Berkshire Township Zoning Resolution

Amended and effective
February 26, 2020

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ARTICLE 1 – Title

Section 1.01

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

ARTICLE 2 – Purpose

Section 2.01

This resolution is enacted for the purpose of promoting public health, safety, and morals of the township, all in accordance with existing county or township plans or plans which may be later adopted and as permitted by the provisions of Chapter 519, Ohio Revised Code.

ARTICLE 3 – Interpretations of Standards

Section 3.01

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

ARTICLE 4 – Definitions

Section 4.01

All words used in this Resolution shall have their customary meanings as defined in Webster's New World Dictionary, except those specifically defined herein or elsewhere in this Zoning Resolution. Unless the context otherwise requires, words used in the present tense include the future tense; the singular number includes the plural; the term "shall" is mandatory; the term "may" is permissive, the phrase "used for" shall include, without limitation, the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for"; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

Accessory Use (or Structure): Accessory Use means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is typically located on the same lot as a principal use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, and is customarily incidental to the principal use, object, or structure. Among other things, "Accessory Use" includes anything of a subordinate nature attached to or detached from a principal structure or use, such as fences, walls sheds, garages, parking places, decks, poles, poster panels, and billboards. Except as otherwise required in the Resolution, an accessory use shall be a permitted use.

Administrative Officer: The official charged with the administration and enforcement of the Zoning Resolution; the Berkshire Township Zoning Inspector.

Adult: An individual eighteen years of age or older.

Adult book store: Adult book store means an establishment deriving a majority of its gross income from the sale or rental of, or having a majority of its stock in trade in, books, magazines or other periodicals, films, or mechanical or non-mechanical devices, which constitute adult materials.

Adult Care facility: An adult family home or an adult group home. For the purposes of this resolution, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. Adult care facility does not include:

1.) a facility operated by a hospice care program licensed under ORC 3712.04 that is used exclusively for care of hospice patients;

2.) a nursing home, rest home, or home for the aging as defined in ORC 3721.01.

3.) a community alternative home as defined in ORC 3724.01.

4.) an alcohol and drug addiction program as defined in ORC 3793.01.

Adult family home: A residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three adults. (ORC 3722)

Adult group home: As defined under ORC 3722, an adult group home means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and adult personal care services to at least three of the unrelated adults.

Adult material: Adult material means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture film, phonographic record or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch, and:

1.) which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or

2.) which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

Adult motion picture theater: Adult motion picture theater means an enclosed motion picture theater or motion picture drive-in theater used for presenting, and deriving a majority of its gross income from adult material for observation by patrons therein.

Adults only entertainment establishment: Adults only entertainment establishment means an establishment which features services which constitute adult material, or which features exhibitions of persons totally nude, or topless, bottomless, strippers, male or female impersonators, or similar entertainment which constitute adult material.

Advertising area: The advertising area of a sign or billboard is the entire area within a continuous perimeter forming a basic geometric figure which encloses the message or display along with any frame or other material, color, internal illumination or other feature which forms an integral part of the message and is used to differentiate the sign or billboard from the wall or supporting structure upon which it is placed. When a sign has two sides that are parallel and back to back, each side may comprise the maximum advertising area. The necessary supports or uprights are excluded from the graphic area if they give the visual appearance of a single color.

Agriculture: The use of land for farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals, poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production.

Alley: Secondary access way of not less than twenty (20) feet in width dedicated to public use for travel or transportation and affording vehicular access to abutting property.

Alterations, Structural: Any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

Apartment: A rental portion of a building consisting of a room or suite of rooms intended, designed, or used as a permanent residence by an individual or one family.

Apartment house: See dwellings, multi-family.

Area of shallow flooding: A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

Automotive Repair: The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

Base flood: A flood that is representative of a historic flood in the central Ohio region and characteristic of floods expected to have a one per cent chance of being equaled or exceeded in any given year in a century. Sometimes referred to as Regional Flood or 100-Year Flood.

Basement: A story all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

Bed and Breakfast: A lodging house where the owners reside on the premises and rent overnight rooms to lodgers for stays of up to two consecutive weeks. The lodging is secondary to the principal use of the dwelling as the owner's principal residence. No more than three rooms may be rented as a bed and breakfast.

Billboard: A billboard shall be defined as an outdoor display intended to advertise products or services at locations where activities related to their sale, distribution, production, repair and associated administrative functions are not maintained. Billboards also include outdoor displays intended to convey information, ideas, or opinions to the public at locations not used by their sponsors for other professional administrative activities. Billboards are subject to local zoning and the building permit requirements of Delaware County and the State of Ohio.

Boarding Kennel: The use of any lot or premise where four (4) or more domesticated animals over four months of age are housed, bred, boarded, groomed, or trained and which may offer medical treatment.

Borrow pit: A pit adjacent to a fill or embankment from which material is taken for the purpose of making the fill or constructing and maintaining that embankment.

Bottomless: Bottomless means less than full opaque covering of male or female genitals, pubic area or buttocks.

Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

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

Building, Height: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building line: The building line shall be considered to be the front wall of the structure or dwelling located on a parcel or lot, even if said dwelling or structure is located behind the minimum setback line established by either this resolution or the plat restrictions. The building line for all new structures shall meet the minimum front setback line, but if it exceeds it, all inter-related standards, such as lot width at the building line, shall actually be computed at the actual building line, not the minimum setback line.

Building, Principal: The actual location of structures on the ground in which is conducted the main or principal use of the lot.

CABO: Council of American Building Officials.

Carry out restaurant: An establishment which by design of physical facilities or by service or by packaging procedures permits or encourages the purchase of prepared ready to eat foods intended primarily to be consumed off the premises.

Centerline: The midpoint between two edges of a paved road.

Centralized sanitary sewer service: Any sanitary sewer system, other than an individual septic tank tile field, that is operated by a municipality, governmental agency, or a public or private utility for the collection, treatment and disposal of wastes. An

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

Centralized water: Any potable water system, other than an individual well, that is operated by a municipality, governmental agency, or a public or private utility for the treatment and furnishing of potable water.

Certificate of zoning compliance: A document issued by the zoning administrator that stipulates whether a planned use meets the requirements of this zoning resolution.

Changeable copy sign (manual): A sign, or portion thereof, on which characters, letters or illustrations are changed manually in the field without altering the face or surface of the sign, including without limitation, a reader board with changeable letters.

Changeable copy sign (mechanical or electronic): A sign, or portion thereof, on which characters, letters or illustrations are changed mechanically or electronically in the field without altering the face or surface of the sign, including without limitation, an electronic or mechanical message center.

Channel: A natural or artificial depression of perceptible extent with definite bed and banks to confine and conduct flowing water either continuously or periodically.

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

Clear Sight Triangle: The triangular area formed by a diagonal line connecting two points, located on intersecting lines of street and driveway, one being on the street right-of-way, the other point being on the easement of access, or pavement edge of an access drive, each point being 20 feet from the intersecting lines and extending vertically from a height of three (3) feet above grade to ten (10) feet above grade. See Figures 1 and 2.

Figure 1 - Clear Sight Triangle, overhead view

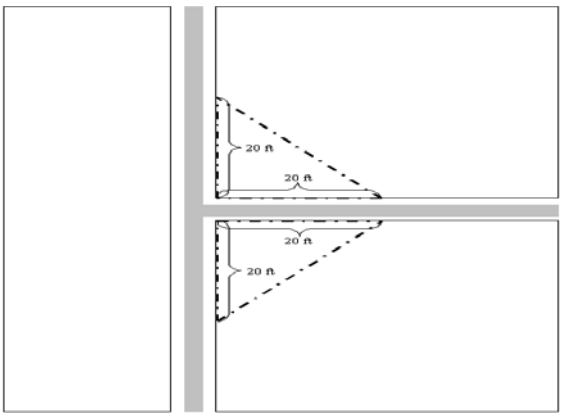
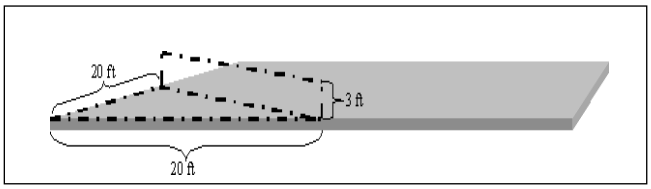


Figure 2 – Clear Sight Triangle, oblique view



Common Access Driveway (CAD) Subdivision: A subdivision in which two or more lots share a common easement or driveway. Said subdivision and driveway easement shall meet the Delaware County Subdivision requirements.

Common Open Space: Parcels of land together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites of the particular development and is accessible to such owners and occupants.

Community NFIP administrator: The person, persons, agency, or other local government entity responsible for the administration and enforcement of the National Flood Insurance Program in compliance with Federal Law 44 CFR Parts 59 and 60. For Unincorporated Berkshire Township the Delaware County Building Department is the Community NFIP Administrator.

Comprehensive Plan: A plan, or any portion thereof, adopted by the township showing the general location, extent, use and density of present and proposed physical facilities including: housing, industrial and commercial uses, major thoroughfares, parks, schools, and other community facilities. This plan establishes the goals, objectives, and policies of the community and serves as the general guideline or basis for zoning.

Conforming use: Any lawful use of a building, structure, lot, sign or fence which complies with the provisions of this resolution.

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

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

Corner Lot: (See Lot Types)

Conservation subdivision: Residential planned unit development where half or more of the buildable land area is designated as undivided, permanent open space, and where most or all of the lots created face or abut common open space.

Cul-de-Sac: (See Thoroughfare)

Day care center: See Child Day Care.

Dead-end Street: (See Thoroughfare)

Decibel: A unit of sound.

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

Detached dwelling: A dwelling that is separate from and does not share a common wall or connect in any way to another dwelling.

Detention basin: A storage facility for the temporary storage of storm water runoff.

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

Drive through business or window: An establishment or part of an establishment designed for the conduct of business with customers who remain within a vehicle during the transaction.

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

Dwelling: Any building or structure which is wholly or partially used or intended to be used for living or sleeping by one or more human occupants.

Dwelling Unit, Common Wall Single Family Attached: Type of residential construction characterized by a common vertical firewall separating housing units, where no more than three units are attached in a group.

Dwelling, detached single family: detached, individual dwelling units, which accommodate one family related by blood, adoption, or marriage, or up to five unrelated individuals living as one housekeeping unit. The type of construction of such units shall conform either to the OBOA, or CABO One and Two family dwelling code, or other applicable building code, or be classified as an Industrialized Unit under the Ohio Basic Building Code, or conform to the Ohio Revised Code 3781.06 definition of permanently-sited manufactured home as provided for in ORC 519.212.

Dwelling, Multi-Family: A residential building arranged or designed for four (4) or more dwelling units as separate and complete housekeeping units.

Dwelling, Rooming House (Boarding House, Lodging House, Dormitory): A dwelling or part thereof, other than a hotel, motel, or restaurant where meals and/or lodging are provided for compensation, for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

Dwelling, two family: A building arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units living independently of each other.

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

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

Essential Services: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground gas, electrical, steam or water transmission, or distribution systems, collection, communication, supply or disposal systems or sites, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants, or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by each public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings. Telecommunications towers, as regulated by this resolution, are excluded from essential services.

Family: (a) An individual, or two (2) or more individuals related by blood, adoption or marriage, living together as a single housekeeping unit; or, (b) a group of not more than five (5) persons, who need not be related by blood, adoption or marriage, living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

Feed lot: Land used for the confining and commercial feeding of livestock and not necessarily connected with any general farming upon the same lot or premises. A plot of land on which livestock are fattened for market. All feed lots shall obtain appropriate permits for waste treatment and disposal from the OEPA or the Delaware County Board of Health prior to the issuance of a zoning permit.

FEMA: Federal Emergency Management Agency. This agency has overall responsibility for administering the National Flood Insurance Program.

Fence: A fence is an artificially constructed barrier of material, such as wood, stone, vinyl, masonry or a combination of materials which are commonly and utilized for attractively and effectively enclosing and screening areas of land. Manufactured material that is not originally manufactured for purposes of fencing and or screening shall not be utilized as fence material.

FIRM: Flood Insurance Rate Map, which is an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry areas from (1) the overflow of inland or tidal waters, and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance study: The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

Flood Plain, 100 year: That land, including the floodway fringe and the floodway, subject to inundation by the 100-year regional flood.

Flood, 100 year, or regional: A large flood, which has previously occurred or which may be expected to reoccur with an average frequency of once in any one hundred (100) year period.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base (100 year) flood without cumulatively increasing the water surface elevation of the 100 year flood plain more than one foot, as prescribed by the Flood Insurance Study.

Floodway Fringe: That portion of the flood plain, excluding the floodway that is necessary to carry and store a 100-year flood.

Free standing sign: A sign intended to be erected and used permanently whose support structure is imbedded in the ground.

Frontage: The side(s) of a lot abutting on a dedicated and improved public street, an improved private street, or an approved common access drive (CAD).

Garages, Private: A detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, travel trailers and/or boats of the occupants of the premises. For the purposes of this resolution, permitted automobiles stored in private garages shall mean no more than two commercial vehicles, neither one of which exceeds two tons in unladen gross vehicle weight.

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

GIS: Geographic Information System.

Granny flat: A granny flat is an over-age-55 dwelling unit located in a separate structure that is accessory to a single-family dwelling. As long as members of the resident owner's family use the granny flat, the principal use of the property retains its single-family status. Conversion of a granny flat to a rental unit for the general public requires zoning approval for a two-family dwelling.

Greenbelt: An open landscaped area that is used as a buffer between land uses.

Gross floor area: Gross floor area of a residential structure shall be computed as the sum of the gross horizontal area of the several floors of the residential structure, excluding finished or unfinished basements, breezeways, carports, garages, storage areas with only outside access, porches, unfinished attics, and other unheated and/or unfinished areas attached to the principal use or structure. Gross floor area of non-residential structure shall be computed as the sum of the gross horizontal floor area of the specified use.

Groundwater: The supply of freshwater under the surface in an aquifer or soil that forms the natural reservoir for potable water.

Group Residential Facility: A group residential facility is a community residential facility, licensed and/or approved and regulated by the State of Ohio, which provides rehabilitative services.

Home Occupation: Home Occupation means an accessory use which is an activity, profession, occupation, service, craft, or revenue-enhancing hobby which is clearly incidental and subordinate to the use of the premises as a dwelling, and is

conducted entirely within the dwelling unit, or elsewhere on the premises by conditional use permit, without any significant adverse effect upon the surrounding neighborhood.

Homeowners association: A community association, which is organized in a development in which individual owners share common interests in open space or facilities.

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

Industrialized unit: means a modular building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as a part of a greater structure and that requires transportation to the site of intended use. Industrialized unit includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured or mobile home as defined herein.

Landscape: (a.) An expanse of natural scenery; (b.) The addition of lawns, trees, plants, and other natural and decorative features to the land.

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

Lollipop sign: A free standing, on or off premise tall pole sign of up to 100' feet in height that is located within 600 lineal feet from the intersection of U.S 36 and Interstate Route 71and that advertises a business located within 3000' of the intersection is of U.S. 36 and Interstate Route 71.

Lot: For the purposes of this resolution, a lot is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage and may consist of:

1.) A single lot of record;

2.) A portion of a lot of record;

3.) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

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

Lot, Minimum Area of: The area of a lot is computed exclusive of any easements.

Lot, minimum size: A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with such yards, open spaces, lot width and lot area as are required by this Zoning Resolution, and having not less than the minimum required frontage upon a street, either shown and identified by lot number on a plat of record, or considered as a unit of property and described by metes and bounds.
Lot Measurements: A lot shall be measured as follows:

1.) Depth: The distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

2.) Width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

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

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

1.) Corner Lot: A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty five (135) degrees.

2.) Interior Lot: A lot with only one frontage on a street.

3.) Through Lot: A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

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

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements.

Major Thoroughfare Plan: The portion of the comprehensive plan adopted by the Regional Planning Commission or Township indicating the general location recommended for arterial, collector, and local thoroughfares within the appropriate jurisdiction.

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

Manufactured home: A non-self-propelled building unit or assembly of closed construction fabricated in an off site facility, and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban development (HUD) pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974, 88 Stat. 700, 42 U.S.C.A 5401, 5403 and that has a permanent label or tag permanently affixed to it as specified in 42 U.S.C.A 5415, certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the number of square feet in a structure's exterior dimensions are measured at the largest horizontal projections when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. (ORC 4501.01) For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connection to utilities and the like.

Mobile home: A non-self-propelled building unit or assembly of closed construction that is fabricated in an off-site facility, built on a permanent movable chassis which is 8 feet or more in width and more than 35 feet in length, which when erected on site is 320 or more square feet, that is transportable in one or more sections and which does not qualify as a manufactured home or industrialized unit. A mobile home does not qualify as a manufactured home, or as permanently sited manufactured housing.

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

Multi-family dwelling: see Dwelling, Multi-family.

NAICS: North American Industrial Classification System, 1997 edition, for the United States, by the Executive Office of the President, Office of Management and Budget

Net developable area: The net area left after deducting from a planned unit development tract's gross acreage:

1.) Right of way for streets and utilities (15% of gross acreage when estimating density);

2.) Jurisdictional wetlands, as defined US Army Corps of Engineers' Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Miss. Jurisdictional wetlands as regulated by Section 404 of the Clean Water Act consist of a.) hydric soils, b.) hydrophytic vegetation and c.) wetland hydrology (this generally means they support more than 50% wetland vegetation, and are poorly drained soils which are periodically inundated or saturated);

3.) Floodplains within a FEMA 100-year floodplain;

4.) Slopes greater than 20%, including ravines shown to be critical resource areas on the Berkshire Township Comprehensive Plan;

5.) Utility rights-of-way and easements for currently-existing utilities;

6.) Existing bodies of water.

NFIP: National Flood Insurance Program.

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

Non-conforming use: A legal use of a building and/or of land that antedates the adoption of these Regulations as amended from time to time and does not conform to the Regulations for the Zoning District in which it is located.

Non-conforming lots of record: A parcel of real estate which has been surveyed, given a legal metes and bounds description and legally recorded in the County recorder's office prior to the adoption of or amendment to the zoning resolution, and which does not conform with the current zoning regulations.

Nude (nudity): Nude (nudity) means the showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

Obstruction: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter which is in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or which is placed where the flow of water might carry the same downstream to the damage of life or property.

Open space: Any parcel or area of unimproved land or water set aside, dedicated designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Open space land may be classified as either "common open space" or "natural green space" (as herein defined), or a combination of both. It does not include the areas of individual fee simple lots conveyed to homeowners. Common open space is typically land set-aside for passive or active recreational purposes. These areas may contain accessory buildings and improvements necessary and appropriate for recreational uses such as water areas, swimming pools, and tennis courts, other recreational facilities or land for on-site wastewater disposal if deemed appropriate by the zoning commission. Natural Green Space is typically land perpetually set aside for the purposes of protecting and preserving its natural, scenic, open, wooded, water or wetlands against modification or encroachment. Lands set-aside as natural green space might be, but are not limited to ravines, wetlands, floodplains, woods, scenic views, or appropriate agriculture. If deemed appropriate by the zoning commission, open space may incorporate land for on-site wastewater disposal. For the purposes of the calculation of required open space, the minimum size of any single open space area shall be five hundred (500) square feet. The minimum width of such areas shall be ten (10) feet.

Open space development: Land that is designed and developed as a residential unit with open space as an integral characteristic. Instead of subdividing an entire tract into house lots of conventional size, the same number of housing lots may be clustered on a reduced amount of acreage on the condition that the remaining land in the tract is reserved for open space area, the future development or subdivision of which is prohibited.

Open space easement: A recorded legal instrument that permanently preserves the underlying land for approved open space uses. The easement shall be tied to the title of the land regardless of the subsequent ownership of the land.

Ordinary high water mark: The ordinary high water mark is defined as the line between upland and bottomland which persists through successive changes in water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Outdoor storage: The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four consecutive hours.

Performance Bond or Surety Bond: An agreement by a sub-divider or developer with the County or Township for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the sub-divider's agreement.

Permanently sited manufactured home: means a manufactured home that meets all of the following criteria:

1.) The structure is affixed to a permanent foundation which means permanent masonry, concrete, or locally-approved footing or foundation.

2.) The structure, excluding any addition has a width of at least 22 feet at one point and a length of at least 22 feet at one point, and a total living area, excluding garages, porches or attachments, of at least 900 square feet.

3.) The structure has a minimum residential ("A") roof pitch of 3:12, conventional residential siding (i.e. lap, clapboard, shake, masonry), and a 6-inch minimum eave overhang, including appropriate guttering.

4.) The structure was manufactured after January 1, 1995.

5.) The structure is connected to appropriate facilities (sewer, water, electric, phone, etc.)

6.) Have at least 900 square feet of living area, or whatever greater square footage is uniformly required by zoning.

7.) The structure has the indicia of mobility (trailer tongue, running lights, wheels and axles) removed prior to placement on its foundation.

8.) Meet all applicable zoning requirements uniformly imposed (i.e. minimum lot size; setbacks; minimum dwelling unit square footage; all indicia of mobility be removed upon placement upon its foundation) on all single-family dwellings in the district, (excepting contrary requirements for minimum roof pitch and requirements that do not comply with HUD code standards for manufactured housing).

Permitted density: The number of dwelling units in a planned unit development.

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

Pervious/Permeable: Typically refers to an area that allows stormwater to drain for the purposes of on-site infiltration and filtering. This includes porous asphalt and concrete surfaces; interlocking concrete pavers; or polymer-based grass pavers, grids, and geocells.

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

Pole sign: A sign whose advertising area is mounted on one or more poles (metal, wood, concrete etc.) embedded in, and extending upward from the ground, and the bottom of the advertising area is more than 3 feet above grade.

Political graphic: A billboard or other graphic the purpose of which is to support or oppose any candidate or candidates for public office or any ballot questions or issues to be voted on in any election.

Portable sign: Any sign that is not permanently attached to the ground or whose support structure is not permanently embedded in the ground, or any sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

Principal use: The primary or predominant use of any lot.

Public improvement: Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.

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

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

Regulatory floodplain: A watercourse and the areas adjoining a watercourse, which have been, or hereafter may be covered by the Base Flood.

Recreational vehicle: A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Religious use: A structure or place in which worship, ceremonies, rituals or education pertaining to a particular system of beliefs are held.

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

Screening: A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Septic system: An underground system with a septic tank used for the decomposition of domestic waters.

Setback Line: A line established by the zoning resolution, generally parallel with and measured from the lot line, defining the limits of a yard in which no building, other than accessory building, or structure may be located.

Sewers, On-Site: A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of County Health Department.

Sexual activity: Sexual activity means sexual conduct or sexual contact, or both.

Sexual conduct: Sexual conduct means vaginal intercourse between a male and a female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight, by a finger or other object is sufficient to complete vaginal or anal intercourse.

Sexual contact: Sexual contact means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

Sexual excitement: Sexual excitement means the condition of human male or female genitals, when in a state of sexual stimulation or arousal.

Sign: Any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure intended to be a primary identification, as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.

A sign shall be defined further as an outdoor display intended to identify or attract attention to the premises on which it is located; the businesses, organizations, or individuals conducting professional activities on the premises; or the products or services sold, distributed, produced, or repaired on the premises. Signs also include outdoor displays used by businesses, organizations, or individuals conducting professional activities on the premises to convey information, ideas, and opinions to the public.

The word “sign” as used throughout this section means signs that are externally visible from adjacent properties or streets. Signage that is placed internally within a building that is not externally visible shall be excluded from sign regulations.

Sign, Cabinet: A sign cabinet is the mechanical portion of an internally lit sign. The sign cabinet typically consists of a metal frame, with a lighted background face. Sign cabinets typically mount either to a wall, or to a pedestal or monument. A sign cabinet may be either one sided (wall mount) or two sided (monument sign).

Sign Face: The surface intended for the display of information on the sign.

Sign Height: Unless otherwise specified, the height of a sign or billboard is the vertical distance between the top of its advertising area and the nearest existing or approved grade of the earth's surface.

Sign Structure: The supporting unit of a sign face, including but not limited to frames, braces and poles.

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

Structure, accessory or ancillary: A subordinate structure, the use of which is incidental to that of a principal structure on the same lot.

