintenance of trees, plantings, walls and fences;
- (D) To encourage the enhancement of the visual environment, ensure public safety, moderate the micro-climate; and
- (E) To protect surrounding property values.

10.02 APPLICABILITY

- (A) The requirements of this article shall apply to new property development and any collective, substantial expansion or change in land use, except for single family and two-family dwellings.
- (B) Substantial expansion or modification of the existing structures shall be defined based on the criteria established in Table <> below.

(C)

TABLE <>: ADDITIONS AND ENLARGEMENT	
When the Existing Structure is:	A Substantial Expansion is:
(D) 500-1,000 sq. ft.	(E) 50% or greater
(F) 1,001-10,000 sq. ft.	(G) 40% or greater
(H) 10,001-25,000 sq. ft.	(I) 30% or greater
(J) 25,001-50,000 sq. ft.	(K) 20% or greater
(L) 50,001 sq. ft. and larger	(M) 10% or greater

- (N) Any collective expansion of 500 square feet or less shall be exempt from the requirements of this article. Collective expansion shall include the sum of all expansions of the original structure or building, regardless of when they occur.
- (O) If a building or structure covers the entire lot, landscaping and screening alternatives must be proposed to the Architectural Review Board for review and approval that meet the purpose and intent of this article.

10.03 MODIFICATIONS

Modifications to the standards of this article may be modified either through approval of a variance or as approved modification of the design standards reviewed and approved as a part of the site plan review process.

10.04 MINIMUM MATERIALS AND STANDARDS

The following identifies the minimum landscape, buffering and screening standard requirements for all developments.

(A) General Requirements

(1) Plant Materials

- (a)** All plant material shall be sound, healthy, live plants installed and maintained in accordance to acceptable nursery industry procedures.
- (b)** All plant materials shall be installed immediately, or within nine months after a building or site is developed. If plant materials cannot be immediately installed, the procedure in Section <> (Delayed Planting), shall be followed.
- (c) Trees**
 - (i)** Evergreen trees shall be installed at a minimum height of six feet if used for screening purposes.
 - (ii)** Shade (deciduous or canopy) trees shall be installed at a minimum Distance at Breast Height (DBH) caliper of two inches.
 - (iii)** Ornamental trees shall be installed at a minimum caliper of one and one-half (1½) inches.
- (d) Shrubs**

Shrubs shall be installed at a minimum height of three feet if used for screening purposes.
- (e) Species Diversity**

To curtail the spread of disease or insect infestation in a plant species if a new development contains over 20 trees, the application should include diversity in plant choices.

(2) Fencing and Walls

- (a)** All fences used to meet the screening or buffering requirements of this article shall extend to within two inches of the ground grade.
- (b)** All fencing or walls used for screening purposes shall not exceed eight feet in height in industrial or commercial areas and shall be 100 percent in opacity.
- (c)** The finished face of fencing and wall materials must face the adjacent property. Materials and colors shall be similar or complementary to the primary building.
- (d)** Acceptable fence or wall materials include weather resistant wood, PVC vinyl or other weatherproof composite material, brick, natural stone, spit faced block, pre-cast stone or other similar material as approved by the township. Alternative materials may be approved by the Architectural Review Board.
- (e)** All fencing shall be subject to all applicable standards of Section <> (Fences and Walls) unless otherwise specifically stated in this article.

(3) Mounds and Berms

- (a)** Earthen mounds and berms shall have a maximum slope of 3:1, (three feet of horizontal space is required for each one-foot vertical change in elevation).

- (b) The crest or top of the mound shall be rounded with elevation changes maintained one foot off the centerline of the mound.
- (c) Earthen mounds or berms shall be designed and constructed with variations in physical alignment throughout the length of the mound or berm.

(4) Location

- (a) When screening or landscaping is required between parcels under the same ownership, landscape and/or screening materials may be placed on either parcel or on the boundary line.
- (b) When the subject property is adjacent to other common boundaries, landscape materials shall be entirely located on the subject property requiring the screening or landscaping. The landscaping or screening may be placed on the boundary lines if all property owners agree, in writing, to the arrangement, and if the agreement is filed with the Zoning Inspector as a public record.
- (c) Perimeter landscaping, buffering and/or screening landscaping shall be a minimum of five feet in width.

(B) Delayed Planting

If plantings cannot be completed prior to building occupancy due to weather or other conditions that prevent planting, the township may require a financial guarantee in the amount of 120% of the estimated cost of landscaping and or screening required, including installation costs. The financial guarantee must be approved by the township's legal counsel prior to acceptance.

10.05 STREET TREE AND LANDSCAPE REQUIREMENTS

(A) Interior Landscaping for Off-Street Parking Areas

Interior landscaping for off-street parking area shall include groundcover and other plant materials located within an off-street parking area and shall be regulated as identified in this section.

(1) Applicability

All off-street parking lots shall require landscaping and screening as identified below:

TABLE <>: INTERIOR LANDSCAPE REQUIREMENTS			
Number of Off-Street Parking Spaces	Requirements		
	Perimeter Landscaping/Screening	Interior Islands	Interior Peninsulas
Less than 25 spaces	✓		
25-50 spaces	✓	✓	
More than 50 spaces	✓	✓	✓

(2) Minimum Requirements

- (a) The layout and design of interior landscaping shall be at the discretion of the applicant but shall be approved by the Architectural Review Board.
- (b) Space required for interior landscaping that is located in an interior or peninsula island shall be in addition to any required front, side or rear yard or any required perimeter or screening landscaping requirements.

- (c)** Interior landscaping shall be provided at the ratio of one shade tree for every 20 parking spaces or fraction thereof. For parking lots with more than 200 parking spaces, interior landscaping shall be provided at the rate of 1.5 shade trees for every 20 parking spaces for fraction thereof.⁹⁶
- (d)** Other landscape materials, such as grass and shrubs, may also be used in addition to the required shade trees.
- (e)** The minimum soil area or pervious surface area per tree shall be the size of one parking stall or 180 square feet, whichever is greater.
- (f)** To encourage the required interior landscape areas to be properly dispersed, no individual landscape area shall be larger than 800 square feet in size.
- (g)** The shortest distance to a tree in an interior landscaped area from the edge of pavement where vehicles overhang shall be three feet.
- (h)** To retain visibility within the off-street parking area, trees shall have a clear trunk of at least five feet above the ground.
- (i)** Pervious surfaces not containing a tree shall be landscaped with shrubs (not exceeding three feet in height), and/or groundcover, including grass.
- (j)** All landscaping shall be maintained in a healthy condition, kept free of weeds and debris, and replaced as needed.
- (k)** Interior landscaped areas shall be sufficiently protected from damage from vehicles through the use of wheel blocks or another similar device.

⁹⁶ We are revisiting how to best accomplish this type of requirement while providing options for the applicant.

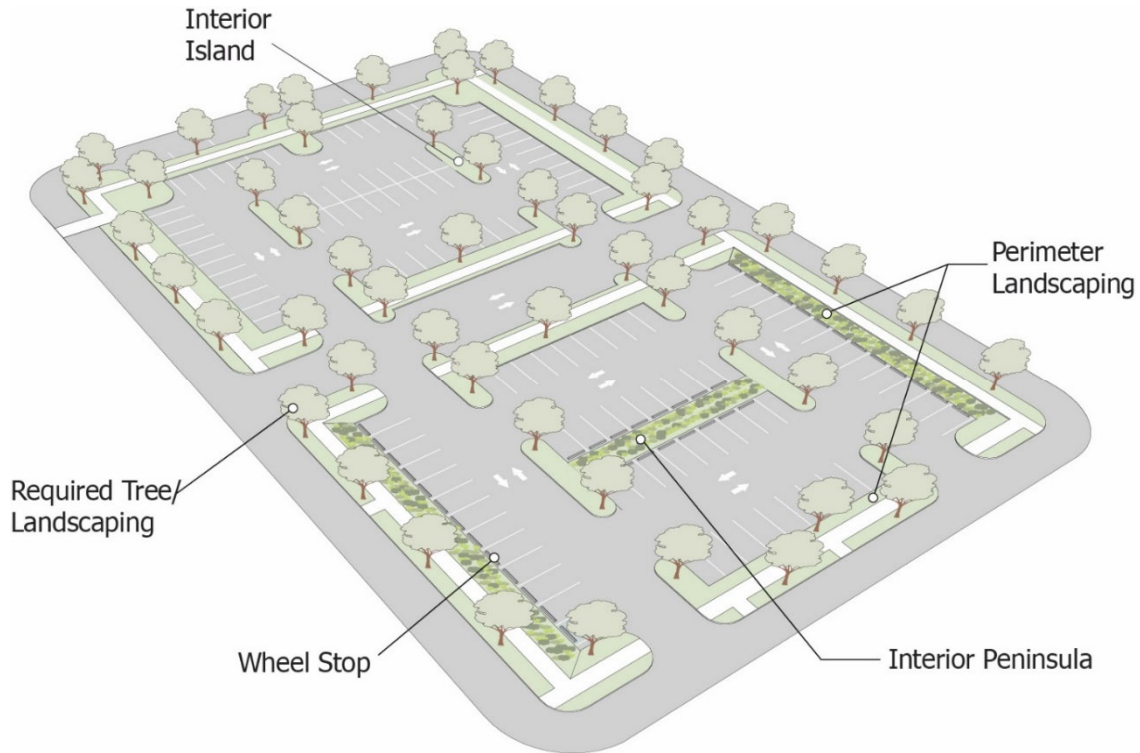


Figure 10.05-A: Illustration of interior landscaping options

(B) Perimeter Landscaping

Perimeter landscaping shall be required to soften the edges of the off-street parking areas. Perimeter landscaping shall not constitute "screening" of an off-street parking area or between incompatible land uses required in Section <> (Screening).

(1) Side and Rear Yard Requirements

- (a)** In any R-2, R-3, or nonresidential zoning district, perimeter landscaping is required in all side and rear yards where off-street parking areas exist.
- (b)** Landscaping shall include trees and a combination of grass, shrubs or earthen mounds.
- (c)** Where existing vegetation occurs outside of the right-of-way, adjacent to off-street parking areas where perimeter landscaping is required, such vegetation may be used as part of the required perimeter landscaping if the vegetation meets the plant material requirements of this article and any spacing or location requirements of this subsection.
- (d)** Trees used for perimeter landscaping shall meet the following spacing requirements:
 - (i)** Shade trees: Two per 50 lineal feet
 - (ii)** Evergreen trees: Two per 50 lineal feet
 - (iii)** Ornamental trees: Three per 50 lineal feet

- (e) The above trees and shrubs may be distributed evenly throughout the perimeter area or may be clustered together.
- (f) Shrub materials used for landscaping shall be confined to common planting beds. There shall be four shrubs for every 10 lineal feet of the portion of the parking area that the shrub is landscaping. The shrubs may be clustered or separated within that 10-foot area.
- (g) All areas not occupied by off-street parking areas, planting areas, trees or shrubs shall be planted and maintained with grass.

(2) Front Yard Requirements

All areas within the required building and parking setback, excluding driveway openings, shall be landscaped and maintained with the following minimum requirements:

- (a) Within this area, three deciduous trees and ten shrubs for every 100 lineal feet of street frontage, not including drive entrances.
- (b) Areas not devoted to trees and shrubs shall be planted with grass, ground cover, or other live landscape treatment, excluding paving or gravel, including land in the street right-of-way that is not occupied by street or sidewalk pavement, or mulch.
- (c) Landscaping materials shall not be fruit or nut bearing nor shall they have thorns or briars.
- (d) Landscaping materials may be placed in any manner and do not have to be equally spaced. Applicants are strongly encouraged to locate trees and shrubs in a manner that will prevent damage from salt and other materials used to melt snow from roads and parking lots.

10.06 SCREENING

(A) Screening of Off-Street Parking Lots from Residential Uses

- (1) The screening requirements of this subsection shall be required when:
 - (a) An off-street parking lot in a nonresidential zoning district is located within 50 feet of a lot that is in a residential zoning district or is used for residential purposes; or
 - (b) An off-street parking lot in an R-2 or R-3 zoning district where the off-street parking lot is located within 40 feet of a lot in a residential zoning district other than the R-2 or R-3 zoning district.
- (2) The screening shall only be required between the residential uses and the applicable off-street parking lot.
- (3) **Height**
 - (a) The screening of any off-street parking space or stacking space in the applicable off-street parking lot shall have a total height of not less than 36 inches above grade.
 - (b) The screening of any off-street loading space shall have a total height of not less than eight feet above grade.
 - (c) If the loading space is located in a dock that is partially below grade, the total height may be reduced to five feet above the top of the dock or bay.

(4) Materials

- (a)** Screening may consist of walls, fences, natural vegetation, earthen mounds, or a combination thereof with an opacity of 100 percent.
- (b)** Where natural vegetation is being used for screening, there shall be a minimum opacity of 75 percent in all seasons.

(5) General Standards

- (a)** Screening shall be reasonably uniform in height and opacity along its entire length.
- (b)** When natural vegetation screening is installed, either alone or in combination with other materials, the plants shall be:
 - (i)** Mature to a minimum height of two feet at the time of installation;
 - (ii)** Selected for year-round, dense foliage adequate to shield residences from headlight glare;
 - (iii)** Selected to achieve the height and density required within three years of installation; and
 - (iv)** Maintained in a healthy, live state and replaced as needed to comply with the original site plan and the specifications and standards outlined in this section.
- (c)** When screening from a public right-of-way, screening shall be maintained between two and one-half and three and one-half feet in length.

(B) Screening of Off-street Parking Lots from Rights-of-Way

When an off-street parking lot is located adjacent to a public street right-of-way, screening shall be provided to reduce the visual impact of the off-street parking lot. A landscaped screening shall be installed between the parking lot and public rights-of-way per the following requirements:

- (1)** A landscaped screen shall be located directly adjacent to the off-street parking lot and be no less than 10 feet in width in all districts. The buffer shall be composed of a continuous evergreen hedge or dense planting of evergreen shrubs.
- (2)** The screening shall be at a height of no less than three feet at the time of installation. The screening may be placed upon a earthen mound to achieve the required height at planting. The minimum screen height requirement shall not apply when the grading of the site results in an elevation of the adjacent street which is three or more feet higher than the off-street parking lot.
- (3)** A fence or a wall may be incorporated into the landscape buffer per the fence requirements of the applicable zoning district. See Section <> (Fences and Walls).

(C) Screening of Service Areas

In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from adjacent, less intense uses and from views from public rights-of-way. Such areas shall always be screened, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

(1) Screened Items

The following areas shall be screened in accordance with this section:

- (a) Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;
 - (b) Outdoor service areas that are necessary to support common business operations (e.g., outdoor freezer or refrigeration units, storage units, etc.);
 - (c) Ground-level or façade-mounted mechanical equipment; and
 - (d) Roof top equipment that is not otherwise hidden by the roofline, parapet wall, or other similar feature; and
 - (e) Utility structures shall be subject to the screening requirements of this section unless the utilities are exempt from this resolution as established in Section <>.
- (2) Screening shall not be required if any of the above items are not visible from adjacent rights-of-way or from adjacent lots in residential zoning districts.
- (3) All sides of the item shall be screened with the exception that one side of the item may be screened with a gate or other similar feature to allow access while screening the item when access is not necessary.
- (4) **Screening Methods**
 - (a) The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.
 - (i) Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views;
 - (ii) An opaque fence or wall consistent with the standards of Section; or
 - (iii) Integration into the building design (e.g., false walls or other architectural screening) that utilizes the same building materials and colors as the principal building.
 - (b) The required screening shall have a height sufficient enough to screen the applicable item(s) provided it is in accordance with any other applicable sections of these regulations.
 - (c) To the maximum extent feasible, pipes, conduit, and cables should be located along the rear facade of buildings if conditions do not allow for them to be enclosed within the building itself. Pipes, conduit, and cables shall be located as far away from public view as practical and shall be painted a similar color as the building façade to further reduce visibility.
 - (d) In all cases, fences and walls are limited to the heights allowed by Section <> unless the wall used for screening is an extension of the principal building, in which case, the wall may be the same height as the principal building wall that is an extension from.



Figure 10.06-A: Use of a wall and fencing for screening that is architecturally compatible with the principal building.



Figure 10.06-B: The above image illustrates a vegetative screen that hides HVAC equipment and a dumpster.

(D) Screening between Land Uses

This section shall provide for the screening of land uses that may be of a different intensity, or otherwise incompatible, for the purposes of mitigating impacts such as parking areas, noises, and other potential effects.

(1) Screening Types

Screening of land use shall be established in the following manner:

- (a)** Locate the proposed use and adjacent existing use(s) in Table <> on the following page. Adjacent uses include uses on adjacent lots with shared lot lines and uses on lot across the street.
- (b)** Identify the letter which indicates the screen type required.
- (c)** Find the screen type in Table <> on the following page, which identifies the minimum screen to be established as required in this article.
- (d)** If a wall, fence or mound is selected, only one of these elements are required.

TABLE <>: SCREENING BETWEEN LAND USES								
		Adjacent Existing Use						
		Single-Family Detached Dwellings	Single-Family Attached Dwellings	Multi-Family Dwellings	Office Uses	Public and Institutional Uses	Commercial Uses	Industrial Uses
Proposed Use	Single-Family Detached Dwellings	None	None	None	None	None	None	None
	Single-Family Attached Dwellings	A	None	None	None	None	None	None
	Multi-Family Dwellings	B	A	None	None	None	None	None
	Office Uses	C	C	B	None	None	None	None
	Public and Institutional Uses	C	C	B	B	None	None	None
	Commercial Uses	D	D	C	B	B	None	None
	Light Industrial Uses (Completely Enclosed)	D	D	D	D	D	C	None
	Heavy Industrial Uses	E	E	E	E	D	C	None

TABLE <>: SCREENING TYPE STANDARDS						
Screen Type	Minimum Width	Wall or Fence Height	Mound Height	Shrubs	Shade or Evergreen Tree	Ornamental Tree
				Number per 50 linear feet		
A	10' or 20' if no fence or wall	6'	4' min. to 6' max.	6	2	2
B	15' or 30' if no fence or wall	6'	4' min. to 6' max.	8	4	3
C	20' or 30' if no fence or wall	6'	5' min. to 7' max.	10	6	4
D	25' or 40' if no fence or wall	6'	5' min. to 7' max.	15	6	4
E	30' or 50' if no fence or wall	6'	6' min. to 8' max.	20	8	6

10.07 MAINTENANCE

- (A)** All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse, debris, and weeds at all times.
- (B)** All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first.
- (C)** No plant material required by these regulations shall be removed for any reason unless replaced with like kind and size at the time of removal. If replaced with a like kind and size of material, no approvals shall be required.
- (D)** Any changes to an approved landscaping plan shall require approval in the same manner as landscaping plan was original approved.
- (E)** Violation of these provisions shall be subject to the enforcement provisions of Article <> (Enforcement and Penalties).

Article 11: Parking, Loading, and Circulation Standards

11.01 PURPOSE

The purpose of the requirements for off-street parking and loading facilities are to protect the public health, safety, and general welfare, and to:

- (A) Regulate the appropriate amount of land for parking, loading and maneuvering;
- (B) Ensure the maintenance, landscaping and screening of existing and future parking and loading areas;
- (C) Relieve the congestion on the streets by requiring that parking and loading be provided on property in relation to the demand generated by the property user(s);
- (D) Encourage alternative modes of transportation by providing facilities for bicyclists and electric vehicles;
- (E) Protect the light, air, visual amenities, and values of residential areas by the visual screening of large parking areas by limiting the parking and storage of recreational vehicles, boats, trailers and trucks in residential areas; and
- (F) Reduce surface water run-off by considering the use of pervious surfaces, where applicable.