Structure, principal: A structure in which is conducted the principal use of the lot on which it is situated.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Temporary structure: A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Temporary use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Telecommunications tower: Any freestanding structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:

1.) The freestanding or attached structure is proposed to be constructed on or after the effective date of the Ohio Revised Code amendment to Section 519.211 (i.e. 10/31/96).

2.) The freestanding or attached structure is proposed to be owned or principally used by a public utility (or a functionally equivalent provider) engaged in the provision of telecommunications services.

3.) The freestanding or attached structure is proposed to be located in an unincorporated area of the Township, in an area zoned for residential use. Areas zoned for residential use shall include all land located within the following Zoning Districts: Farm Residential District (FR-1); Planned Residential District (PRD), or Planned Elderly Retirement Residential Community District (PERRC).

4.) The freestanding structure is proposed to top at a height that is greater than 48 feet. In the case of an attached structure, such structure is proposed to top at a height that is eight (8) feet greater than the height of the building or other structure to which it is to be attached.

5.) The freestanding or attached structure is proposed to have attached to it radio frequency transmission or reception equipment.

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

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

2.) **Arterial Street:** A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route. Arterial streets are designated on the Delaware County Thoroughfare Plan.

3.) **Collector Street:** A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions. Collector streets are designated on the Delaware County Thoroughfare Plan.

4.) **Cul-de-Sac:** A local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround.

5.) **Common Access Driveway:** A private narrow common drive that is approved by subdivision regulations of Delaware County to reduce curb cuts to major streets or to provide access to backland that cannot feasibly be developed with a full public street.

6.) **Dead-end Street:** A street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.

7.) **Local Street:** A street primarily for providing access to residential or other abutting property.

8.) **Loop Street:** A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of one hundred and eighty (180) degrees system of turns are not more than one thousand (1,000) feet from said arterial or collector street, nor normally more than six hundred (600) feet from each other.

9.) **Marginal Access Street:** A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets. (Also called **Frontage Street.)**

Topless: Topless means the showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.

Townhouse: A building consisting of a series of three (3) or more attached or semi-detached dwelling units, each with a ground floor and a separate ownership or condominium.

Tract: An area, parcel, site, piece of land, or property that is the subject of a development application.
Trailer sign: A sign mounted on a trailer chassis with or without wheels and used as an on-premise sign.

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

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

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

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

Wastewater: Water carrying wastes from homes, businesses, and industries that is a mixture of water and dissolved or suspended solids, or excess irrigation water that is runoff to adjacent land.

Watercourse: A channel in which a flow of water occurs either continuously or intermittently in a definite direction. The term applies to either natural or artificially constructed channels.

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

1.) **Yard, Front:** A yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.

2.) **Yard, Rear:** A yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building.

3.) **Yard, Side:** An open space extending from the front yard to the rear yard between a building or structure and the nearest side lot line unoccupied and unobstructed from the ground upward.

Zero Discharge Land Application System: A method of land-applying treated effluent from an approved wastewater treatment plant, without discharge to a stream.

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

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

Zoning map: The map or maps, which are part of the Zoning Resolution, and delineate the boundaries of the zoning districts. This map or maps may be in both hard copy and computerized form.

Zoning Permit: A document issued by the zoning inspector authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

ARTICLE 5 Districts and Boundaries

Section 5.01 ZONING DISTRICT

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

Symbol	Name
A-1	Agricultural District
FR-1	Farm Residential District
PRD	Planned Residential District
PERRC	Planned Elderly or Retirement Residential Community District
PRCD	Planned Recreational District
PIND	Planned Institutional District
PCD	Planned Commercial and Office District
PID	Planned Industrial District
FPRD	Floodplain Regulatory District
PMUD	Planned Mixed Use District
36/37 PMUD	36/37 Planned Mixed Use District

Section 5.02 DISTRICT BOUNDARIES

The zoning districts and their boundaries are shown on the Official Zoning District Map of Berkshire Township. The Official Zoning District Map, as legally amended from time to time by Resolution of the Berkshire Township Trustees, shall be identified by the signature of the Chairperson of the Board of Trustees, as attested by the Township Clerk. The map, together with all explanatory data and changes is hereby incorporated into and made part of this Resolution. After any district change becomes effective, the Zoning Inspector shall cause the Official Zoning District Map to be updated to reflect the change. Prior to the change, a copy of the Official Zoning District Map shall be made and shall be dated and permanently filed and remain in custody of the Zoning Inspector. The updated Official Zoning District Map shall note the effective date of its revision and shall be signed by the Chairperson of the Board of Township Trustees and attested by the Township Clerk. The Official Zoning District Map shall be maintained by the Zoning Inspector at the Township Hall.

Section 5.03 NEW TERRITORY

All territory which may become a part of Berkshire Township, Delaware County, Ohio, by any method after the effective date of this Resolution (December 12, 2003) shall be classified automatically as lying in and being in an Agricultural District (A-1).

Section 5.04 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

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

B.) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

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

D.) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad lines.

E.) Where the boundary of a district follows a stream or other body of water, the centerline of the body of water shall be deemed to be the boundary of the zoning district unless otherwise indicated.

F.) Where the boundary of a district follows a metes and bounds description approved as a part of a rezoning or annexation of any territory, said metes and bounds description shall have control over all of the foregoing.

G.) Questions concerning the exact location of district boundary lines shall be determined by the Zoning Inspector, subject to the owners' right of appeal to the Board of Zoning Appeals as provided herein.

Section 5.05 THE NATURE OF THE ZONING DISTRICTS

The general nature and intent of application for each of the Zoning Districts is set forth in the following statements.

Section 5.051 AGRICULTURAL DISTRICT - A-1 (Article 7)

The Agricultural District is for agricultural and undeveloped land in the township where the conservation of farmland and natural resources is important, the residents wish to retain a farm atmosphere with very large lots, or where urban use of the land cannot be achieved because of the lack of urban services, most importantly centralized sanitary sewer. The principal permitted uses are agriculture and farm dwellings, and large residential lots. The maximum density is one dwelling unit per 5 acres.

The intent of these Agricultural District Regulations is to protect farmland, lands in current agricultural use valuation, prime agricultural soils, and open land from the intrusion and premature development of urban uses not performing a function necessary to the agricultural use of the land or meeting the social, cultural or economic growth needs of the township. Because land in the Agricultural District is the most subject to being placed in another Zoning District as growth of the township occurs, such changes should be made with due concern to the protection of established uses.

Section 5.052 FARM RESIDENTIAL DISTRICT - FR-1 (Article 8)

The Farm Residence District is a low-density rural residential zoning district primarily intended for areas of the township without sanitary sewer service where land is to be subdivided into large residential lots. The minimum lot size is 1.95 acres when land is not served by centralized sewer and on-site sewage disposal systems are to be utilized. In those cases where centralized sewer service is available, minimum lot size is one acre.

THE PLANNED DISTRICTS

The Planned Districts are established under Ohio Revised Code 519.021 (A) to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting greater efficiency in providing public and utility services and encouraging innovation in the planning building of all types of development. Land to be included in Planned Districts is intended to preserve unique natural features of the landscape or man-made structures using cluster or free form designs which would better achieve this goal than would standard zoning. Such designs should be developed in recognition of the existing and potential development character of the vicinity to assure provision of adequate public utilities, streets, community facilities, and compatible land uses. Useable public open space and use of effective landscape buffers are the centerpiece of the plan, yielded in return for the exemption from conventional zoning.

Section 5.053 PLANNED ELDERLY OR RETIREMENT RESIDENTIAL COMMUNITY DISTRICT - PERRC (Article 9)

The Planned Elderly or Retirement Residential District is a Planned Unit Development district adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for a range of residential opportunities specifically planned and developed for persons 55 years of age or older in order to afford these persons the benefits of independent living, assisted living, and nursing home care at one integrated location within a campus setting. Centralized water and sanitary sewer are required.

Section 5.054 PLANNED RESIDENTIAL DISTRICT - PRD (Article 11)

The Planned Residential District (PRD - Article 11) is a Planned Unit Development district adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide flexibility in the arrangement, design, lot size and setbacks of primarily single family dwellings in designated suburban areas based on a unified development plan. PRDs are intended for those areas of the township with centralized water and sewer that are also recommended for densities of up to 1.25 dwelling units per acre on the adopted Comprehensive Plan. Natural features such as topography, woodlands, wetlands, bodies of water, floodplains and drainage ways should be maintained in a natural state as much as possible to maintain a rural character. Open space is a major component of such a unified development plan.

The objectives of the Planned Residential Development District include:

A.) To encourage creativity in residential neighborhood design through a controlled process of review and approval of particular site development plans that preserve open space, protect ravines, woodlands, wetlands and floodplains;

B.) To encourage development that makes more efficient use of land, and requires shorter networks of streets and utilities;

C.) To integrate and provide useable and accessible open space and recreation in close proximity to residential dwelling units;

D.) To use permanent open space as the centerpiece of residential developments.

E.) To permit suburban densities in areas that have access to centralized water and sanitary sewer, while protecting natural resources via clustering of houses;

F.) To provide a variety of housing options.

Section 5.055 PLANNED RECREATIONAL DISTRICT - PRCD (Article 13)

The Planned Recreational district is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for the development of large-scale recreational parks, public and private. Active recreational uses such as baseball fields, soccer fields, football fields, ice skating and hockey arenas, golf courses, swim clubs, tennis clubs and similar recreation oriented uses and their attendant parking and customer refreshments are to be planned in an orderly and unified manner, with control over signage, noise, lighting and traffic to minimize the impact on adjoining properties. Open air or outdoor auditoriums, arenas and stadiums that hold more than 300 seats for spectator viewing of sporting events or entertainment are not within the purview of this district.

Section 5.056 PLANNED INSTITUTIONAL DISTRICT - PIND (Article 14)

The Planned Institutional District is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for office and institutional land uses in outlying suburban areas that may locate independently or in small clusters and that desire buildings or groups of buildings surrounded by landscaped open areas adjacent to but separated from the concentrations of people and traffic of retail, wholesale and industrial areas in the community. The space, location and aesthetic needs of these uses make a suburban location near residential neighborhoods or rural countryside desirable. The proposed developments are to be designed and constructed in a unified manner in conformance with an approved development plan.

Section 5.057 PLANNED COMMERCIAL AND OFFICE DISTRICT - PCD (Article 15)

The Planned Commercial and Office District is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.21 (A) and is intended to provide for unified commercial areas usually under single ownership and control, or clustered together in planned out lots, where the use and layout are known and approved with flexibility per an approved development plan. These centers have all necessary utility services, and roads comprehensively provided. Buildings within this District are to be architecturally attractive and compatible. The tract is to be well landscaped. Parking and loading areas are to be

screened and pedestrian-vehicular separation achieved. The relationship among individual establishments is to be harmonious, and inasmuch as the principal tenant and the size of the center have much to do with its physical character, relationship to the community, and economic success, these factors should be of concern in considering a Planned Commercial and Office District application. It is intended that the Planned Commercial and Office and the area surrounding it be protected from the intrusion of dissimilar land uses, except those clearly complimentary, supplementary, and physically compatible with the development of the center and the vicinity.

Section 5.058 PLANNED INDUSTRIAL DISTRICT - PID (Article 18)

The Planned Industrial District is a Planned Unit Development District adopted pursuant to Ohio Revised Code 519.021 (A) and is intended to provide for industrial establishments which seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. Because these industrial areas are generally stable and offer unified internal arrangement and development, potentially detrimental effects can be better controlled. For this reason, the Planned Industrial District is allowed greater development flexibility in return for the predetermined knowledge of the use and layout of future development. Buildings within this district are to be architecturally attractive and well landscaped. Plant parking, storage, loading and processing operations are to be screened. Those uses that may pose a threat to the health safety and morals of the township are regulated or prohibited.

THE SPECIAL DISTRICTS

The Special Zoning Districts are intended to provide for land of unique character or developmental requirements not adequately provided in the Standard Districts.

Section 5.059 FLOODPLAIN REGULATORY DISTRICT - FPRD (Article 19)

The Floodplain Regulatory District is provided to regulate flood-prone land along certain rivers, creeks, streams and other natural water courses as identified by the Federal Emergency Management Agency (FEMA) so as to make Berkshire Township landowners eligible for flood insurance under the National Flood Insurance Program. To avoid personal loss and expenditure of public funds for the control of such flooding, it is the purpose of these regulations to prevent obstruction of the water channel and to protect structures and property from flood damage.

THE OVERLAY DISTRICTS

The Overlay Districts are intended to provide flexibility of design in order to promote economic development and accommodate environmentally sensitive and efficient use of the land.

Section 5.06 Planned Mixed Use District

The Planned Mixed Use District is created pursuant to Section 519.021(C) of the Ohio Revised Code to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office and residential development.

Section 5.07 36/37 Planned Mixed Use District

The 36/37 Planned Mixed Use District is created pursuant to Section 519.021(C) of the Ohio Revised Code to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, mixed use and residential development.

ARTICLE 6 Application of Resolution

Section 6.01 CONFORMANCE REQUIRED

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

Section 6.02 AGRICULTURE

A.) Subject to the provisions of Paragraph B below, with respect to lots greater than five (5) acres of land, nothing contained in this Resolution shall prohibit the use of any such land for agricultural purposes, or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, and no Zoning Certificate shall be required for any such use, building or structure.

B.) Agriculture shall be regulated as follows in any platted subdivision approved under Ohio Revised Code sections 711.05, 711.09, or 711.10, or in any area consisting of fifteen or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road:

1.) Agriculture is prohibited on lots of one acre or less.

2.) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one (1) acre but not greater than five (5) acres must conform to the setbacks, size and height requirements for the underlying zoning district. Subject to Subparagraph B 3) below, agriculture is permitted on lots greater than one (1) acre but not greater than five (5) acres.

3.) Dairying and animal and poultry husbandry are permitted on lots greater than one (1) acre but not greater than five (5) acres until thirty-five (35%) percent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under section 4503.06 of the Ohio Revised Code. After thirty-five (35%) percent of the lots are so developed, ongoing dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Ohio Revised Code and Article 24 of this Resolution. Dairying, poultry and animal husbandry shall be prohibited on all lots within the subdivision after thirty five percent of the lots are so developed.

C.) Farm markets that derive at least fifty percent of their gross income from produce raised on farms owned or operated by the market owner in a normal crop year are permitted in any zone, subject to the following regulations.

1.) Buildings less than 144 square feet must be placed at least 15 feet outside the road right of way so as to safely allow for adequate customer off street parking. Seasonal farm markets may use grassed areas for parking. Permanent farm markets must have paved or graveled parking.

2.) For buildings larger than 144 square feet, off street parking must be provided at the ratio of one space for each 400 square feet of farm market. Seasonal parking may be grassed areas, but permanent parking must be graveled or paved and provide ingress and egress in accordance with the recommendation of the Delaware County Engineer. Setbacks are the same as for any structure in the underlying zone.

Section 6.03 TELECOMMUNICATIONS TOWERS

Public utilities or other functionally equivalent providers may site a telecommunications tower as a Conditional Use in zones FR-1, PRD, PERRC, or Planned Conservation Subdivision District provided that the following conditions are met (in addition to any other applicable criteria):

I.) Application Requirements.

1.) A preliminary development plan must be submitted at the time the application for the conditional use permit is submitted. The preliminary development plan shall contain the following:

a.) The location of all the applicant's existing facilities both within the Township and within one (1) mile of the proposed site.

b.) The general location of planned future facilities, if known.

c.) For each location shown on the plan, there shall be listed:

i.) the type and size of tower at each location;
ii.) the type of equipment located or proposed on each tower;
iii.) the space available on the tower for additional equipment; and
iv.) a site plan showing the parcel on which any existing or proposed tower, antenna or equipment is located.

d.) A scaled and dimensioned site plan for the facility that is being applied for shall also be submitted containing:

i.) the location, type and size of existing and proposed towers, antennas and equipment located or to be located at the site;
ii.) the location of existing and proposed buildings and structures, access drives, circulation and parking areas;
iii.) detailed drawings of the screening plan and related design standards;
iv.) on-site land uses, structures and zoning district, and adjacent land uses, structures and zoning districts;
v.) setbacks from property lines and dwellings within 600 feet of tower;
vi.) legal description of the lot on which the tower is to be sited; and
vii.) any other information necessary to assess compliance with this section.

e.) A written certification(s) from a qualified engineer(s) certifying the following:

i.) that the tower's design is structurally sound and in compliance with all applicable federal, state and local building laws including, without limitation, the Ohio Basic Building Code and the National Electric Code;
ii.) that the equipment placed on the tower and at the site complies with all current FCC regulations for non-ionizing electromagnetic radiation (NIER); and
iii.) that the tower will to the extent possible, accommodate co-location of additional wireless communication antennas for future use, with a statement as to the number of antennas capable of being accommodated and the ultimate height needed for the stated co-location capacity; or, alternatively, an explanation as to the reasons why the tower will not be constructed to accommodate co-location.

II.) General Requirements for all Telecommunications Towers.

1.) The applicant or tower provider shall demonstrate that the telecommunications tower must be located where it is proposed in order to service the applicant's service area and that there are no alternative sites reasonably available in any area. This shall include an explanation and accompanying documentation as to why a tower on this proposed site is technically necessary and showing the unavailability of useable sites located in Commercial or Industrial Zoning Districts; a description of the suitability of the use of existing towers, other tall structures or technology not requiring the use of the proposed new tower; and a demonstration that a technically suitable location is not reasonably available on an existing tower or tall structure. If another tower or tall structure is technically suitable, the applicant must show that a reasonable request to co-locate was made and that such request was rejected. "Tall structures" shall include smoke stacks, water towers, utility buildings and structures over 48 feet in height, power transmission towers, existing antenna support structures or other telecommunications towers.

2.) All towers shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate such towers. If the applicable standards and regulations are changed, then the owners/operators of the towers shall, if required by the applicable governmental authority, bring such towers into compliance with the revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the applicable governmental authority.

3.) The owner/operator shall remove a tower within one hundred eighty (180) days after the tower's use is discontinued. The owner/operator shall annually file during January of each year a declaration with the Zoning Inspector that certifies that the radio frequency transmission and/or reception equipment attached to the tower is in use and is operational.

4.) The owner/operator shall provide documentation that a notice has been provided in accordance with Section 519.211 of the Ohio Revised Code. If a timely notice from any person entitled to object under Ohio Revised Code Section 519.211(B) is made, then the applicant shall comply with all requirements set forth in Section 6.03. If a timely objection is not so made, then the telecommunications tower shall be deemed exempt under 519.211(A) of the Ohio Revised Code. The provisions of this Resolution shall be interpreted and applied in a manner consistent with 519.211 of the Ohio Revised Code and any applicable federal law, rule or regulation.

III.) Development Standards for all Telecommunications Towers.

1.) No telecommunications tower shall be permitted to be located in any platted subdivision approved under Sections 711.05, 711.09 or 711.10 of the Ohio Revised Code, or in any area consisting of fifteen (15) or more lots approved under Section 711.131 of the Ohio Revised Code that are contiguous to one another or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road, when at least thirty-five percent (35%) of the lots within such subdivision or area are developed with at least one (1) dwelling unit.

2.) The maximum height of a tower proposed for one (1) antenna facility for use by a single telecommunications provider shall be 150 feet. The maximum height of a tower proposed for multiple antenna facilities for shared use by multiple telecommunications providers shall be as follows:

a.) Towers proposed for and designed to support the co-location of a total of two antenna facilities – 165 feet;

b.) Towers proposed for and designed to support the co-location of a total of three antenna facilities – 180 feet; and

c.) Towers proposed for and designed to support the co-location of four or more antenna facilities – 195 feet.

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

3.) The tower shall not be placed closer than 500 feet from any existing residential dwelling unit located on a lot contiguous to or directly across the street from the lot on which the tower is proposed to be constructed.

4.) Reasonable and safe access and circulation shall be provided to the tower. The location and design of the access drive and circulation areas shall be subject to review and comment by the Fire Chief (or the Chief's designee) of the fire department providing primary fire service to the township.

5.) The tower shall be located no closer to a street right-of-way than permitted in Section 21.09 herein.

6.) A tower shall be located no closer to any lot line than the distance equal to the height of the proposed tower. Any stabilization structures or guide wires shall be located no closer to any lot line than 50 feet.

7.) Security fencing shall be provided to prevent uncontrolled access to the tower site.

8.) The lot on which the tower is to be located shall meet the minimum lot area and frontage requirements of the district in which it is located.

9.) The tower shall be screened by a six (6) foot high fence or barrier and, outside of and along the fence or barrier, a continuous evergreen hedge, trees or similar landscape materials of a size, type, area and design deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the area on which the tower is to be located is kept free of weeds and trash. The storage of vehicles is prohibited and any equipment must be contained inside the screened area.

10.) The tower and related screening shall, to the extent practicable, be designed to be aesthetically and architecturally compatible with the surrounding environment. The tower shall not contain, or be illuminated by, artificial lights, beacons or strobes, unless otherwise required by the Federal Aviation Administrations (FAA) or the Federal Communications Commission (FCC). Any required illumination shall be fully disclosed on the site plan. All surfaces shall be maintained in good condition, absent of flaking or peeling paint, and rust. Unless otherwise approved by the Board of Zoning Appeals, the tower shall be of a non-corrosive monopole design.

11.) No advertising is permitted anywhere on the telecommunications tower facility with the exception of one identification sign not to exceed one square foot in size.

12.) The tower shall be fully automated and shall be visited only for periodic and necessary maintenance.

13.) Where the tower is located on a property which is not owned by the tower operator, the applicant shall present documentation that the owner of the property has approved the application.

14.) The applicant shall provide a signed statement indicating that the applicant agrees to allow for the potential co-location of other antenna facilities to the extent possible, until said tower has reached full antenna capacity. Antenna towers are not permitted to be built to a height that exceeds the applicant's service need as substantiated by the testimony of the applicant's engineer. If the tower must be

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

15.) A tower may be attached to a residential or nonresidential building or structure that is a permitted use and structure in the district, provided that the tower's height does not exceed twenty (20) feet above the existing building or structure to which the tower is attached; and further provided that all requirements except those found in Items III 2, 7 and 9 are met. All roof-mounted towers shall be screened from view to the extent possible. The outside storage of vehicles or equipment, if not located inside the building or structure on which the tower is located, shall be screened by a minimum six (6) foot high solid fence or barrier and, outside of and along the fence or barrier, a continuous evergreen hedge, trees or similar landscape materials of a size, type and design deemed appropriate by the Board of Zoning Appeals. The screening shall be maintained in good condition. Any solid fence or barrier shall contain no advertising, but may contain one small identification sign not to exceed one square foot in size. The applicant is responsible for ensuring that the tower area is kept free of weeds and trash.

16.) If the applicant proposes to construct a separate equipment shelter on the site, the equipment shelter shall be shown on the site plan, be designed to be aesthetically and architecturally compatible with the surrounding environment, be located completely within the fenced area of the site, and be in compliance with the accessory building regulations of the district in which it is to be located.

IV.) Exception to Conditional Use Permit.

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

1.) Should the owner/operator of a telecommunications tower desire to site a tower on property that falls under the direct ownership and with the consent of the Berkshire Township Board of Trustees, then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: I 1 e (i) and (ii); II 2, 3 and 4; III 10, 11, 13 and 14.

2.) Should a telecommunications carrier desire to co-locate a telecommunications antenna on another existing telecommunications tower or on another "tall structure", then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: I 1 e (i) and (ii); II 2, 3 and 4; III 4, 5, 7, 9, 10, 11, 12 and 13. (Telecommunications antenna refers to any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground-wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal communication services.)

3.) Should the owner/operator of a telecommunications tower or telecommunications antenna desire to site such a tower or antenna using a no-impact design (specifically meaning that the tower, antenna and all related equipment will be completely invisible to the casual observer by incorporating the

tower, antenna and related equipment within an existing structure such as within a light post or inside a steeple), then a Zoning Permit and Certificate of Compliance may be obtained in lieu of a Conditional Use Permit, provided that the requirements found in the following provisions are met: I 1 e (i) and (ii); II 2, 3 and 4; III 4, 10, 11, 12 and 13.

Section 6.04 BUILDINGS UNDER CONSTRUCTION AND NEW CONSTRUCTION

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

Section 6.05 ISSUED ZONING CERTIFICATES

Any new proposed construction for which a zoning certificate is issued shall have been started within six (6) months of issuance of said permit, and the ground story framework, including structural parts of a second floor, shall have been completed within one (1) year after the issuance of the zoning certificate; provided, however, that any project or building originally contemplated to be constructed in phases or for a period longer than one (1) year may be completed in phases or during such extended time if in accordance with a timetable placed on file with the Township and with the original request for the certificate. In no case shall the timetable for phased construction be more than two (2) years.

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

Section 6.06 SALE OR USE OF ALCOHOLIC BEVERAGES

The sale or use of alcoholic beverages shall not be prohibited by zoning in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted. (Section 519.211, Ohio Revised Code)

Section 6.07 OUTDOOR ADVERTISING

Outdoor advertising shall be classified as a business use and be permitted (and regulated by this ordinance) in all districts zoned for industry, business, trade or lands used for agricultural purposes. (Ohio Revised Code 519.20)

ARTICLE 7 Agricultural District (A-1)

Section 7.01 PURPOSE

See Section 5.051

Section 7.02 PERMITTED USES

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

A.) Single Family detached dwelling (limited to one dwelling per parcel, tract, or lot), where each lot conforms to the minimum standards of this district.

B.) Accessory buildings and accessory uses including private garages and one apartment for full-time domestic help employed on the premises or full-time farm labor.

C.) Projects specifically designed for watershed protection, conservation of water or soils, or for flood control.

D.) Agriculture, as may be permitted under Section 6.02.

E.) Farm markets, as may be permitted under Section 6.02.

F.) Facilities for the storage, sorting, preliminary processing, or sale of agriculture products shall be permitted if such products are used in the production of other farm products, and if said storage, processing, sorting or sales is carried on incident to other farming operations by the owner/proprietor, in association with a permitted agricultural use.

G.) Temporary structures such as mobile or manufactured homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

H.) Limited Home Occupation as provided in Section 21.11.

I.) Schools and Parks

1.) Public or private school offering general educational courses and having no rooms regularly used for housing or sleeping of students.

2.) Parks, playgrounds, and play fields open to the public without fee.

J.) Religious Land Uses- Church, place of worship, place of religious assembly, religious institution, and parsonage provided:

1.) Parking, landscaping, lighting and signage conform to Article 21.

2.) There is adequate area for water supply and wastewater disposal if located on site.

3.) All aspects of public health, safety and welfare are provided for (meets building code, life safety code, electrical code, etc.)

K.) Adult Family Homes as provided for and defined in ORC Chapter 3722.

L.) Child Day Care- Child day care provided in-home for six or fewer children, provided the day care is accessory to the use of the dwelling as a residence, and further provided that such child day care qualifies as a "Type B family day care home" as defined in Ohio Revised Codes Section 5104.01.

M.) Common Access Driveway Subdivision.

Section 7.03 CONDITIONAL USES

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditional use shall be considered and declared abandoned if said use or uses are not commenced within one (1) year or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale, or conveyance of the land or structure wherein the same is located or upon which the same is granted shall be void and the subsequent owner(s) or his agent shall be required to reapply for a continuation and or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with the conditions imposed. No conditional use shall be implemented until a compliance permit is issued by the Zoning Inspector.

A.) Expanded Home Occupations- as provided in Section 21.12.

B.) Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.

C.) Farm Labor Housing- One occupied manufactured home to be occupied by full-time farm labor only and provided that said manufactured home is installed in compliance with rules and regulations established by the Delaware County Health Department. Not more than one manufactured home shall be located on any farm within this township. Permanent farm labor housing may be provided on the same premises as the resident farmer, provided that all local building codes are complied with, all utilities are provided, and perimeter setback of 25' from all property lines is met.

D.) Veterinary Service subject to the following conditions:

1.) No building or structure used for the purpose of an animal shelter shall be located closer than four hundred (400) feet from the lot line of any residence, church, school or any institution of human care.

2.) Full compliance with Delaware County Health Department regulations.

3.) Suitable fencing and/or screening shall be provided as approved by the Berkshire Township Board of Zoning Appeals.

4.) Such use can be safely conducted in a manner designed not to cause any interference with the right of quiet enjoyment by the residents of adjoining properties.

5.) Minimum lot size is five (5) acres.

6.) Outside runs are not within 400 feet of a residence.

E.) Cemetery, provided:

1.) Internment shall not be within 300' of a dwelling house, unless the owner of such dwelling house gives his consent, or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in ORC 1721.03.

2.) A mausoleum shall not be within three hundred feet of any property line.

3.) A Crematory or other structure shall not be within one thousand (1000) feet of any property line.

4.) Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with ORC 1721.09.

F.) Associated Sales - Associated Sales as accessory to and in association with an agricultural permitted use. Such associated sales to cease upon cessation of the agricultural activity. This shall include, but is not limited to, garden supplies with a nursery or greenhouse, milk products with a dairy, or imported produce with a permitted produce stand.

G.) Storage and Processing of Agricultural Products - Grain elevator, mill or other facilities for the storage, sorting or other preliminary processing of agricultural products including other than those produced on the premises. Storage facilities shall not be within fifty (50) feet of side or rear lot line, except when along a railroad right-of-way.

H.) Granny flat, provided it meets the following conditions:

1.) Property owner must live on site, and the granny flat must be subservient to the principal use of the property as a dwelling.

2.) Maximum size: 816 square feet.

3.) Must maintain a single-family residential appearance that blends with the principal structure and the neighborhood. An architectural rendering and floor plan must be provided to and approved by the Board of Zoning Appeals. Said plans shall include a landscape plan.

4.) Public water and sewer must be provided, or the lot must be adequately sized for, and systems approved for water supply and wastewater disposal to serve both the principal residence and the granny flat.

5.) Off street parking on a hard all-weather surface must be provided, 2 spaces for the principal residence and one space for the granny flat, 9' x 18' per space. No one space shall block another. Garages count as parking spaces.

6.) Maximum Height of the accessory structure is 24' at the peak. A granny flat may be located on the first or second floor.

7.) Maximum lot coverage by all residential structures - 25%.

8.) All structures must meet the current edition of the CABO One and Two family building and the Delaware County Plumbing Code.

I.) Bed and Breakfast Inns- provided the following conditions are met.

1.) No more than three bedrooms are available for overnight lodging.

2.) Owner or manager must reside in the residence.

3.) Adequate off street parking is provided.

4.) Adequate potable water and sewage disposal must be provided.

5.) Signs must comply with the Home Occupation sign requirements.

6.) Maximum length of stay of lodgers-is two weeks

Section 7.04 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this article of the zoning resolution shall be prohibited.

B.) Outdoor storage of inoperable, or unlicensed motor vehicles for a period exceeding seven (7) days is prohibited unless such vehicles are stored on the premises within a building so as not to be visible from any adjoining property or public road.

C.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident owner for more than fourteen (14) days in any six-month period.

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

E.) Except as specifically permitted by Section 7.02(G) or Section 7.04(C) no mobile or manufactured home shall be placed or occupied in this district.

Section 7.05 DEVELOPMENT STANDARDS

All lands and uses within the agricultural District shall be developed in strict compliance with the standards hereinafter established:

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

B.) Lot Frontage: Any of the following:

1.) Three hundred (300) feet of contiguous frontage on an improved public street or approved private street.

2.) Three hundred (300) feet of frontage on an approved Common Access Driveway; Sixty (60) feet of frontage (flag lot) on the terminus (last lot) of a CAD.

3.) Sixty (60) feet of frontage (flag lot) on an improved public street. Two side-by-side flag lots may be divided provided they use a Shared Access Point (driveway) as permitted by the Delaware County Regional Planning Commission. No more than two contiguous flag lots may be so created.

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

C.) Building Height Limits: No building in this district shall exceed thirty-five (35) feet in height measured from the average, approved and adjacent finished grade to the peak of the roof or highest point of the structure. Barns, silos, grain handling conveyors, church spires, domes, flag poles, elevator shafts, and windmills are exempted from any height regulation and may be erected to any safe height. No aerial, antenna, or tower shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract, with the exception of telecommunications towers as regulated in Section 6.04.

D.) Building Dimensions (Floor Space Requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand (1,000) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than twelve (1,200) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling, shall have living area of not less than twelve hundred and fifty (1,250) square feet of area, exclusive of basements, porches, and garages.

E.) Building Setback: No building or use shall be located closer to the right-of-way line or center line of the adjacent public or private road than permitted in Section 21.09.

F.) Side Yard Setback: Except as varied by the Board of Zoning Appeals under Section 28.06 herein, no building or structure shall be located closer than twenty-five (25) feet to any side lot line.

G.) Rear Yard Requirement: No principal dwelling shall be located closer than forty (40) feet to the rear line of any lot, and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.

H.) Maximum Lot Coverage: On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.

I.) Parking: Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 21 of this Resolution.

J.) Signs: Except as provided under the provisions of this article for home occupations or as controlled by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to the Conditional Uses, no signs shall be permitted in this district except for “For Sale” or “For Rent or Lease” signs advertising the tract on which said sign is located. Such sign shall not exceed six (6) square feet of advertising area on each side.

The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign exceeding forty-eight (48) square feet of advertising area in area per side, advertising said tract for sale.

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ARTICLE 8 Farm Residential District (FR-1)

Section 8.01 PURPOSE

See Section 5.052

Section 8.02 PERMITTED USES

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

A.) Single family dwellings (Limited to one dwelling per parcel, tract, or lot) where each lot conforms to the minimum standards of this district.

B.) Accessory buildings and accessory uses including private garages and one apartment for full time domestic or farm help employed on the premises.

C.) Projects specifically designed for watershed protection, conservation of soil or water or for flood control.

D.) Temporary structures such as mobile or manufactured homes for temporary residential use and temporary structures of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The use of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit.

E.) Limited Home Occupation as provided in Section 21.11.

F.) Schools and Parks

1.) Public or private school offering general educational courses and having no rooms regularly used for housing or sleeping of students.

2.) Parks, playgrounds, and play fields open to the public without fee.

G.) Religious Land Uses- Church, place of worship, place of religious assembly, religious institution, and parsonage provided:

1.) There is adequate lot area to accommodate off street parking for all patrons.

2.) There is adequate area for water supply and wastewater disposal if located on site.

3.) All aspects of public health, safety and welfare are provided for (meets building code, life safety code, electrical code, etc,)

I.) Adult Family Homes as provided for and defined in ORC Chapter 3722.

J.) Child Day Care- Child day care provided in-home for six or fewer children, provided the day care is accessory to the use of the dwelling as a residence, and further provided that such day care qualifies as a “Type B” family day care home” as defined in Ohio Revised Code Section 5104.01.

K.) Common Access Driveway subdivision

Section 8.03 CONDITIONAL USES

Within this zoning district the following uses may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of the Board of Zoning Appeals approval or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

A.) Expanded Home Occupations per Section 21.12.

B.) Model Homes, the same being defined as residential-type structures used as sales offices by builders/ developer and to display the builder/developer's product. The same may be furnished within, since its purpose is to display to prospective buyer the builder/developer's features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor covering, etc.) in the environment of a completed home. Model homes may be staffed by the builder/developer's sales force. Model homes shall be subject to the following restrictions:

1.) Lighting: All exterior lighting must be downlighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting shall be extinguished at the closing time of the model home.

2.) Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking places.

3.) Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home for use by the public.

4.) Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent of the lots therein.

C.) Private landing fields for aircraft for use by the owner of the property and his guests provided that no commercial activities take place on said premises.

D.) Veterinary Service as provided in Section 7.03.D.

E.) Private School or college, with students in residence as provided:

1.) It occupies a lot of not less than one (1) acre per twenty-five (25) day students;

2.) Adequate land area exists to meet required setbacks, water supply and sewage disposal, and off street parking;

3.) Adequate area exists for indoor and outdoor recreation.

4.) Additional setbacks or buffering as may be necessary to not disrupt the neighboring residential uses.

F.) Cemetery, as provided in Section 7.03.E.

G.) Associated Sales – As provided in Section 7.03.F.

H.) Granny flat, as provided in Section 7.03.H.

I.) Bed and Breakfast Inns-as provided in 7.03.I.

J.) Telecommunications Towers- provided that all requirements of Section 6.03 are met.

Section 8.04 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.

B.) Outdoor storage of inoperable or unlicensed motor vehicles for a period exceeding seven (7) days is prohibited. Said vehicles stored on the premises shall be enclosed within a building, or a limit of two vehicles may be stored within area blind fenced with a six-foot high fence, so as not to be visible from any adjoining property or public road.

C.) No motor home, trailer or camper of any type may be occupied by a guest of the resident/owner for more than fourteen (14) days in a six-month period. No more than one (1) motor home, trailer, or camper may be occupied for such a period on any lot, parcel, or farm.

D.) Except for permanently sited manufactured homes no manufactured or mobile home shall be placed or occupied in the FR-1 district.

E.) No trash, debris, refuse or discarded materials which creates an eyesore, hazard or nuisance to the neighborhood or general public, shall be permitted to accumulate or be stored on any lot, parcel, or portion thereof.

Section 8.05 DEVELOPMENT STANDARDS

All lands and uses within the Farm Residential District shall be developed in strict compliance with standards hereinafter established:

A.) Minimum Lot Area: 1.95 acres (85,000 square feet) when not served by centralized sewer and when on-site sewage disposal systems are to be utilized. One acre (43,560 square feet) exclusive of road right of way when served by centralized water and sewer.

B.) Lot Frontage: All lots must have the following continuous frontage on a dedicated, improved public or private street, or an approved Common Access Driveway.

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

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

building line of the principal residence located on the premise. If an irregularly shaped lot (e.g. pie shaped) located on a curve or cul-de-sac widens to the minimum lot width within seventy-five (75) feet of the nearest right-of-way line of adjoining roadway, the requirement for extra setback is required to conform with setback lines for principal structures on adjoining lots.

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

1.) Building Dimensions (Floor Space Requirements): Each single story dwelling hereafter erected in this district shall have a ground floor living area, exclusive of basements, open porches, and garages, of not less than one thousand (1,000) square feet. Each two story dwelling shall have a ground floor living area of not less than eight hundred (800) square feet with a total living area of not less than twelve (1,200) square feet for the entire structure, exclusive of basements, porches, or garages. Each tri-level dwelling, shall have living area of not less than twelve hundred and fifty (1,250) square feet of area, exclusive of basements, porches, and garages.

2.) Building Setback: No building or use shall be located closer to the centerline of the adjacent public or private road than permitted in Section 21.09. If an irregularly shaped lot (e.g. pie shaped) located on a curve or cul-de-sac widens to the minimum lot width within seventy-five (75) feet of the nearest right -of-way line of adjoining roadway, the setback is required to conform with setback lines for principal structures on adjoining lots.

3.) Side Yard Setback: No building or structures shall be located closer than twenty (20) feet to any side lot line.

4.) Rear Yard Requirements: No principal dwelling shall be located closer than forty (40) feet to the rear line of any lot, and no accessory building shall be located closer than fifteen (15) feet to said rear lot line.

5.) Maximum Lot Coverage: On no lot or parcel in this zoning district shall buildings be constructed which cover more than twenty-five (25%) percent of the lot area.

6.) Parking: Off street parking shall be provided at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the standards set forth in Article 21 of this Resolution.

7.) Signs: Except as provided under the provisions of this article for home occupations or as controlled by Article 22 of this Resolution and except as permitted by the Board of Zoning Appeals incident to Conditional Uses, no signs shall be permitted in this district except for "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed four (4) square feet of advertising area on each side. The owner or developer of a subdivision or similar area may, upon the conditions and for the time period established by the Board of Zoning Appeals, erect one sign not exceeding forty-eight (48) square feet of advertising area per side advertising said subdivision, development or tract for sale.

8.) Exterior Lighting: All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.

9.) Landscaping: All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped. Such landscape plans shall meet the requirements of Article 23 of this Resolution.

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ARTICLE 9 Planned Elderly or Retirement Residential Community District (PERRC)

Section 9.01 PURPOSE

See Section 5.053

Section 9.02 GENERAL CRITERIA FOR THE PERRC DISTRICT

A.) The independent or assisted living housing accommodations to be provided shall be developed, operated and maintained in compliance with the following criteria:

1.) Intended and operated for occupancy by persons 55 years of age or older;

2.) At least 80% of the occupied units are occupied by at least one person who is 55 years of age or older;

3.) Policies are adopted, published and adhered to concerning these occupancy requirements; and

4.) Verification procedures must be in place to verify the 80% occupancy requirement.

B.) Independent living facilities may only be incorporated with assisted living and/or nursing home care, with a state-approved license for either assisted living or nursing home.

C.) The ratio of independent living, assisted living and nursing home care shall be stated in the development plan.

The foregoing criteria shall be interpreted in a manner consistent with the Fair Housing Amendments Act of 1988, 102 Statute 1623, 42 U.S.C.A. 3607, as amended. The owner or operator of the housing accommodations shall be responsible for ensuring and maintaining compliance with all criteria.

Section 9.03 PERMITTED USES

NAICS # Use

N/A Single family attached or detached independent dwelling units, for occupancy by persons meeting the General Criteria listed in Section 9.02, when incorporated with assisted living and/or nursing home care, with a state approved license for either assisted living or nursing home care.

Such structures may be single family, multi family, detached, attached, or institutional structures for lease or rent.

62331 Community Care Facilities for the Elderly

623311 Continuing Care Retirement Communities

623312 Homes for the Elderly

813110 Religious Organizations

The foregoing permitted uses may be utilized within a PERRC, as set forth in the development plan and approved by the Township.

Section 9.04 ACCESSORY USES:

The following accessory uses may be permitted when incidental and subordinate to and in association with a principal permitted use within a PERRC, provided such accessory use is for the comfort and convenience of, and primarily to be used

by the residents, their staff and guests, and further provided that such accessory uses are specifically set forth in the development plan and approved as accessory uses by the Township:

NAICS # Use

722212 Cafeterias serving the community of persons older than 55

722213 Snack and Nonalcoholic Beverage Bars serving the community of persons older than 55

722310 Food Service Contractors serving the community of persons older than 55

814110 Private Households- independent living residents employing workers primarily concerned with the operation of the household such as cooks, maids, gardeners, caretakers and other maintenance workers.

624120 Services for the Elderly and Persons with Disabilities

N/A Signs to identify the community by name, address, and telephone number only – one at each entrance to the community

N/A Recreational areas for use only by the residents and their guests, and by employees of the community.

N/A Residences occupied by custodians or guards or resident care providers.

N/A Other accessory uses incidental and specifically related to the convenience and care of the community of persons over 55, as approved per the development plan.

N/A Temporary offices including mobile offices and storage for contractors, incidental to construction projects may be permitted. The permit shall not be valid for more than eighteen (18) months but may be renewed for six- month extensions if construction is substantially underway. Such uses shall be removed immediately upon completion of the construction project, or upon expiration of the Zoning Certificate, whichever occurs sooner.

N/A Parking and loading areas

Section 9.05 CONDITIONAL USES

Telecommunications towers as provided in Section 6.03.

Section 9.06 PROHIBITED USES

A.) Uses not specifically authorized by either the express terms of this article of the Zoning Resolution or as an approved divergence shall be prohibited.

B.) No land or building shall be occupied or used in any manner which creates or contributes to the existence of conditions which are dangerous, injurious, harmful, noxious or objectionable, or which otherwise adversely affect surrounding areas or adjoining premises. Specifically the occupation or use of any land or building shall be in violation of this Resolution if one or more of the following conditions is found to exist at any time:

1.) Junkyards

2.) Storage or accumulation of inoperable or unlicensed vehicles, equipment or machinery of any type, vehicle, equipment or machinery parts and other similar debris unless entirely enclosed within a permitted accessory building so as to not be visible from any adjoining property or road.

3.) Any type of trailer, boat, motor home, and equipment shall not be parked in front of the front building line on any parcel or lot within this district. If a dwelling is located on said parcel or lot, the building

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

4.) Any occupation of a mobile home or a camper by a guest of the resident or employee on the premises.

5.) The storage or accumulation of trash, debris, graffiti, unused property or discarded materials (including, without limitation, discarded household goods, discarded commercial products, discarded building materials, discarded industrial by-products, discarded brush and other vegetation and other similar materials) shall be a nuisance and an eyesore to the neighborhood and general public per se and shall be prohibited on any parcel or lot or portion thereof, or on any public or private street, or common access driveway (as defined by the Delaware County Subdivision Regulations). This excludes trash, garbage, refuse and debris that is completely enclosed within an appropriate container and placed at an assigned location not more than 24 hours before its regularly scheduled pick-up.

Section 9.07 INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 9.08 PERRC REQUIRED DESIGN FEATURES

The development plan shall incorporate the following standards:

1.) Access- Requires frontage on and direct access to, one or more dedicated and improved public roads. Ideally, three means of ingress/egress should be provided for more than 50 units of housing. Two means of egress may be provided for less than 50 units of housing. Provision for future connections to other public roads as required by the Township.

2.) Minimum tract size- 10 acres, or as approved per plan.

3.) Density

a.) Maximum ground coverage by buildings and parking areas (total impervious surfaces): 50% of net developable area.

b.) Permitted density- Maximum of 5 units per net developable acre, as defined herein, or as approved per plan.

4.) Maximum capacity:

a.) Independent living: Any two individuals, whether related or not, living together as a family unit, or as approved per plan.

b.) Assisted living: as approved per plan

c.) Nursing home: as approved per plan

5.) Minimum floor space requirements:

a.) Independent living- Each single-story dwelling in this district shall have a ground floor living area of not less than eleven hundred (1,100) square feet or as approved per plan. Any other dwelling constructed

in this district shall have a ground floor living area of not less than nine hundred (900) square feet or as approved per plan. All such living areas shall be exclusive of basements, porches, sunrooms, decks, or garages.

b.) Assisted living- Every room occupied for sleeping purposes within the building shall contain a minimum of eighty (80) square feet of habitable floor area for each occupant, or the minimum number of square feet as required by licensing requirements or law, whichever is greater.

c.) Nursing home- Every room occupied for sleeping purposes within the building shall contain a minimum of eighty (80) square feet of habitable floor area for each occupant, or the minimum number of square feet as required by licensing requirements or law, whichever is greater.

6.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding of the proposed or existing houses.

7.) Minimum Lot Width at the building line- none, per plan.

8.) Minimum Side yards- shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

9.) Minimum Rear yard- shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

10.) Perimeter Area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall PERRC tract, or as approved per plan.

11.) Walkways and street trees- The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township, otherwise they shall be placed in the front lawn of the residences.

12.) Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

13.) Preservation areas- Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.

14.) Floodplain- No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.

15.) Utilities- Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

16.) Building design- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site. All residential roofs must be a minimum of 6/12 pitch, or as approved by plan.

17.) Building Height Limits-

a.) Independent living, including residences for guards, security personnel or care providers: maximum three-story, 40' or as approved per plan.

b.) Assisted living: maximum three-story, 40' or as approved per plan.

c.) Nursing home facility: maximum three story, 40' or as approved per plan.

d.) Any other accessory buildings and structures: 40' or as approved per plan.

18.) Landscaping - All yards, front, side and rear, shall be landscaped, and all organized open spaces or non- residential use areas shall be landscaped and shall meet the requirements of Article 23, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

19.) Parking - Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the provisions of Article 21 of this Resolution, when appropriate, shall be incorporated, or:

Permanent parking shall be provided outside any road right-of-way as follows:

a.) Independent living, including residences for guards, security personnel, care providers: 2 spaces per dwelling unit, in the form of an appropriately sized individual driveway, or as approved per plan. This is in addition to any garage space.

b.) Assisted living: as approved per plan

c.) Nursing home: as approved per plan

20.) Signs – Signs shall conform to Article 22, or as approved per plan.

Exterior signs in this district shall incorporate the following:

a.) Identification signs must be placed at each entrance to the community.

b.) Address numbers on each building, and on each separate independent residence, a minimum of six (6) inches high, which are easily identifiable from the street. If identification is not possible due to distance from a street, then the number must also be on both sides of a mailbox for that building. If multiple addresses exist for one building, then the numbers must be at each entry and on the façade of each building that faces the road, identifying the addresses of the unit contained in each building.

c.) One sign for the permanent office, which shall be permitted only on or above the door to that office, and which shall be no larger than 3 square feet. It may display only the office name, address, telephone number, and hours of business.

d.) The owner or developer of a subdivision or similar area, upon the conditions and for the time period established by the Zoning Commission, may erect one (1) sign not exceeding thirty-two (32) square feet of advertising area per side advertising said subdivision, development or tract for sale.