These requirements are designed to provide for the minimum parking and loading needs of occupants, customers, employees, visitors and others involved in the use or occupancy of any building or use.

11.02 APPLICABILITY

- (A) Compliance with this section shall be reviewed as part of an application for a site plan review or zoning certificate, whichever is reviewed first, unless otherwise stated in this resolution.
- (B) Unless otherwise stated, the requirements of this article shall apply to all new development, where there is the construction of a new structure or establishment of a new use, or where there is an expansion, addition, or change of existing uses and structures.
- (C) Accessory and temporary uses shall be exempt from the requirements of this article unless specifically required in Article <>.
- (D) All development in a PUD District shall be subject to the standards of this article unless otherwise modified through the PUD review and approval process.
- (E) **Change in Use, Additions, and Enlargement**

Where a change in use based on the table in Section <>(Number of Parking Spaces Required) occurs, an increase in square footage or seating or an increase in the number of dwelling units occurs, the number of parking spaces, loading spaces or vehicle stacking spaces shall comply with the requirements of this article and as identified in this subsection.

- (1) Where a building or use constructed or established prior to the effective date of this resolution is changed or enlarged that creates an increase of less than 10 percent, no additional spaces are required.

- (2) Where a building or use constructed or established prior to the effective date of this resolution is changed or enlarged that creates an increase of more than 10%, but less than 25 percent, such required spaces shall be provided based on the enlargement or change.
- (3) Where a building or use constructed or established prior to the effective date of this resolution is changed or enlarged that creates an increase of 25 percent or more the site shall comply with the parking requirements set forth herein.
- (4) In cases where expansions or enlargements occur over a period of time after the effective date of this resolution, the site shall come into full compliance with the requirements of this article once the total expansion or enlargement of the floor area, number of dwelling units, seating capacity of other area exceed 25 percent of the original size at the time this resolution became effective.

11.03 GENERAL REQUIREMENTS

The following requirements shall apply to all vehicular use areas including off-street parking, stacking, and loading spaces.

(A) Location

Parking and loading spaces shall be provided on the same lot as the principal use they are intended to serve unless otherwise regulated in this article.

(B) Modification to Existing Vehicular Use Areas

The modification of any existing off-street parking area, including, but not limited to, reduction, enlargement, restriping or remarking of any vehicular use area in a manner that differs from the existing site plan, shall require a review of the modification in accordance with the following:

- (1) Minor modifications, such as restriping, remarking, or other minor adjustments shall be reviewed by the Zoning Inspector who shall make a decision in a manner similar to a zoning certificate review.
- (2) All other major changes shall be reviewed by the Architectural Review Board as part of a modified site plan approval.

(C) Setback Requirements

(1) Front Yards

- (a) Unless otherwise stated, all parking, loading and stacking areas shall be setback a minimum of five feet from any street or alley right-of-way.
- (b) In the GB General Office, RG Regional Business, or NMB North Market Business Districts, no parking shall be located closer than 10 feet behind the right-of-way line.
- (c) This area shall be landscaped per Article <> (Landscaping, Buffering and Screening).

(2) Side and Rear Yards

- (a) All parking areas located in the R-2, R-3, NMB, GB, RB, I, and P-I Districts shall not be closer than five feet to the property line in side and rear yards.

- (b)** In all parking areas located in GB, RB, NMB, I, or P-I Districts, no side yard setback requirements are required for parking areas, except when they adjoin a different zoning district. Then, the parking area shall be no closer than 10 feet to the property line.
- (c)** In all parking areas located in R-1A, R-1B, and R-1C Districts, a one-foot setback shall be required for driveways and other off-street parking areas.

(D) Access

All ingress and egress to parking and loading areas shall be made through curb cuts as regulated by this subsection. All curb openings shall be constructed in accordance with the standard drawings of the township and approved by the Road Superintendent.

- (1)** Each lot shall be permitted a maximum of one curb cut per lot except that lots in the nonresidential districts, on corner or double frontage lots, may have one curb cut on each street frontage, with the exact location of the cut to be subject to the approval of the Township Road Superintendent.
- (2)** Where necessary due to multiple curb cuts, the entrances, exits and intended circulation pattern of the parking area shall be clearly identified with pavement markings or freestanding directional signage.
- (3)** A driveway or access way serving a parking lot shall be designed so that vehicles entering and exiting will be traveling in a forward motion only, exclusive of single and two-family lots.
- (4)** On corner lots, all vehicular entrances/exits shall be set back from the intersection of the street right-of-way lines as follows:
 - (a)** In residential districts, not less than 25 feet;
 - (b)** In the RB, GB, NMB, and P-I Districts, not less than 50 feet on a square corner or 25 feet from the end of the corner radius, whichever is greater.
 - (c)** In the Industrial District, where located adjacent to a thoroughfare or an arterial street, not less than 150 feet from an intersection.
 - (d)** In the Industrial District, there shall be not less than 100 feet between driveways.
- (5)** Curb openings at the property line shall not be more than:
 - (a)** 15 feet wide in residential districts for single- and two-family dwellings;
 - (b)** 30 feet wide in residential districts for multi-family dwellings;
 - (c)** 36 feet wide in the GB, RB, NMB, and P-I Districts; and
 - (d)** 50 feet wide in the I District.

(E) Striping, Marking and Maintenance

- (1)** All parking spaces, other than for single and two-family residential uses, shall be striped and maintained in good condition.
- (2)** Each parking space and aisle shall be clearly designated and marked to ensure approved utilization of the space, direction of traffic flow and general safety.
- (3)** When a parking space is designated for handicapped accessibility or small car use, it shall be clearly marked as such.
- (4)** The owner of property used for parking shall maintain such area in good condition without holes and free of all trash, abandoned or junk vehicles, and other rubbish.

(b) Paving

- (5)** The surface of any parking area, aisle, driveway or maneuvering area shall be paved with a hard, durable, dust free surface such as asphalt or concrete (excluding compacted gravel) and approved by the Zoning Inspector.
- (6)** Porous asphalt or pervious concrete, used to reduce surface water run-off, may be used if reviewed and approved by the Zoning Inspector and Road Superintendent.

(c) Wheel Stops and Curbing

- (7)** Wheel stop devices consisting of parking blocks, permanent curbs or other suitable barrier shall be installed to prevent any part of a parked motor vehicle from extending beyond the required parking space area, overhanging a pedestrian circulation way or sidewalk or damaging any structure or landscaping.
- (8)** The minimum height of a wheel stop device shall be five inches and the minimum distance from a wheel stop device to a property line or protected area shall be two and one-half feet.
- (9)** Wheel stops shall be adequately anchored to the ground to prevent any movement.
- (10)** Continuous curbing is discouraged but if curbing is used, it should be cut curbing or scissor curbing to allow for the passage of stormwater. See [Figure 11.03-A](#).



Figure 11.03-A: Cuts in the continuous curb allow for stormwater to be directed into landscaped areas.

(d) Lighting

Any lighting of vehicle use areas shall be subject to Section <> (Lighting).

(e) Landscaping, Buffering and Screening

Landscape, buffering and screening shall be pursuant to Article <> (Landscaping, Buffering and Screening).

(f) Prohibited Activities

- (11)** The display for sale of all types of vehicles shall be prohibited within any required off-street parking area, except for a private individual selling one personal vehicle from a residence at any one time or at an approved car sales business.
- (12)** The display, sales, or storage of any goods, wares, or merchandise shall not be permitted within any areas designated for required off-street parking, circulation and loading.

- (13) No part of any building, structure or related improvements shall be temporarily or permanently located or stored in areas designated for off-street parking, circulation and loading.

(g) Bicycle and e-Scooter Parking

When bicycle or e-Scooter parking accommodations are provided on a site, they shall be located in an area adjacent to the primary building and separate from vehicular or pedestrian traffic circulation to prevent unnecessary conflicts and safety hazards between vehicles, people, bicycles and e-Scooters.

11.04 OFF-STREET PARKING STANDARDS

(A) Number of Parking Spaces Required

(1) Computation

In computing the number of parking spaces required by this resolution, the following shall apply:

- (a) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross leasable horizontal area of all floors of a nonresidential building.
- (b) Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated for, each 24 lineal inches of seating facilities (bench, pew, etc.).
- (c) Fractional numbers shall be increased to the next highest whole number.
- (d) Parking spaces shall be provided according to the schedule of uses in this subsection. In residential use areas, garages or carports may be counted as a part of the required parking.

(2) Not to Exceed Requirement

In order to prevent excessive lot coverage, the artificial increase in ambient air temperature, and an unnecessary increase in surface water run-off, no minimum parking space requirement in Subsection <> (Number of Required Spaces), shall be exceeded by more than 25% unless good cause can be shown by the applicant and approved by the Board of Zoning Appeals through the variance process in Section <>. Single family dwellings, two family dwellings and accessory apartments shall be exempt from this provision.

(3) Mixed Use Occupancy

In the case of mixed or multiple uses in one building or on one property, the total requirements for off-street parking may be reduced as follows:

- (a) The reduction shall be based on the sum of the minimum parking spaces required in the table in this subsection, computed separately, and reduced by not more than 25%. Any reduction in spaces shall be reviewed and approved by the Zoning Inspector.
- (b) The remaining spaces shall not be reserved for any one use and shall be available to all patrons or residents of that development.

(B) Revision of Parking Lots

The revision of an approved parking lot, including, but not limited to, reduction, enlargement, restriping or remarking of any parking lot in a manner that differs from the existing site plan, shall require a new site plan approved by the Zoning Inspector prior to the changes being made.

(C) Number of Parking Spaces Required

The number of off-street parking spaces required shall be as required in one of the following two subsections:

(1) Minimum Space Table

Table <> establishes the minimum number of parking spaces required for individual uses.

TABLE <> MINIMUM NUMBER OF SPACES	
Use	Parking Spaces Required
Agricultural Uses	
Agricultural	One per site
Display Stands	Two per site
Wholesale Retail Outlet	One per 500 square feet of gross floor area
Residential Uses	
Bed and Breakfast Establishment	One space per guest room plus two spaces for owner occupant
Dwelling 4 units or less	Two spaces per dwelling unit
Dwelling greater than 4 units	One and one-half spaces per dwelling unit
Office Uses	
Business, Professional and Administrative Office	One per 400 square feet of gross floor area
Commercial and Service Uses	
Commercial or service <5,000 square feet	One per 300 square feet of gross floor area
Commercial or service 5,001 – 50,000 square feet	One per 350 square feet of gross floor area
Commercial or service >50,001 square feet	One per 400 square feet of gross floor area
Commercial Recreation, Indoor	One per 400 square feet of gross floor area; or One per five seats if stadium/arena seating provided
Commercial Recreation, Outdoor	One per five seats if ballfield/stadium/arena seating provided; or 1 space per 8,000 square feet of outdoor area
Hotel or Motel	One per guest room
Restaurant, Microbrewery, Tavern or Bar	One per 150 square feet of gross floor area
Service Use	One per 400 square feet of gross floor area
Service Use with Assembly Area	One per 150 square feet of assembly area
Vehicle Repair	Two per service bay
Civic and Institutional Uses	
Civic or Institutional Use	1 per 500 square feet; or 1 per 5 seats, whichever is greater
Educational Institution, K-8	1 per 25 classroom seats
Educational Institution, 9-12	1 per 10 classroom seats
Educational Institution, College	1 per 5 classroom seats plus one per 5 auditorium seats
Hospital	1 per bed

TABLE <> MINIMUM NUMBER OF SPACES	
Use	Parking Spaces Required
Meeting and Assembly	1 per 150 square feet of gross floor area; or 1 per five seats if fixed seating provided
Park, Playground, Open Space	1 per 5,000 square feet of outdoor area; or One per five seats if stadium/arena seating provided
Public Building	1 per 500 square feet of gross floor area
Industrial Uses	
Production	1 per 1,000 square feet of gross floor area
Research and Development or Laboratory	1 per 750 square feet of gross floor area
Self-Storage	1 per 10 units; or 5,000 square feet of outdoor storage area
Warehouse and Wholesale	1 per 2,000 square feet of gross floor area or outdoor storage area

(D)

(1) Alternative Parking Space Requirements

- (a)** The applicant may choose to provide an alternative parking space plan based on their use(s). The applicant will be required to demonstrate that the proposed number of off-street parking spaces provided in the alternative plan is sufficient to serve the proposed use or activity through the submission and review of a parking plan. As part of the parking plan, the applicant shall provide a written analysis of parking requirements based on the following information:
 - (i)** Availability of on-street parking near the use and the distances to those spaces;
 - (ii)** Building square footage for each specific use to be served by off-street parking;
 - (iii)** Hours of operation;
 - (iv)** Estimated number of patrons/customers at peak hours of operation;
 - (v)** Maximum numbers of employees present on one shift;
 - (vi)** Availability of joint parking areas;
 - (vii)** Building occupancy loads; and
 - (viii)** Proposed number of spaces and their locations on the lot.
 - (ix)** Any additional information as requested by the Zoning Inspector.
- (b)** The Zoning Inspector the authority to deny an application if they determine that an adequate amount of parking has not been provided. The Zoning Inspector shall provide, in writing, the reasons for the rejection. The Zoning Inspector may refer to the estimates of parking demand based on recommendations of the American Planning Association (APA), the Urban Land Institute (ULI), and/or the Institute of Traffic Engineers (ITE) in making their determination.

11.05 DIMENSIONAL REQUIREMENTS FOR PARKING SPACES AND DRIVE AISLES

Areas for off-street parking facilities shall be in accordance with the following minimum requirements. Parking area length includes paved area only.

(A) Parking Space Area Table

TABLE <> PARKING SPACE DIMENSIONS				
Angle	Parking Space Width	Parking Space Length	Drive Aisle Width	
			One-Way	Two-Way
	A	B	C	D
Parallel (0°)	9'	22'	12'	20'
30°	9'	20'	12'	24'
45°	9'	20'	12'	24'
60°	9'	18'	18'	24'
Perpendicular (90°)	9'	18'	20'	24'

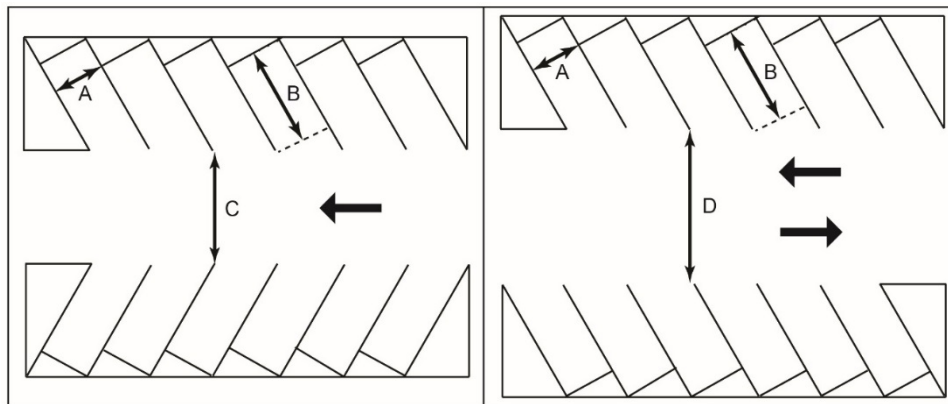


Figure 11.05-A: Parking area dimensions

(B) Dimensional Requirement Adjustments

(1) Compact Spaces

- (a) All compact car spaces must be a minimum of eight feet wide by sixteen feet long.
- (b) The design and placement of all compact spaces are subject to the review of the Zoning Inspector.
- (c) The location of all compact spaces shall be readily identified and grouped in one or a series of locations.
- (d) For commercial and industrial uses, up to 10% of the total parking spaces may be compact spaces.

(2) Electrical Vehicles

If a parking lot provides electrical vehicle (EV) charging stations, a reduction of 2 parking spaces for each charging station may be considered by the Zoning Inspector.

(3) Transit Stop

If the parking lot is located within 500 feet of a Western Reserve Public Transit Authority transit stop which operates with frequent service during normal business hours, a 10% reduction in required spaces may be considered by the Zoning Inspector.

(C) Parking for Handicapped Persons

- (1)** Parking spaces for handicapped and elderly persons shall meet the requirements of the Accessible Parking Guide published by the Secretary of State of Ohio, which outlines requirements of the 2010 ADA Standards for Accessible Design.
- (2)** Each handicap space may be included in the computation of spaces required by this Article.

(D) Parking of Commercial Vehicles in Parking Lots

Commercial vehicles with or without signage, which are over nine feet in width and 18 feet in length, shall not be parked in a parking area when the vehicle is not in use or during non-business hours. Such vehicles shall be parked or stored in the required off-street loading space(s) unless otherwise approved by the Zoning Inspector.

(E) Alternative Parking Solutions

(1) Shared or Off-Site Parking

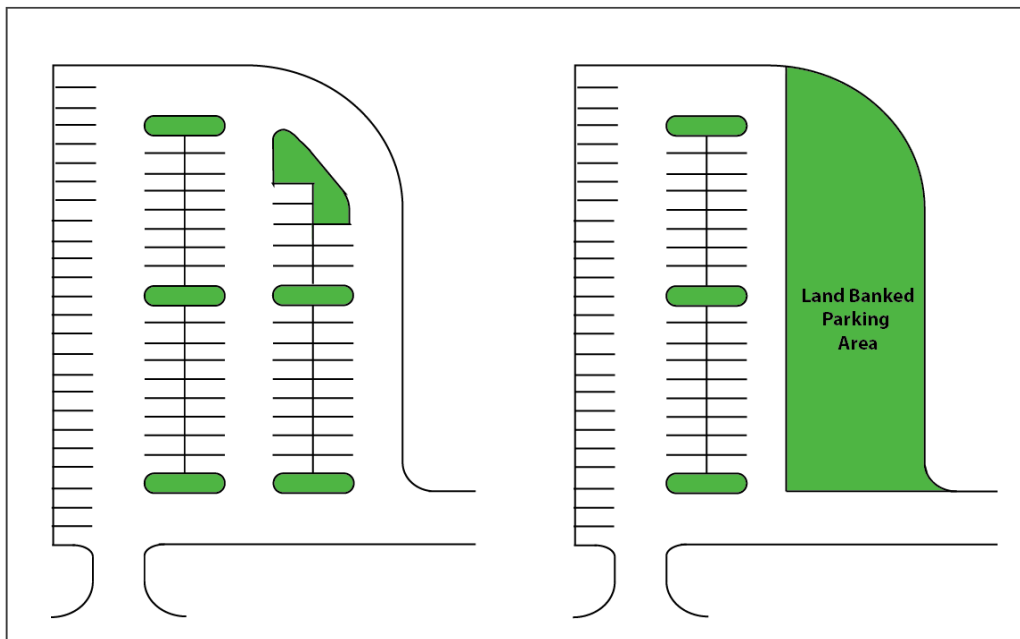
A portion of the required parking spaces may be located on an adjacent or nearby property if the parking area complies with the following standards.

- (a)** Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.
- (b)** Off-site parking shall not be used to satisfy the off-street parking standards for residential uses.
- (c)** Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking area.
- (d)** Shared or off-site parking shall not be permitted on a vacant lot in a residential zoning district unless permitted by the BZA as part of a conditional use review.
- (e)** Shared or off-site parking areas shall adhere to the regulations of the same or a more intensive zoning classification than that required for the use served.
- (f)** In the event that a shared or off-site parking area is not under the same ownership as the principal use served, a written parking agreement shall be required and must be approved by the township's legal counsel.
- (g)** No shared or off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.
- (h)** The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared or off-site parking may be approved if it complies with the following standards:
 - (i)** A sufficient number of spaces shall be provided to meet the highest demand of the participating uses.
 - (ii)** Evidence shall be submitted by the parties operating the shared parking area, to the satisfaction of the Zoning Inspector, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between the users of the parking spaces.