21.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

22.) Continued compliance- The owner or operator of the housing accommodations shall maintain compliance with the general criteria set forth in Section 9.02. The development plan shall specify the person to be responsible for maintaining such compliance if the application is approved. If the person responsible for maintaining compliance is changed, such person shall notify the Zoning Inspector of such change within thirty (30) days thereof. Such person shall annually file a statement of compliance with the Zoning Inspector that states that these accommodations are in compliance with these criteria.

23.) Supplemental Conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of open space areas; and other development characteristics.

Section 9.09 REQUIRED FINDINGS FOR PERRC APPROVAL

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

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

2.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

3.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

4.) That the proposed plan meets all of the design features required in this Resolution.

5.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

6.) That the proposed development will be compatible in appearance with surrounding land uses.

7.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 9.10 PROCESS FOR AMENDMENT

Applications for amendment to rezone property to the Planned Elderly or Retirement Residential Community Zoning District may be approved according to one of the following procedures:

1.) The applicant, being the owner or lessee of the subject real estate, may apply for designation of the land as a PERRC. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PERRC. (This is a legislative act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum.) This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.

2.) The applicant, being an owner or lessee of the subject real estate, may apply for designation of the land as a PERRC and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

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

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

Section 9.11 EFFECT OF PROPERTY OWNER INITIATED PERRC ZONING AMENDMENT

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

Section 9.12 DEVELOPMENT PLANS

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

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PERRC application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PERRC district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.

2.) Suggested architectural designs for all structures and signs.

3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5.) A design of the open space and proposed description of its use and maintenance.

6.) Specific statements of divergence, if any, from the development standards in this Article.

7.) Proposed location of all structures and uses.

8.) Preliminary Traffic Impact Analysis based upon new trip generation.

9.) All required design features from Section 9.08.

10.) Emergency service provisions (letter from Fire and Police departments).

11.) Phasing plans, if any.

12.) Calculation of net developable acreage and proposed project density.

13.) Proposed permitted and accessory uses.

B.) Preliminary Plan Approval Period – The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has

approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PERRC district.

C.) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PERRC district, the Zoning Commission shall be the review authority for the final development plan.

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

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

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PERRC District.

2.) The plan will be to scale of at least 1"=100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

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

b.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

c.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.

d.) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.

e.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

f.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

g.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.

h.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

i.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

j.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

k.) Specific statements of divergence from the development standards in Articles 21 (General Standards) 22 (Signs) or existing County Subdivision regulations and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.

l.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

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

D.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PERRC District.

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

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

If such maintenance shall not have been performed within 20 days following such notice the Township, in order to preserve the taxable values of the properties within and adjacent to the PERRC, may enter upon the open space and mow noxious weeds.

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

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

2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

4.) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

H.) Extension of Time/ Modification of Final Development Plan

1.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

2.) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the

Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:

i.) A change in the use or character of the development;
ii.) An increase in overall lot coverage of structures and off-street parking;
iii.) An increase in the density;
iv.) An increase in the problems of traffic circulation and public utilities;
v.) A reduction in approved open space;
vi.) A reduction of off street parking and loading space;
vii.) A reduction in required pavement widths;
viii.) A reduction of the acreage in the planned development;
ix.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

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

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ARTICLE 10 Reserved

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ARTICLE 11 Planned Residential District (PRD)

Section 11.01 PURPOSE

See Section 5.054

Section 11.02 DENSITY

Density - The permitted density (the number of dwelling units in the proposed PRD), is determined by multiplying the net developable area for the development tract by 1.25 units per net developable acre. Land dedicated to and accepted for public use (school, fire station, park, etc.) may be included in the net developable area for density calculations, provided building footprints on the public dedication tract comprise less than 30% of its land area. The density of the PRD shall not exceed the recommended density for the tract on the adopted Berkshire Township Comprehensive Plan. It is understood that the actual permitted density for most areas in Berkshire Township will be less than 1.25 units per gross acre.

Section 11.03 PERMITTED USES

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

1.) Single family (detached) residential dwellings.

2.) Attached single family (attached by a common vertical firewall, such as townhouses, or patio homes) residential owner occupied dwellings in groupings of up to three attached units.

3.) Multi-family dwellings, so long as they comprise no more than 20% of the total housing of the PRD.

4.) Common Open Space-upon approval of the final development plan by the township, the following uses and improvements may be permitted in the common area:

   a.) Recreation, such as golf, swimming, boating, basketball, soccer, football, baseball, tennis, horseback riding, skating and other forms of predominantly outdoor recreation, except outdoor shooting ranges or motorized sports. If the common areas are intended for spectator events, they shall be so stated and approved as part of the development plan. If outdoor recreation areas are to be used on a for-profit basis as a private, commercial venture they shall be so stated and approved as part of the development plan.

   b.) Accessory service buildings and structures incidental and pertinent to outdoor recreation, as set forth in paragraph a.) above, where said accessory service buildings and structures are necessary to the pursuit of a permitted recreational use on the premise.

   c.) If approved as part of a final development plan, common open space may incorporate land for on-site centralized wastewater disposal systems.

5.) Natural Green Space- restricted to passive uses such as fishing, swimming, hiking, canoeing, and such other recreation that does not alter any of the natural features of the area. Agriculture may also be used as natural green space, provided it does not permit hog operations, poultry barns, fur bearing farms or feed lots. Accessory buildings are prohibited in the natural area, unless related to the agricultural use of the land.

   a.) If approved as part of a final development plan, natural green space may incorporate land for on-site centralized wastewater disposal systems.

6.) Non-residential uses of a religious, cultural, educational or recreational nature or character to the extent that they are designed and intended to serve the residents of the PRD development. Said facilities may be designed

to serve adjoining neighborhoods or residents if they are located in such proximity to major thoroughfares as to permit access without burdening residential streets.

7.) Schools with adequate area as approved per plan for indoor and outdoor recreation, parking and additional setbacks as may be necessary to avoid disruption to adjacent residences.

8.) Type B family day care home as provided in Ohio Revised Code 5104.01.

Section 11.04 ACCESSORY USES

1.) Temporary structures such as mobile office and temporary buildings of a nonresidential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent dwelling is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than two (2) times. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he/she deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit.

2.) Conducting of casual sale of goods in what are commonly referred to as garage sales or yard sales provided that such sales shall not be conducted on more than six (6) days in any calendar year or more than three (3) consecutive days. The sale and parking area shall be out of the road right-of-way so as not to interfere with traffic on adjacent thoroughfares.

3.) Limited Home Occupation as provided in Section 21.11.

4.) Model Homes, defined as residential-type structures used as sales offices by builders/developers and to display the builder's/developer's product. The same may be furnished within, since its purpose is to display to prospective buyers the builder/developer features (such as exterior siding treatment, roofing materials, interior trim, moldings, floor coverings, etc.), in the environment of a completed home. Model homes may be staffed by the builder/developer sales force. Model homes shall be subject to the following restrictions:

   a.) Lighting: All exterior lighting, except for security lighting, must be down-lighting, so that no light shall be cast onto adjoining residential properties. All off-street parking areas must be illuminated. All exterior lighting, except for security lighting, shall be extinguished at the closing time of the model home.

   b.) Parking: All model homes shall provide off-street paved parking for the public. Such off-street paved parking shall be located as directed by the Board of Zoning Appeals. The number of required parking spaces shall be six (6) per model home. The driveway of the model home may be utilized for not more than two (2) parking spaces.

   c.) Screening and Trash Receptacles: Landscape drawing shall be required and show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot. Trash receptacles shall be provided around the model home.

   d.) Termination of Use: The use of model homes within a residential subdivision, or within any single phase of a multi-phase subdivision, shall terminate when building permits have been issued for ninety percent (90%) of the lots.

e.) Model Home Signs: The Board of Zoning Appeals may approve model home signs provided the following conditions are met:

1.) the sign shall not exceed 16 (sixteen) square feet per side with 32 (thirty two) square feet maximum total display area;

2.) the overall height of the sign shall be no more than four (4) feet above grade.

3.) model home sign shall be located on the same lot as the model home.

4.) If sign information is not presented at the time the development is submitted and approved, the applicant will apply for a conditional use permit to the Board of Zoning Appeals, which will rule on additional sign conditions.

Section 11.05 CONDITIONAL USES

The Board of Zoning Appeals may approve the following conditional uses within a PRD, provided the established standards are met:

1.) Telecommunication towers pursuant to Section 6.03

Section 11.06 PROHIBITED USES

1.) Uses not specifically authorized by the express terms of this article of the zoning resolution shall be prohibited.

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

3.) No trailer of any type, no boats, no motor homes nor equipment of any type shall be parked in front of the building line on any parcel within this district for more than twenty-four (24) hours in any ten (10) day period. If a dwelling is located on said lot, the building line shall be considered to be the front wall of the dwelling even if said dwelling is located behind the minimum building line established by this code or the restrictions on the plat or subdivision.

4.) No motor home, mobile home or camper of any type may be occupied by a guest of the resident/owner.

5.) Except for permanently sited manufactured housing as may be approved in the development plan, no manufactured housing or mobile home shall be placed or occupied in this district.

6.) Agricultural uses and/or activities are prohibited in subdivisions that meet the requirements of Ohio Revised Code section 519.21 (see section 6.02 of this resolution).

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

Section 11.07 INITIAL DISCUSSIONS – CONCEPT STAGE

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

Simultaneous with Concept Stage discussions, it is recommended that the applicant schedule a walkabout on the site with the Zoning Commission and DCRPC staff to familiarize all parties with the lay of the land, and the general design intent.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 11.08 REQUIRED DESIGN STANDARDS

PRD developments shall incorporate the following design standards:

1.) Minimum PRD tract size - 20 acres, unless adjacent to another PRD, in which case the Zoning Commission may permit the tract size to be reduced to 10 acres.

2.) Open Space- Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. A minimum of 25% of the gross acreage shall be dedicated open space.

In calculating open space, the areas of fee simple lots conveyed to homeowners shall not be included. Environmentally sensitive areas deleted from the net developable area such as wetlands, floodplains, slopes greater than 20% and utility easements may count for up to 50% of the required open space. Land dedicated to public purposes may count toward the open space requirement.

3.) Perimeter PRD Setback- 50 feet from property lines.

4.) Storm Water- Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding. Retention ponds and constructed wetlands as detention basins are preferred over plain detention basins.

5.) Subdivision standards- Improvements within the PRD shall conform to the subdivision standards for Delaware County Ohio.

6.) Natural area preservation- Wetlands, steep (over 25 %) slopes, forests, 100 year floodplains, ravines should be preserved to the greatest extent possible. Foliage should be retained where practicable.

7.) Floodplains- No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.

8.) Architecture- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.

9.) Sidewalks- A network of sidewalks or walking paths shall be provided. Where located parallel to the roads, sidewalks shall be separated from the street pavement by at least a 5' landscaped or grassed strip. Walking paths may be located per plan. The zoning commission may require paved/unpaved walkways to connect residential areas and open spaces.

10.) Street Trees- Deciduous, broad leaf street trees if required by the Zoning Commission, shall be placed one for every 50' of lineal road frontage.

11.) Minimum Front Setbacks- Houses, 40' from the street right of way, or as approved per plan. Front load garages shall setback at least 50 feet from the street right of way.

12.) Minimum lot size: 10,000 square feet for single family detached dwellings.

13.) Minimum Lot Width at the building line- 80' for single family detached houses.

14.) Minimum Side yards- 12½ feet each side (25' between structures), with no encroachments, including chimneys, air conditioning units, etc. Side yard setbacks may be reduced to 7.5' (15' between structures) if the adjacent sidewalls of the structures are masonry exterior.

15.) Driveway Setbacks- Three feet from side lot line. Side-load garages shall provide at least 20 feet of paved apron, exclusive of the 3' setback.

16.) Minimum Rear yard- 30' for houses, 20' for detached garages, or 5' for garages with full masonry construction.

17.) Streets- Street layouts should be looped or grid to create an interconnected road network. Dead end streets should be avoided, except where severe topography or other physical condition prevents connection.

18.) Street lighting- if provided, must be of white light, maximum height 20 feet.

19.) Building Height Limits- No buildings in this district shall exceed thirty-five feet (35') in height measured from the elevation of the threshold plate at the front door to the highest point of the roof. Chimneys, barns, silos, grain handling conveyors, church spires, domes, flag poles, and elevator shafts are exempted from the height regulation and may be erected to any safe height, not to exceed one-hundred (100) feet in height. No windmills, antennas, or towers shall be constructed to a height greater than the distance from the center of the base thereof to the nearest property line of said tract and not to exceed one hundred (100) feet in height.

20.) Building Dimensions- (Floor space requirements)

a.) Each detached single family dwelling hereafter erected in this district shall have a living area not less than one-thousand four hundred (1400) square feet or eight-hundred (800) square feet of ground floor living area, if the residence is multi-story. All such living areas shall be exclusive of basements, porches or garages.

b.) All attached single family or multi family structures constructed within a PRD shall contain the following minimum living area, or as approved per plan:

One (1) bedroom unit-	900 square feet
Two (2) bedroom unit-	1000 square feet
Three or more bedroom units-	1100 square feet

21.) Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the requirements of article 23, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

22.) Parking- Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the provisions of Article 21 of this Resolution shall be incorporated unless specific divergence is approved.

23.) Signs- Except as provided under the provisions of this article for home occupations or as controlled by Article 22 (Signs) of this Resolution and except as permitted by the Board of Zoning Appeals incidental to Conditional Uses, no signs shall be permitted in this district except a "For Sale" or "For Rent or Lease" sign advertising the tract on which the said sign is located. Such sign shall not exceed six (6) square feet of advertising area on each side.

24.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

25.) A post office box/kiosk plan for mail delivery that has been discussed with the local office of the U.S. Postal Service.

26.) Common Open Space- A minimum of twenty five percent (25%) of the gross acreage within a Planned Residential Development shall be required to be common open space, available to all residents or users of the Planned Development. The common open space shall be subject to the following additional criteria:

a.) The location, shape, size and character of common open space shall be suitable for the planned development in relation to the location, number and types of buildings it is intended to serve. In any case, it shall be highly accessible to all residents or users of the planned development.

b.) The common open space shall be for the use and enjoyment of the owners and occupants of the individual building sites of the development and shall be accessible to all such owners and occupants. The common open space may be used for a school site, or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the planned development in relation to its size, density, expected population, topography, and the type of dwellings.

c.) The common open space may be suitably improved for its intended use, but common open space containing natural features worthy of preservation such as slopes over twelve percent (12%) and wooded areas may be left unimproved. The buildings, structures, and improvements that are permitted in the common open space must be appropriate to the uses that are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.

d.) The proposed common open space may be conveyed to a public authority that will agree to maintain the common open space and any buildings, structures or improvements that have been placed on it. All land dedicated to the public must meet the requirements of the appropriate authority as to size, shape, and location. Public utility or other similar easements and right of way for water courses or other similar channels are not acceptable for common open space dedication unless such land or right of way is usable as a trail or other similar purpose and approved by the authority to which the land is dedicated.

e.) The proposed common open space may be conveyed to an owners association or similar organization formed for the maintenance of the planned development. The common open space must be conveyed by covenants under such an arrangement subject to approval by the Zoning Commission. Such covenants shall restrict the common open space to the uses specified in the Development Plan and provide for the maintenance of common open space in a manner, which assures its continuing use for its intended purpose. Membership in the owners' association shall, by deed restriction, be mandatory for any owner within the planned development.

f.) If the proposed common open space is not conveyed to a public authority or to an owners' association it must be deeded in title to a fiduciary which, for a fee, acts as a trustee for the benefit of all owners and occupants of the planned development. The trustee shall give easements across the open space and the right to use the facilities to all owners and occupants of planned development. The trustee shall be provided the right to charge and lien each property of its proportionate share of upkeep costs for the common facilities.

27.) Supplemental Conditions and Safeguards- The Berkshire Township Zoning Commission and/or Board of Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvements to be installed, landscaping, development, improvement and maintenance of common open space, and any other pertinent development characteristics.

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

29.) Expiration of Final Development Plan Approval- If construction of any building has not been commenced within three (3) years after approval of the final development plan, approval of such plan shall expire, unless an extension of the time limit has been approved by the Zoning Commission. Absent an extension, no use shall be established or changed and no structure shall be constructed until a final development plan has been filed with and approved by the Zoning Commission.

Section 11.09 APPLICATION PROCEDURE

The applicant, being the owner of subject real estate, may apply one of two ways (either A or B).

A.) File Preliminary and final development plans separately

1.) Step one- Apply for a zoning map amendment to designate the land as a PRD and submit a preliminary development plan with the application. If the application is approved, then the zoning map is amended to PRD. (This is a legislative act and is subject to referendum).

2.) Step Two- Once an application for a zoning map amendment to PRD has been approved, the applicant submits and seeks approval of a final development plan. Unless simultaneously adopted as part of the zoning map change, the subsequent approval or disapproval of the final development plan is an administrative act by the Township (not subject to referendum), but is subject to the review and approval by the township for appropriateness.

B.) Simultaneous Application for Zoning Map Amendment and Approval of the Final Development Plan

The applicant, being an owner of real estate, may apply for a zoning map amendment to designate the land as a PRD and simultaneously submit, along with the application for the zoning change, a final development plan acceptable to the township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

Section 11.10 REQUIRED FINDINGS FOR APPROVAL OF A PLANNED RESIDENTIAL DEVELOPMENT

The Zoning Commission and Trustees may approve an application to rezone property to the Planned Residential Development District provided they find that the proposed use complies with all of the following requirements:

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

B.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

C.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

D.) That the proposed plan meets all of the design features required in this Resolution.

E.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

F.) That the proposed development will be compatible in appearance with surrounding land uses.

G.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 11.11 EFFECT OF PRD ZONING

Upon approval of the PRD district, all previous regulations shall no longer be in effect, and the regulations for the PRD shall prevail.

Section 11.12 DEVELOPMENT PLANS

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

a.) Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PRD application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PRD district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, existing and proposed structures, structures within 200' of the development tract.

2.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20%. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

3.) Permitted density calculations.

4.) Generalized architectural designs for all structures and signs.

5.) The intended general provisions for fire hydrants and surface drainage, to the extent known. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

6.) Water supply and sanitary sewage disposal feasibility shall be indicated by the appropriate agency (Del-Co Water, Delaware County Board of Health, Delaware County Sanitary Engineer and/or the Ohio EPA) at the time of the preliminary plan. Centralized sanitary sewage disposal systems, if necessary, shall be provided subject to Delaware County Sanitary Engineer, and Ohio Environmental Protection Agency approval. If on-site centralized sewage disposal systems are proposed, the applicant shall indicate who shall be responsible for their operation and maintenance, and shall provide a letter from the appropriate county or state agency declaring the site feasible for such systems, and for the anticipated sanitary flows.

7.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

8.) A design of the open space and proposed description of its use and maintenance.

9.) Proposed public land dedications.

10.) Specific statements of requested divergences from the development standards in this article or other articles in this resolution.

11.) Preliminary Traffic Impact Analysis based upon new trip generation.

12.) Design standard items 1-4, 6-7, 12-17, and 23 from Section 11.08.

13.) Emergency service provisions (letter from Fire and Police departments).

14.) General phasing plans, if any.

15.) Supplemental Conditions and Safeguards: The Township Zoning Commission and/or Board of Trustees may impose special additional conditions relating to the development with regard to type and extent of public improvement to be installed; landscaping, development, improvement, and maintenance of common open space; and any other pertinent development characteristics.

2.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRD district.

3.) Final Development Plan- The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application.

The review and approval of the Final Development Plan is an administrative act, not subject to referendum unless the final development plan is simultaneously submitted with application for the zoning change. If, in the opinion of the Zoning Commission, there is substantial deviation from the approved preliminary development plan, the final development plan shall state the areas of divergence. The final development plan shall include in text and map form the following:

a.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PRD development.

b.) The plan shall be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

1.) All design standards from Section 11.08.

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

3.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These are specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township. Materials and colors shall be submitted for approval.

4.) The proposed provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Line sizes and locations, detention basins and drainage structures shall be drawn.

5.) A traffic impact analysis by a competent traffic engineer acceptable to the Delaware County Engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

6.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

7.) Specific location of schools, parks and other public facility sites, within or adjacent to the site.

8.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

9.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give township officials definitive guidelines for approval of future phases.

10.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

11.) Specific statements of divergence from the development standards in Articles 21 (General Standards) 22 (Signs) AND/OR 23 (Landscaping) and the justification therefore, unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built, all standards for setback, landscaping parking and lot size are per plan.

12.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

4.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application. This

new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRD.

5.) Effect of Final Development Plan Approval- The Final Development Plan as approved by the Township Zoning Commission shall be the subject of a subdivision plat to be approved by the Delaware County Regional Planning Commission if required by the Ohio Revised Code. Where the land is to be developed in phases, plans for phases subsequent to the first phase shall be submitted in accordance with the timetable in the approved development.

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

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

b.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

c.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

7.) Failure to Maintain- If the approved development plan is not adhered to, or the open space is not properly maintained, the Township zoning officer may serve written notice of the deficiencies and demand that corrective action be taken. The Township may pursue noncompliance as a zoning violation as provided in Article 29 of this Resolution.

8.) Administrative Review- All plats, construction drawings, restrictive covenants and other necessary documents shall be submitted to the Zoning Inspector, the Zoning Commission or their designated technical advisors for an administrative review to ensure substantial compliance with the development plan as approved, prior to issuance of a zoning certificate. The Board of Trustees may establish a fee to be deposited with each administrative review in order to defray the costs associated with such a review.

9.) Extension of Time/ Modification of Final Development Plan

a.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

b.) A request for minor changes to the final development plans may be approved by the Zoning Commission without being subject to the same procedures as the original application.

c.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application.

1.) A change in the use or character of the development
2.) An increase in overall lot coverage of structures and off-street parking
3.) An increase in the density
4.) An increase in the problems of traffic circulation and public utilities;
5.) A reduction in approved open space;
6.) A reduction of off street parking and loading space;
7.) A reduction in required pavement widths;
8.) A reduction of the acreage in the planned development;
9.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

ARTICLE 12 Reserved

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ARTICLE 13 Planned Recreational (PRCD)

Section 13.01 PURPOSE

See Section 5.055

Section 13.02 PERMITTED USES

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

A.) Public or private clubs and grounds for games and sports.

B.) Public or private golf courses, to include commercial activities that are carried on in conjunction with golf course club house facilities such as pro-shops and restaurants.

C.) Private clubs (including building and grounds) of a civic, social, business, educational or nature, except adults only entertainment establishments.

D.) Recreational buildings, grounds and accessory buildings in conjunction with playgrounds and athletic fields open to the public.

E.) Public or private parks, preserves or sanctuaries, including accessory structures such as shelters and picnic areas.

F.) Campgrounds, provided that all Federal, State, and local permits are obtained.

G.) Other recreational ventures not provided by other sections of this resolution if approved as part of the plan.

H.) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

Section 13.03 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.

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

C.) Except as provided in the development plan no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.

D.) Except as specifically permitted in Section 13.02(h) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.

Section 13.04 INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 13.05 REQUIRED DESIGN FEATURES

The development plan shall incorporate the following standards:

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

2.) Minimum tract size- 10 acres, or as approved per plan.

3.) Maximum impervious surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): 50% of net developable area.

4.) Permitted density- Not applicable.

5.) Minimum floor space requirements: Not Applicable.

6.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.

7.) Minimum Lot Width at the building line- as approved per plan.

8.) Minimum Side yards- shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

9.) Minimum Rear yard- shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

10.) Perimeter Area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract, or as approved per plan.

11.) Walkways and street trees-The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township, otherwise they shall be placed in the front lawn of the residences.

12.) Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

13.) Preservation areas - Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.

14.) Floodplain- No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.

15.) Utilities- Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

16.) Building design- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or within the site.

17.) Building Height Limits – 35', or as approved per plan.

18.) Landscaping - All yards, front, side and rear, shall be landscaped, and all organized open spaces or non- residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

19.) Parking - Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated, or a divergence requested.