- (iii) Shared or off-site parking shall not account for more than 50 percent of the required parking spaces as established in Section <>.
- (iv) Any change in use of the activities served by a shared or off-site parking area will be deemed an amendment to the shared or off-site parking area plan and will require BZA review and approval.
- (v) All shared or off-site parking plans and agreements shall be recorded in the office of the Mahoning County Recorder and a copy of the recorded document shall be provided to Boardman Township prior to any zoning certificate or business use certificate being issued.

(2) Land Banked Parking

Up to 50 percent of the required parking spaces may remain landscaped and unpaved, or paved with pervious pavement, provided that the parking and unpaved areas complies with the following standards and is authorized in accordance with this section. See Figure <> below.



Figure<>: The parking lot shown on the left is a traditional parking lot with interior parking islands while the parking lot on the right illustrates where an area is unimproved but is designated for future parking spaces if the demand arises.

- (a) The parking plan submitted with the site plan application shall denote the location and layout of that portion of the parking area that currently is deemed not required. The plan shall indicate that the "land banked" parking spaces will be constructed according to these regulations if the Zoning Inspector determines at any time that all or any portion of this parking is necessary.
- (b) The applicant shall be required to design the site for full compliance with the applicable stormwater regulations, lighting regulations, and landscaping regulations even though a portion of the parking area may not be developed initially.

- (c) Any conditions required by the township, and the design for the site as established above, shall be illustrated on a final site plan, approved as part of the zoning certificate application and maintained as part of the township's official records.
- (d) At no time shall any portion of the land banked parking area that is designated for future development be used for the construction of any structure or paved surface with the exception that pervious pavement may be used to provide temporary parking provided that the pavers allow for grass and other vegetation to grow through the material.
- (e) At no time shall any portion of the land banked parking or loading area that is so designated for future construction as provided herein be counted as open space or other non-paved areas required by other provisions of this resolution.
- (f) The owner shall initiate construction of the approved land banked parking area(s), as identified on the approved parking plan, within three months of the receipt of a certified letter or a letter through normal postal service (if the certified letter is not accepted) sent to the owner of record from the Zoning Inspector, identifying that such parking is determined to be necessary. Such determination may be made when the Zoning Inspector:
 - (i) Is reviewing an application related to a change of use or activity; or
 - (ii) Documents that vehicles related to the use are consistently parked on the grass, landscaping area, or on the street.
- (g) Off-site or shared parking alternatives shall not be permitted where land bank parking is utilized.

11.06 OFF-STREET LOADING

A permanently paved and maintained area for standing, loading and unloading of delivery vehicles shall be provided for principal uses in the nonresidential districts. These off-street loading facilities shall be in accordance with the following specifications:

(A) Number of Spaces

This resolution does not require a minimum number of off-street loading spaces. However, uses which receive frequent deliveries are required to provide adequate space, built to the standards as identified in this subsection.

(B) Size

- (1) Loading spaces shall conform to the following minimum dimensions. Unless otherwise noted, all dimensions are exclusive of any driveway, aisle or other circulation area:
 - (a) Clearance height: 15 feet
 - (b) Minimum width: 12 feet
 - (c) Minimum length: 50 feet
- (2) In the GB General Business, RB Regional Business and NMB North Market Business Districts, the loading space requirements may be modified when the owner or the intended user shows that adequate loading requirements for the use can be provided in a manner which does not disrupt traffic flow or parking.

(C) Location

- (1) All loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.

- (2) Off-street loading spaces may occupy any part of a required rear or side yard but shall not project into any front yard or into a public right-of-way.
- (3) Off-street loading spaces shall not obstruct or occupy any parking space, circulation or vehicle stacking space for drive through lanes.
- (4) No loading ramp, dock, door or space, or any portion thereof, shall be located closer than 50 feet from any lot zoned for any residential use unless located completely within an enclosed building, GB General Business, RB Regional Business and NMB North Market Business Districts.

(D) Access

- (1) All required off-street loading spaces shall have access to a public street or alley in such a manner that any vehicle entering or exiting the premises shall be traveling in a forward motion, exclusive of the GB General Business, RB Regional Business and NMB North Market Business Districts.
- (2) Driveway access for loading spaces shall be located so any vehicle entering or leaving the lot shall be clearly visible to any pedestrian or motorist approaching the access or driveway from a public or private street. Nothing shall project more than three feet above the driveway grade within two 10-foot triangles formed by the intersection of the driveway pavement edge and street right-of-way line.

11.07 STACKING SPACE REQUIREMENTS

- (A) Drive-through facilities and other establishments which, by their nature, create lines of customers waiting to be served within automobiles, shall provide off-street waiting areas, on the same lot as the use, in addition to the required number of parking spaces specified in this Article.
- (B) The number of required stacking spaces shall be as provided for in Table <>. See Figure <> for illustration of stacking spaces:

TABLE <>: STACKING SPACE REQUIREMENTS		
Activity	Minimum Stacking Spaces (Per Lane)	Measured From:
Financial Institution or Automated Teller Machine (ATM)	3	Teller or Window
Restaurant	6	First Drive-Through Window or Stall
Automatic Car/Truck Wash	5	Outside of Washing Bay
Self-Service Car/Truck Wash	2	Outside of Washing Bay
Retail Fuel Sales	2 per accessible side of the pump island	Fuel Pump
Other	As determined by the Zoning Inspector	

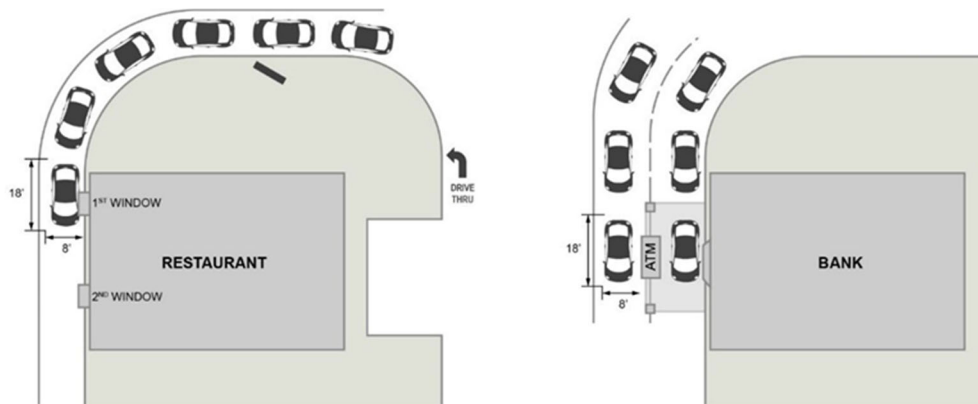


Figure <>: Illustrative example of stacking space requirements for a bank and a restaurant.

- (C)** Waiting lanes shall be provided for any use having a drive-through facility and shall comply with the following standards:
- (1)** Drive-through waiting lanes shall have a minimum width of eight feet and a minimum length of 18 feet for each space required.
 - (2)** When waiting lanes are separated from other waiting lanes, bypass lanes, or from other site areas, the separation shall be by means of a raised concrete median, concrete curb, landscaping, or painted striping.
 - (3)** The number of waiting spaces required by Table <> shall be required for each separate waiting lane. If two or more waiting lanes converge into one lane (e.g., two lane separate lanes to order at a restaurant converge to one lane after the drive-through sign), the waiting spaces shall be measured in accordance with Table <> with the spaces located after the convergence point counting toward both stacking lanes.
 - (4)** Vehicles shall not be permitted to wait within the public right-of-way for service at such drive-in or drive-thru facilities.
- (D)** The Architectural Review Board may reduce the number of required waiting spaces when the applicant provides credible documentation, such as studies from similar sites, that fewer than the required number of waiting spaces does not impede vehicular traffic flow on the site and ingress/egress to the site.

11.08 PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES, BOATS, EQUIPMENT AND TRAILERS ON PRIVATE PROPERTY IN RESIDENTIAL DISTRICTS

(A) Commercial Vehicles

- (1)** Only those vehicles that are classified as a Light Duty Truck, Class 1 or Class 2 by the Federal Highway Administration are permitted to be parked or stored on residential lots. All other classification of vehicles may only be parked or stored on residential lots when within a fully enclosed building.
- (2)** Residents who rent or lease a commercial moving vehicle for the purpose of moving their personal or household goods, may park the vehicle in their driveway for up to 48 hours for the purpose of loading and unloading.

(B) Parking and Storage of Recreational Vehicles, Boats, Equipment and Trailers

- (1)** In no instance shall there be more than a total of two recreational vehicles, boats, trailers or equipment, stored outside on a single residential property.
- (2)** Recreational vehicles, equipment, boats, trailers, motor homes or similar equipment shall not be stored in front of the building line of the dwelling except for the temporary parking of such vehicle or trailer in the driveway for the purposes of loading or unloading for a period of not more than 48 hours.
- (3)** Recreational vehicles including mobile homes, boats and trailers not exceeding 35 feet in length, may be parked in a residential subject to the following conditions:
 - (a)** In an enclosed garage or permitted accessory building, provided that no living quarters are maintained and no business is conducted in the recreational vehicle while the vehicle is stored;
 - (b)** On the premises of the owner, outside of an enclosed garage or permitted accessory building, provided that the following conditions are met;
 - (i)** The recreational vehicle or trailer shall not be used as living quarters, whether temporary or permanent, and no business shall be conducted in the recreational vehicle while the vehicle is stored.
 - (ii)** The recreational vehicle or trailer is parked behind the existing front line of the building foundation at a point furthest from the street right-of-way as practical.
 - (iii)** The recreational vehicle, trailer or equipment has no permanent connection to electric, water, gas or sewer facilities.
 - (iv)** The recreational vehicle or trailer is kept in good repair and carries the current year's license and/or registration as required by the State of Ohio.
 - (v)** All wheels of the recreational vehicle, trailer or similar equipment are resting entirely upon a hard surface (paved with concrete, asphaltic concrete or other hard surface not gravel) or on a surface of pervious pavers or pavement, as approved by the Zoning Inspector.

11.09 SIDEWALKS AND SIDEWALK CONNECTIONS TO A RIGHT-OF-WAY

(A) Public Sidewalks

- (1)** New public sidewalks, constructed to meet Mahoning County construction standards, shall be required along the street frontage of any lot being developed when the following conditions exist:
 - (a)** The development includes new construction on a vacant lot or complete redevelopment of an existing principal building (e.g., the principal building is torn down and replaced);
 - (b)** There is no public sidewalk along one or more of the public street rights-of-way adjacent to the lot;
 - (c)** There is adequate existing right-of-way for the public sidewalk.
- (2)** New sidewalks shall also be required when proposed sidewalks or paths are identified in the Boardman Township Active Transportation Plan for the lot or lots that are part of the applicable development or application.

- (3)** All sidewalks shall be constructed with a minimum width of five feet. Wider sidewalks may be required by the Zoning Inspector, Architectural Review Committee, or Zoning Commission, depending on the applicable review process, where:
 - (a)** Wider sidewalks are present on the adjacent lots; or
 - (b)** Wider sidewalks are required in the Boardman Township Active Transportation Plan.
- (4)** All sidewalks at intersections will include ramps that are compliant with the American Disabilities Act.

(B) Internal Pedestrian Access ⁹⁷

- (1)** Where a sidewalk exists in a public right-of-way adjacent to the site, or is required to be constructed as part of the development approval, a paved pedestrian connection shall be constructed from the sidewalk to the entrance of the building.
- (2)** The pedestrian connection shall have a minimum width of five feet.
- (3)** All pedestrian walkways located within a site (internal pedestrian circulation) shall be physically separated from the drive lanes and driveways. Additionally, all sidewalks and crosswalks shall be constructed of an impervious surface and shall be visually distinct from the driving surface by use of pavers, color, bricks, scored concrete, or other material approved by the Zoning Inspector or Architectural Review Committee. See Figure <>.

⁹⁷ We will incorporate a photo providing examples of internal connections.

Article 12: Signage Standards⁹⁸

12.01 PURPOSE

The purpose of this article is to promote the public health, safety, and welfare through the provision of standards for existing and proposed signs of all types. More specifically, this article shall be interpreted in a manner consistent with the First Amendment guarantee of free speech while also:

- (A) Enhancing and protecting the physical appearance of the community;
- (B) Promoting and maintaining visually attractive, residential, retail, commercial, and manufacturing districts;
- (C) Balancing the rights of individuals to convey messages through signs with the right of the public to be protected against the unrestricted proliferation of signs;
- (D) Ensuring that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;
- (E) Preventing the erection of structures of any kind that will obstruct sight distance at the intersection of streets, alleys, or driveways;
- (F) Preventing the erection of poorly constructed and unsafely located, posted, or painted signs;
- (G) Providing review procedures that enable the township to comprehensively evaluate the appropriateness of a sign to the site, building, and surroundings;
- (H) Regulating the proper construction, maintenance, safety, and structural soundness, as well as the appearance and attractiveness of signs; and
- (I) Prohibiting all signs not expressly permitted by this article.

12.02 APPLICABILITY

- (A) It shall hereafter be unlawful for any person to erect, place, or maintain a sign in the township except in accordance with the provisions of this article.
- (B) Unless otherwise provided, this section shall apply to any sign, in any zoning district, that is visible from the public right-of-way or from property other than the property on which the sign is located.
- (C) Any sign already established on the effective date of this section or future amendment thereto, and which sign is rendered nonconforming by the provisions herein, shall be subject to the nonconforming sign regulations of Section [12.13: Nonconforming Signs](#).

⁹⁸ The township does not have a lot of language on signage so most of this language is new. In addition to the changes suggested in the code evaluation, we have footnoted other major changes.

12.03 SUBSTITUTION AND PROTECTION CLAUSE

- (A)** Wherever a sign with a commercial message is allowed or permitted under this article, an owner may replace the message with a noncommercial message, subject to the time, place and manner provisions of this article, without applying for a zoning certificate and/or paying a fee that otherwise would be required for the placement of a commercial message sign on the lot; provided, that the sign structure or mounting device is legal without consideration of message content. This provision prevails over any provision to the contrary in this article. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a lot or parcel, nor does it affect the requirement that a sign structure or mounting device be properly permitted.
- (B)** All noncommercial speech is considered on-premise signage and is entitled to the privileges that on-premise signs receive under this section. Notwithstanding any other provision herein, signs that display a noncommercial message are entitled to the maximum square footage allowed any sign within the same zoning district. Notwithstanding any other provision herein, signs that display a noncommercial message are not subject to the temporal limitations otherwise set forth in this chapter; however, such signs remain subject to the provisions of Section <>.

12.04 EXEMPTIONS FROM THIS CHAPTER

The following signs are entirely exempt from this chapter but may require building permits or other permits, as applicable:

- (A)** Any signage located inside a building that is not visible from the exterior of the building. Signs in windows that are mounted in such a way as to be viewed from outside the building shall be considered window signs subject to the provisions of Section <>;
- (B)** For the purpose of safety services locating a property, a sign denoting the number and street address of the premises is permitted provided such sign complies with the requirements of the fire code.
- (C)** Interior signs within a stadium, open-air theater, outdoor shopping center, arena or other similar use, which signs are not visible from a public right-of-way or adjacent property and can be viewed only by persons within such stadium, open-air theater, outdoor shopping center, parks, arena, or other similar use. Signs located on structures used for interior signs that are visible from a public right-of-way or adjacent property are subject to the requirements of this article;
- (D)** Any works of art that do not contain a commercial message;
- (E)** Any sign located on umbrellas or similarly related private patio furniture or seating provided it is located outside of the right-of-way and complies with any other applicable standards of this code;
- (F)** Any sign on a truck, bus or other vehicle that is used in the normal course of a business for transportation (See also Section <>.) or vehicle signage required by the State or Federal government;
- (G)** Signs installed or required by the Boardman Township, Mahoning County, approved transit agency, or any agency of the State of Ohio or federal government;

- (H)** Any sign located inside a building that is mounted in a manner so that it is visible from outside through a transparent window or door;
- (I)** Any signs located on fuel pumps or similar structures that are not legible from the lot line;
- (J)** Any warning signs or traffic safety signs required by public utility providers; and
- (K)** Any lighting, signs, or related decorations erected on a seasonal basis in observance of religious, national, or state holidays that are not intended to be permanent in nature and which do not contain a commercial message.

12.05 ZONING CERTIFICATE REQUIRED

- (A)** No person shall erect, place, relocate, expand, modify, maintain, or otherwise alter a sign, or cause a sign to be erected, placed, relocated, expanded, modified, maintained, or otherwise altered unless all provisions of this resolution have been met. To ensure compliance with these regulations, a zoning certificate shall be required to be issued unless specifically exempted in this article.
- (B)** The repainting, changing of parts and preventive maintenance of signs, and a change in the message on a changeable copy sign shall not be deemed alterations requiring a zoning certificate.
- (C)** A zoning certificate shall be required for a sign face change.

12.06 PROHIBITED SIGN TYPES

The following types of signs are specifically prohibited within the township:

- (A)** Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;
- (B)** Any sign or sign structure which in the opinion of the Zoning Inspector is structurally unsafe, or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment;
- (C)** No sign shall be installed, erected, or attached in any shape, manner, or form, to a fire escape or to any door or window that is required ingress and egress for fire safety.
- (D)** Pennants, streamers and other similar type devices;
- (E)** Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention except for electronic message centers permitted in accordance with this article;
- (F)** Laser lights, beacons and searchlights, except for emergency purposes;
- (G)** Motor vehicles, tractor trailers, or similar vehicles with signs painted on, attached to, or otherwise affixed to the vehicle shall not be parked or stored long-term on a lot as a form of signage. This standard does not apply to vehicles used in the day-to-day business of the applicable use (e.g., delivery vehicles or vehicles used by employees). Vehicles with signage that are parked for more than 24-hours on a lot without a principal use or parked, without any movement, for more than one week on a lot with a principal use, shall be considered a violation of this subsection.
- (H)** Any signs that utilize illumination by means of bare bulbs, flames, or both;

- (I)** Any signs which imitate or resemble official traffic or governmental signs that are designed or used in a manner as to interfere with, mislead, or confuse drivers along streets;
- (J)** Any sign that violates the traffic clearance requirements of Section <>;
- (K)** Any sign located in a public right-of-way except as provided for in Section <>;
- (L)** Blade or feather signs;
- (M)** Signs mounted to light poles unless in compliance with Section <>.
- (N)** Roof signs unless approved as part of a planned unit development; and
- (O)** Any other sign type that is not specifically allowed by this article.

12.07 SIGN MEASUREMENTS AND COMPUTATIONS

The following regulations shall control the computation and measurement of signs.

(A) Sign Setback

All required setbacks for signs shall be measured as the distance in feet from the applicable lot line, or other stated point of measurement, to the closest point on the sign structure.

(B) Sign Height

- (1)** The height of a sign shall be computed as the distance from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of sign.
- (2)** In cases where the normal grade is below grade at street level, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private street.⁹⁹
- (3)** The height of an awning, canopy, projecting, wall or window sign shall be determined by measuring the vertical distance between the top part of a sign panel or individual letters or characters, whichever is highest, to the elevation of the ground underneath the sign.
- (4)** Any material whose major function is providing structural support for a sign shall be considered part of the sign for purposes of determining sign height.

(C) Sign Area

The surface of a sign to be included when computing maximum allowable square footage of sign area shall be calculated as follows:

- (1)** When calculating street frontage, only the street frontage that lies in the unincorporated area of the Boardman shall be used in the calculation.
- (2)** For sign copy mounted or painted on a background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square, circle¹⁰⁰, rectangle, triangle, or combination thereof that encompasses the extreme limits of the background panel, cabinet, or surface. See [Figure <>](#) and [Figure <>](#).

⁹⁹ We will provide a graphic for this measurement.

¹⁰⁰ To be discussed further with staff.

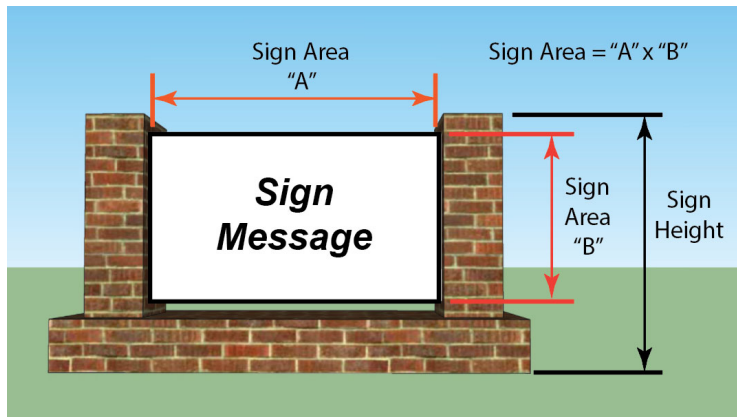


Figure <>: Illustration of sign area calculation for a monument sign with copy on a distinct cabinet.



Figure <>: Illustration of computing the sign area for wall signs with a background panel or cabinet.

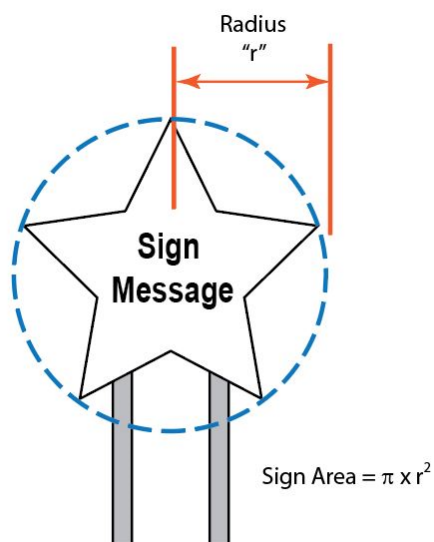


Figure <>: Example of sign area computation by the smallest circle encompassing the extreme limits of the sign message. For the purposes of calculations, π equals 3.14.

- (3) For sign copy where individual letters or elements are mounted or painted on a building façade where there is no background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the combination of the smallest square, circle, rectangle, triangle, or combination thereof that encloses all the letters or elements associated with the sign. See Figure <>. In cases where there are multiple sign elements on the same surface, the Administrative Officer shall have the authority to determine the outermost boundaries of individual sign elements. Decorative edging or other window treatments that are not an integral part of the sign copy shall not be considered a part of the sign for the purposes of this article. See Figure <>.

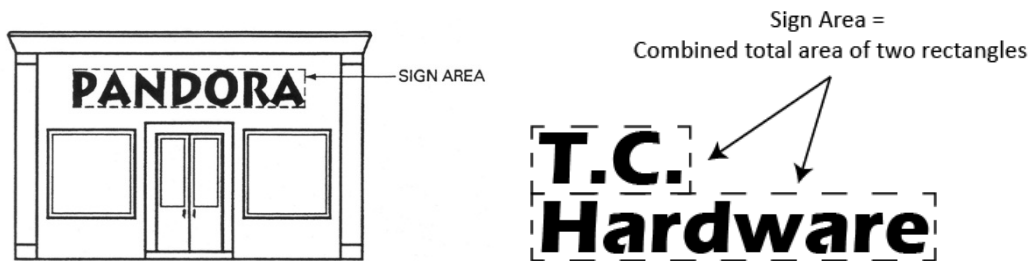


Figure <>: Illustration of sign area calculation for two differently shaped wall signs with individual letters.

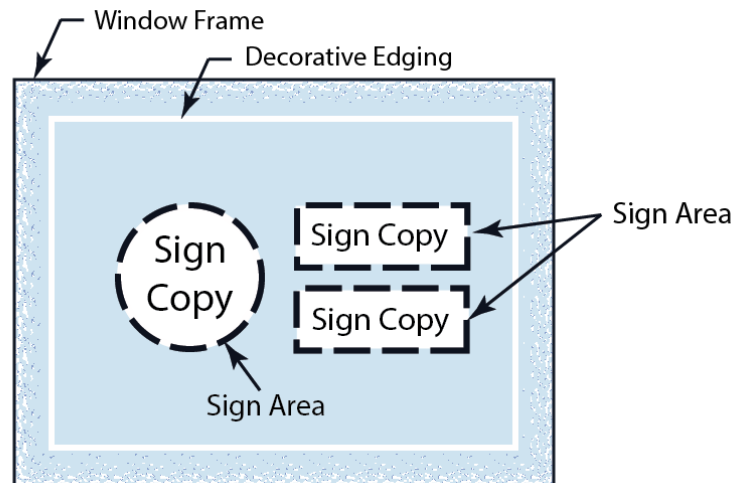


Figure <>: Illustration of sign area calculations for multiple sign areas on a window sign

- (4) The calculation of sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other commercial message, as determined by the Zoning Inspector. See [Figure <>](#).
- (5) Where matter is displayed in a random or unconnected manner, without organized relationship of components, each component shall be considered to be a single sign.

- (6) In the case of a three-dimensional sign where the sign faces are not mounted back-to-back, the sign area shall be calculated by the smallest square, circle, rectangle, triangle, or combination thereof that encompasses the profile of the sign message. The profile used shall be the largest area of the sign message visible from any one point. See [Figure <>](#).¹⁰¹

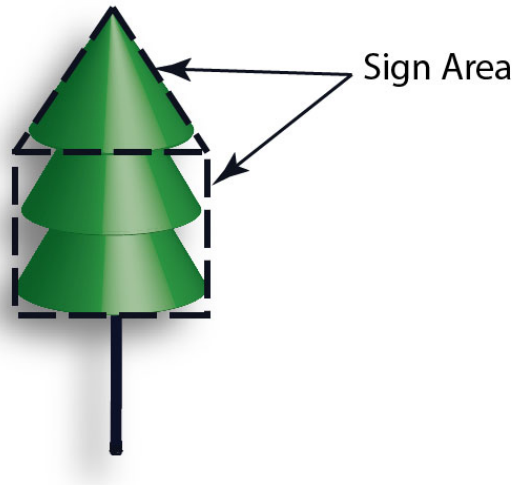


Figure <>: The sign area of a three-dimensional sign is measured measuring the largest profile of the sign.

- (7) Except for three-dimensional signs, the sign area for a sign with more than one face (multi-faced signs) shall be computed by adding together the area of all sign faces when the interior angle is greater than 45 degrees.
- (8) When two identical, flat sign faces are placed back-to-back or at angles of 45 degrees or less, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than 12 inches apart, the sign area shall be computed by the measurement of one of the faces. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.

(D) Determining Building Frontage and Building Facades

- (1) For the purposes of this chapter, the length of the building wall that faces a public street shall be considered the building frontage or building facade.
- (2) The calculation of the width or lineal measurement of any façade shall be the measurement of the façade between two side facades. The calculation shall be based on viewing the façade from a 90-degree angle (i.e., straight on), regardless of façade insets, offsets, or angles. See [Figure <>](#).

¹⁰¹ To be discussed further with staff.

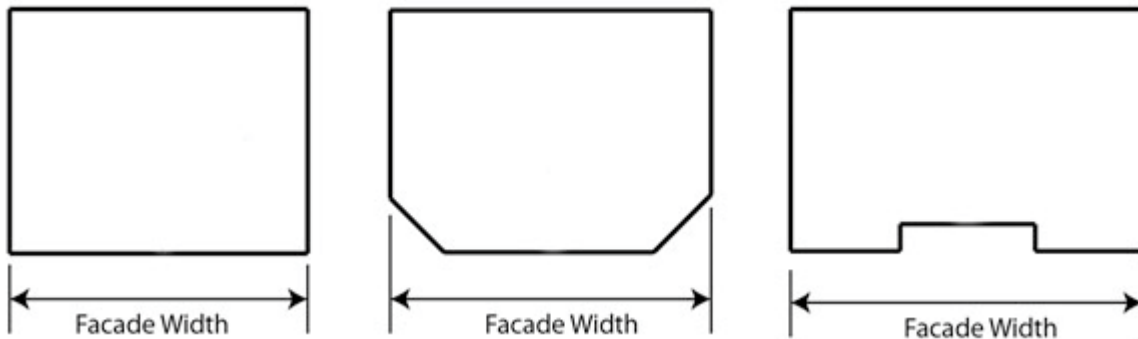


Figure <>: Illustration of façade width measurement on varied façade shapes.

- (3) For multi-tenant buildings, the portion of a building that is owned or leased by a single occupant or tenant shall be considered the tenant space. The building frontage for a tenant space shall be measured from the centerline of the party walls defining the tenant space.
- (4) The primary facade shall be the portion of a frontage that serves as the main access point to a building or building unit. A site or building will be considered to have secondary facade when any of the following site/building characteristics are present:¹⁰²
 - (a) The subject site is a corner lot;
 - (b) The primary parking area is not located adjacent to a public street; or
 - (c) The building or unit has walls with public ingress and egress that do not face the public street.
- (5) When a site has primary and secondary facade as defined herein, the Zoning Inspector shall determine which wall shall be the primary building facade and which wall(s) shall be the secondary building facade. Only one outside wall of any business shall be considered its primary facade.

(E) Determining Window Area

The window area of a building shall be the total glass area of windows on the building frontage. For the purposes of determining window area for ground floor occupants, the ground floor shall be considered to be no more than 15 feet in height above grade. See [Figure <>](#).

¹⁰² We will add a graphic to show differences between the primary façade and secondary façade.



Figure <>: The window area is illustrated within the dashed line area for the two storefronts in the above image.

12.08 GENERAL REGULATIONS

Unless otherwise specifically stated, the following regulations shall apply to all signs within the township:

- (A)** All signs with a commercial message shall be professionally manufactured, or of equivalent quality.
- (B)** All sign supports shall be an integral part of the sign design.
- (C)** The construction, erection, safety, and maintenance shall comply with all applicable building and electrical codes.
- (D)** No sign or sign structure shall be placed on private or public property without the written consent of the owner or agent thereof.
- (E)** No signs shall be located nearer than eight feet vertically, or eight feet horizontally from any overhead electric wires or conductors or public utility guy wires.
- (F)** All signs shall maintain a minimum clearance over pedestrian and vehicular ways, as required by the adopted building code.
- (G)** Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.
- (H)** All signs shall be subject to the clear vision triangle standards established in Section <>.
- (I)** Permanent signs shall be fabricated with rigid materials that are of good quality and good durability.
- (J)** In the event there is a conflict between the provisions of this section and the provisions of any applicable building codes, the provisions of the applicable building code shall govern.
- (K) General Standards for All Permanent Signs**
 - (1)** All freestanding signs shall be located in a landscaped area equal to or larger than the total sign area of the applicable sign. Such landscaped area may be an area that fulfills any landscaping requirements of this resolution.
 - (2)** The landscaped area shall include all points where sign structural supports attach to the ground.

- (3) All wiring, fittings, and materials used in the construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the applicable building or electrical codes.
- (4) Any sign requiring a structural steel foundation and/or electricity shall obtain foundation and/or electric permits from the Mahoning County Building Department.
- (5) The back side of all permanent signs that do not contain a second sign face, and structural supports shall be completely enclosed.

(L) Signs in Rights-of-Way

- (1) Signs shall be prohibited in the right-of-way with the exception of:
 - (a) Signs installed by the Boardman Township, Mahoning, State of Ohio, federal government, or approved transit agency;
 - (b) Any warning signs or traffic safety signs required by public utility providers; or
 - (c) Sidewalk signs as allowed in Section <>.
- (2) Any sign to be installed in the right-of-way by an agency other than Boardman Township shall require prior approval of the Road Department.
- (3) The Zoning Inspector may remove or cause to be removed any unlawful sign in the public right-of-way.

(M) Illumination

In all zoning districts except residential districts, signs shall be permitted to be illuminated in compliance with the following:

- (1) Light sources shall be shielded from all adjacent buildings and streets.
- (2) Lights shall not be of such brightness so as to cause glare that is hazardous to pedestrians or motorists or cause reasonable objection from adjacent residential districts.
- (3) No colored lights shall be used in a location or manner in which they might be confused with traffic control devices or vehicular traffic.
- (4) An illuminated sign or lighting device shall employ only light of constant intensity.
- (5) **Electronic Message Centers¹⁰³**

Where electronic message center signs are allowed, such signs shall be subject to the following:

- (a) Electronic message centers are allowed in nonresidential districts only, in accordance with the standards in this article.
- (b) Electronic message centers may only be used as part of a window sign (See Section <>.), freestanding sign (See Section <>.), or drive-through sign (See Section <>.) in accordance with this article.
- (c) All electronic message centers shall be set back a minimum of 100 feet from a residential dwelling unit.
- (d) Any message change shall be a static, instant message change.
- (e) Messages can only change once every six seconds or longer.
- (f) The transition time between messages shall be less than one second.

¹⁰³ The following standards have been found to address many of the concerns and complaints people have against digital signs.

- (g) All electronic message centers shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.
- (h) The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display's brightness based on ambient light conditions.
- (i) Illumination shall not exceed 0.3 footcandles over ambient lighting conditions when measured at 50 feet in any direction from an electronic message center sign.
- (j) Audio emissions from electronic message center signs shall be prohibited.

(N) Maintenance

- (1) All signs shall be maintained in a safe and good condition at all times to avoid becoming a deteriorated sign, including, but not limited to, the replacement of defective bulbs, parts or materials, painting, repainting, cleaning and other acts required for the maintenance of said sign.
- (2) Failure to maintain a sign in accordance with this section shall be a violation of this resolution, subject to Section <> and Chapter <>.

12.09 SIGNS PERMITTED IN PUD DISTRICTS¹⁰⁴

- (A) All development in a PUD District shall be subject to the standards of this article unless otherwise modified through the PUD review and approval process. In general:
 - (1) Single-family residential uses and public and institutional uses in a PUD shall comply with the sign requirements of the R-1A District.
 - (2) Multi-family residential uses in a PUD shall comply with the sign requirements of the R-3 District.
 - (3) Commercial and office uses in a PUD shall comply with the sign requirements of the GB District.
 - (4) Industrial uses in a PUD shall comply with the sign requirements of the I District.
- (B) This section shall apply to both permanent and temporary signs.

12.10 PERMANENT SIGNS IN AGRICULTURAL AND RESIDENTIAL DISTRICTS¹⁰⁵

The following are the permanent signs allowed in agricultural and residential districts:

(A) Signs for Individual Dwellings

- (1) One wall sign is permitted on each individual lot used for residential purposes provided the sign is mounted flush to the façade of the principal dwelling and does not exceed two square feet.
- (2) Such sign may also be permanently attached to a window.
- (3) The sign shall not be internally or externally illuminated.
- (4) A zoning certificate shall not be required for this type of sign.

¹⁰⁴ This is a catch all for signs if they are not specifically addressed in the PUD District.

¹⁰⁵ This section provides a lot more signage than currently allowed because it recognizes signs for subdivisions and multi-family developments. It also recognizes that there are various nonresidential uses (e.g., schools and churches) that need signage.

(B) Signs at Entrances

Two wall signs or one permanent freestanding monument sign may be permitted for any subdivision or multi-family dwelling development that contains 10 units/lots or more provided that the signs meets the following requirements:

(1) General Standards

- (a)** Each sign may have a maximum sign area of 24 square feet.
- (b)** No such sign or any portion of the structure shall exceed six feet in height.
- (c)** The sign may only be illuminated through an external light source.
- (d)** The sign shall be an on-premise sign.

(2) Monument Sign

- (a)** A maximum of one freestanding monument sign may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Administrative Officer.
- (b)** In all cases, the sign shall be set back a minimum of 10 feet from any rights-of-way and 20 feet from any lot lines.
- (c)** The monument sign shall have a maximum of two sign faces, mounted back-to-back.
- (d)** If an applicant proposes to use a monument sign, no wall signs, as allowed in Section <>, below, shall be permitted.

(3) Wall Signs on Entry Fences or Walls

- (a)** A maximum of two wall signs may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the Zoning Inspector.
- (b)** If two signs are utilized, the signs shall be separated by a minimum of 50 feet.
- (c)** The signs shall be mounted to a decorative wall or fence that generally runs parallel with the street.
- (d)** If an applicant proposes to use wall signs, no monument sign, as allowed in Section <>, above, shall be permitted.

(C) Signs for Nonresidential Uses in Residential Zoning Districts

- (1)** One permanent freestanding monument sign may be permitted on a lot containing a nonresidential use in a residential zoning district provided the sign meets the following requirements:
 - (a)** In all cases, the sign shall be set back a minimum of five feet from any lot lines or rights-of-way.
 - (b)** The maximum sign area shall be 24 square feet.
 - (c)** A maximum of 75 percent of the monument sign area may be devoted to a manual changeable copy or an electronic message center. In addition to the requirements for electronic message centers in Section <>, electronic message centers in residential districts shall be restricted to a single color of message illumination on a black or dark background.¹⁰⁶

¹⁰⁶ We will include an image of an example of this type of sign.

- (d) No such sign or any portion of the structure shall exceed six feet in height.
- (2) Building signs shall be permitted for all nonresidential uses in a residential district in the same manner as permitted for nonresidential uses in the GB District. This shall not apply to signs located on lots used exclusively for residential dwellings where signage is controlled by Section <>.

12.11 PERMANENT SIGNS IN NONRESIDENTIAL ZONING DISTRICTS

The following standards apply to signs on lots zoned GB, RB, NMB, I, or P-I:

(A) Window Signs¹⁰⁷

Window signs do not require a sign permit provided they comply with the following standards:

- (1) Window signs shall not occupy more than 50 percent of the window area of any ground floor window areas. See Section <> for locations used in the calculation of sign area. The sign area is based on the window area, regardless of the presence of an awning.
- (2) For a multi-story building, each occupant above the ground floor shall be permitted one window sign for each individual tenant provided the sign does not exceed six square feet or 25 percent of the area of the window in which the sign is placed, whichever is smaller.
- (3) Window signs may be temporarily or permanently attached.
- (4) For each ground floor tenant, one window sign with a maximum sign area of one square foot may be comprised of an electronic message center. This sign shall be calculated as part of the total area of window signs allowed.¹⁰⁸

(B) Building Signs

Building signs are permitted on all principal structures in accordance with the following:

- (1) The building sign area allowed in Table <> shall include the total amount of all awning, canopy, marquee, projecting, hanging, or wall signs on each façade wall. Standards for each individual building sign type are established in this section.
- (2) Building signs shall also be subject to any applicable standards for building sign types in Section <>.
- (3) Building signs shall not extend above the top of the roofline of the building to which it is attached.
- (4) Building signs may not be attached to mechanical equipment or roof screening.
- (5) Building signs shall not include electronic message centers.
- (6) **Size**
 - (a) Table <> establishes the maximum amount of sign area for all building signs permitted on the primary façade of a building based on the zoning district, building, and/or use that they serve.¹⁰⁹

¹⁰⁷ We are researching additional provisions to allow for larger digital signage in a window that are not LED format and will add additional provisions in this section.