20.) Signs – Signs shall conform to provisions of this resolution, or request a divergence and be as approved per plan.

21.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

22.) Continued compliance- The owner or operator of the housing accommodations shall maintain compliance with the approved development plan. The development plan shall specify the person to be responsible for maintaining such compliance if the application is approved. If the person responsible for maintaining compliance is changed, such person shall notify the Zoning Inspector of such change within thirty (30) days thereof. Such person shall annually file a statement of compliance with the Zoning Inspector that states that these accommodations are in compliance with these criteria.

23.) Supplemental Conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of open space areas; and other development characteristics.

Section 13.06 REQUIRED FINDINGS FOR PRCD APPROVAL

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

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

2.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

3.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

4.) That the proposed plan meets all of the design features required in this Resolution.

5.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

6.) That the proposed development will be compatible in appearance with surrounding land uses.

7.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 13.07 PROCESS FOR AMENDMENT

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

A.) The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to rezone the land as a PRCD. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PRCD. (This is a legislative act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum.) This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.

B.) The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to rezone the land as a PRCD and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

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

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

Section 13.08 EFFECT OF PROPERTY OWNER INITIATED PRCD ZONING AMENDMENT

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

Section 13.09 DEVELOPMENT PLANS

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

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PRCD application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PRCD district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.

2.) Suggested architectural designs for all structures and signs.

3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5.) A design of the open space and proposed description of its use and maintenance.

6.) Specific statements of divergence, if any, from the development standards in this Article.

7.) Proposed location of all structures and uses.

8.) Preliminary Traffic Impact Analysis based upon new trip generation.

9.) All required design features.

10.) Emergency service provisions (letter from Fire and Police departments).

11.) Phasing plans, if any.

12.) Calculation of net developable acreage and proposed project density.

13.) Proposed permitted and accessory uses.

B.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRCD district.

C.) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PRCD district, the Zoning Commission shall be the reviewing authority for the final development plan.

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

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

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PRCD District.

2.) The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

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

b.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

c.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.

d.) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.

e.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

f.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

g.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.

h.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

i.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

j.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

k.) Specific statements of divergence from the development standards in of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.

l.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

n.) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PRCD district.

D.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PRCD District.

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

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

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

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

2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

4.) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

H.) Extension of Time/ Modification of Final Development Plan

1.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

2.) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:

a.) A change in the use or character of the development;
b.) An increase in overall lot coverage of structures and off-street parking;
c.) An increase in the density;
d.) An increase in the problems of traffic circulation and public utilities;
e.) A reduction in approved open space;
f.) A reduction of off street parking and loading space;
g.) A reduction in required pavement widths;
h.) A reduction of the acreage in the planned development;
i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

E.) Divergences- The Township, as a part of either preliminary or final development plan approval, may, in its sole discretion, grant divergences from any standard or requirement in this Article, except density, upon specific

request for such divergence. An applicant requesting a divergence shall specifically list each requested divergence on the preliminary and final development plan submittals.

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ARTICLE 14 Planned Institutional District (PIND)

Section 14.01 PURPOSE

See Section 5.056.

Section 14.02 PERMITTED USES

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

A.) Institutions providing social, cultural and educational services to member agencies, organizations and individuals or to the general public, including:

1.) State licensed Childcare

2.) Religious land uses- church, place of worship, place of religious assembly, religious institution and parsonage provided;

a.) Parking landscaping, lighting and signage conform to Article 21.

b.) There is adequate area for water supply and wastewater disposal if located on site.

c.) All aspects of public health, safety and welfare are provided (building code, electrical code, and life safety code.)

3.) Libraries, museums and art galleries;

4.) Community Buildings.

B.) Offices for organizations and associations organized for the promotion of membership interest to include:

1.) Business and professional associations and organizations;

2.) Civic, social and fraternal associations;

3.) Political, charitable and other non-profit membership organizations and associations.

C.) Cemeteries, providing the same occupies a tract of not less than one hundred (100) acres. No building shall be placed closer to the right-of-way of any approved road than the setback prescribed by Section 21.09 of this Resolution. No burial may be made nearer than fifty (50) feet to the right-of-way of the approved public road adjacent thereto. No burial shall be permitted nearer than twenty-five (25) feet to any other property line unless mature natural screen has been established along said property line at least six (6) feet in height in which case burials may be permitted not closer than ten (10) feet to said property line. No mausoleum, crematory, office facility, maintenance building or storage area shall be constructed except as approved by the Zoning Commission, and parking areas, public accesses, screening and other improvements shall be furnished as required.

1.) Internment shall not be within one hundred (100) yards of a dwelling house, unless the owner of such dwelling gives his consent, or unless the entire tract appropriated is a necessary addition to or enlargement of a cemetery already in use, as further provided in ORC 1721.03.

2.) A mausoleum shall not be within 300 feet of any property line.

3.) A crematory or other structure shall not be within 300 feet of any property line.

4.) Every cemetery company or association shall cause a plat of its grounds and of the lots laid out by it to be made and recorded or filed in the offices of the county recorder in accordance with ORC 1721.09.

D.) Public or Private Schools or Colleges.

Instructional areas, whether improved with buildings or not, shall provide adequate parking areas for faculty, staff and students. Such parking may not exist within the right-of-way of any road or highway. A site plan shall be prepared and submitted for consideration by the Zoning Commission and shall provide screening adjacent to residential areas.

E.) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed not later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

Section 14.03 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.

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

C.) Except as provided in the development plan no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.

D.) Except as specifically permitted in Section 14.03(f) or in the approved development plan no mobile home or mobile office structure shall be placed or occupied in this district.

Section 14.04 INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 14.05 REQUIRED DESIGN FEATURES

The development plan shall incorporate the following standards:

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

2.) Minimum tract size- 10 acres, or as approved per plan.

3.) Maximum impervious surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): 50% of net developable area.

4.) Permitted density- Not applicable.

5.) Minimum floor space requirements: Not applicable.

6.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.

7.) Minimum Lot Width at the building line-as approved per plan.

8.) Minimum Side yards- shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

9.) Minimum Rear yard- shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

10.) Perimeter Area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract, or as approved per plan.

11.) Walkways and street trees- The Township may require walkways to connect all areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township, otherwise they shall be placed in the front lawn of the residences.

12.) Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

13.) Preservation areas- Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.

14.) Floodplain- No institutional structures shall be constructed within the 100-year floodplain of any stream or river.

15.) Utilities- Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

16.) Building design- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.

17.) Building Height Limits- 35', or as approved per plan.

18.) Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

19.) Parking- Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated, or a divergence requested.

20.) Signs- Signs shall conform to provisions of this resolution, or request a divergence and be as approved per plan.

21.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

22.) Supplemental Conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of open space areas; and other development characteristics.

Section 14.06 REQUIRED FINDINGS FOR PIND APPROVAL

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

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

b.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

c.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

d.) That the proposed plan meets all of the design features required in this Resolution.

e.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

f.) That the proposed development will be compatible in appearance with surrounding land uses.

g.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 14.07 PROCESS FOR AMENDMENT

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

A.) The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PIND. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PIND. (This is a legislative

act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum.) This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.

B.) The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PIND and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

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

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

Section 14.08 EFFECT OF PROPERTY OWNER INITIATED PIND ZONING AMENDMENT

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

Section 14.09 DEVELOPMENT PLANS

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

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PIND application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PIND district, at a scale of at least 1” = 200’, showing topographic contours of at least 5’ intervals, wooded areas, wetlands, adjacent (within 200’) structures, 100 year floodplains.

2.) Suggested architectural designs for all structures and signs.

3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5.) A design of the open space and proposed description of its use and maintenance.

6.) Specific statements of divergence, if any, from the development standards in this Article.

7.) Proposed location of all structures and uses.

8.) Preliminary Traffic Impact Analysis based upon new trip generation.

9.) All required design features.

10.) Emergency service provisions (letter from Fire and Police departments).

11.) Phasing plans, if any.

12.) Calculation of net developable acreage and proposed project density.

13.) Proposed permitted and accessory uses.

B.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PIND district.

C.) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PIND district, the Zoning Commission shall be the review authority for the final development plan.

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

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

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PIND District.

2.) The plan will be to scale of at least 1” =100’ and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

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

b.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County.

c.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the

development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.

d.) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.

e.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

f.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

g.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.

h.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

i.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

j.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

k.) Specific statements of divergence from the development standards in of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.

l.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

n.) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the PIND district.

D.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the Zoning

Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PIND District.

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

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

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

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

2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

4.) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

H.) Extension of Time/ Modification of Final Development Plan

1.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

2.) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:

a.) A change in the use or character of the development;
b.) An increase in overall lot coverage of structures and off-street parking;
c.) An increase in the density;
d.) An increase in the problems of traffic circulation and public utilities;
e.) A reduction in approved open space;
f.) A reduction of off street parking and loading space;
g.) A reduction in required pavement widths;
h.) A reduction of the acreage in the planned development;
i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

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

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ARTICLE 15 Planned Commercial and Office District (PCD)

Section 15.01 PURPOSE

See Section 5.057

Section 15.02 PERMITTED USES

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

The full text of the listings in the NAICS 1997 or subsequent edition shall be used to define the uses permitted within the PCD as set forth below and is hereby adopted as part of Article 15.

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

Note: The NAICS code numbers are inclusive in ascending order. All two digit sector numbers listed in the left hand column below include as permitted uses all 3-6 digit numbers beginning with those two digits. All three digit codes include all 4-6-digit codes beginning with those three digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 52 means that any use listed in the 1997 or subsequent NAICS code under Sector 52 (such as 52212 Savings Institutions) is permitted.

1997 U.S. NAICS CODE #	Use
Administrative, Professional, Institutional, and Business Offices	
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
441	Motor Vehicle and Parts Dealers
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers, (except Adults Only Entertainment establishments, and 45393 Manufactured Home Dealers)
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental

53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
Administrative and Support Services	
61	Educational Services
621	Ambulatory Health Care Services
6221	General Medical and Surgical Hospitals
623	Nursing and Residential Care Facilities
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels (except casino) and Motels
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment including totally nude, topless, bottomless, strippers, male or female impersonators, or similar adult entertainment or services).
811	Repair and Maintenance
812	Personal and Laundry Services
813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration

No NAICS number Multi-family dwellings. Rental apartments shall not exceed 25% of the total number of multi- family residential units within the PCD development plan. Maximum density is four units per net developable acre. Such residences shall be specifically designed as part of the architecture of the structure in a village setting. All living units constructed within this district shall contain the following minimum living area, to-wit:

One (1) bedroom unit-	800 square feet
Two (2) bedroom unit-	900 square feet
Three or more bedroom units-	1000 square feet

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

Temporary structures such as mobile homes and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

Section 15.03 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited.

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

shall not apply to new or used motor vehicles stored or displayed pursuant to a legal sales or repair activity if such activities are carried out in compliance with the approved plan.

C.) Except as provided in the plan of development no trailer of any type, no boats, no motor homes and no equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed, or the development plan.

D.) Except as specifically permitted in the approved development plan, no manufactured home, mobile home or mobile office structure shall be placed or occupied in this district.

E.) NAICS code #711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities.

Section 15.04 INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to PCD.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 15.05 REQUIRED PCD DESIGN FEATURES

A.) The development plan shall incorporate the following standards:

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

2.) Minimum tract size- 10 acres, or as approved per plan.

3.) Maximum impervious surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): 50% of net developable area.

4.) Permitted density- Maximum of four units per net developable acre for multi-family dwellings.

5.) Minimum commercial floor space requirements: as approved per development plan.

6.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.

7.) Minimum Lot Width at the building line as approved per plan.

8.) Minimum Side yards- for non-residential structures shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

9.) Minimum Rear yard- for non-residential structures shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

10.) Perimeter Area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract, or as approved per plan.

11.) Walkways and street trees- The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township, otherwise they shall be placed in the front lawn of the residences.

12.) Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

13.) Preservation areas- Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.

14.) Floodplain- No residential dwelling structures shall be constructed within the 100-year floodplain of any stream or river.

15.) Utilities- Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

16.) Building design- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site. All residential roofs must be a minimum of 6/12 pitch, or as approved by plan.

17.) Building Height Limits- as approved per plan.

18.) Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

19.) Parking- Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated, or a divergence requested.

20.) Signs- Signs shall conform to provisions of this resolution, or request a divergence and be as approved per plan.

21.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

22.) Supplemental Conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of open space areas; and other development characteristics.

Section 15.06 REQUIRED FINDINGS FOR PCD APPROVAL

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

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

2.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

3.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

4.) That the proposed plan meets all of the design features required in this Resolution.

5.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

6.) That the proposed development will be compatible in appearance with surrounding land uses.

7.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 15.07 PROCESS FOR AMENDMENT

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

A.) The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PCD. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PCD. (This is a legislative act and is subject to referendum). A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum.) This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.

B.) The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PCD and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

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

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

Section 15.08 EFFECT OF PROPERTY OWNER INITIATED PCD ZONING AMENDMENT

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

Section 15.09 DEVELOPMENT PLANS

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

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PCD application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PCD district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.

2.) Suggested architectural designs for all structures and signs.

3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5.) A design of the open space and proposed description of its use and maintenance.

6.) Specific statements of divergence, if any, from the development standards in this Article or the general standards of this resolution such as setbacks, parking, landscaping, lighting, signage and so forth.

7.) Proposed location of all structures and uses.

8.) Preliminary Traffic Impact Analysis based upon new trip generation.

9.) All required design features.

10.) Emergency service provisions (letter from Fire and Police departments).

11.) Phasing plans, if any.

12.) Calculation of net developable acreage and proposed project density.

13.) Proposed permitted and accessory uses.

B.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any

zoning amendments enacted from and after the date of the initial request to include the property within the PCD district.

C.) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PCD district, the Zoning Commission shall be the review authority for the final development plan.

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

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

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PCD District.

2.) The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

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

b.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.

c.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.

d.) Building heights and dimensions.

e.) Off-street parking.

f.) Signs.

g.) Exterior Lighting: All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.

h.) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.

i.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

j.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

k.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.

l.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

m.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

n.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

o.) Specific statements of divergence from the development standards in of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.

p.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

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

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

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

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

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

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

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

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

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

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

D.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PCD District.

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

F.) Failure to Maintain- If the organization established to own and maintain the open space, or the owners of dwelling units within the PCD shall, for any reason, fail to maintain the open space in reasonable order and in accordance with the final development plan, such failure shall constitute a breach of the development plan and

a violation of the zoning resolution. The Board of Township Trustees or its designee may serve written notice upon such organization of the deficiencies and demand that corrective action be taken immediately and pursue enforcement of the zoning resolution.

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

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

2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

4.) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

H.) Extension of Time/ Modification of Final Development Plan

1.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

2.) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:

i.) A change in the use or character of the development;

ii.) An increase in overall lot coverage of structures and off-street parking;

iii.) An increase in the density;

iv.) An increase in the problems of traffic circulation and public utilities;

v.) A reduction in approved open space;

vi.) A reduction of off street parking and loading space;

vii.) A reduction in required pavement widths;

viii.) A reduction of the acreage in the planned development;

ix.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

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

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ARTICLE 16 Planned Mixed Use District

Section 16.01 – NATURE OF THE DISTRICT

The Planned Mixed Use District is created pursuant to Section 519.021(C) of the Ohio Revised Code to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office and residential development. The PMUD achieves this purpose by permitting flexibility of design in order to promote and accommodate environmentally sensitive and efficient use of the land, thereby allowing for a unified development that:

- Permanently preserves unique or sensitive natural resources and integrates Open Space within developments.
- Reduces the amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance and removal of vegetation.
- Provides an opportunity for an appropriate mix of open space, office, retail, institutional and Residential Uses not otherwise permitted within the standard zoning district classifications.
- Enables more extensive review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.
- Assures compatibility between proposed land uses within and around the PMUD through appropriate development controls.
- Enhances the welfare and economy of the Township by making available a variety of employment opportunities, providers of goods and services as well as providing a variety of housing options for the Township residents.
- Encourages unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district, yet are imaginative in architectural design and are consistent with applicable public plans for the area and are compatible with surrounding land uses.

Section 16.02 – OVERLAY AREA ESTABLISHED

The PMUD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones to the PMUD the area shown on the PMUD Overlay Zoning District Map, which map is attached hereto and incorporated herein as Attachment 1 and is hereby adopted as the official Zoning District Map for the PMUD as part of this amendment. The existing zoning regulations and districts for such area shall continue to apply to all property within the PMUD unless the Berkshire Township Zoning Commission approves an Application of an owner of property to subject the owner's property to the provisions of the PMUD. Such an Application shall be made in accordance with the provisions of **Section 16.06** of the Berkshire Township Zoning Resolution and shall include a Development Plan in compliance with the provisions of **Section 16.06(C)**. Upon receiving such an Application and Development Plan, if the Berkshire Township Zoning Commission determines that the Application and Development Plan comply with the provisions of this **Article 16** and approves the Application, the Berkshire Township Zoning Commission shall cause the zoning map to be changed so that the underlying zoning district no longer applies to such property, with the property being thenceforth located in the PMUD and subject to the regulations thereunder. The approval of the Application and Development Plan and the removal of the prior zoning district from the zoning map is a ministerial act and shall not be considered to be an amendment to the Berkshire Township Zoning Resolution.

Section 16.03 – PERMITTED USES

A.) Permitted uses within the PMUD according to their 2012 North American Industry Classification System (NAICS) code number, may be permitted when approved by the Development Plan process in strict compliance with the approved Development Plan and standards, provided that each such use is listed as a permitted use in this Section and is specifically set forth in the Development Plan.

The precise use or type of use of the tract shall be specified in the plan as submitted and approved and shall be subject to the Use-Specific Requirements set forth in **Section 16.03(B)** herein, as applicable.

2012 NAICS CODE #	Use
Administrative, Professional, Institutional, and Business Offices	
1114	Greenhouse, Nursery and Floriculture Production
311811	Retail Bakeries
4413	Automotive Parts, Accessories, and Tire Stores
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers (except Adults Only Entertainment Establishments and 45393 Manufactured Home Dealers)
491	Postal Service
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment Establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental
53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
6221	General Medical and Surgical Hospitals
623	Nursing and Residential Care Facilities
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels (except casino) and Motels
722	Food Services and Drinking Places (except those establishments offering or featuring entertainment included in Adults Only Entertainment Establishments as defined in Article 4).
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
812	Personal and Laundry Services

813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration
	Residential Uses

B.) Use-Specific Requirements. The following requirements, in addition to all other applicable development standards, shall apply to the following specific uses:

1.) Office-Flex. Offices and research/laboratory facilities may include space for clean manufacturing and assembly, wholesaling and/or related showroom(s), warehousing and or distribution purposes, so long as no more than forty percent (40%) of the gross floor area of the principal structure is used for such ancillary use(s).

2.) Home Health Equipment Rental. The renting of home-type health and invalid equipment, such as wheel chairs, hospital beds, oxygen tanks, walkers, crutches, etc. may be permitted as an accessory use to the primary use of a structure for Professional, Scientific and Technical Services as defined by **Section 16.03(A)** of this Zoning Resolution.

3.) Accessory Multi-Family Dwelling Structure Components. Any Multi-family Dwelling structures located within the PMUD may, if approved as part of the Development Plan, be permitted to include the following accessory uses, so long as those uses are either wholly contained within the Multi-Family Dwelling structures or architecturally and operationally integrated into the Multi-Family Dwelling proposal:

a.) Private Garages.

b.) Food Services and Drinking Places.

c.) Exercise and Fitness Facilities.

d.) Personal and Laundry Services (except 812332 – Industrial Launderers) as defined in **Section 16.03(A)** of this Zoning Resolution.

e.) Entertainment and Recreation Facilities – Indoor and Outdoor.

f.) Storage facilities for bicycles, as well as individual storage facilities for the keeping of personal property owned by the residents of the Multi-Family Dwelling structures. Storage facilities shall not exceed, on average, fifty (50) square feet in floor space per Multi-Family Dwelling Unit; provided, however, that no single unit's storage space shall exceed one hundred fifty (150) square feet. Bicycle and individual storage facilities may be located wholly in a separate accessory structure, so long as that structure(s) is architecturally integrated into the Multi-Family Dwelling proposal and is authorized by an approved Development Plan.

4.) Hotels and Motels shall only contain individual guest rooms that are held out to the public to be a place where sleeping accommodations are offered for pay to guests for an amount no less than the minimum daily rental rate as established by each hotel or motel. Each room shall not be rented out more than twice in any consecutive twenty-four (24) hour period.

5.) Limited Home Occupations: The following professional or business activities shall be considered "Limited Home Occupations," provided that such activities are carried on solely within the confines of the dwelling, do not occupy more than twenty percent (20%) of the dwelling, retain no non-residential employees (whether paid or voluntary), generate no greater traffic, parking or deliveries than would

normally be expected in a residential neighborhood, do not create a nuisance to the neighborhood or general public, and are imperceptible from the exterior of the dwelling and display no sign:

a.) Home offices used for traditional office related tasks including, but not limited to, maintaining records and accounts, making and receiving telephone calls, faxes and emails, and generating papers, reports or similar work product, but not including the reception of patients, clients or any licensees or invitees.

C.) Temporary Structures. Temporary structures such as manufactured/mobile home offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. A Zoning Permit shall be obtained for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as the Zoning Inspector deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. No such structure shall be occupied as a dwelling.

Section 16.04 – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Accessory uses, as defined in **Article 4** of the Zoning Resolution, may be permitted only when customary with and incidental or subordinate to and in association with a principal permitted use, and further provided that such accessory uses are specifically set forth in the Development Plan and approved as accessory uses by the Township. Any accessory uses proposed as part of any Multi-Family Dwelling structure or Multi-Family Dwelling component shall comply with the requirements **of Section 16.03(B)(3)** and this Zoning Resolution.

Accessory uses other than those authorized in **Section 16.03(B)(3)** may be located in a separate accessory structure which is subordinate to the principal structure, provided that the accessory structure is architecturally compatible with and operationally integrated into the development.

Section 16.05 – PROHIBITED USES

Uses not specifically authorized by the express terms of this Article of the Zoning Resolution shall be prohibited. The following uses shall be prohibited:

A.) Uses not specifically approved by the Zoning Commission as part of the Development Plan.

B.) Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to a legal sales or repair activity if such activities are carried out in compliance with the approved Development Plan.

C.) Except as provided in the Development Plan, no trailer of any type, no boats, no motor homes, no campers and no equipment of any type shall be parked in front of the principal structure line on any non-residential parcel within this district, and may only be parked for not more than eight (8) hours in a twenty-four (24)-hour period if located on a residential parcel. If a structure is located on the property, the principal structure line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by the Development Plan.

D.) No manufactured home, mobile home, motor home or camper shall be occupied in this district for residential purposes. Mobile office structures may be permitted in the approved Development Plan in accordance with **Section 16.03(C).**

E.) Sales trailers of any type.

F.) Adults Only Entertainment Establishments as defined in **Article 4** of this Resolution.

G.) Self-service storage facilities, pawn shops, check cashing or short term loan establishments as a primary use, tattoo parlors, and skill game establishments.

H.) No trash, debris, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any garbage, refuse, or junk shall be permitted to accumulate on any lot or portion thereof. All trash, debris, discarded materials, vehicle parts, rags, lumber, building materials, and other garbage, refuse or junk shall be contained in solid sided containers during construction phases and thereafter. No wire or cage-type containers shall be permitted, and no such materials shall be above the sides of the container.

Section 16.06 – PROCESS FOR PLAN APPROVAL

All Applications to submit property to the PMUD regulations shall follow the procedures hereinafter set forth:

A.) Pre-Application Meeting. The Applicant is encouraged to engage in informal consultations with staff from the Township and the Delaware County Regional Planning Commission prior to formal submission of an Application for approval of a Development Plan. No statement or action by Township or County officials in the course of these informal consultations shall be construed to be a waiver of any legal obligation of the Applicant or of any procedure or formal approval required by Township or County statutes or rules. Ohio's Open Meetings Law (Section 121.22 of the Ohio Revised Code) is required to be observed at pre-Application meetings involving a quorum of members of the Berkshire Township Zoning Commission.

B.) Application and Development Plan. The Applicant shall prepare and submit ten (10) copies of an Application and Development Plan, along with an electronic copy and all applicable fees to the Berkshire Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property included in the Application and Development Plan. The Berkshire Township Zoning Commission may request that any County agency and/or any committee of the Delaware County Regional Planning Commission submit comments for consideration at the meeting.

The Application shall be accompanied by a Development Plan and the following supporting information and documentation in text and map form:

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.

2.) A grading plan drawn to scale, showing all information pertaining to surface drainage.

3.) A detailed Landscape Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. It shall depict and identify all proposed landscaping features.

4.) A detailed Signage and Exterior Lighting Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.

5.) A detailed Parking and Loading Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.

6.) An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually own, maintain and preserve the Open Space, as required, that is unified and permanently protected. The location, size and proposed use(s) of all Open Space areas shall be detailed.

C.) Development Plan Contents. The Development Plan shall include in text and map form the following:

1.) Proposed name of the development and its location.

2.) Names and addresses of applicant, owners and developers. Also, the names and mailing addresses of all owners of property within and contiguous to and directly across the street from the area proposed for PMUD approval shall be provided.

3.) Date, north arrow and Plan scale. Scale shall be one inch equals one hundred feet (1"= 100') or larger scale.

4.) A list, description and location of the precise uses proposed for the development and phases for construction, if any. Listed uses shall be defined by their 2012 NAICS Code Classification provided, however, that proposed Residential Uses shall be generically requested and described. Any listed use may be limited to specific areas delineated in the Development Plan.

If the proposed timetable for development includes developing the property in phases, all phases to be developed after the first shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

5.) Locations, widths and names of all existing public streets or other public ways, railroad and utility rights of way or easements, parks and other public Open Spaces, permanent structures, and section and corporation lines within or adjacent to the tract.

6.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

7.) Existing sewers, water mains, culverts and other underground facilities within the tract, adjacent to the tract or that will be used or are proposed to be used in developing the tract, indicating pipe sizes, grades and locations.

8.) The adjoining lines of adjacent tracts, parcels or lots.

9.) Existing zoning restrictions and deed restrictions, if any.

10.) Existing topography, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.

11.) Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.

12.) Layout, numbering and dimensions of lots if more than one.

13.) The total amount of Lot Coverage, as that term is defined in **Article 4** of this Resolution, proposed by the Application and Development Plan.

14.) Parcels of land intended to be dedicated or temporarily reserved for public use or reserved by deed covenant with the condition proposed for such covenant or dedication.

15.) Building setback lines with dimensions.

16.) Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.

17.) Layout, location, dimensions and architectural features of proposed structures including preliminary floor plans, exterior elevations and sections.

18.) Color rendering of buildings(s), complete with a listing of all colors, including current Pantone Reference Numbers or, if Pantone is not available, the manufacturer's reference/serial number with samples and materials to be used.

19.) A Detailed Parking and Loading Plan showing layout, location and design of parking and loading areas for all proposed uses, including proposed number of parking and loading spaces, traffic circulation, curb cuts, pedestrian walks and lane improvements on existing public roads.

20.) Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.

21.) Intended measures to screen the development from adjacent residentially zoned property as well as measures to screen rooftop mechanical equipment, production areas, service areas, storage areas, trash containers and loading zones from view.

22.) Accommodations and access for emergency and fire-fighting apparatus.

23.) Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.

24.) A post office box/kiosk plan for mail delivery that has been discussed with the local office of the U.S. Postal Service.

25.) The plan or mechanism to provide for the perpetual maintenance of all landscaping, buffers and shared parking areas by the ultimate owner and/or user.

26.) Projected schedule of site development.

27.) The ability of the applicant to carry forth this Plan by control of the land and the engineering feasibility of the Plan.

28.) Other supplemental information, as may be reasonably required by the Berkshire Township Zoning Commission, in order to determine compliance with this Zoning Resolution.

29.) The Development Plan (and the various accompanying plans) shall bear the seal of a registered engineer or surveyor and an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.

30.) The applicant may request a divergence from the development standards set forth in this **Article 16**. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Development Plan. Unless specifically supplemented by the standards contained in the Development Plan, the development shall comply with the requirements contained in **Article 16** and the General Development Standards applicable to all zoning districts, as set forth in the Berkshire Township Zoning Resolution.

D.) Zoning Commission Action. After receipt of the completed Application materials and required fees, the Zoning Commission shall schedule a public hearing within forty-five (45) days after the filing of the complete Application and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area proposed for development written notice of the hearing at least ten (10) days before the date of the hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the Application. The Zoning Commission shall render a decision on the Application and Development Plan within forty-five (45) days after the conclusion of the hearing.

E.) Basis of Approval. In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

1.) Whether the proposed Application and Development Plan are consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution and whether any divergence is warranted by the design and amenities incorporated in the Development Plan.

2.) Whether the proposed Application and Development Plan meet all of the design features required in this Zoning Resolution.

3.) Whether the proposed Application and Development Plan are compatible with the existing land use character, consistent with the intent and purpose of **Article 16** of this Resolution, and are in keeping with the Berkshire Township, Delaware County, Ohio Comprehensive Plan (the "Comp Plan") and other applicable public plans for the area.

4.) Whether the proposed development will be adequately served by essential public facilities and services including, without limitation, roads, walkways and bike paths, police and fire protection, drainage structures, potable water and centralized sanitary sewers or other approved sewage disposal systems.

5.) Whether the proposed Application and Development Plan promote greater efficiency in providing public and utility services and encouraging innovation in the planning and building of all types of development.

6.) Whether the proposed development can be made accessible through existing Township roadways or roadways and lane improvements actually being constructed and opened prior to the use and occupancy of the proposed development without creating unreasonable traffic congestion in the immediate vicinity of the proposed development or elsewhere in the Township.

7.) Whether the proposed development is designed in such a way as to minimize any unreasonable adverse impact on surrounding areas of the Township.

In approving the Application and Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions deemed necessary in order to carry out the purpose and intent of the PMUD.

F.) Effect of Approval.

1.) The Zoning Commission's determination shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code. If the Zoning Commission makes a final determination that the Development Plan included in the Application complies with this **Article 16,** or if the Zoning Commission's final determination is one of noncompliance, then if a court of competent jurisdiction makes a final non-appealable order finding compliance, the Zoning Commission shall approve the Application and upon approval shall cause the Zoning Map to be changed so that any other zoning district that applied to the property that is the subject of the owner's Application no longer applies to that property. The removal of the prior zoning district from the Zoning Map is a ministerial act and shall not be considered to be an amendment to the Township Zoning Resolution for the purposes of Section 519.12 of the Revised Code and may not be appealed pursuant to Chapter 2506 of the Revised Code.

2.) The approval of the Development Plan shall be effective for a period of five (5) years (or for such other time period as may be approved as part of the Development Plan) in order to allow for the preparation and recording of a subdivision plat (if required under applicable law) and the commencement of

construction following the issuance of a zoning permit(s). If no plat has been recorded within this approval period (or, if platting is not required, if construction has not commenced) and unless the Zoning Commission approves an extension of this time limit, the Development Plan shall expire. Upon the expiration of the Development Plan, the subject parcel(s) shall remain zoned PMUD, but no use shall be established or changed and no building, structure or improvement shall be constructed until an Application for a new Development Plan, accompanied by a new Development Plan, has been filed with and approved by the Township using the procedures and process then established for the approval of an initial Development Plan.

3.) No zoning certificate shall be issued for any structure in any portion of a PMUD for which a plat is required by the Delaware County Regional Planning Commission unless the final subdivision plat for that portion has been approved by the applicable platting authorities and recorded with the Delaware County Recorder in accordance with the approved Development Plan and with the Subdivision Regulations of Delaware County, Ohio.

4.) An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Zoning Commission upon Application of the owner(s), provided the Zoning Commission determines that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted and at the discretion of the Zoning Commission. A request for extension shall be filed prior to the expiration of the established approval period.

5.) Following the approval of the Development Plan, proposed variations from the approved Development Plan that involve only one (1) lot shall be considered by the Board of Zoning Appeals under its hearing process pursuant to **Article 28** of the Zoning Resolution. All other modifications to the Development Plan shall be presented to the Zoning Commission for its consideration pursuant to **Section 16.06(F)(6)**, hereof.

6.) The Zoning Commission may, at a duly held hearing, modify the approved Development Plan without being subject to the same procedures as the original Application. Any approval may be with such conditions or modifications as the Zoning Commission may determine. The applicant and all owners of property within, contiguous to, and directly across the street from the area proposed for modification shall be given at least ten (10) days' prior notice of the hearing by regular first class mail. The notice shall be mailed to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the request. The request for modification may be approved upon a showing of a compelling reason and necessity for the same and upon a showing that the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is administrative in nature and not in conflict with the intent and purpose of the PMUD Planned Overlay District. The Zoning Commission shall render a decision on the request within forty-five (45) days after the conclusion of the hearing.

G.) Fees. A fee as established by the Board of Trustees shall accompany an Application requesting approval of the Development Plan, as well as any request for extension or modification. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Berkshire Township in using professional consulting services to review the Development Plan. These expenses may include, without limitation, costs for professional consultants such as attorneys, architects, landscape architects, planners and engineers utilized by the Township in connection with reviewing the Development Plan and related Application materials. As soon as reasonably practicable following the submission of an Application for approval of a Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist it in reviewing the application. If the Zoning Commission decides it needs professional consulting services, it shall designate the person(s) to be

consulted and make an initial estimate of the expenses anticipated to be incurred in reviewing the Application materials. The Zoning Commission shall provide the applicant with notice of its initial estimate of such expenses. This initial estimate will be reviewed, and may be revised, from time to time during the review process, and, if such review results in an increase in the estimated professional consulting fees and charges which will be incurred in the Township's review of the Application materials, the Zoning Commission shall send the applicant written notice of the revised estimate of fees and charges. Within fourteen (14) days of the date of the notice of the initial estimate of fees and charges (and, if applicable, within fourteen (14) days of the date of the notice of any revised estimate), the applicant shall deposit in the office of the Township Fiscal Officer or the Fiscal Officer's designee, an amount equal to the estimated cost of the Township's expenses. In making the estimate of the professional consulting fees and charges anticipated to be incurred, the Zoning Commission shall consider the reasonable commercial rates of qualified professionals. Upon request, the Township shall provide the Applicant with an itemized copy of any consultant(s) bill paid for in accordance with this **Section 16.06(G).** Notwithstanding the foregoing, bills for legal services shall only disclose the costs incurred and narrative descriptions shall not be disclosed, in that these are privileged communications and protected from disclosure under attorney-client privilege.

Section 16.07 – GENERAL DESIGN STANDARDS

The proposed development shall be designed in accordance with generally accepted planning principles, including the design standards included in this Section, to ensure that the use of land, buildings and other structures; the building location, bulk, layout, arrangement, design, and height; the percentages of lot areas that may be occupied; the setback of buildings; and the sizes of yards and other spaces are in compliance with the purposes and standards of this Section. The Development Plan shall comply with the following design standards:

A.) Access. Any PMUD development shall have direct access to one or more dedicated and improved public roads of sufficient capacity to accommodate traffic generated by the proposed development. Provision for future connections to other public roads as required by the Township, or other applicable governmental authorities, shall be provided. Unless otherwise provided by an approved Development Plan, emergency vehicular connectivity shall be provided.

B.) Setbacks and Yard Areas. The location and arrangements of buildings and structures within the PMUD shall be configured in a manner to appropriately balance Open Spaces and commercial areas and to provide safe separation between buildings and uses and to ensure convenient access within the area. The development should be accomplished as a mixed use development, with the potential to provide multi-family housing to the area and associated office and accessory retail and service providers, and designed to create an integrated housing area and economic center for the Township and the surrounding area.

C.) Residential Density. The density of all proposed residential units in the PMUD shall be subject to the requirements and limitations of **Section 16.08(C).**

D.) Perimeter Area. When located contiguous to a residential district (A-1, FR-1, PRD, PERRC, PRCD), no building or Accessory Use shall be constructed within fifty (50) feet of the perimeter property line of the contiguous property, the perimeter boundary shall be adequately landscaped to screen the development from adjacent property and no parking shall be constructed closer than fifty (50) feet to a contiguous property line.

E.) Buildings. The physical relationship of buildings and other site improvements to one another and the surrounding area, as created by building size, mass, height, shape and setback, shall result in a harmonious development within the PMUD and with those areas adjacent to it. The bulk and height of buildings within the proposed development shall be compatible with the surrounding area and sufficiently buffered from the surrounding areas in order to mitigate any potential adverse impact. Buildings, structures and parking areas shall be designed and located within the development in ways that conserve environmentally sensitive or unique natural, historic or cultural features, and minimize environmental impacts. Buildings and structures shall be designed to enhance both areas within the development and surrounding areas, giving due regard to building footprints, building orientation, massing, roof shape, pitch and exterior materials.

F.) Building Size. Building size shall be limited in areas not conducive to absorbing the impacts associated with larger types of commercial, office or Multi-Family Dwelling establishments. Buildings may contain such area of floor space as is approved in the Development Plan.

G.) Tract Coverage. Ground coverage by buildings and paved areas shall be minimized and shall be designed to foster compatibility both within the project area and adjacent properties.

H.) Lighting. Exterior building and parking lot lighting including the style and height shall be minimized and shall not be directed toward or impact adjacent areas.

I.) Signage. All signs and graphics within the PMUD shall be compatible in size, location, material, height, shape, color, and illumination. The Signage Plan for the entire PMUD shall set forth the design parameters for the entire project to ensure a consistent and comprehensive character throughout the project. The Signage Plan shall include the design, layout, and dimensions of all ground, monument, window and wall signs as well as distances from right-of-ways and the type and intensity of illumination. Signs should contribute to an overall cohesive design, reflect simplicity, and avoid visual clutter. The overall design and placement of buildings should take into account the general placement of signs so that all permanent signs and associated lighting fixtures complement the appearance and architecture of the buildings and the PMUD and do not contribute to environmental degradation. Ground signs shall be designed to relate to and share common design elements with the building. The materials and colors of the sign, sign background and sign frame shall be compatible with the buildings' materials and colors.

J.) Landscaping. All yards (front, side and rear) and all Open Space not covered by structure, asphalt and the like shall be landscaped. All landscaping shall be maintained and kept in accordance with the Landscape Plan as submitted and approved. All vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage on adjoining land. The Landscape Plan shall show the caliper, height, numbers, name and placement of all materials. The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape or land uses. The landscape treatment proposed to be provided shall emphasize a pedestrian environment, separate pedestrian ways from parking areas, enhance architectural features, provide shade and strengthen vistas and serve as an important axis between the development and other locations.

The Landscape Plan shall preserve and be sensitive to the natural characteristics of the site and shall provide screening from adjacent Residential Uses and districts. Where natural or existing topographic patterns positively contribute to the appearance and utility of a development, they shall be preserved. Any proposed landscape mounds shall be designed with such slope, plant and other landscape materials so as to minimize maintenance requirements and maximize the health and durability of the chosen plants and landscape materials. Overall unity of design shall be encouraged through landscape treatment. Plants that are indigenous to the area and others that are hearty, harmonious to the design, consistent with adjacent land uses, and, where applicable, of good appearance, shall be used. Landscaped parking lot islands shall be designed in accordance with these landscape principles as well as to facilitate snow removal techniques.

K.) Parking and Loading Areas. Off-street parking shall be provided prior to receipt of a Certificate of Compliance from the Township for the main structure or building, with adequate provisions for ingress and egress. Parking areas shall be designed to discourage single, large, unbroken paved lots for off-street parking and shall encourage smaller, defined parking areas within the total parking system. Such defined parking areas shall be delineated and accented by landscaped areas. Parking aisles, whenever possible, shall be oriented perpendicular to the building fronts. All service and delivery and loading areas shall be made to the rear of the structure(s) unless special design treatment or circumstances warrant an alternative. The layout of parking areas, service areas and related entrances, exits, signs, lighting, noise sources or other potentially adverse

influences shall be designed, located and, in certain instances, screened to protect the character of the area as well as those areas adjacent to the development.

L.) Floodplains and Environmentally Sensitive Areas. Floodplains shall be protected from building or pavement encroachment. A riparian buffer shall be provided for stream beds along the entire length and on both sides of a river or Perennial Stream Channel. The buffer area shall have a width of not less than fifty (50) feet as measured from the river, creek or stream high water mark on both sides. The buffer area shall have a width of not less than twenty-five (25) feet as measured from any Tributary stream high water mark on both sides. This buffer area shall be restricted from development and managed to promote the growth of vegetation indigenous to the area capable of maintaining the structural integrity of the stream bank. A wetlands buffer shall be provided for all wetlands required to be retained by the U.S. Army Corps of Engineers or the Ohio EPA. The buffer area shall have a width not less than twenty-five (25) feet, measured from the edge of the designated wetland. The buffer area shall not be disturbed other than as is necessary to establish a natural landscape. Existing trees should be preserved and protected to the extent practicable.

M.) Utilities. Centralized water supply and sanitary sewage disposal systems and storm water management shall be provided, subject to the Delaware County Sanitary Engineer, Delaware County Engineer, Delaware General Health District, and the Ohio Environmental Protection Agency approval. All utility service lines shall be located underground.

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

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

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

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

R.) Vibrations and Noise. No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property line of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.

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

Section 16.08 – MINIMUM DEVELOPMENT STANDARDS

The Development Plan shall comply with the following development standards:

A.) Tract Size. The gross area of a tract of land proposed to be developed in the PMUD shall consist of a minimum of three (3) acres, exclusive of right-of-way. No minimum lot size is required. However, all lots shall be of sufficient area to comply with the required yard areas, setbacks and other design and development standards.

B.) Intensity of Use. All buildings shall be erected on permanent foundations and shall be constructed of conventional building materials of a quality equal to or better than those used in existing buildings in nearby areas or as specified herein. All office and retail activities shall be completely enclosed within buildings, except for patios and similar facilities accessory to any permitted use.

C.) Residential Density and Location. The Berkshire Township Comprehensive Plan, 2008 as well as the 2015 update, have designated the U.S. 36/S.R. 37 Corridor as an area within the Township targeted as for economic growth. Parcels located along this Corridor provide the ideal location and opportunity for a mix of professional office, commercial, institutional, and Residential Uses within the Township, while allowing for the preservation of net developable acres within the PMUD. A higher density Residential Use is permitted and included in this mix to provide the area with housing for individuals that will work at companies and businesses that locate in and around the U.S. 36/ S.R. 37 Corridor. To achieve this goal, the Township has determined that a density cap be placed on areas within the PMUD.

1. Multi-Family Density. The total number of new Multi-Family Dwelling Units (as defined in **Section 16.09** herein and **Article 4**) proposed to be located within the PMUD shall not exceed a maximum of three hundred (300) Dwelling Units in the Northwest Quadrant of the intersection of I-71 and U.S. 36/S.R. 37, three hundred (300) Dwelling Units in the Southwest Quadrant of the intersection, and seven hundred (700) Dwelling Units in the combined area of the Northeast Quadrant and Southeast Quadrant. The Northeast, Northwest, Southwest, and Southeast Quadrants are shown on the PMUD Overlay Zoning District Map.

   Dwelling Units shall be constructed at a minimum density of eight (8) Dwelling Units per net developable acre (d.u./n.d.a.) as defined in Article 4, and a maximum density of twelve (12) d.u./n.d.a. as defined in **Article 4**. Berkshire Township recognizes that it is important to allow flexibility in the design of new developments, but such flexibility must be balanced with the goals and objectives of the community. To this end, this Section provides for varying degrees of potential density bonuses. However, these bonuses are subject to the discretion of the Zoning Commission and are, in large part, dependent upon the Applicant providing meaningful, substantial and additional administrative and design amenities in the form of what are hereinafter referred to as "quality items." Increased density of one (1) Dwelling Unit per quality item may be approved by the Zoning Commission up to a maximum of three (3) additional d.u./n.d.a. (potentially resulting in a total maximum density of fifteen (15) d.u./n.d.a.) if it is determined that any of the following quality items are adequately provided for in the Development Plan:

   a.) If the developer provides 10% additional and useable Open Space than the amount required in **Section 16.08(K)** either on-site or within the PMUD area;

   b.) If the developer provides 30% more landscaping material than required in **Section 16.08(I)** herein.

   c.) If the developer commits to participation in a joint economic development district, a new community authority or such other economic development mechanism as may be approved by the Zoning Commission.

   d.) Any other enhanced feature unique to the site that is deemed by the Zoning Commission to be a similar type of quality item.

   Furthermore, any residential proposal shall not only comply with these density requirements, but also shall conform to all other applicable requirements of this **Article 16** including square footage requirements listed in **Section 16.08(E)(3).**

2. Other Densities. Other types of residential units may be built without limitations noted under **Section 16.08(C)(1)** herein. Such units may be developed at a maximum density of four (4) d.u./n.d.a. for single-family units and six (6) d.u./n.d.a. for attached units such as common wall attached, townhomes, patio homes, or four-unit structures.

3. Location. All multi-family residential proposals shall abut existing or simultaneously-proposed and developed commercial, office, or industrial uses with a continuous length of at least 20% of the perimeter boundary of said multi-family proposal. Location of residential development is limited by the following restrictions:

   a.) In the Northwest Quadrant as delineated on the PMUD Overlay Zoning District Map, no non-Residential Uses nor multi-family Residential Uses may be developed further than one thousand seven hundred (1,700) feet from the centerline of U.S. 36/S.R. 37, and no multi-family Residential Uses shall be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.

   b.) In the Southwest Quadrant as delineated on the PMUD Overlay Zoning District Map, no multi-family Residential Uses may be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.

   c.) In the combined area of the Northeast Quadrant and Southeast Quadrant as delineated on the PMUD Overlay Zoning District Map, no multi-family Residential Uses may be developed within four hundred (400) feet of the centerline of U.S. 36/S.R. 37.

D.) Frontage, Setbacks and Yard Areas.

1.) Frontage. Lots shall front upon and/or have access to an improved, public road. Outlots may be located on an improved, public or private road. Road frontage in either case shall be no less than fifty-five (55) feet.

2.) Minimum Side Yard per Tract. A side yard of at least twenty-five (25) feet on each side of the tract shall be provided for principal and accessory structures, processing, and servicing or loading areas, or as authorized by an approved Development Plan. No principal commercial or multi-family structure shall be located closer than twenty-five (25) feet to another principal structure unless the adjacent walls of both structures are masonry, in which event said principal structures shall be no closer than fifteen (15) feet. No principal commercial or multi-family structure shall be located closer than fifteen (15) feet to another principal structure. No principal single-unit Residential Use may be closer than fifteen (15) feet to another principal single-unit Residential Use.

3.) Minimum Rear Yard per Tract. A rear yard of at least twenty-five (25) feet shall be provided for principal and accessory structures, including open storage, processing, and servicing or loading areas, or as authorized by an approved Development Plan.

4.) Additional Setback. No building or structure shall be located closer than thirty (30) feet to the right-of-way. There shall also be a clear strip of land extending to a width of at least twenty (20) feet to the right-of-way upon which no building, structure, sign or any other improvement shall be erected with the exception of the following:

   a.) Driveways for ingress and egress.

   b.) Parking approved in accordance with the approved Off-Street Parking and Loading Plan.

   c.) Signs not over four (4) square feet for direction of traffic only.

d.) Plantings no higher than three (3) feet above road grade.

e.) Trees, except that branches shall not interfere with the paved portion of the road and shall be trimmed to a height of six (6) feet from the ground.

f.) Utility easements for the erection of public utility poles, hydrants and similar items.

g.) Sidewalks and Bike Paths.

h.) Patios not exceeding ground level elevation, by more than eight (8) inches.

E.) Lot Coverage and Building Height.

1.) Lot Coverage. The ground area occupied by all the buildings, structures, driveways, traffic circulation areas, parking areas, sidewalks and all other Impervious Surfaces shall not exceed in the aggregate eighty percent (80%) of the total area of the tract.

2.) Building Height.

a.) Multi-Family Dwellings: No building or structure for any permitted use shall exceed two (2) stories in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than eight (8) feet.

b.) All Other Principal Structures: No building or structure for any commercial or office use shall exceed forty-five (45) feet in height. Chimneys, flagpoles, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.