¹⁰⁸ These are good for allowing incidental signage, menus, etc.

¹⁰⁹ First, we are putting a cap on the amount of building signs, which is new to the township, but the limits are still fairly large as people seem to prefer building signs over freestanding. Second, by allowing building signs to be any type of allowed sign attached to the building, people have much more flexibility in sign design. Third, we are providing a sign allowance for all secondary façades that in total, is equal to the primary façade but can be spread out over all the other façades.

- (b)** An applicant may provide additional building signage for all the secondary facades as follows:
 - (i)** The maximum total amount of building signs permitted on all of the secondary facades shall be equal to 50 percent of the amount of signage allowed on the primary façade.
 - (ii)** The building signage allowed on the secondary facades may not be placed as additional building signs on the primary façade.
 - (iii)** Buildings signs on secondary facades shall not be illuminated if they are visible from an adjacent lot that is zoned residential or is occupied by a residential use.
- (c)** There is no maximum number of building signs but the total square footage of building signs located on a single façade shall comply with the requirements of this section.
- (d)** The amount of building signs permitted shall be based on the façade width of the principal building regardless if the signs are to be attached to gas pumps, gas pump islands, or similar accessory structures.
- (e)** The maximum building sign area provided for in this section shall apply to building signs, regardless if the message is a commercial or noncommercial message.

TABLE 12-1: MAXIMUM BUILDING SIGN AREA ALLOWANCE PER FAÇADE

Building Type/Occupancy	NMB	GB, RB, and I Districts
Single-Tenant or Multi-Tenant Buildings [1]	2.0 square foot of sign area per lineal foot of façade width. ¹¹⁰	3.0 square foot of sign area per lineal foot of façade width.
Large-Scale Nonresidential Buildings with a Single Tenant [2]	Not Applicable	The sign area shall not exceed 5 percent of the total facade area and shall not exceed 35 percent of the height of the facade, as measured from the bottom most point of the message to the top most point of the message. [3]
Notes: [1] For buildings with multiple tenants, the ratio shall be applied to each lineal foot of building facade width assigned to each individual tenant. If there is no clearly established delineation of tenant space on the exterior of the façade, the amount of building signage shall be based on the total façade width, to be divided by the property owner or agent. [2] Large-scale nonresidential buildings shall be defined as a building with a single tenant that exceeds 200,000 square feet of gross floor area. [3] Signs shall be limited to wall signs only. If the owner wants to utilize other building sign types, the maximum sign allowance shall be the same for single-tenant or multi-tenant buildings.		

(7) Standards for Permanent Building Sign Types

(a) Wall Signs

- (i)** Wall signs shall be mounted on or flush with a wall and shall not protrude more than 24 inches from the wall or face of the building to which it is attached.

¹¹⁰ QUESTION – Does the township want to put a maximum on the amount of signage for very wide buildings?

- (ii) A wall sign may be painted directly on a building wall, mounted on the façade wall, or mounted on a raceway.
- (iii) Any wall sign, except for signs painted directly onto the wall, shall be mounted so there is a minimum clearance of eight feet above the sidewalk and 16 feet above any driveway or vehicular use area.
- (iv) Permanent signs that are attached to gas pumps, gas pump islands, or similar structures, that can be read or understood from a public street by most persons of normal vision shall be considered a wall sign for the purposes of this chapter and shall be based on the wall sign allowance for the principal building.
- (v) Cabinet style wall signs are prohibited in in the NMB District.
- (vi) Wall signs may be internally or externally illuminated.

(b) Awning, Canopy, or Marquee Signs

Any canopy, awning, or marquee sign allowed pursuant to this section shall comply with the following standards:

- (i) Signage shall not cover more than 50 percent of any individual awning, canopy, or marquee.
- (ii) An awning, canopy or marquee shall be considered part of the face of a structure. However, no sign may project more than six inches from an awning, canopy or marquee.
- (iii) All components of the awning, canopy, or marquee shall have a minimum height clearance of eight feet from the sidewalk.
- (iv) Marquee signs may include manual changeable copy signs.

(c) Projecting or Hanging Signs

- (i) Only one projecting or one hanging sign shall be permitted for each tenant on each street frontage where the tenant has building frontage.
- (ii) A projecting sign shall be perpendicular to the wall of the building to which it is attached and shall not extend more than four feet from the façade wall to which it is attached.
- (iii) A hanging sign may be attached to the ceiling of an outdoor arcade or underneath a canopy, awning, or marquee if it complies with the sign area, height, and clearance standards of this section.
- (iv) Projecting and hanging signs shall maintain a minimum six-inch clearance from the façade of any building.
- (v) Decorative supporting structures for projecting signs are encouraged and shall not count toward the maximum square footage of signs allowed, however, in no case shall the supporting structure exceed six square feet.
- (vi) The maximum sign area for a projecting sign shall be six square feet.
- (vii) The maximum sign area for any single hanging sign shall be four square feet.

- (viii) All components of the projecting sign shall have a minimum clearance of eight feet above a sidewalk or any walkway and a maximum height of 14 feet.
- (ix) Projecting signs shall not be internally illuminated.
- (x) Projecting and hanging signs must be suspended from brackets approved by the Mahoning County Building Department and contain no exposed guy wires or turnbuckles.
- (xi) Projecting or hanging signs shall not extend over the right-of-way or over any internal drive with vehicular access.
- (xii) If a projecting or hanging sign is illuminated it shall be by indirect lighting methods such as gooseneck lighting.

(C) Permanent Freestanding Signs

Permanent freestanding signs permitted in nonresidential districts shall comply with the following regulations:

- (1) All freestanding signs permitted under this section shall be a monument sign. A sign may be mounted on a pole that is no taller than four feet from the adjacent grade provided the area under the sign is landscaped in a manner as to screen the view of the pole.¹¹¹
- (2) The base of all freestanding monument signs shall be constructed of exposed stone or brick.
- (3) All freestanding signs shall be placed in a manner as to enhance the overall site design and complement the building and adjacent surroundings.
- (4) There shall be a pole cap on all freestanding signs unless the pole is an integral part of the sign design.

(5) Electronic Message Centers

Electronic message centers are permitted on monument signs in nonresidential zoning districts provided they comply with the following:

- (a) The size of an electronic message center sign shall not exceed 90 percent of the total sign area of the proposed monument sign.¹¹²
- (b) The area of an electronic message center sign shall be included in the applicable maximum sign area allowed pursuant to [Table](#) .¹¹³

(6) Permitted Freestanding Sign Standards

- (a) [Table <>](#) identifies the maximum sign area, sign height, and required setbacks for permanent freestanding signs.

TABLE <>: PERMANENT FREESTANDING SIGNS				
District	Lot Width	Maximum Sign Area	Maximum Sign Height	Minimum Setback from a ROW or lot line
NMB, GB, RB and I	0 - 100 feet	50 square feet	25 Feet [1]	5 feet

¹¹¹ We will provide an image to show an example of this type of screening.

¹¹² We can provide an example image for this provision to show the sign cap over a digital sign.

¹¹³ QUESTION – As an alternative to mandating all signs be monument signs, one option is to allow EMCs only on monument signs and perhaps allow a much larger area to be digital but then prohibit such signs on pole signs.

TABLE <>: PERMANENT FREESTANDING SIGNS

	101 - 200 feet	100 square feet		
	201 - 300 feet	150 square feet		
	301 or more feet	200 square feet		

NOTE:

[1] The maximum sign height in the NMB District shall be 16 feet.

- (b) For the purposes of measuring lot width for this section, the lot width shall be measured along a straight line that runs parallel with the street frontage at the widest point of the lot. This measurement shall be regardless of the presence of driveway entrances to the lot.¹¹⁴
- (c) For lots that have a lot width of over 400 feet along one street frontage, a second freestanding signs shall be permitted with a maximum sign area of 50 square feet and a maximum sign height of 25 feet.
- (d) Where two freestanding signs are places along the same street frontage, the signs shall be separated by a minimum of 100 feet.

(7) Signs on Lots with Multiple Public Street Frontages

For lots that have frontage on multiple public streets, one permanent freestanding monument sign may be placed on each frontage based on the standards in Section <>. The maximum sign area of each sign shall be based on the width of the individual street frontage.

(D) Driveway Signs

Permanent signs shall be permitted near driveway entrances to a street and at intersections of internal drives under the following provisions:

- (1) Driveway signs shall comply with the vision clearance requirements of Section <> but in no case shall the sign be set back more than 25 feet from the driveway entrance or intersection of internal drives. Furthermore, such signs shall be set back a minimum of two feet from the public right-of-way or easement for roadway purposes.
- (2) Up to two driveway signs may be permitted per individual driveway or internal intersection.
- (3) Driveway signs may not exceed three square feet in area and four feet in height.
- (4) Driveway signs may be internally or externally illuminated.
- (5) Driveway signs may be mounted on a pole provided the entire structure does not exceed the maximum sign height established above.
- (6) Driveway signs shall not be included in the total calculated allowed signage for a property under the remainder of this article.

(E) Development/Subdivision Signs

For commercial or industrial subdivisions or parks in the GB, RB, or I Districts that contain five or more nonresidential businesses on individual lots or that are 50 or more acres in size, such subdivision or park may incorporate a subdivision or development sign in accordance with the following:

¹¹⁴ We will provide a graphic for this regulation.

- (1) The primary development/subdivision sign shall be subject to the same standards as Section <>.
- (2) The maximum height of a monument sign shall be 16 feet.
- (3) The sign shall be set back a minimum of 75 feet from any residential lot line.
- (4) The sign may be internally or externally illuminated but shall not include an electronic message center.
- (5) The monument sign shall have a maximum of two sign faces, mounted back-to-back.
- (6) Such sign may be located on a lot with another freestanding sign as allowed in Section <> without reducing the amount of other signage allowed on the same lot in accordance with this article.

(F) Drive-Through Signs

- (1) Up to two freestanding drive-through signs shall be allowed for each stacking lane in a drive-through facility provided the total aggregate sign area of all drive-through signs, for each facility, does not exceed 64 square feet. In no case shall a single drive-through sign exceed 32 square feet in sign area.
- (2) If a drive-through sign is completely screened from view from any right-of-way or adjacent residential uses, there shall be no maximum sign area.
- (3) Drive-through signs shall only be permitted in a side or rear yard.
- (4) Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this article. Any signs attached to a wall of building or the structure shall be calculated as part of the building signage allowance in Section <>.
- (5) No drive-through sign shall exceed seven feet in height measured from the grade of the adjacent driving surface to the top of the sign.
- (6) Drive-through signs may be 100 percent electronic message center subject to Section <>.
- (7) Drive-through signs may be mounted on a pole provided the entire structure does not exceed the maximum sign height established above.
- (8) Drive-through signs may be internally or externally illuminated.

(G) Light Pole Signs

Temporary banners that are constructed of durable fabric, plastic, or other light and pliable material may be attached to permanent light poles if they comply with the following:

- (1) The total maximum sign area of banners allowed on any single lot shall equal 12 square feet for every 50 feet of lot width as defined in Section <> (Permanent Signs).
- (2) The maximum sign area of any single banner shall be 12 square feet.
- (3) Only one banner may be placed on an individual light pole.
- (4) The banner shall be mounted to the light pole with a permanent support pole or bracket at the top and bottom of the banner to prevent movement.
- (5) The banners shall not be mounted in a manner that will place any portion of the banner above the light fixture.
- (6) A zoning certificate for the initial installation of the light poles and the banner supports. Any subsequent replacement of the individual banners shall not require a zoning certificate.

12.12 TEMPORARY SIGNS

The following temporary signs shall be permitted anywhere within the township provided they meet the established standards.

(A) Standards that Apply to all Temporary Signs

- (1)** Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.
- (2)** No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.
- (3)** Unless otherwise specifically stated, temporary signs shall not be illuminated.
- (4)** No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.
- (5)** All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.
- (6)** Mobile signs on wheels, runners, casters, parked trailers, parked vehicles, or other temporary or movable signs shall not be permitted unless otherwise specifically stated in this article.
- (7)** Temporary signs shall be constructed of durable fabric, plastic, paper, or other light pliable material. Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such sign is a deteriorated sign.
- (8)** Temporary signs shall not contain any changeable copy.
- (9)** Unless otherwise stated, a zoning certificate for temporary signs with a commercial message shall be required for temporary signs that exceed 12 square feet.

(B) Temporary Signs without a Commercial Message¹¹⁵

Temporary signs without a commercial message do not require a sign permit provided they comply with the following standards:

- (1)** Temporary signs that do not contain a commercial message shall not be posted in any place or in any manner that is destructive to public property including, but not limited to, rights-of-way, utility poles, or public trees.
- (2)** Temporary signs that do not contain a commercial message shall be required to comply with the clear visibility requirements. See Section <>.
- (3)** The maximum height of temporary signs without commercial message shall be six feet unless it is a banner sign mounted to a structure, in which case, the banner sign shall not be mounted above the roofline or the top of the structure. Provided, however, a temporary sign without commercial message is entitled to the maximum height allowed any sign within the same zoning district.
- (4)** Such signs shall be limited to yard signs or banner signs and shall comply with the applicable sign type standards in Section <>.

¹¹⁵ This language addresses all political and free speech signs.

(C) Temporary Signs on Properties with Development or Construction Activities

- (1)** One temporary may be posted on the site where a development project or subdivision is under construction.
- (2)** A zoning certificate shall be required for the sign.
- (3)** The sign may be posted 60 days prior to and throughout the duration of construction.
- (4)** Such signs shall not exceed 16 square feet in agricultural or residential districts and 32 square feet in area for any other zoning district.
- (5)** The maximum height of the signs shall be six feet.
- (6)** Such signs shall be limited to yard signs or banner signs and shall comply with the applicable sign type standards in Section <>.

(D) Temporary Signs on Properties for Lease or Sale

(1) Temporary Signs on Properties for Lease or Sale in Agricultural or Residential Districts

- (a)** One temporary yard sign that contains a commercial message may be permitted on an individual lot that is for lease or sale.
- (b)** Such signs shall have a maximum sign area of six square feet and a maximum height of four feet. If the lot is five acres or larger, the sign area may be increased to a maximum sign area of 18 square feet.
- (c)** The sign shall not require a zoning certificate.

(2) Temporary Signs on Properties for Lease or Sale in Nonresidential Districts

- (a)** One temporary yard sign that contains a commercial message may be permitted on an individual lot that is for lease or sale.
- (b)** Such signs shall have a maximum sign area of 32 square feet.
- (c)** The maximum height of the sign shall be six feet.
- (d)** The sign shall not require a zoning certificate.

(E) Additional Temporary Signs in Agricultural and Residential Zoning Districts

- (1)** In addition to the temporary signs permitted in Sections <> through <>, additional temporary sign with a commercial message shall be permitted on any single lot in an agricultural or residential district in accordance with this subsection.
- (2)** The signs are limited to yard signs, banner signs, or signs posted in a window subject to the sign-specific standards in Section <>.
- (3)** The maximum sign area shall be 12 square feet with a maximum height of four feet. No single sign shall exceed six square feet in sign area.

(F) Additional Temporary Signs in Nonresidential Zoning Districts

In addition to the temporary signs permitted in Sections <> through <>, additional temporary sign with a commercial message shall be permitted on any single lot in a nonresidential district in accordance with this subsection.

(1) A-Frame or T-Frame Sidewalk Signs

- (a)** Only one sidewalk sign is allowed for any one business establishment at one time and shall be located within five feet of such business.

- (b) There shall be no time limit for sidewalk signs with the exception that the sign shall only be placed outside during the hours of the establishment's operation.
- (c) Such signs shall not exceed 12 square feet in area with a maximum height of four feet.
- (d) The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas or on pavement used for vehicles (e.g., driveways and parking lots).
- (e) If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven feet wide. The width and placement of the sign shall be such so that there shall be a minimum width of four feet of clear and passable sidewalk or walkway for pedestrians.
- (f) The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
- (g) The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way.
- (h) The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.
- (i) The sign shall be internally weighted so that it is stable and windproof.
- (j) Boardman Township shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.

(2) Temporary Signs Covering Permanent Signs

For zoning certificate applications related to the establishment of a new use or change of use within an existing building where there is existing permanent sign, a banner sign may be approved for up to 60 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign and shall require a sign permit.

(3) Other Temporary Sign Types Allowed

- (a) One additional temporary sign shall be permitted in any nonresidential district for a maximum of 14 days per occurrence with a maximum of four occurrences per calendar year.
- (b) The temporary sign shall require a zoning certificate.
- (c) The maximum sign area of any temporary sign shall be 16 square feet.
- (d) The following sign types are permitted for the additional temporary sign allowance subject to the sign-specific standards of Section <>.
 - (i) Banner signs; or
 - (ii) Temporary yard signs.

(G) Standards for Temporary Sign Types

(1) Banner Signs

- (a) Banner signs may be attached to a building, fence, or other similar structure. Banner signs attached to posts and mounted in a yard or landscaped area shall be regulated as a temporary yard sign.

- (b) The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

(2) Yard Signs

- (a) There shall be a maximum of two faces to the sign, mounted back-to-back.
- (b) The maximum height shall be six feet.

12.13 NONCONFORMING SIGNS

(A) Determination of Legal Nonconformity

Existing signs that do not conform to the specific provisions of this article may be eligible for the designation of a "legal nonconforming sign" provided that the nonconforming sign:

- (1) Is properly maintained and does not in any way endanger the public or constitute a nuisance; and
- (2) The sign was erected pursuant to a valid zoning certificate or variance and complies with all other applicable laws on the effective date of this resolution.

(B) Loss of Legal Nonconforming Status

A legal nonconforming sign loses the legal nonconforming designation if:

- (1) The sign is relocated;
- (2) The sign structure is replaced;
- (3) The establishment where the sign is located ceases to operate for a period of two years. This does not refer to general maintenance, changeable marquees, or to face and copy changes; or
- (4) The sign is removed or abandoned for a period of two years. This does not refer to general maintenance, changeable marquees, or face and copy changes.

12.14 SIGNS IN VIOLATION

- (A) Any sign or device located within a public right-of-way shall be deemed a public nuisance and can be removed by the Zoning Inspector without any written notice.
- (B) Any permanent sign in violation of this resolution, located outside of a public right-of-way, shall be deemed a public nuisance and the Zoning Inspector shall give 30-days written notice by registered mail, certified mail, or hand delivery to the owner or lessee of the land such sign is erected upon, to remove such sign or device.
- (C) Any temporary sign in violation of this resolution shall be deemed a public nuisance and the Zoning Inspector shall give 24-hour written notice by registered mail, certified mail, or hand delivery to the owner or lessee of the land such sign is erected upon, to remove such sign or device.
- (D) If any such sign or device has not been removed on or before the expiration of the time limits as stated in this section, following receipt of said notice, it shall be deemed a violation of this resolution and the Zoning Inspector shall take the appropriate action necessary for removal of the sign or device, or the correction of the violation at the owners expense.

- (E)** Signage which by nature of a business, physical structure and/or proximity of that structure to the right-of-way inhibits reasonable compliance with this resolution may be considered for an exemption. To be considered for an exemption, a request must be submitted to the Zoning Department.

Article 13: Nonconformities¹¹⁶

13.01 PURPOSE

Within the districts established by this resolution, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this resolution, but that are prohibited, regulated, or restricted under the terms of this resolution. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this resolution that such nonconformities be allowed to continue until removed, they should not be encouraged to survive, unless otherwise allowed in this article or specifically addressed in this resolution.