3.) Building Dimensions. Buildings may contain such floor area as is approved in the Development Plan. However, all multi-family residential units erected within the PMUD shall have a minimum of eight hundred (800) square feet of residential floor area for a one-bedroom unit and a minimum of nine hundred (900) square feet of residential floor area for a two-bedroom unit.

4.) The use of environmentally conscious construction standards, such as the use of Leadership in Energy & Environmental Design (LEED) standards, on structures built in the PMUD district is encouraged by the Township, but not required.

F.) Architectural Standards. Buildings shall be designed to be seen from three hundred sixty (360) degrees and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing or principal structure. The following standards shall apply to structures for:

1.) Design Elements. The architectural style and design of structures shall create harmony throughout the site. All materials used to construct buildings within the PMUD shall be utilized in such a manner as to be architecturally and aesthetically compatible, so long as the proposal utilizes the permitted materials as specified by **Section 16.08(F)(2) below.** Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the PMUD by this **Article 16.**

2.) Materials. The exterior elevations of all proposed buildings and screening structures shall only consist of any or any combination of all of the following natural materials:

a.) Wood;

b.) Red or earth tone brick;

c.) Native or cultured stone;

d.) Stucco/EIFS;

e.) Pre-cast concrete where used as an accent;

f.) Cementitious siding (such as HardiPlank® or similar) and/or composite siding (such as SmartSide® or similar);

g.) Metal and glass (except for multi-family uses).

The above material requirements shall not be applicable to vinyl soffits, facia windows, downspouts, gutters, window glazing and reveals, as well as hardware and similar accents.

3.) Façade Appearance. A building wall that exceeds a width of fifty (50) feet shall incorporate sectioning and design elements that offset the wall plane to inhibit a large expanse of blank wall and add interest to the façade. When multi-family uses are part of a structure, such design elements shall include:

a.) A door measuring at least twenty (20) square feet in area and forty-five (45) square feet in area including architectural features, such as, but not limited to, an awning, window, faux window or other feature subject to approval by the Zoning Commission;

b.) A window of at least six (6) square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered one element;

c.) A gabled vent of at least four (4) square feet in area;

d.) Porches, decks, or similar structures that create the illusion of a porch, deck, or window balcony; or

e.) A similar significant permanent architectural feature consistent with the style of the building upon approval of the Zoning Commission, as applicable.

4.) Glass. The use of black, gold, green, silver, opaque, or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to approval of the Zoning Commission.

5.) Roofing. All pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate.

6.) Drive In/Drive Thru Features. A drive in/drive thru facility, if deemed appropriate within the PMUD, shall be designed as an integral part of the structure it serves. Features incorporated with such a facility include, but are not limited to, canopies, awning, and support posts, which shall match or be coordinated with the materials and color scheme of the building they are serving. Drive in/drive thru features shall not have any pickup windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the building and a right-of-way.

7.) In-Line Retail Exemption. Side or rear elevations of an In-Line Retail development may be exempt from the building design standards of the PMUD if such elevations are not visible to customer traffic, a right-of-way, or if a future phase of the In-Line Retail development is adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and be screened by landscaping, mounding, fencing, or a combination thereof, as deemed appropriate.

G.) Exterior Lighting. The Exterior Lighting Plan is subject to the following requirements:

1.) Traffic signals, where necessary, shall utilize a monopole design with mast arms extending over the intersection, in accordance with any applicable county or state regulations.

2.) Site lighting shall be required for all developments and be designed to sufficiently illuminate the site and minimize spillover from the property.

3.) Light pole heights should be in harmony with the parcel, building, and parking lot size as well as the surrounding area. Parking lot lighting shall be of a standard light source and type. The style shall reflect a traditional design, ideally consistent throughout the corridor.

4.) Building, pedestrian and landscape lighting may be incandescent, metal halide or other sustainable lighting as determined by the Zoning Commission.

5.) All parking lot areas shall have a maximum light intensity of twenty (20) foot candles and an average light intensity between one (1) foot candle and three (3) foot candles.

6.) All external lighting shall be decorative, cut-off type fixtures and downcast to reduce spillover. Outdoor lighting shall be directed, reflected, or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with a neighboring property owner's right to enjoy his property. Light spillover shall not exceed one tenth (0.1) foot candles when adjacent to a residential zoning district or an existing Residential Use.

7.) Luminaries should have a minimum cut-off of forty-five (45) degrees, so as to provide glare control to pedestrian and vehicular traffic, as well as distinct beam cut-off on the outer perimeter of the setback areas.

8.) All Landscape Uplight Fixtures shall be screened by landscaping and cut-off in design. This type of lighting shall be equipped with automatic timing devices and shielded and focused to minimize light pollution.

9.) No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.

10.) External building lighting shall be limited to wall-mounted sconces.

H.) Signage. Graphics and Signage in the PMUD shall conform to **Section 16.07(I)** and **Article 22** of the Zoning Resolution or as approved by the Zoning Commission.

I.) Landscaping. All yard areas and Open Spaces shall be landscaped in accordance with the approved landscape plan. Natural foliage shall be retained as buffers where practicable. The Landscape Plan shall comply with the following requirements:

1.) Right-of-Way. Any surface parking areas adjacent to an existing or planned right-of-way shall be screened from the respective right-of-way with shade trees having a minimum caliper of two and a half (2½) inches for every forty (40) lineal feet of road frontage, and shall be located three (3) feet outside

of the right-of-way. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.

2.) Residential District Screening. Non-Residential Uses, excluding multi-family accessory uses, adjacent to Residential Uses (both within and adjacent to the PMUD) shall install a continuous planting hedge and tree combination to provide screening from such adjacent use. The required planting hedge and tree combination shall be a minimum of six (6) feet in height at the time of installation. Mounding may be used to achieve the required height and fencing. Fencing or other screening materials shall be made of those materials listed in **Section 16.08(F)(2)** or deemed compatible with those materials. Each tree used for screening purposes shall have a minimum caliper of two and a half (2 ½) inches per forty (40) lineal feet required to be screened. Trees used for screening shall be of the evergreen or deciduous classification.

3.) Exterior Areas. Grass (seed or sod), shrubs, trees, garden planting areas or other appropriate landscape materials shall be planted in all exterior areas. Other groundcover, such as ivy, may be planted in exterior areas which are not occupied by required landscaping material or required for drainage. All vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage.

4.) Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurserymen.

5.) Maintenance. All trees and landscaping shall be well maintained. All maintenance and upkeep of landscaping shall be the responsibility of the owner of such yard, space or area where the landscaping is located. Dead trees, shrubs and other landscaping material shall be promptly removed and shall be replaced within six (6) months or the next planting season, whichever is sooner.

6.) Street Trees. Trees shall be planted at a minimum distance of forty (40) feet along all internal public streets. Trees shall be of deciduous species normally attaining full-grown height in excess of fifty (50) feet and shall be of two (2) to two and a half (2 ½) caliper or greater at the time of planting. Tree limbs shall be trimmed to a height of fourteen (14) feet above roads and eight (8) feet above sidewalks and trails. Maintenance of street trees shall be the responsibility of the homeowner or the Homeowners association.

7.) Tree Preservation. Reasonable and good faith efforts will be made to preserve existing trees. Consideration shall be given to laying out service roads, lots, structures and parking areas to avoid the unnecessary destruction of wooded areas and individual trees. Additionally, standard tree preservation practices shall be used to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

J.) Parking and Loading. Parking shall be paved prior to receipt of a final Certificate of Compliance, with adequate provisions for ingress and egress according to the approved Development Plan, unless a phasing schedule is approved as part of the Development Plan. In preparing the Parking and Loading Plan, all parking and loading areas shall conform with **Section 21.01** of the Berkshire Township Zoning Resolution and the following provisions:

1.) Parking Bays and Minimum Parking Space Requirements. No parking bay shall contain more than twenty-four (24) total parking spaces, with a maximum of twelve (12) spaces in a single row. All parking spaces shall be not less than nine (9) feet wide and eighteen (18) feet long.

2.) Parking Lot Location. Non-Residential Uses may be permitted to locate parking spaces in front of the principal structure if authorized by the approved Development Plan, provided that such parking complies with all other criteria contained in this **Article 16**. All parking spaces for Multi-Family Dwellings shall be located behind or to the side of the principal building with no more than fifty percent (50%) of

such parking spaces located to the side of the principal building. No parking lot or parking area shall be located closer than ten (10) feet to the side or rear line of the tract on which the structure is located. In no event shall the parking be located closer than twenty (20) feet to any right-of-way, unless authorized by the approved Development Plan.

3.) Parking Lot Islands. Interior tree islands shall be required within parking lots and shall be of sufficient number and size to provide for a ratio of one (1) shade tree for every twelve (12) parking spaces or fractions thereof. Each landscaped tree island in a single loaded parking stall shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. Each landscaped island in a double-loaded parking stall design shall have a minimum area of three hundred twenty-four (324) square feet, with a minimum width of nine (9) feet. Parking lot islands may be combined into one (1) or more larger parking lot islands, so long as they meet the area and landscaping requirements of this Zoning Resolution and are approved as part of the Development Plan. All landscaped tree islands shall contain at least one (1) shade tree a minimum of two (2) inches in caliper and include at least fifty (50) square feet of other plant materials. The Parking and Loading Plan or the Landscape Plan shall identify all types of trees to be used in parking lot islands.

4.) Driveways. Driveways shall be set back no less than fifteen (15) feet from the right-of-way or front property line, whichever is greater, and no less than five (5) feet from side and rear property lines. Driveways connecting the site to an improved and dedicated street or Driveways utilized to access adjacent properties shall be exempt from this requirement. Location of Driveways that connect to a public road shall be reviewed and approved by the appropriate governing agency (Delaware County Engineer, Ohio Department of Transportation, etc.).

5.) Service Parking. Service parking shall be provided at a level determined appropriate for each specific use by the Zoning Commission, as applicable. All service areas shall be located behind the front elevation of the primary building.

6.) Minimum Number of Parking Spaces Required. For multi-family proposals, a minimum of two and one-fourth (2¼) parking spaces for each Dwelling Unit is required. For all other buildings constructed in the PMUD, a minimum of one parking space per two hundred fifty (250) square feet of building area shall be required. Applicants may elect to provide one (1) space per employee plus one (1) visitor space per ten (10) employees if the Development Plan shows that there is sufficient room to expand the parking lot to provide the required amount of spaces in the future should the lot be sold to a new owner or the needs of the business change. The Zoning Commission may require the applicant to submit a signed letter with the Development Plan stating that the remaining spaces will be provided if requested by the Township.

7.) On-Street Parking in Multi-Family Proposals. In Multi-Family Dwelling proposals in the PMUD, an applicant may be allowed to count parallel or angled On-Street Parking spaces located along private streets towards the minimum parking requirements of this PMUD, so long as those parking spaces are within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling structure(s). Those parking spaces shall be striped and meet the minimum size requirements for off-street parking spaces, as described by this **Section 16.08(J)** and the Zoning Resolution. On-Street Parking located along a public street within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling Structure(s) may also be counted toward the minimum parking requirements of this **Section 16.08(J)** and the Zoning Resolution, so long as On-Street Parking along those streets has been approved by the Board of Trustees in accordance with Section 505.17 of the Ohio Revised Code and complies with the regulations adopted in accordance with the same. Any On-Street Parking utilized to meet the minimum parking requirements of this **Section 16.08(J)** or the Zoning Resolution, whether along a private street or public street, shall only be permitted in accordance with an approved Development Plan. Once a parking space has been counted toward the parking requirement for any Application or phase of a Multi-Family Dwelling proposal, it cannot be used to meet the parking requirements of subsequent phases or Applications. In all cases, On-Street Parking spaces shall not exceed twenty-five percent (25%) of the minimum number of spaces required.

8.) Loading Areas. All loading areas shall be screened from view by landscape planting (which provides seventy-five percent (75%) opacity), or walls and fences at least six (6), but not more than twelve (12), feet in height. All walls and fences used for screening shall be constructed of materials permitted by **Section 16.08(F)(2)** of this Resolution.

K.) Open Space. A minimum of thirty percent (30%) of the total PMUD acreage shall remain and be utilized as Open Space. Twenty percent (20%) open space must be located on-site while the remaining 10% may be located either on-site, off-site, or mitigated with a contribution in lieu to be utilized for public improvement. Such contribution will be at the rate of $30,000 per acre or fraction thereof. Such contributions will be placed in a special fund by the Township and used only for the improvement or acquisition of park areas, recreational facilities, playgrounds, trails, or wetlands.

Open Space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open Space features may include, but are not limited to bike paths, walking paths, existing bodies of water, water impoundments, forested and landscaped areas not included in a yard requirement, and similar features. Open Space may be used for the disposal of storm water drainage. No features shall be designed which are likely to cause erosion or flooding.

To help promote the creation of a unified open space system, an open space master Development Plan may be submitted that may only include the areas within the PMUD that will be utilized in the open space system. Once an open space master Development Plan is approved, future applicants within the PMUD may be permitted to utilize that Open Space to meet up to half of the Open Space requirement for their proposed Development Plan. If a portion of the area included in the open space master Development Plan is utilized by an approved Development Plan to meet an open space set aside requirement, it can no longer be utilized by future applicants for that purpose.

The responsibility for the maintenance of all Open Space shall be specified by the applicant in writing within the Development Plan. Open Space may be proposed to be owned by an Association, the Township or other governmental entity, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership if appropriately restricted.

L.) Multi-Use Paths and Pedestrian Access. Interconnectivity shall be provided for pedestrians and non-motorized uses. Sidewalks shall be located along internal streets and roads with additional facilities through open spaces and connections at logical locations. Wider bike paths shall be provided on at least one side of larger arterial roads and where connections to regional systems are warranted. Larger proposals should include a master bikeway/pedestrian plan.

M.) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located at the rear of the building or at the side of the building if the side is not oriented towards an existing or planned right-of-way(s) and must be enclosed on all four (4) sides with either a masonry enclosure or wood fencing at a minimum of six (6) feet in height.

N.) Utilities. All utility lines constructed to service the proposed development shall be located underground. Mechanicals, whether roof mounted or on the ground, shall be screened with architectural features and/or landscaping.

O.) Stormwater Basins. Dry retention basins are prohibited. All stormwater basins shall be wet basins and aeration devices may be required. Bioretention basins, or rain gardens, may be used only when approved by the Zoning Commission as part of the Development Plan. All stormwater basins shall be constructed per the requirements of the Ohio Department of Natural Resources Rainwater and Land Development Handbook and any applicable standards adopted by the Delaware County Engineer.

P.) Supplemental Conditions and Safeguards. The Zoning Commission may impose additional conditions relating to the Development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of Open Space areas; and other development characteristics.

Q.) Other Requirements. Unless specifically supplemented by the standards contained in **Article 16** herein or those standards approved by divergence, the general development standards found in **Article 21** of this Zoning Resolution shall apply.

Section 16.09 – Definitions

The following definitions shall apply to terms that are used specifically in the Planned Mixed Use District. Otherwise, the definitions in **Section 4** shall apply.

Floor Area:

a. **Residential** – the square foot area of a building at all finished levels, within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, and unfinished basements and attics.

b. **Non-Residential** – the square foot area of a building at all levels, whether finished or not, including open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, unfinished basements, attics, and mezzanines.

Impervious Surfaces: areas that have been, or are proposed to be, paved and/or covered with buildings and materials that do not readily and freely absorb and/or allow water to penetrate, including, but not limited to, concrete, asphalt, rooftop, blacktop, brick, blocks, and pavers.

In-line Retail: a retail complex consisting of stores or restaurants in adjacent spaces in one continuous, long building or structure typically having a parking area in front of the stores that opens to a public street.

Landscape Uplight Fixture: a light fixture sitting on the ground that is incorporated into landscaping that shines upward and is typically utilized to illuminate certain architectural or landscaped features.

Multi-Family Dwelling: for the purposes of Article 16 only, Multi-Family Dwelling is defined as a residential building arranged or designed for more than four (4) Dwelling Units as separate and complete housekeeping units.

Non-Residential Use: any use of land that is permitted by the Berkshire Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

Outlot: a lot located adjacent to a public or private street in a larger, commercial style development that is reserved for a specific use.

On-Street Parking: striped, angled, or parallel parking spaces that are permitted within the right-of-way or along a private street.

Parking Aisle: the traveled path through an off-street parking lot or facility between one or two rows of parked vehicles.

Parking Bay: a row of parking spaces typically separated by a parking island or some other feature used to break up large expanses of asphalt used for surface parking.

Perennial Stream Channel: a stream that flows in a well-defined channel throughout most of the year under normal climatic conditions.

Private Road: a road or driveway on privately-owned property, limited to the use of the owner or a group of owners who share the use and maintain the road without help from a government agency.

Public Road: any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

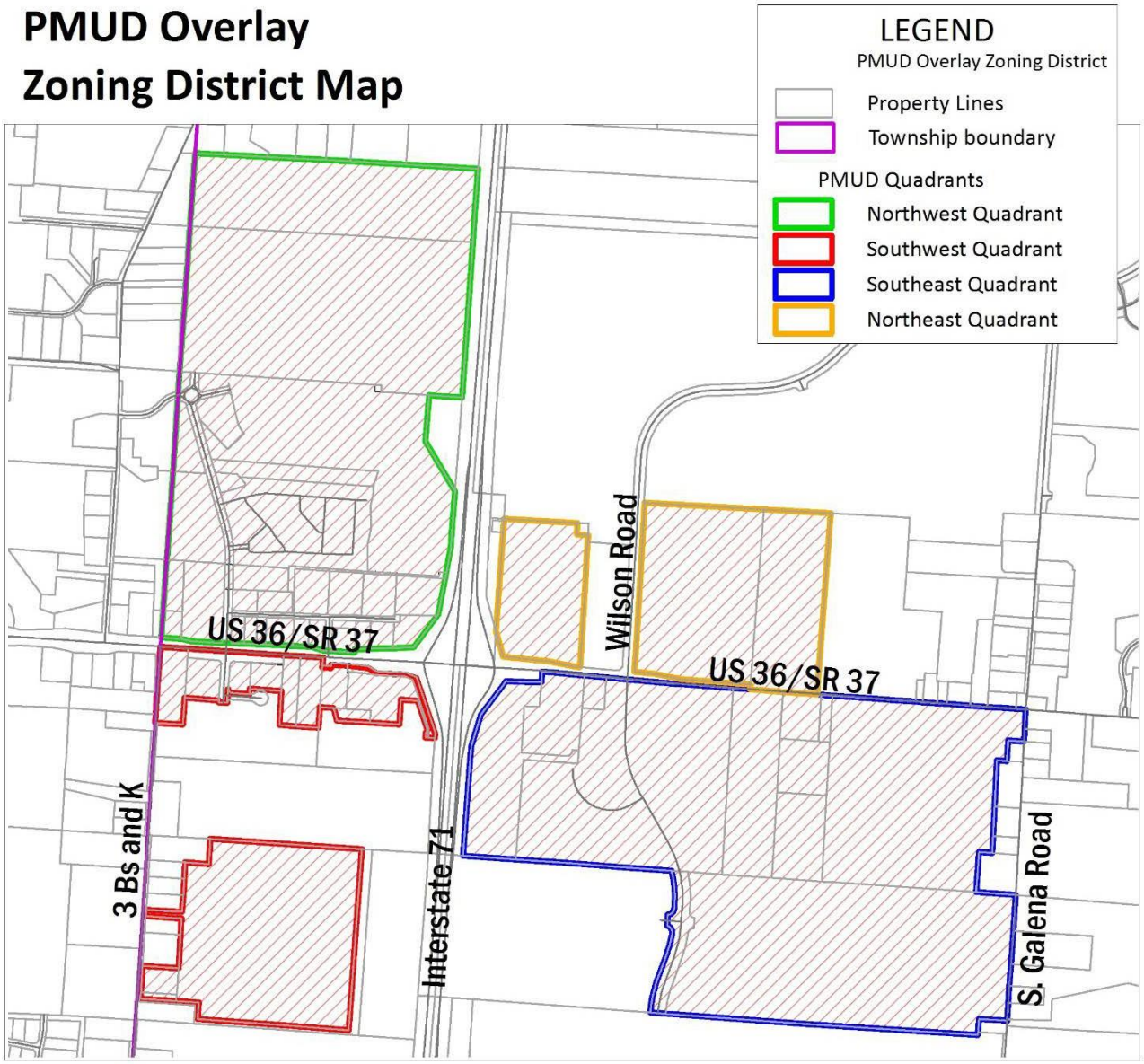
Residential Use: any permitted use of land where a dwelling has been constructed with the intent of human inhabitation of that structure. Structures may be Detached Single Family Dwelling, Two Family Dwelling, or Multi-Family Dwelling. Residential Uses also include all uses that are incidental to or accessory to the human inhabitation of a structure.

Road or Roadway: each road is defined by its classification as those classifications are delineated in **Section 21.09** of this Zoning Resolution.

Side Yard: An open space extending from the front yard to the rear yard between a building or structure and the nearest side lot line unoccupied and unobstructed from the ground upward.

Tributary: any stream or waterway that flows to a larger stream or other body of water.

Attachment 1
PMUD Overlay
Zoning District Map



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ARTICLE 17 36/37 Planned Mixed Use District

Section 17.01 – NATURE OF THE DISTRICT

The 36/37 Planned Mixed Use District ("36/37 PMUD") is created pursuant to Section 519.021(C) of the Ohio Revised Code to further the purpose of promoting the general public welfare, encouraging the efficient use of land and resources, promoting public and utility services, and encouraging innovation in the planning and building of appropriate types of retail, office, office/warehouse, warehouse and residential development. The 36/37 PMUD achieves this purpose by permitting flexibility of design in order to promote and accommodate environmentally sensitive and efficient use of the land, thereby allowing for a unified development that:

- Permanently preserves unique or sensitive natural resources and integrates Open Space within developments.
- Reduces the amount of infrastructure, including paved surfaces and utility easements, necessary for development.
- Reduces erosion and sedimentation by minimizing land disturbance and removal of vegetation.
- Provides an opportunity for an appropriate mix of open space, office, retail, institutional and Residential Uses not otherwise permitted within the standard zoning district classifications.
- Enables more extensive review of design characteristics to ensure that the development project is properly integrated into its surroundings and is compatible with adjacent development.
- Assures compatibility between proposed land uses within and around the 36/37 PMUD through appropriate development controls.
- Enhances the welfare and economy of the Township by making available a variety of employment opportunities, providers of goods and services as well as providing a variety of housing options for the Township residents.
- Encourages unified development projects that exhibit creative planning and design in ways that cannot be achieved through a standard zoning district, yet are imaginative in architectural design and are consistent with applicable public plans for the area and are compatible with surrounding land uses.

Section 17.02 – OVERLAY AREA ESTABLISHED

The 36/37 PMUD is created pursuant to Section 519.021(C) of the Ohio Revised Code and encompasses, includes, overlays and rezones to the 36/37 PMUD the area shown on the 36/37 PMUD Overlay Zoning District Map, which map is attached hereto and incorporated herein as Attachment 1 and is hereby adopted as the official Zoning District Map for the 36/37 PMUD as part of this amendment. The existing zoning regulations and districts for such area shall continue to apply to all property within the 36/37 PMUD unless the Berkshire Township Zoning Commission approves an Application of an owner of property to subject the owner's property to the provisions of the 36/37 PMUD. Such an Application shall be made in accordance with the provisions of **Section 17.06** of the Berkshire Township Zoning Resolution and shall include a Development Plan in compliance with the provisions of **Section 17.06(C)**. Upon receiving such an Application and Development Plan, if the Berkshire Township Zoning Commission determines that the Application and Development Plan comply with the provisions of this **Article 17** and approves the Application, the Berkshire Township Zoning Commission shall cause the zoning map to be changed so that the underlying zoning district no longer applies to such property, with the property being thenceforth located in the 36/37 PMUD and subject to the regulations thereunder. The approval of the Application and Development Plan and the removal of the prior zoning district from the zoning map is a ministerial act and shall not be considered to be an amendment to the Berkshire Township Zoning Resolution.

Section 17.03 – PERMITTED USES

(A) Permitted uses within the 36/37 PMUD according to their 2012 North American Industry Classification System (NAICS) code numbers, may be permitted when approved by the Development Plan process and built and/or developed in strict compliance with the approved Development Plan and standards, provided that each such use is listed as a permitted use in this **Section** and is specifically set forth in the Development Plan.