13.02 GENERAL PROVISIONS

- (A) The lawful use of any use, building, structure, or of any land or premises as existing and lawful at the time of enactment of this resolution may be continued although such use, building, structure, or of any land does not conform to the provisions of this resolution.
- (B) Passage of this resolution in no way legalizes any illegal uses existing at the time of its adoption.
- (C) An applicant for any development review that includes a nonconformity shall bear the burden of proof in demonstrating that the use was a legal nonconformity on the effective date of this resolution.
- (D) **Repair and Maintenance**
 - (1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased unless in accordance with this article.
 - (2) Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

13.03 DETERMINATION OF NONCONFORMITY STATUS

- (A) At the time of application for a zoning certificate or request for variance regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the Zoning Inspector or BZA, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time.

¹¹⁶ Boardman Township had very basic regulations for nonconformities that focused on nonconforming uses, that is, uses that were legally established but a subsequent zone change made them a prohibited use. There were also some basic regulations for nonconforming lots. We have incorporated a new, broader approach that makes clear distinctions between nonconforming uses, structures, and lots. See the current Article XII J and K for current regulations.

- (B) If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of or amendment to this resolution, the Zoning Inspector shall issue a zoning certificate identifying it as a legal nonconformity. A copy of such certificate shall be kept on file in the township zoning office.

13.04 NONCONFORMING USES AND VARIANCES

- (A) Whenever a nonconforming use has been changed to a conforming use, such use shall no longer be defined as a nonconforming use nor shall the property be returned to the former nonconforming use.
- (B) The granting of a variance for a use that otherwise complies with this resolution, shall not create a nonconformity when the variance is granted.
- (C) When a property owner or authorized agent is granted a variance for a nonconformity that addresses the nonconformity, the use, structure, or lot, shall no longer be considered nonconforming.
- (D) If a property owner or authorized agent is granted a variance for a nonconformity that addresses some nonconformities but additional nonconformities continue, the use, structure, or lot shall still be subject to the provisions of this article

13.05 NONCONFORMING USES

Where, at the time of adoption of this resolution, lawful uses of land or structures exist that would not be permitted by the regulations of this resolution, the uses may be continued, changed, or expanded so long as they remain otherwise lawful and provided:

- (A) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this zoning resolution unless it complies with the provision of [Section 13.05\(E\): Expansion of a Nonconforming Use](#).
- (B) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment if this zoning resolution.
- (C) No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this resolution and the applicable zoning district.
- (D) **Change or Substitution of Nonconforming Use**
- (1) A nonconforming use of a building, structure, or land shall not be changed or substituted to another nonconforming use unless the BZA, as part of a variance, finds that the use proposed is equally appropriate or more appropriate to the district than the existing nonconforming use, and that the use proposed is in less conflict with the character of uses permitted in the applicable zoning district than the existing nonconforming use. In permitting such change or substitution, the BZA may require appropriate conditions and safeguards in accordance with other provisions of this resolution.
- (2) Whenever a nonconforming use is changed to a less intensive use, such use shall not thereafter be changed to a more intensive nonconforming use.

(E) Expansion of a Nonconforming Use

- (1)** Notwithstanding the foregoing provisions to the contrary, the usable area of a nonconforming residential use may be increased or improved, regardless of the applicable zoning district.
- (2)** Notwithstanding the foregoing provisions to the contrary, the usable area of a nonconforming, nonresidential use may be increased or improved, regardless of the applicable zoning district, where the owner of such use can demonstrate through application to the BZA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.¹¹⁷
- (3)** Variances to expand a nonconforming use into a required setback or to otherwise vary a regulation that applies to the subject site shall be prohibited.
- (4)** The BZA shall review a request to expand a nonconforming use pursuant to the variance procedure in Section [3.05: Variance or Conditional Use](#), and shall be subject to the review criteria of this section.

(F) Existing Use Reclassified as a Conditional Use

In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use for applicable district due to a zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval by the BZA in accordance with this article.

(G) Termination of Nonconforming Uses

(1) Termination of Use through Discontinuance

When any nonconforming use is voluntarily discontinued or abandoned for two years or more, any new use shall not thereafter be used except in conformity with the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.

(2) Termination of Use by Damage or Destruction

- (a)** If a nonconforming residential use in a nonresidential district is damaged or destroyed to any extent, such structure and use may be reestablished, restored, or reconstructed on the same lot. Such reestablishment, restoration, or reconstruction of the use shall require the issuance of a zoning certificate.¹¹⁸

¹¹⁷ The township currently sets a threshold of a maximum of 25% of expansion area. This language would give the township the broadest flexibility without a specific threshold, while still placing the burden on the owner.

¹¹⁸ This provision is new and allows the rebuilding of a nonconforming residential use, regardless of how much the structure is destroyed. This will help people to be able to finance homes that happen to be nonconforming.

- (b) If a nonconforming, nonresidential use in a residential district is damaged, but not to an extent greater than 60%¹¹⁹ of the principal structure's value, such structure and use may be reestablished, restored, or reconstructed on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage or destruction. Such reestablishment, restoration, or reconstruction of the use shall require the issuance of a zoning certificate.
- (c) If a nonconforming, nonresidential use in a residential district is damaged beyond 50% of the principal structure's value, such structure and use may only be reestablished, restored, or reconstruction with approval by the BZA after consideration of surrounding uses and the impact of the nonconforming use.

13.06 NONCONFORMING STRUCTURES AND SITES

A nonconforming building or structure may continue to be used or occupied by a use permitted applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- (A) Any nonconforming structure or site may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure or site, unless otherwise specified in this resolution.
- (B) A nonconforming structure shall not be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.
- (C) The principal use of a nonconforming building may be changed to any other use permitted in the applicable zoning district as long as the new use complies with all regulations of this resolution specified for such use, except the regulations to which the building did not conform prior to the change in use.
- (D) The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.
- (E) **Damage or Destruction of a Nonconforming Structure Containing a Conforming Use**
 - (1) If a nonconforming structure is damaged and/or completely destroyed, the owner may rebuild the structure to the same height, and setbacks as the original nonconforming structure as it existed prior to the damage or destruction. Such work shall require the owner to submit an application for, and receive an approved, zoning certificate.
 - (2) If an owner rebuilds a legally nonconforming structure, they may expand the structure provided any expansion or change does not increase the nonconformity that existed prior to the damage.
 - (3) If the owner voluntarily removes the structure or reduces the nonconformity, that owner shall not be permitted to rebuild the structure to the original height, size, or setback and shall be required to bring the structure into compliance with these regulations to the maximum extent feasible.

¹¹⁹ The township currently sets this threshold to 75%, which is considerably higher than most communities that set the threshold between 50% and 60%.

13.07 NONCONFORMING LOTS OF RECORD

A nonconforming lot of record may be used in accordance with this section.

(A) Nonconforming Lots of Record in Residential Districts

- (1)** If an existing lot of record in residential district is occupied by a dwelling, such dwelling shall be maintained and may be repaired, modernized or altered, provided that:
 - (a)** The building shall not be enlarged in floor area unless the enlarged section(s) complies with all regulations of this resolution, with the exception of the lot area and the lot width regulations.
 - (b)** The number of dwelling units shall not be increased unless in conformance with this resolution.
 - (c)** Dwelling units may be expanded without requiring any additional garage space or parking space provided the addition does not occupy space that could be used for parking or a garage in compliance with these regulations.
- (2)** In any residential district, a single-family dwelling and its customary accessory uses may be erected on a vacant single lot of record after the effective date of this resolution provided the buildings comply with the following:
 - (a)** The width of the side yard of any such lot need not exceed 10 percent of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.
 - (b)** The rear yard setback of any such lot need not exceed 20 percent of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.

(B) Nonconforming Lots of Record in Nonresidential Districts

In any nonresidential district, a use that is permitted in the applicable district, and its customary accessory uses, may be erected on a vacant single vacant lot of record provided the buildings comply with the following:

- (1)** The width of the side yard of any such lot need not exceed 10 percent of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.
- (2)** The rear yard setback of any such lot need not exceed 20 percent of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.
- (3)** In no case shall a nonresidential use on a nonconforming lot of record be exempt from the provisions of [Article 10: Landscaping Standards](#).

13.08 NONCONFORMING SIGNS

See Section <>, for the regulation of nonconforming signs.

Article 14: Enforcement and Penalties¹²⁰

14.01 ENFORCING OFFICER

The Zoning Inspector, or their designee, shall be the enforcing officer of this resolution. The enforcing officer is hereby authorized to enforce, issue orders to prevent and stop violations, and administer the provisions of this resolution. The Zoning Inspector may be assisted by other personnel as the Board of Trustees deems necessary.

14.02 VIOLATIONS

- (A) Any of the following shall be a violation of this resolution and shall be subject to the enforcement remedies and penalties provided by this article and by the ORC:
- (1) To engage in any construction, use of land or building, expansion, change of occupancy, or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of Boardman Township without all of the required certificates or reviews, or other forms of authorization as may be set forth in this resolution;
 - (2) To engage in any construction, use of land or building, expansion, change of occupancy, or other activity of any nature in any way inconsistent with any approved certificate or approval granted by the township in accordance with this resolution;
 - (3) To violate, by act or omission, any term, condition or qualification placed by the township upon a required certificate or approval granted by the township;
 - (4) To violate any other term, condition, standard, or requirement of this resolution; or
 - (5) To continue any of the above-stated violations.
- (B) Each day a violation continues shall be considered a separate offense.
- (C) In all cases, the Board of Trustees, the Mahoning County Prosecutor's Office, the Zoning Inspector, or any adjacent or neighboring property owners who would be especially damaged by such violations, in addition to other remedies provided by law, may, at their own expense, institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such violation.

14.03 INSPECTIONS

The Zoning Inspector shall inspect each alleged violation and shall, in writing, order correction of all conditions which are found to be in violation of this Resolution. The Zoning Inspector will prepare a written report and case file on any matter that might warrant suit or prosecution for a violation of this resolution.

14.04 REMEDIES

Pursuant to Section 519.24 of the ORC, in case any building or land is used, altered, constructed, enlarged or any other action proposed in violation of the provisions of this resolution or any amendment or supplement thereto, the Board of Trustees, the Mahoning County Prosecutor's Office, the Zoning Inspector, or any person or any property owner damaged by or subject to damage by such violation, in addition to remedies provided by law, is hereby empowered or authorized to institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, enlargement, change maintenance or use.

¹²⁰ This language is essentially new to the township, although it is largely laid out in state law or is spread out in pieces throughout the current resolution.

14.05 PENALTIES

- (A)** Any person or entity convicted of violating any regulation, provision, amendment or supplement to this resolution shall be fined not more than \$500.00 per offense. Each and every day during which such violation continues may be deemed a separate offense.
- (B)** If the violation is related to Article <> (Riparian Setbacks), the person who violates any section of Article shall be subject to the above penalties and shall be required to restore the riparian setback through a restoration plan approved by the BZA.

14.06 OTHER ACTIONS

The imposition of any other penalties provided herein shall not preclude Boardman Township from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the Boardman Township.

Article 15: Definitions

15.01 PURPOSE

It is the purpose of this article to define words, terms, and phrases, or identify references, contained in this resolution.

15.02 GENERAL RULES FOR INTERPRETATION

The following rules shall apply for construing or interpreting the terms and provisions of this resolution.

(A) Meanings and Intent

All provisions, terms, phrases, and expressions contained in this resolution shall be interpreted in accordance with the general purposes set forth in Section [1.01: Purpose](#), and the specific purpose statements set forth throughout this resolution. When a specific section of this resolution gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.

(B) Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this resolution and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) References to Other Regulations or Publications

Whenever reference is made to a resolution, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such resolution, statute, regulation, or document, unless otherwise specifically stated.

(E) Delegation of Authority

Any act authorized by this resolution to be carried out by a specific official of the township may be carried out by a designee of such official.

(F) Technical and Non-technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(G) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of Boardman Township, Mahoning County, Ohio, unless otherwise indicated.

(H) Mandatory and Discretionary Terms

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(I) Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- (1)** "And" indicates that all connected items, conditions, provisions or events apply; and
- (2)** "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(J) Tenses and Plurals

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(K) Terms Not Defined

If a term used in this resolution is not defined in this article, the Zoning Inspector shall have the authority to provide a definition based upon the definitions used in accepted sources, including but not limited to, A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms, and A Survey of Zoning Definitions, published by the American Planning Association. The Zoning Inspector may also rely on Webster's Dictionary or a similar source for the definition of terms.

15.03 DEFINITIONS AND REFERENCES¹²¹

ABUTTING OR ADJACENT

The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

ACCESSIBILITY RAMPS

ACCESSORY BUILDING, STRUCTURE, OR USE

See definitions under "building, accessory" "structure, accessory" or "use, accessory."

ACCESSORY DWELLING UNITS

Detached living quarters located on a lot with an existing principal dwelling where the accessory dwelling unit is designed for the use of persons employed on the premises or for the temporary use of guests of the occupants of the principal dwelling. Such guesthouse or accessory dwellings are not rented, leased, or otherwise transferred to an individual or organization as a separate dwelling.

ACTIVE PARKS AND RECREATION

Any park or recreational facility owned by Boardman Township, Mahoning County, State of Ohio, or a non-profit organization, that requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, and other similar outdoor facilities.

ADULT ARCADE

Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

¹²¹ This is a partial list of definitions that we will add upon as we draft more articles. For the purposes of this review, this list includes basic definitions of all uses and site development standards.

ADULT BOOKSTORE OR ADULT VIDEO STORE

A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade; derives a significant or substantial portion of its revenues from; devotes a significant or substantial portion of its interior business or advertising to; or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

- Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas; and/or
- Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

Adult bookstore, adult novelty store, or adult video store includes a commercial establishment as defined in the ORC. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.

ADULT CABARET

A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- Persons who appear in a state of nudity or semi-nudity;
- Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities; or

Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

ADULT ENTERTAINMENT ESTABLISHMENT

An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, sexual encounter establishment, or a nude or semi-nude model studio. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated by the ORC, is not defined as an adult entertainment establishment.

ADULT MOTION PICTURE THEATER

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER

A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

AGRICULTURAL USES AND AGRICULTURE

Agricultural uses and agriculture shall be as defined in the ORC.

AIR-ACTIVATED GRAPHICS

A sign, all or any part of, which is designed to be moved by action of forced air so as to make the sign appear to be animated or otherwise have motion.

ALTERATION

Any change, addition, or modification in construction, type of occupancy, increase in floor space, the consummated act of which may be referred to herein as "altered" or "reconstructed."

AMATEUR RADIO ANTENNAS

Any transmitter, antenna, tower, or other apparatus designed for communications through amateur radio, also referred to as ham radio.

ANTENNA

Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

APPEAL

An appeal of an administrative decision made by the Zoning Inspector, considered by the BZA, in accordance with Section [3.08: Appeals](#).

APPLICANT

A person who is authorized by the provisions of this resolution to file an application.

APPLICATION

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate township department, board, or commission for an application.

ASSEMBLY HALLS AND CONFERENCE CENTERS

Facilities or buildings available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.

AUTHORIZED AGENT

A person with express written consent to act upon another person's behalf.

AUTOMATED TELLER MACHINE (ATM)

An automated device that provides bank and financial institutional customers with cash withdrawal and other financial services without the need for a bank teller.

AUTOMOTIVE REPAIR (HEAVY)

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of parts to motor vehicles.

AUTOMOTIVE SERVICE (MINOR REPAIR)

Any structure or premises used for dispensing or sale of automotive vehicle fuels or lubricants, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Such uses shall also include establishments that sell parts or tires for vehicles as a retail establishment, regardless if the parts are installed on-site.

AWNING

A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. See also definition of "canopy" and "arcade."



Figure <>: Examples of traditional awnings

BANKS AND FINANCIAL INSTITUTIONS

Establishments engaged in deposit banking. Banks or financial institutions may include, but are not limited to, commercial banks, loan or mortgage companies, stockbrokers, savings institutions, credit unions, and other similar uses.

BANNER

See definition of "sign, banner."

BASEMENT

That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

BASKETBALL HOOPS

BED AND BREAKFAST ESTABLISHMENT

Any place of lodging that provides four or fewer rooms for rent on a temporary basis, is the owner's personal residence, is occupied by the owner at the time of rental, and where meals may be served to guests.

BERM

In the context of landscaping or screening requirements, shall mean a mound of earth typically used to shield, screen, and buffer undesirable views and to separate potentially incompatible uses. See also the definition of "mound."

BIKE AND SKATEBOARD RAMPS

BOARD OF TRUSTEES

The Boardman Township, Mahoning County, Ohio, Board of Township Trustees

BOARD OF ZONING APPEALS (BZA)

The Boardman Township, Mahoning County, Ohio, Board of Zoning Appeals

BUFFER OR BUFFERYARD

An area of natural or planted vegetation adjoining or surrounding a land use and unoccupied in its entirety by any building structure, paving or portion of such land use, for the purposes of separating, screening, and softening the effects of the land use, no part of which buffer is used for active recreation or parking, or interior access drives. A buffer may include a wall, fence, or berm as provided in accordance with the provisions of Article <>.

BUILDING

Any structure, either temporary or permanent, that has a roof supported by columns or walls, and intended for the shelter, or enclosure of persons, animals, or property of any kind.

BUILDING FRONTAGE

See definition of "frontage, building."

BUILDING HEIGHT

The vertical distance of a building as measured pursuant to Section [4.09\(A\)\(5\): Height Measurement and Exceptions](#).

BUILDING LINE (FRONT FAÇADE)

A line that runs parallel and adjacent to the primary front building façade. See definition of "façade, primary."

BUILDING, ACCESSORY

A building on the same lot with, and of a nature customarily incidental and subordinate to the principal building.

BUILDING, NONCONFORMING

A building that lawfully occupied a lot at the effective date of this resolution, or amendments thereto, and that does not currently conform to the regulations of the applicable zoning district.

BUILDING, PRINCIPAL

The building containing the main or principal uses on the lot.

CANOPY

A permanent structure made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure but typically is supported by features other than the building façade (e.g., structural legs, building extensions, etc.). See also definition of "awning."



Figure <>" Example of a canopy and related sign

CEMETERIES

A place for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

CHURCHES AND PLACES OF WORSHIP

A building used principally for religious worship. The word “churches and places of worship” or “church” shall not include or mean an undertaker’s chapel or a funeral home. Such places shall exist as public buildings, and as such, shall meet state and local building codes.

COLLOCATION

Locating wireless telecommunication antenna(s) and associated equipment from more than one provider on a single wireless telecommunication-communication tower.

COMMERCIAL ENTERTAINMENT OR RECREATION (OUTDOORS)

Land or facilities operated as a business and which are open to the general public for a fee that shall include, but is not limited to: pay-to-play athletic fields, golf courses, outdoor swimming pools, amusement parks, racetracks (animal racing only) and other similar businesses. Commercial recreation facilities shall not include “active parks and recreation” uses that are owned either publically or by a non-profit organization, and opened to the general public.

COMMERCIAL ENTERTAINMENT OR RECREATION (INDOORS)

Land or facilities operated as a business and which are open to the general public for a fee that shall include, but is not limited to: roller blade rental, billiard parlors, ice skating rinks, indoor swimming pools, indoor soccer arenas, bingo parlors, and other similar businesses.

COMMERCIAL MESSAGE OR SPEECH

Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

COMMON AREAS

Parcels of land, together with the improvements thereon, the use and enjoyment of which shall be shared by the owners and occupants of the individual building sites within a development.

COMMUNITY CENTERS

A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development to which the use is associated with and that may be privately owned or jointly owned by property owners.

COMMUNITY GARDEN

A single piece of land that is gardened collectively, as an accessory use, by a group of persons, which may include individual garden plots designated for individual gardens.

COUNTY

Mahoning County, Ohio

CUL-DE-SAC

A street having only one outlet for vehicular traffic (to another street) and where the other terminus is either a turnaround or is a dead-end or stub street to an adjacent, undeveloped property.

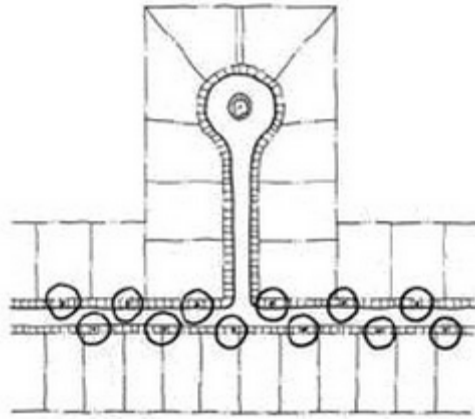


Figure 15.03-A: Illustration of a cul-de-sac street

CULTURAL INSTITUTIONS

Public or private facilities used for display, performance, or enjoyment of heritage, history, or the arts. This use includes, but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites but does not include movie theaters.

DAY CARE CENTERS (ADULT OR CHILD)

A facility operated for the purpose of providing care, protection, and guidance to individuals during part of a 24-hour day. This term includes nursery schools, preschools, adult day care centers, child day care centers, and similar uses. Day care center does not include public or private educational facilities or any facility offering care to individuals for a full 24-hour period. See also definition for "Type-B Family Day Care Home"

DBH

See "diameter-at-breast height"

DECK

A flat surface attached to a building that does not have walls or a roof and that is elevated above the ground, at its highest point, by at least 18 inches. Decks are not used as habitable space.

DENSITY

The quotient of the total number of dwelling units as divided by total area of the site. Unless otherwise specified in this resolution, density shall mean gross density as defined in "density, gross."

DENSITY, GROSS

Unless otherwise defined, gross density shall be the total number of dwelling units divided by the gross area of a site (including streets, easements, rights-of-way, open space set-asides, and/or other public dedications established as part of the development.).

DETACHED ACCESSORY BUILDINGS OR STRUCTURES

Accessory buildings or structures that are detached from the principal building or structure including, but not limited to, garages, gazebos, permanent outdoor kitchens (if they require a water, sewer, or building permit), storage sheds, and other structures.

DEVELOPMENT

Any manmade change to improved or unimproved land, including but not limited to the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling.

DEVELOPMENT REVIEW

The procedure for evaluating an application and making a recommendation or decision as outlined in in [Article 3: Review Procedures](#).

DIAMETER-AT-BREAST HEIGHT (DBH)

DBH is used to measure the caliper of a tree trunk at the specific height of 4.5 feet above the ground.

DISTRICT

See definition of "zoning district."

DRIVE-THROUGH FACILITIES

An establishment that encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles.

DRIVEWAY

A private way, other than a street or alley, that provides access to one lot of record for the use of vehicles and pedestrians unless approval has been granted for a shared driveway in which case, the driveway may serve multiple uses.

DWELLING

A building or portion thereof used exclusively for permanent residential purposes, including single-family, two-family, and other attached dwellings, but not including hotels, motels, tents, recreational vehicle, cabins, or boarding or lodging houses.

DWELLING UNIT

A single unit of one or more rooms providing complete, permanent independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation but not including a tent, cabin, hotel, motel recreational vehicle, or other temporary or transient structure or facility. A dwelling unit shall not include a mobile home or recreational vehicle, camping equipment, or a manufactured home except for permanently sited manufactured housing that conform to the requirements for such uses.

DWELLING, MULTI-FAMILY

A building or portion thereof design for or used exclusively for residential purposes by two or more families or housekeeping units.

DWELLING, SINGLE-FAMILY

A building designed for or used exclusively for residential purposes by one family or housekeeping unit.

DWELLINGS, MULTI-FAMILY (6 OR LESS UNITS)

A building or portion thereof design for or used exclusively for residential purposes by two to six families or housekeeping units.

DWELLINGS, MULTI-FAMILY (MORE THAN 6 UNITS)

A building or portion thereof design for or used exclusively for residential purposes by more than six families or housekeeping units.

EASEMENT

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

EDUCATIONAL FACILITIES (PRIMARY AND SECONDARY)

A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction, including, but not limited to, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include colleges, trade or business schools, or other post-secondary education facilities. See also "educational facilities, higher."

EDUCATIONAL FACILITIES, HIGHER

Any private or public secondary educational institution that includes, but is not limited to: colleges and universities, trade schools, business schools, seminaries, or any other institution providing collegiate level curriculum.

ELECTRONIC MESSAGE CENTER

A sign designed so that the characters, letter or illustrations can be changed or rearranged automatically on a lampbank or through mechanical means (e.g. electronic or digital signs).

ESCORT

A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY

A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one its primary business purposes for a fee, tip, or other consideration.

ESSENTIAL SERVICES

The location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by public utilities, county, or other governmental agencies of streets, roads, underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories and the use of land in connection therewith, for the furnishing of adequate service by such utilities or governmental departments for the public health, safety and general welfare.

EXPANSION

An increase in the size of an existing structure or use, including physical size of the land, building, parking, or other improvements or structures.

EYEBROW (STREET OR ROAD)

An eyebrow is a rounded expansion of a street beyond the normal curb line.

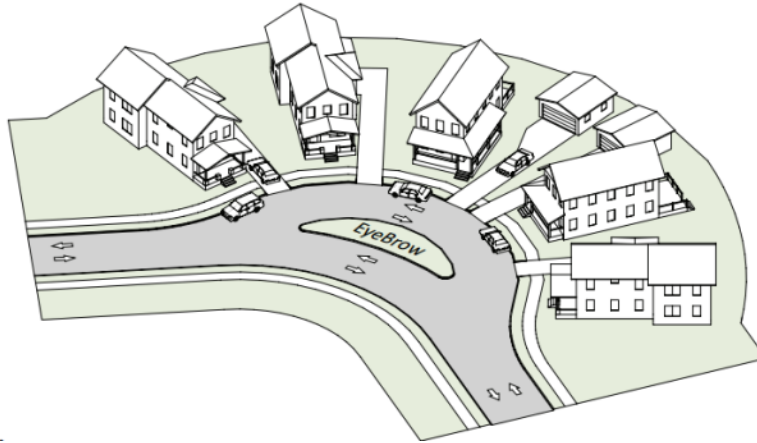


Figure 15.03-B: Illustration of an eyebrow street configuration

FACADE

The exterior wall on the front, side, or rear elevation of the building regardless of whether the building side faces a street.

FAÇADE, FRONT

The façade of a building that contains the primary entrance of the building.

FAÇADE, PRIMARY

For the purpose of the sign regulations, a primary façade shall be deemed a façade that faces directly onto a public street. See Section <> (Sign Computations) for the rules on measuring the primary façade.

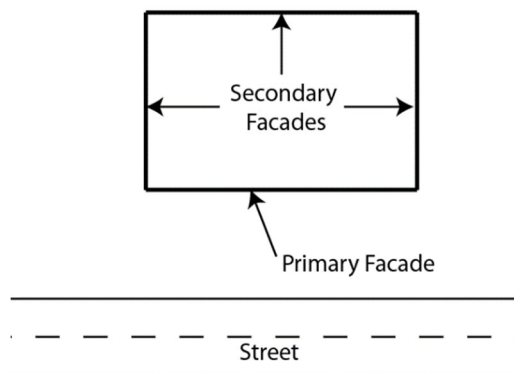


Figure <>: Illustration of the primary façade versus the secondary facades

FAÇADE, SECONDARY

For the purpose of the sign regulations, a secondary façade shall be deemed a façade that does not face directly onto a public street. See Figure <>.

FARM MARKET

The use of any land or a structure for the sale of produce in accordance with the provisions of Section <> (Accessory Uses).

FENCE

An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

FLAG

Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.

FOOTCANDLE

A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

FOOTPRINT

The area of a building measured from the exterior surface of the exterior walls at grade level.

FRONTAGE, BUILDING

The length of the facade of an enclosed building facing a public or private street. See Figure <>.

FRONTAGE, STREET

The distance for which the front boundary line of the lot and the street line are coincident.

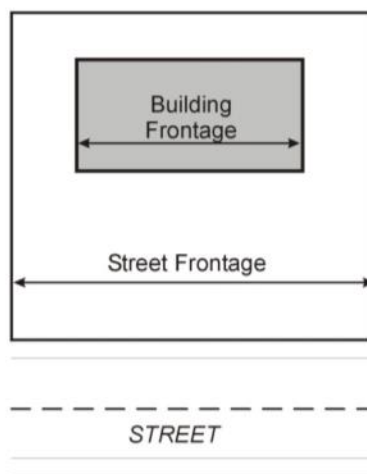


Figure <>: An illustration of street frontage versus building frontage

FUEL STATIONS

An establishment that sells unleaded and diesel gasoline or any other fuel used for in vehicles.

FUNERAL HOMES OR MORTUARIES

A building or part thereof used for human funeral services. It may include space for the embalming and other services used in the preparation of the dead for burial; the storage of caskets, funeral urns, and other related uses and supplies; the storage of funeral vehicles; facilities for cremation; and chapels.

GARAGE

An accessory building primarily intended for and used for the enclosed storage or shelter of private motor vehicles of the owner or occupant of the principal building.

GAS AND OIL WELLS

A hole bored into the earth that produces natural gases and oils that are brought to the surface for further refining and distribution.

GENERAL OFFICES (ADMINISTRATIVE, PROFESSIONAL, BUSINESS)

Establishments providing executive, management, administrative, or professional services including, but not limited to, real estate, architecture, legal, travel, employment, advertising, design, engineering, accounting, and similar uses.

GLARE

Direct light that causes annoyance, discomfort or loss in visual performance and visibility.

GOVERNMENT OFFICES AND BUILDINGS

Buildings or office space utilized for the provision of services by Boardman Township, an Ohio municipality, Mahoning County, the State of Ohio, or the Federal Government.

GRADE

The average level of the finished surface of the ground adjacent to the sign, building, or other structure being measured.

GRASS

A species of perennial grass grown as permanent lawns or for landscape purposes, as distinguished from those species grown for agricultural or commercial seed purposes.

GROUND COVER

A plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Ground covers also provide permanent covering of open ground to prevent erosion and/or create visual appeal.

HEDGE

A line of closely spaced shrubs and tree species, planted and trained in such a way as to form a barrier, screen, or to mark the boundary of an area.

HOME OCCUPATIONS

An occupation or profession which is incidental to and carried on entirely within a dwelling unit excluding an attached garage or patio area, by resident occupants of the dwelling unit and which occupation is clearly incidental to and accessory to the residential use of the property.

HOSPITALS

A facility providing physical or mental health services, outpatient care, inpatient accommodations, and medical or surgical care of the sick or injured.

HOTEL AND MOTELS

A building in which lodging, with or without meals, is offered for compensation and in which there are more than five sleeping rooms. Hotels and motels may include typical accessory uses within the principal building including, but not limited to, swimming pools, bars, and restaurants.

HOUSEKEEPING UNIT

One or more related or non-related persons lawfully occupying a dwelling unit and living together as a single group on a permanent basis, and doing their own cooking and sleeping on the premises as distinguished from a group temporarily occupying a bed and breakfast establishment, hotel, motel, or group home.

IMPERVIOUS SURFACE

Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to buildings, roofs, parking areas, driveways, sidewalks, and pavement.

INDUSTRIAL SERVICE USES

Establishments primarily engaged in rendering services to office, business, or industrial establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; office equipment rental and leasing; commercial research; development and testing; photo finishing; machine repair, and personal supply services.

INDUSTRIAL USES, HEAVY

Uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. "Heavy industrial uses" shall also mean those uses engaged in the operation, parking, and maintenance of vehicles, cleaning of equipment or work processes involving solvents, recycling establishments, public works yards, and container storage.

INDUSTRIAL USES, LIGHT

The manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties.

KENNELS (COMMERCIAL) AND ANIMAL DAY CARES

Any lot or premises, on which four or more dogs, cats or other household animals (not owned by the owner or operator of the establishment) are bred, boarded, cared for, or trained for commercial purposes.

KNUCKLE (STREET OR ROAD)

A knuckle street configuration is when a turnaround (typically seen at the termination of a cul-de-sac) is located at the intersection of two streets, allowing large street frontage for a limited number of lots. A knuckle differs from a cul-de-sac in that there is no straight portion of a street connecting the turnaround to the adjacent intersection.

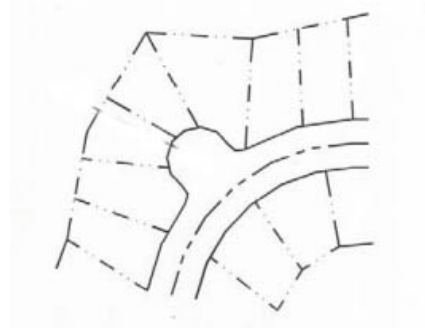


Figure 15.03-C: Illustration of a knuckle street configuration

LANDSCAPE MATERIAL

Landscaping consists of:

- Material such as, but not limited to, living trees, shrubs, vines, lawn grass, ground cover, and landscape water features; and
- Non-living durable material commonly used in landscaping including, but not limited to, rocks, pebbles, sand, decorative walls and fences, brick pavers and earthen mounds, but excluding pavements for vehicular use.

LANDSCAPING

The improvement of a lot, parcel, tract of land, or portion thereof, with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, trees, shrubs, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects.

LIGHT TRESPASS

Light emitted by a lighting fixture that falls beyond the boundaries of the property on which the fixture is installed.

LIGHT, CUTOFF

An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section 7.01: Exterior Lighting.

LIGHT, NON-CUTOFF

An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section 7.01: Exterior Lighting

LOADING SPACE

An off-street space on the same lot with a building, or a group of such buildings and accessory buildings, or utilized for the principal use and accessory use.

LOT

A parcel of land that is part of a plat, legally recorded in the Recorder's Office of Mahoning County, Ohio, occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in this resolution.

LOT AREA

The total area within the lot lines of a lot as measured in accordance with Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT COVERAGE¹²²

That portion of a lot that is covered by the principal and accessory building, structures, and surfaces that prevent the passage or absorption of stormwater including paving and driveways (impervious surfaces).

LOT LINE, FRONT

The front lot line, which is coterminous with the street right-of-way. A front lot line is generally parallel to or less than 45 degrees to the rear lot line. The front lot line is generally opposite the rear lot line except as may be identified in Section [4.09\(A\): Measurements, Computations, and Exceptions](#). See [Figure <>](#).

LOT LINE, REAR

A lot line opposite a front yard. A rear lot line is generally parallel to or less than 45 degrees to the front street right-of-way line. See [Figure <>](#) and Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT LINE, SIDE

A lot line generally extending perpendicular to the front and rear lot lines. The side lot line extends between the front lot line and the rear lot line. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT LINES

The property lines bounding the lot.

LOT, CORNER

A lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than 135 degrees. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT, CUL-DE-SAC OR CURVED STREET

A lot with frontage along a curved street or cul-de-sac. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

¹²² This will only be included if the township decides to regulate lot coverage.

LOT, DOUBLE FRONTAGE (THROUGH)

A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT, FLAG OR PANHANDLE

A lot that has limited frontage on a public street and where access to the public street is through a narrow strip of land that is commonly referred to as a panhandle. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT, INTERIOR

A lot that has a single street frontage, a rear lot line, and at least two side lot lines. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

LOT, NONCONFORMING

A vacant lot that does not meet the minimum lot width, street frontage, and/or lot area requirements of the applicable zoning district.

MAXIMUM EXTENT FEASIBLE

That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be taken into consideration.

MEDICAL/DENTAL OFFICES OR CLINICS

Office or clinic uses concerned with the diagnosis, treatment, and care of human beings. This definition does not include hospitals, skilled nursing facilities, or personal care facilities

MICROBREWERY, MICRODISTILLERY, OR MICROWINERY

An establishment with a primarily use as a bar or tavern where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises in a limited quantity subordinate to the primary table service restaurant use. The gross floor area utilized in a microbrewery, microdistillery or microwinery for the production of beer, liquor, wine, or other alcoholic beverage shall be no greater than the gross floor area utilized for the associated bar or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law. A tasting room or taproom may exist in a microbrewery, microdistillery or microwinery where patrons may sample the manufacturer's products.

MIXED USE BUILDINGS

A building that contains a commercial or office use and an attached residential use within a single building as provided for in this resolution.

MONOPOLE

A single, slender and typically cylindrical, vertical structure to which antennas or antenna support structures are affixed.

MULTI-TENANT DEVELOPMENTS

A principal building with multiple uses of a similar use classification (e.g., commercial, industrial, etc.) but that has multiple tenant spaces and/or multiple use types. A strip mall or strip center with a mixture of retail uses such as restaurants, retail stores, and personal service establishments is an example of a multi-tenant building. Such use does not include any use within the residential use classification.

NONCOMMERCIAL MESSAGE OR SPEECH

Any sign, wording, logo or other representation that is not classified or defined as "commercial message or speech."

NONCONFORMITY

A use, lot, structure, building, sign, or lighting that does not comply with the provisions of this zoning resolution. See also the definitions for "use, nonconforming," "lot of record," "building, nonconforming," and "structure, nonconforming."

NUDE OR SEMI-NUDE MODEL STUDIO

Any place where a person, who regularly appears in a state of nudity or semi-nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A modeling class or studio is not a nude or seminude model studio and is not subject to this resolution if it is operated in any of the following ways:

- By a college or university supported entirely or partly by taxation;
- By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;
- In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi-nudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.

NUDITY, NUDE, OR STATE OF NUDITY

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

- Regularly features or regularly shown means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

NURSERIES OR GREENHOUSES

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales.

NURSERY SCHOOLS OR DAY CARE CENTERS (CHILDREN OR ADULTS)

OAC

The Ohio Administrative Code, as amended

ORC

The Ohio Revised Code, as amended

ORC SECTION 5119.34(B)(1)(B) RESIDENTIAL FACILITY

As currently defined by ORC § 5119.34(B)(1)(b), a licensed publicly or privately operated home or facility that provides accommodations, supervision, and personal care services to any of the following: (i) one or two unrelated persons with mental illness; (ii) one or two unrelated adults who are receiving residential state supplement payments; or (iii) three to sixteen unrelated adults. (All terms herein are as defined by said statute). This definition shall be deemed amended as said statute is hereinafter amended.

ORC SECTION 5123.19(A)(5) RESIDENTIAL FACILITY

As currently defined by ORC § 5123.19(A)(5), a licensed home or facility, including an ICF/IID, in which an individual with mental retardation or a developmental disability resides. (All terms herein are as defined by said statute). This definition shall be deemed amended as said statute is hereinafter amended.

OUTDOOR DINING

Areas on sidewalks (public or private), patios, or other unenclosed areas, excluding vehicular use areas, which are designated for outdoor seating where patrons may be served food and beverage for on-site dining.

OUTDOOR DISPLAYS AND SALES

The placement of products or materials for sale outside of a retail or wholesale sales establishment.

OUTDOOR LIGHTING

Any source of light that is installed or mounted outside of an enclosed building or structure, but not including streetlights installed or maintained along public streets by a government agency or public utility. See Section 7.01: Exterior Lighting.

OUTDOOR STORAGE AND BULK SALES

The keeping, storage, or sales of any goods, material, merchandise, or vehicles in the same place for more than 24 hours in an area that is not fully enclosed by a structure. This may include areas established for the sale of large and/or bulk items.

OUTDOOR VENDING MACHINES AND DROP-OFF BOXES

Vending machines are small machines that are capable of accepting money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines). Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted from the public (e.g., neighborhood recycling stations and thrift store collection boxes).

OWNER

A person recorded as such on official real estate records and including duly authorized agent, purchaser, devisee, and person having a vested or contingent interest in the property in question.

PARAPET OR PARAPET WALL

That portion of a building wall that rises above the roof level.

PARCEL

A distinct portion or tract of land as is recorded and distinguished in the Clermont County Auditor's Property Tax Atlas. See also definition of "lot."

PARKING AISLE

The driveway or access drive by which a car enters and departs a parking space.

PARKING GARAGES

Structures used to provide parking spaces along with adequate drives and aisle, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles. This may be permitted as a principal use of the lot in accordance with [Article <> \(Principal Uses\)](#) or as an accessory to a principal use as established in [Article <> \(Parking\)](#).

PARKING LOTS

A surface area designed for the parking of vehicles that includes parking spaces and any driveways or access drives specifically related to the parking spaces.

PARKING SPACE

A designated parking area designed for one vehicle that is exclusive of drives, aisles or entrances giving access thereto.

PASSIVE PARKS, RECREATION, AND OPEN SPACE

Any park or recreational facility where there is no grading of the land, the construction of facilities, lighting, or development of ball fields with the exception that passive parks, recreational facilities, and conservation areas may include the development of trails and sidewalks.

PERMANENTLY SITED MANUFACTURED HOUSING

A building unit or assembly of closed construction as defined in the ORC,

PERSON

Any individual, corporation, government agency, government official, business trust, partnership, association, two or more persons having a joint interest, or any other legal entity.

PERSONAL CARE

In addition to room and board, personal services such as help in walking and getting in and out of bed; assistance with bathing, dressing, and feeding; preparation of a special diet; and supervision over medications which can be self-administered.

PERSONAL CARE FACILITY

A long-term or short-term residential facility that provides personal care. Such facility shall not mean the same as "institutions for human medical care," "adult family homes or small residential facilities," or "adult homes or large residential facilities."

PERSONAL SERVICE ESTABLISHMENTS

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, laundry and dry-cleaning services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

PLANNED UNIT DEVELOPMENT (PUD)

A development that is planned for a single use, or to integrate a variety of uses with collateral uses, in which lot size, setback lines, yard areas, and building types may be varied and modified to achieve particular design objectives and make provision for open spaces, common areas, utilities, public improvements, and collateral uses. See [Article <>](#).

PLANNING COMMISSION

The Mahoning County, Ohio, Planning Commission

PLAYSETS, TREEHOUSES, AND TRAMPOLINES

Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

PORCHES AND DECKS

An enclosed or unenclosed surface area attached to a building, that is not used for livable space but that is elevated above the ground, at its highest point, by at least 18 inches.

PORTABLE STORAGE UNITS

A portable structure or container that allows for storage of goods or materials, on or off-site and which is not permanently affixed to a foundation and that is related to the construction, renovation, or rehabilitation of the building on which the site is located.

PUBLIC HEARING

A meeting open to the public advertised in advance in the local printed media, or as otherwise required by statute, concerning proposed resolutions, amendments or other official township business which require public participation and input.

QUASI-PUBLIC, FRATERNAL, OR SERVICE FACILITIES

A building or portion thereof or premises owned or operated by a corporation, association, or group of persons for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit which is customarily carried on as a business.

QUORUM

The minimum number of members that must be present in order to conduct official business or take official action.

RAISING OF SMALL LIVESTOCK

The non-commercial raising and caring of female chickens, rabbits, or small livestock of a similar size, on a residential lot, as an accessory use.

REAL ESTATE SALES/MODEL HOMES

A dwelling unit temporarily converted into a sales and display office or a temporary sales office established in a development or subdivision for the purpose of providing an example of the units in the development.

RESEARCH AND DEVELOPMENT FACILITIES

An establishment or facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products. Such establishment shall not include the manufacturing or assembly of products beyond the development of prototype systems or products. All activities shall take place within an enclosed building.

RESTAURANTS AND TAVERNS

- A tavern is an establishment providing or dispensing, for on-site consumption, any fermented malt beverage, malt beverage, special malt, vinous, or spirituous liquors. The sale of food products including, but not limited to, sandwiches and light snacks may be a secondary use to the service of the aforementioned drinks.
- A restaurant is an establishment with table service whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings, or in non-disposable containers, provided that no drive-through window is permitted. For the purposes of this definition, a restaurant shall not include any drive-in or carry-out services unless a drive-through facility is permitted as an accessory use.

RETAIL AND SERVICE COMMERCIAL USES

Establishments primarily engaged in the sale of goods, materials, and general services to the public. Examples of this use type may include, but are not limited to, bookstores, antique stores, bakeries, grocery stores, and other similar uses.

RIGHT-OF-WAY

An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

ROOF LINE

The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

SATELLITE DISHES

A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

SCREEN OR SCREENING

A visual shield between uses accomplished by the use of berms, landscaping, walls or other aesthetic means.

SEASONAL AGRICULTURAL SALES

A temporary structure or vehicle used in the sale of agricultural products such as fruits, vegetables, and juices where such facilities may sell agricultural products not grown on site. Seasonal sales, including the sale of such items as trees, pumpkins, seasonal produce, and similar agricultural products, which may be permitted on a temporary basis pursuant to Section 6.02: Temporary Uses and Structures.

SEASONAL COVER

A temporary shelter for items including, but not limited to, firewood, equipment, motor vehicles, recreational vehicles, and similar items, where such items are stored or parked for a temporary period of time or season.

SELF-STORAGE FACILITIES (INDOORS)

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, or controlled-access stalls or lockers for the dead storage of a customer's goods or wares. The stalls or lockers used for storage shall only be accessible internally within the building and there shall be no storage of goods or wares outside.

SELF-STORAGE FACILITIES (OUTDOORS)

A building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, or controlled-access stalls or lockers for the dead storage of a customer's goods or wares. The stalls or lockers used for storage may be accessible from outside and the use may include the outdoor storage of goods and wares in an orderly manner.

SEMINUDE OR STATE OF SEMI-NUDITY

A state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

SETBACK

The minimum distance a building or structure must be built from a lot line or road right-of-way as defined further in Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

SETBACK LINE

The line created when applying the required setback distance to a lot.

SETBACK, FRONT

The minimum distance required between a building, structure, or improvement and the front lot line.

SETBACK, REAR

The minimum distance required between a building, structure, or improvement and the rear lot line.

SETBACK, SIDE

The minimum distance required between a building, structure, or improvement and a lot that is shared with another lot where such lot line is defined as a side lot line.

SEXUAL ENCOUNTER ESTABLISHMENT

A business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

- Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.
- Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated by the ORC, is not a "sexual encounter establishment."

SHRUB

A woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

SIDEWALK

A pedestrian walkway within a right-of-way of a public street but not on the street surface.

SIGN

Any object, device, display or structure or part thereof situated outdoors or adjacent the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

SIGN AREA

The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section 12.07: Sign .

SIGN FACE

The area or display surface used for the message.

SIGN HEIGHT

The vertical distance to top of sign structure as measured pursuant to Section 12.07: Sign .

SIGN, ABANDONED

An abandoned sign is a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, and/or for which no legal owner can be found.

SIGN, A-FRAME

A freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition of T-frame signs.

SIGN, ANIMATED OR MOVING

Any sign or part of a sign which changes physical position by any movement or rotation or which gives visual impression of such movement or rotation. This definition does not include signs classified as "electronic message centers."

SIGN, BALLOON

A sign that is an air inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached or held in place by a cord, rope, cable, or similar method. See also the definition for air-activated graphics.

SIGN, BANNER

A temporary sign composed of cloth, canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method or that may be supported by stakes in the ground.

SIGN, BLADE OR FEATHER

A temporary sign that is constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

SIGN, CANOPY

Any sign that is a part of or attached to a canopy or awning.

SIGN, CHANGEABLE COPY

A sign designed so that the characters, letter or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. May also be known as readerboards. See also the definition of "electronic message center."

SIGN, DEVELOPMENT/SUBDIVISION

A sign identifying a recognized subdivision, condominium complex, or development.

SIGN, DRIVE-THROUGH

Any signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

SIGN, DRIVEWAY

A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

SIGN, FLASHING

Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or any externally mounted intermittent light source. This definition does not include signs classified as "electronic message centers."

SIGN, FREESTANDING

Any sign supported upon the ground by a monument, pedestal, pole, bracing, or other permanent measure and not attached to any building. See also the definition of "ground-mounted monument sign" and "pole sign."

SIGN, ILLEGAL

A sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

SIGN, ILLUMINATED

A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

SIGN, INCIDENTAL

A sign typically erected to identify entrances, exits, restrooms, hours of operation, operational instructions, public utility locations, etc. These examples are not given by way of limitation; an incidental sign can contain any message, in accordance with Section <>.

SIGN, MANUAL CHANGEABLE COPY

A sign or portion of a sign where it is possible to change the copy on a frequent basis but where such sign change must be manually made and is not made electronically.

SIGN, MONUMENT

A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground independently of any other structure, typically on a monument or pedestal structure.

SIGN, NONCONFORMING

Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

SIGN, PERMANENT

A sign permitted by this resolution to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground.

SIGN, POLE

A permanent freestanding sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

SIGN, PORTABLE

Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds. A vehicle not used regularly in the operation of a business shall be considered a portable sign.

SIGN, PROJECTING

A sign that is affixed perpendicular to a building or wall and extends more than eighteen inches beyond the face of such building or wall and the lowest point of which sign is not less than ten feet above the sidewalk or ground level. A projecting sign shall also include a sign hung perpendicular to the building façade to the bottom of an arcade.

SIGN, ROOF

A sign erected or maintained in whole or in part upon, against or directly above the roof or parapet line of a building.

SIGN, SIDEWALK

A temporary sign that may be placed on the sidewalk, in the public right-of-way, during business hours in accordance with this section and all other applicable ordinances and resolutions.

SIGN, TEMPORARY

A SIGN THAT IS NEITHER PERMANENTLY ANCHORED TO THE GROUND, NOR PERMANENTLY AFFIXED TO A STRUCTURE, NOR MOUNTED ON A CHASSIS, AND INTENDED FOR A LIMITED PERIOD OF DISPLAY.

SIGN, T-FRAME

A freestanding sign which is ordinarily in the shape of an upside down "T" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition for A-frame signs.

SIGN, WALL

A sign attached directly to an exterior wall of a building and which does not extend more than eighteen inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.

SIGN, WINDOW

A sign attached to, in contact with, placed upon or painted on the window or door of a building which is intended for viewing from the outside of such building. This does not include merchandise located in a window.

SKILLED NURSING

In addition to room and board, those nursing services and procedures employed in caring for the persons who require training, judgment, technical knowledge, and/or skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon.

SKILLED NURSING FACILITY

A residential facility that provides skilled nursing. Such facility shall not mean the same as "institutions for human medical care," "adult family homes or small residential facilities," or "adult homes or large residential facilities."

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS)

A wind energy conversion system consisting of a wind turbine, tower, and associated control or conversion electronics that generates power for an individual property for the purpose of reducing on-site energy consumption with a rated nameplate capacity of 100kW or less. This includes, but is not limited to, storage, electrical collection and supply equipment, and transformers. Excess electrical power generated, and not presently needed for onsite use, may be utilized by the applicable utility company.

SOLAR PANELS

Structures designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

SPECIFIED ANATOMICAL AREAS

Human genitals

SPECIFIED SEXUAL ACTIVITIES

Human genitals in a state of sexual stimulation or arousal: acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio; and/or fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts.

STACKING SPACE OR LANE

A lane or area that is specifically designated for cars to “stack” in while utilizing drive-up or drive-through services at uses that may include, but are not limited to, car washes, restaurants, and financial institutions.

STATE

The State of Ohio

STORY

The portion of a building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it than the space between the floor and the ceiling next above it.

STREET

A publicly dedicated or owned right-of-way constructed to Mahoning County Engineer standards intended or used, for vehicular and pedestrian movement, and, except where limited or controlled access, affording the principal means of access to abutting properties.

STREET FRONTAGE

See definition of “frontage, street.”

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. All buildings are considered structures.

STRUCTURE, ACCESSORY

A structure (including buildings but not fences) that is accessory and incidental to the principal building.

STRUCTURE, NONCONFORMING

A structure where the use is permitted in the applicable zoning district but the structure does not meet the setbacks, development standards, site development standards, or other dimensional or numerical standards for the applicable district.

SUBSTANTIAL ENLARGEMENT (ADULT ENTERTAINMENT ESTABLISHMENTS)

The substantial enlargement of an adult entertainment establishment means the increase in floor areas occupied by the business by more than 25 percent, as the floor areas exist on the date this amendment takes effect.

SWIMMING POOL AND HOT TUB

A structure, whether above or below grade level, designed to hold water more than 18 inches deep with a total surface area exceeding 100 square feet, that is designed to be used for personal recreation (private swimming pool) or as a recreational amenity to a larger development (community swimming pool).

TELECOMMUNICATIONS

The technology permitting the passage of information from the sender to one or more receivers in a usable form by means of an electromagnetic system and includes the term “personal wireless services”.

TEMPORARY SPECIAL EVENTS

A temporary use on private property that is not usual or customary for that property and the zoning district in which the subject property is located (e.g., festivals, circuses, and other temporary events).

TEMPORARY STRUCTURE FOR PUBLIC OR INSTITUTIONAL USES

A temporary structure that is related and incidental to a use within the institutional use classification that may include temporary classrooms or storage facilities.

TEMPORARY STRUCTURES FOR CONSTRUCTION PURPOSES

Temporary facilities used for the collection of trash and solid waste on a construction site or temporary trailers or offices used in conjunction with a construction project.

THEATERS

A building or part thereof used for housing dramatic presentations, stage entertainments, motion-picture shows, or other similar entertainment.

TOWER

Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including support lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

TREE, DECIDUOUS

Generally, a tree that loses all of its leaves for part of the year. Sometimes called a broad-leaf tree or a hardwood tree.

TREE, EVERGREEN

A tree with foliage that is not dropped, or that remains green throughout the year.

TREE, ORNAMENTAL

A small to medium tree with an expected height of 20 feet at maturity and that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

TREE, UNDERSTORY

A tree that would occupy the understory of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees. Examples include redbud, hazel, alder, holly, hornbeam, dogwood, witch-hazel, etc.

TYPE-B DAY CARE HOMES (1-6 CHILDREN)

A permanent residence of the provider in which child day care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this definition, any children under six years of age who are related to the provider and who are on the premises of the Type-B day care home shall be counted. Type-B day care homes do not include homes where all of the children being cared for are siblings and the residence is the home of the siblings. Type-B day care homes do not include any child day camp as defined in the ORC.

UNENCLOSED PATIO

Uncovered, non-enclosed outdoor hard surfaced areas that are no higher than 18 inches above the ground.

USE

A purpose for which land, a building, lot, sign, or other structure is arranged, intended, designed, constructed, used, occupied, or maintained.

USE, ACCESSORY

A use or building on the same lot with, and of a nature customarily incident and subordinate to, those of the main use or building.

USE, CONDITIONAL

A use permitted within a district only with a conditional use permit approval from the BZA. See [3.05: Variance or Conditional Use](#).

USE, NONCONFORMING

A use that lawfully occupied a building or land until the effective date of this resolution, or amendments thereto, and that does not conform to the use regulations of the applicable zoning district.

USE, PRINCIPAL

The principal use to which the premises are devoted and the primary purpose for which the premises exist.

USE, TEMPORARY

A use or building permitted to exist during periods of construction of the main building or use, or for special events, but not inhabitable.

VEHICLE SALES AND LEASING

A building, lot, or both used for the display, sale, or rental of new or used motor vehicles or farm implements that are in operable condition, and where repair service may be an incidental accessory use.

VEHICLE WASHING ESTABLISHMENTS

The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

VEHICULAR USE AREA

Any paved ground surface area, except public rights-of-way, used by any type of vehicle, whether moving or at rest for the following purposes, but not limited to driving, parking, loading, unloading, storage or display.

VETERINARIAN OFFICES, ANIMAL HOSPITALS, OR ANIMAL GROOMING (NO BOARDING)

Facilities used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations in a wholly enclosed building on the premises only for treatment, observation and/or recuperation.

WALL

An architectural partition with a height and length greater than its thickness; used to divide or enclose an area or to support another structure

WALL, RETAINING

A retaining wall is a structure that holds back soil or rock from a building, structure or area. Retaining walls prevent downslope movement or erosion and provide support for vertical or near-vertical grade changes.

WAREHOUSES

Structures used for the storage or distribution of goods where there is no sale of items to retailers or the general public unless permitted as an accessory use to the warehouse.

WHOLESALE BUSINESSES

A business where the primary enterprise is the sale of merchandise to retail and service commercial uses, office uses, or institutional uses, or to other wholesalers, but not to the general public. Wholesale commercial uses may also mean acting as an agent or broker in the buying or selling of merchandise.

WIRELESS TELECOMMUNICATION ANTENNA

An antenna designed to transmit or receive telecommunications as authorized by the Federal Communications Commission ("FCC"), excluding amateur radio operator antennas.

WIRELESS TELECOMMUNICATION FACILITY

A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land based telephone lines for the provision of personal wireless services.

WIRELESS TELECOMMUNICATION TOWER

A tower including but not limited to self-supporting lattice or monopole, which elevates the wireless telecommunication antenna and may include accessory transmission and receiving equipment.

YARD

An open space on the same lot with a building, unoccupied, and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

YARD, FRONT

A yard extending across the full width of a lot and being the distance between the street right-of-way and the nearest wall of the principal building. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

YARD, REAR

A yard extending across the full width of a lot between the side lot lines and being the distance between the rear lot line and the nearest wall of the principal building. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

YARD, SIDE

A yard between the principal building and the side lot line, extending from the front yard to the rear yard. See Section [4.09\(A\): Measurements, Computations, and Exceptions](#).

ZONING CERTIFICATE

A permit where the Zoning Inspector has the authority to make a decision on the application in accordance with Section [3.07: Zoning Certificate](#).

ZONING DISTRICT

A section or sections of the unincorporated territory of Boardman Township for which regulations governing the use of buildings and premises, the height of buildings, development standards, yards, lot areas, and other standards are uniform. This may also be called a base zoning district.

ZONING DISTRICT, NONRESIDENTIAL

The term "nonresidential zoning district" shall include the GB, RB, NMB, P-I, and I zoning districts.

ZONING DISTRICT, RESIDENTIAL

The term "residential zoning district" shall include the R-1A, R1-B, R-1C, R-2, and R-3 zoning districts.

ZONING INSPECTOR

The Zoning Inspector, his/her assistants, or any other person designated by the Board of Trustees to perform the statutory duties of the Zoning Inspector.

ZONING MAP

The "Zoning District of Boardman Township, Mahoning County, Ohio", as amended

ZONING MAP AMENDMENT

An amendment or change to the Official Zoning Map of Boardman Township, reviewed and approved by the Board of Trustees in accordance with Section [3.04: Zoning Text or Map Amendment](#).

ZONING TEXT AMENDMENT

An amendment or change to the text of the Boardman Township Zoning Resolution reviewed and approved by the Board of Trustees in accordance with Section [3.04: Zoning Text or Map Amendment](#).