The precise use or type of use of the tract shall be specified in the plan as submitted and approved and shall be subject to the Use-Specific Requirements set forth in **Section 17.03(B)** herein, as applicable.

2012 NAICS CODE #	Use
1114	Greenhouse, Nursery and Floriculture Production

311811	Retail Bakeries
441110	New Car Dealers – Subject to **Sections 17.03 (B)(1)(a)** and **17.03(B)(1)(c)** hereof
441120	Used Car Dealers – Subject to **Sections 17.03(B)(1)(b)** and **17.03(B)(1)(c)** hereof
4413	Automotive Parts, Accessories, and Tire Stores
442	Furniture and Home Furnishings Stores
443	Electronics and Appliance Stores
444	Building Material and Garden Equipment and Supplies Dealers
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers (except Adults Only Entertainment Establishments and 45393 Manufactured Home Dealers)
491	Postal Service
493110	General Warehousing and Storage – Subject to **Section 17.03(B)(2)** below
51113	Book Publishers
512131	Motion Picture Theaters (except Adults Only Entertainment Establishments)
51224	Sound Recording Studios
513112	Radio Stations
51312	Television Broadcasting
5133	Telecommunications
514	Information and Data Processing Services
52	Finance and Insurance
5312	Offices of Real Estate Agents and Brokers
53211	Passenger Car Rental and Leasing
5322	Consumer Goods Rental
53242	Office Machinery and Equipment Rental and Leasing
54	Professional, Scientific and Technical Services
55	Management of Companies and Enterprises
561	Administrative and Support Services
61	Educational Services
621	Ambulatory Health Care Services
6221	General Medical and Surgical Hospitals
623	Nursing and Residential Care Facilities – but expressly limited to facilities designed for, marketed to and primarily serving persons 55 years and older and consisting solely of independent living, assisted living, memory care and/or skilled nursing care or any combination thereof, but not independent living only facilities.
71111	Theater Companies and Dinner Theaters
71112	Dance Companies
71211	Museums
71394	Fitness and Recreational Centers
71395	Bowling Centers
72111	Hotels (except casino) and Motels – Subject to **Section 17.03 (B)(6)** below

722	Food Services and Drinking Places (except those establishments offering or featuring entertainment included in Adults Only Entertainment Establishments as defined in **Article 4**).
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
812	Personal and Laundry Services
813	Religious, Grantmaking, Civil, Professional and Similar Organizations
92	Public Administration
	Residential Use – as defined in **Section 17.09** below

(B) Use-Specific Requirements. The following requirements, in addition to all other applicable development standards, shall apply to the following specific uses:

(1) Automobile Dealer use shall be limited as follows:

(a) New Car Dealers under NAICS Code #441110 shall be a permitted use as a matter of right within the 36/37 PMUD, including New Car Dealers selling both new and used cars, whether on the same parcel or on separate non-contiguous parcels within the 36/37 PMUD as long as under common ownership.

(b) Used Car Dealers under NAICS Code #441120 may be permitted only with a divergence granted by the Zoning Commission in its discretion pursuant to **Section 17.06 (C)(29)** hereof and any such Used Car Dealer use shall be located on a site of not less than 7 acres unless a divergence is granted by the Zoning Commission in its discretion pursuant to **Section 17.06(C)(29)** hereof.

(c) New Car Dealers under NAICS Code #441110 and Used Car Dealers under NAICS Code #441120, if applicable, shall only be located in Zone 4A and the western half of Zone 4B.

(2) General Warehouse and Storage use shall be limited to facilities located only in Zone 3A, Zone 3B, Zone 4A and Zone 4B, having not less than a 100-foot buffer from the northern boundary line of the 36/37 PMUD, if applicable, not exceeding 100,000 sq. ft. in size, having no more than 10 loading docks, having no outside storage unless a divergence is granted by the Zoning Commission pursuant to **Section 17.06(C)(29)** hereof, and shall require appropriate setbacks and screening as determined by the Zoning Commission.

(3) Office-Flex. Offices and research/laboratory facilities may include ancillary space for clean manufacturing and assembly, wholesaling and/or related showroom(s), warehousing and or distribution purposes, so long as no more than forty percent (40%) of the gross floor area of any structure is used for such ancillary use(s).

(4) Home Health Equipment Rental. The renting of home-type health and invalid equipment, such as wheel chairs, hospital beds, oxygen tanks, walkers, crutches, etc. may be permitted as an accessory use to the primary use of a structure for Professional, Scientific and Technical Services as defined by **Section 17.03(A)** of this Zoning Resolution.

(5) Accessory Multi-Family Dwelling Structure Components. Any Multi-family Dwelling structures located within the 36/37 PMUD, if approved as part of the Development Plan, shall be permitted to include the following accessory uses, so long as those uses are either wholly contained within the Multi-Family Dwelling structures or architecturally and operationally integrated into the Multi-Family Dwelling proposal:

(a) Private Garages.

(b) Food Services and Drinking Places.

(c) Exercise and Fitness Facilities, including exterior pools and related facilities.

(d) Personal and Laundry Services (except NAICS Code #812332 – Industrial Launderers) as defined in **Section 17.03(A)** of this Zoning Resolution.

(e) Entertainment and Recreation Facilities – Indoor and Outdoor.

(f) Storage facilities for bicycles, as well as individual storage facilities for the keeping of personal property owned by the residents of the Multi-Family Dwelling structures. Storage facilities shall not exceed, on average, fifty (50) square feet in floor space per Multi-Family Dwelling Unit; provided, however, that no single unit's storage space shall exceed one hundred fifty (150) square feet. Bicycle and individual storage facilities may be located wholly in a separate accessory structure, so long as that structure(s) is architecturally integrated into the Multi-Family Dwelling proposal and is authorized by an approved Development Plan.

(6) Hotels and Motels shall only contain individual guest rooms that are held out to the public to be a place where sleeping accommodations are offered for pay to guests for an amount no less than the minimum daily rental rate as established by each hotel or motel. Each room shall not be rented out more than twice in any consecutive twenty-four (24) hour period.

(7) Limited Home Occupations: The following professional or business activities shall be considered "Limited Home Occupations," provided that such activities are carried on solely within the confines of the dwelling, do not occupy more than twenty percent (20%) of the dwelling, retain no non-residential employees (whether paid or voluntary), generate no greater traffic, parking or deliveries than would normally be expected in a residential neighborhood, do not create a nuisance to the neighborhood or general public, are imperceptible from the exterior of the dwelling and display no sign:

(a) Home offices used for traditional office-related tasks including, but not limited to, maintaining records and accounts, making and receiving telephone calls, faxes and emails, and generating papers, reports or similar work product, but not including the reception of patients, clients or any licensees or invitees.

(C) Temporary Structures. Temporary structures such as manufactured/mobile home offices and temporary buildings of a non-residential character may be used incidental to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. A Zoning Permit shall be obtained for such temporary use, which permit shall be valid for six (6) months and may be renewed not more than twice. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as the Zoning Inspector deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. No such structure shall be occupied as a dwelling.

Section 17.04 – ACCESSORY USES, BUILDINGS AND STRUCTURES

Accessory uses, as defined in **Article 4** of the Zoning Resolution, may be permitted only when customary with and incidental or subordinate to and in association with a principal permitted use, and further provided that such accessory uses are specifically set forth in the Development Plan and approved as accessory uses by the Zoning Commission. Any accessory uses proposed as part of any Multi-Family Dwelling structure or Multi-Family Dwelling component shall comply with the requirements **of Section 17.03(B)(5)** hereof and this Zoning Resolution.

Accessory uses other than those authorized in **Section 17.03(B)(5)** may be located in a separate accessory structure which is subordinate to the principal structure, provided that the accessory structure is architecturally compatible with and operationally integrated into the development.

Section 17.05 – PROHIBITED USES

Uses not specifically authorized by the express terms of this **Article** of the Zoning Resolution shall be prohibited. The following uses shall be prohibited:

(A) Uses not specifically approved by the Zoning Commission as part of the Development Plan.

(B) Outdoor storage of inoperable, unlicensed or unused motor vehicles for a period exceeding seven (7) days. Said vehicles, if stored on the premises, shall be enclosed within a building so as not to be visible from any adjoining property or public road. This prohibition shall not apply to legal sales or repair activities if such activities are carried out in compliance with the approved Development Plan.

(C) Except as provided in the Development Plan, no trailer of any type, no boats, no motor homes, no campers and no equipment of any type shall be parked in front of the principal structure line on any non-residential parcel within this district, and may only be parked for not more than eight (8) hours in a twenty-four (24)-hour period if located on a residential parcel. If a structure is located on the property, the principal structure line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by the Development Plan.

(D) No manufactured home, mobile home, motor home or camper shall be occupied in this district for residential purposes. Mobile office structures may be permitted in the approved Development Plan in accordance with **Section 17.03(C).**

(E) Sales trailers of any type.

(F) Adults Only Entertainment Establishments as defined in **Article 4** of this Resolution.

(G) Self-service storage facilities, pawn shops, check cashing or short term loan establishments as a primary use, tattoo parlors, and skill game establishments.

(H) No trash, debris, discarded materials, junk vehicles, vehicle parts, rags, lumber, building materials, equipment and/or parts thereof, or any garbage, refuse, or junk (collectively "Trash") shall be permitted to accumulate on any lot or portion thereof. All Trash arising or occurring as a consequence of construction activities on a site shall be appropriately contained or located on site and routinely disposed of in order that long term unsightly conditions as a consequence of accumulation of same do not occur. All Trash arising or occurring on developed parcels from the owner or user thereof shall be contained in solid sided containers and no wire or cage-type containers shall be permitted, and no such materials shall be above the sides of the container.

Section 17.06 – PROCESS FOR PLAN APPROVAL

All Applications to submit property to the 36/37 PMUD regulations under this **Article 17** shall follow the procedures hereinafter set forth:

(A) Pre-Application Meeting. The Applicant is encouraged to engage in informal consultations with staff from the Township and the Delaware County Regional Planning Commission prior to formal submission of an Application for approval of a Development Plan. No statement or action by Township or County officials in the course of these informal consultations shall be construed to be a waiver of any legal obligation of the Applicant or of any procedure or formal approval required by Township or County statutes or rules. Ohio's Open Meetings Law (Section 121.22 of the Ohio Revised Code) is required to be observed at pre-Application meetings involving a quorum of members of the Berkshire Township Zoning Commission.

(B) Application and Development Plan. The Applicant shall prepare and submit ten (10) copies of an Application and Development Plan, along with an electronic copy and all applicable fees to the Berkshire Township Zoning Commission. The Application shall be signed by the Applicant and all owners of property included in the Application and Development Plan. The Berkshire Township Zoning Commission may request that any County

agency and/or any committee of the Delaware County Regional Planning Commission submit comments for consideration at the meeting.

The Application shall be accompanied by a Development Plan and the following supporting information and documentation in text and map form:

(1) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed development.

(2) A grading plan drawn to scale, showing all information pertaining to surface drainage.

(3) A detailed Landscape Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. It shall depict and identify all proposed landscaping features.

(4) A detailed Signage and Exterior Lighting Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan. The Signage Plan shall be in compliance with the Signage Plan established pursuant to **Section 17.07(I)** hereof.

(5) A detailed Parking and Loading Plan shall be submitted with the Development Plan and shall be subject to approval as part of the Development Plan.

(6) An explanation of the method/structure and proposed documentation and instruments to be used in order to perpetually own, maintain and preserve the Open Space, as required, that is unified and permanently protected. The location, size and proposed use(s) of all Open Space areas shall be detailed.

(C) Development Plan Contents. The Development Plan shall include in text and map form the following:

(1) Proposed name of the development and its location.

(2) Names and addresses of applicant, owners and developers. Also, the names and mailing addresses of all owners of property within and contiguous to and directly across the street from the area proposed for 36/37 PMUD approval shall be provided.

(3) Date, north arrow and Plan scale. Scale shall be one inch equals one hundred feet (1"= 100') or larger scale.

(4) A list, description and location of the precise uses proposed for the development and phases for construction, if any. Listed uses shall be defined by their 2012 NAICS Code Classification provided, however, that proposed Residential Uses shall be generically requested and described. Any listed use may be limited to specific areas delineated in the Development Plan. If the proposed timetable for development includes developing the property in phases, all phases to be developed after the first shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

(5) Locations, widths and names of all existing public streets or other public ways, railroad and utility rights of way or easements, parks and other public Open Spaces, permanent structures, and section and corporation lines within or adjacent to the tract.

(6) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

(7) Existing sewers, water mains, culverts and other underground facilities within the tract, adjacent to the tract or that will be used or are proposed to be used in developing the tract, indicating pipe sizes, grades and locations.

(8) The adjoining lines of adjacent tracts, parcels or lots.

(9) Existing zoning restrictions and deed restrictions, if any.

(10) Existing topography, drainage channels, wooded areas, watercourses, wetlands and other significant physical features.

(11) Layout of proposed streets, private or public, including their names and rights of way, easements, sewers, water lines, culverts and other major improvements.

(12) Layout, numbering and dimensions of lots if more than one.

(13) The total amount of Lot Coverage, as that term is defined in **Article 4** of this Resolution, proposed by the Application and Development Plan.

(14) Parcels of land intended to be dedicated or temporarily reserved for public use or reserved by deed covenant with the condition proposed for such covenant or dedication.

(15) Building setback lines with dimensions.

(16) Building locations depicting the bulk, height and spatial relationships of building masses with adjacent development.

(17) Layout, location, dimensions and architectural features of proposed structures including preliminary floor plans, exterior elevations and sections.

(18) Color rendering of buildings(s), complete with a listing of all colors, including current Pantone Reference Numbers or, if Pantone is not available, the manufacturer's reference/serial number with samples and materials to be used.

(19) A Detailed Parking and Loading Plan showing layout, location and design of parking and loading areas for all proposed uses, including proposed number of parking and loading spaces, traffic circulation, curb cuts, pedestrian walks and lane improvements on existing public roads.

(20) Engineering feasibility studies of any anticipated problems which may arise due to the proposed development as required by the Zoning Commission.

(21) Intended measures to screen the development from adjacent residentially zoned property as well as measures to screen rooftop mechanical equipment, production areas, service areas, storage areas, trash containers and loading zones from view.

(22) Accommodations and access for emergency and fire-fighting apparatus.

(23) A post office box/kiosk plan for mail delivery that has been discussed with the local office of the U.S. Postal Service.

(24) Location, type, dimensions and features of all signage and exterior lighting through a detailed Signage and Exterior Lighting Plan.

(25) The plan or mechanism to provide for the perpetual maintenance of all landscaping, buffers and shared parking areas by the ultimate owner and/or user.

(26) Projected schedule of site development.

(27) The ability of the applicant to carry forth this Plan by control of the land and the engineering feasibility of the Plan.

(28) Other supplemental information, as may be reasonably required by the Berkshire Township Zoning Commission, in order to determine compliance with this Zoning Resolution.

(29) The Development Plan (and the various accompanying plans) shall bear the seal of a registered engineer or surveyor and an architect or landscape architect, each of whom shall be licensed to practice in the State of Ohio.

(30) The applicant may request divergences (a) in connection with certain enumerated Permitted Uses, as provided in **Section 17.03** hereof, (b) from the development standards set forth in this **Article 17** and (c) from the General Development Standards applicable to all zoning districts, as set forth in the Berkshire Township Zoning Resolution. The General Development Standards shall include all standards set forth in the Zoning Resolution that are generally applicable to standard zoning districts including, without limitation, regulations dealing with signage and landscaping. An applicant making such a request shall specifically and separately list each requested divergence and the justification therefore on the Development Plan submittals, with a request that the proposed divergence be approved as part of and as shown on the Development Plan. Unless specifically supplemented by the standards contained in the Development Plan, the development shall comply with the requirements contained in **Article 17** and the General Development Standards applicable to all standard zoning districts, as set forth in the Berkshire Township Zoning Resolution.

(D) Zoning Commission Action. After receipt of the completed Application materials and required fees, the Zoning Commission shall schedule a public hearing within forty-five (45) days after the filing of the complete Application and shall give the applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the Application written notice of the hearing at least ten (10) days before the date of the hearing. Notice shall be sent by regular, first class mail to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the Application. The Zoning Commission shall render a decision on the Application and Development Plan within forty-five (45) days after the conclusion of the hearing.

(E) Condition of Approval. Unless otherwise excluded by resolution approved by the Board of Trustees, no real property shall be included in an Application and Development Plan unless such property is located in a joint economic development district created under Section 715.72 of the Ohio Revised Code and in which Berkshire Township is a contracting party (a "JEDD"). The Zoning Commission shall have no authority to grant a divergence to this provision and shall not approve an Application and Development Plan unless this condition is met at the time of filing the complete Application. Notwithstanding the foregoing, property located in Zone 5A which is proposed for and developed exclusively as an area containing solely Residential Use need not be located in a JEDD, provided that the Zoning Commission determines that such property, as proposed for development, is ineligible to be included within a JEDD under Ohio law; and further provided that the property shall be restricted by both zoning and deed restriction to such ineligible use.

(F) Basis of Approval. In determining whether or not to approve an Application and Development Plan, the reviewing authorities shall consider the following:

(1) Whether the proposed Application and Development Plan are consistent in all aspects with the purpose, criteria, intent, and standards of this Zoning Resolution and whether any divergence is warranted by the design and amenities incorporated in the Development Plan.

(2) Whether the proposed Application and Development Plan meet all of the design features required in this Zoning Resolution.

(3) Whether the proposed Application and Development Plan are compatible with the existing land use character, consistent with the intent and purpose of **Article 17** of this Resolution, and are in keeping with the Berkshire Township, Delaware County, Ohio Comprehensive Plan and other applicable public plans for the area.

(4) Whether the proposed development will be adequately served by essential public facilities and services including, without limitation, roads, walkways and bike paths, police and fire protection, drainage structures, potable water and centralized sanitary sewers or other approved sewage disposal systems.

(5) Whether the proposed Application and Development Plan promote greater efficiency in providing public and utility services and encouraging innovation in the planning and building of all types of development.

(6) Whether the proposed development can be made accessible through existing Township roadways or roadways and lane improvements actually being constructed and opened prior to the use and occupancy of the proposed development without creating unreasonable traffic congestion in the immediate vicinity of the proposed development or elsewhere in the Township.

(7) Whether the proposed development is designed in such a way as to minimize any material adverse impact on surrounding areas of the Township.

In approving the Application and Development Plan, the Zoning Commission may impose such conditions, safeguards and restrictions deemed necessary in order to carry out the purpose and intent of the 36/37 PMUD.

(G) Effect of Approval.

(1) The Zoning Commission's determination shall not be considered to be an amendment to the Township Zoning Resolution for purposes of Section 519.12 of the Revised Code, but may be appealed pursuant to Chapter 2506 of the Revised Code. If the Zoning Commission makes a final determination that the Development Plan included in the Application complies with this **Article 17,** or if the Zoning Commission's final determination is one of noncompliance, then if a court of competent jurisdiction makes a final non-appealable order finding compliance, the Zoning Commission shall approve the Application and upon approval shall cause the Zoning Map to be changed so that any other zoning district that applied to the property that is the subject of the owner's Application no longer applies to that property. The removal of the prior zoning district from the Zoning Map is a ministerial act and shall not be considered to be an amendment to the Township Zoning Resolution for the purposes of Section 519.12 of the Revised Code and may not be appealed pursuant to Chapter 2506 of the Revised Code.

(2) The approval of the Development Plan shall be effective for a period of five (5) years (or for such other time period as may be approved as part of the Development Plan) in order to allow for the preparation and recording of a subdivision plat (if required under applicable law) and the commencement of construction following the issuance of a zoning permit(s). If no plat has been recorded within this approval period (or, if platting is not required, if construction has not commenced) and unless the Zoning Commission approves an extension of this time limit, the Development Plan shall expire. Upon the expiration of the Development Plan, the subject parcel(s) shall remain zoned 36/37 PMUD, but no use shall be established or changed and no building, structure or improvement shall be constructed until an Application for a new Development Plan, accompanied by a new Development Plan, has been filed with and approved by the Zoning Commission using the procedures and process then established for the approval of an initial Development Plan.

(3) No zoning certificate shall be issued for any structure in any portion of the 36/37 PMUD for which a plat is required by the Delaware County Regional Planning Commission unless the final subdivision plat for that portion has been approved by the applicable platting authorities and recorded with the Delaware County Recorder in accordance with the approved Development Plan and with the Subdivision Regulations of Delaware County, Ohio.

(4) An extension of the time limit for either recording the approved subdivision plat or the commencement of construction may be granted by the Zoning Commission upon Application of the owner(s), provided the Zoning Commission determines that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the recordation of the plat and the completion of the development of the project. The length of time permitted for an extension shall be determined based upon the Application submitted and at the discretion of the Zoning Commission. A request for extension shall be filed prior to the expiration of the established approval period.

(5) Following the approval of the Development Plan: (a) all modifications to the Development Plan involving more than one (1) lot or those requested by the originally named Applicant in an Application for approval of a Development Plan shall be presented to the Zoning Commission for its consideration pursuant to **Section 17.06(G)(6)** hereof; and (b) all proposed variations from the approved Development Plan that involve only one (1) lot under common ownership (except as otherwise provided in clause (a) above) shall be considered a variance and shall be heard by the Board of Zoning Appeals under its hearing process pursuant to **Article 28** of the Zoning Resolution.

(6) The Zoning Commission, upon application for modification of a Development Plan, at a meeting of the Zoning Commission duly called and held, may modify the approved Development Plan without being subject to the same procedures as the original Application. Any approval may be with such conditions or modifications as the Zoning Commission may determine. The Applicant and all owners of property within, contiguous to, and directly across the street from the area subject to the application for modification shall be given at least ten (10) days' prior notice of the hearing by regular first class mail. The notice shall be mailed to the addresses of those owners as they appear on the County Auditor's current tax list. The failure of delivery of that notice shall not invalidate any action the Zoning Commission may take on the request. The request for modification may be approved upon a showing of a compelling reason and necessity for the same and upon a showing that the owner(s) has made reasonable and diligent efforts toward the accomplishment of the original Development Plan, and that such modification is administrative in nature and not in conflict with the intent and purpose of the 36/37 PMUD. The Zoning Commission shall render a decision on the request within forty-five (45) days after the conclusion of the meeting.

(H) Fees. A fee in an amount established by the Board of Trustees shall accompany an Application requesting approval of the Development Plan, as well as any request for extension or modification. In addition, the applicant shall also be responsible for all reasonable and necessary expenses incurred by Berkshire Township in using professional consulting services to review the Development Plan. These expenses may include, without limitation, costs for professional consultants such as attorneys, architects, landscape architects, planners and engineers utilized by the Township in connection with reviewing the Development Plan and related Application materials. As soon as reasonably practicable following the submission of an Application for approval of a Development Plan, the Zoning Commission shall decide if it needs a professional consultant(s) to assist it in reviewing the application. If the Zoning Commission decides it needs professional consulting services, it shall, in its sole discretion, designate the person(s) to be consulted and make an initial estimate of the expenses anticipated to be incurred in reviewing the Application materials. The Zoning Commission shall provide the applicant with notice of its initial estimate of such expenses. This initial estimate will be reviewed, and may be revised, from time to time during the review process, and, if such review results in an increase in the estimated professional consulting fees and charges which will be incurred in the Township's review of the Application materials, the Zoning Commission shall send the applicant written notice of the revised estimate of fees and

charges. Within fourteen (14) days of the date of the notice of the initial estimate of fees and charges (and, if applicable, within fourteen (14) days of the date of the notice of any revised estimate), the applicant shall deposit in the office of the Township Fiscal Officer or the Fiscal Officer's designee, an amount equal to the estimated cost of the Township's expenses. In making the estimate of the professional consulting fees and charges anticipated to be incurred, the Zoning Commission shall consider the reasonable commercial rates of qualified professionals. Upon request, the Township shall provide the Applicant with an itemized copy of any consultant(s) bill paid for in accordance with this **Section 17.06(H).** Notwithstanding the foregoing, bills for legal services shall only disclose the costs incurred and narrative descriptions shall not be disclosed, in that these are privileged communications and protected from disclosure under attorney-client privilege.

Section 17.07 – GENERAL DESIGN STANDARDS

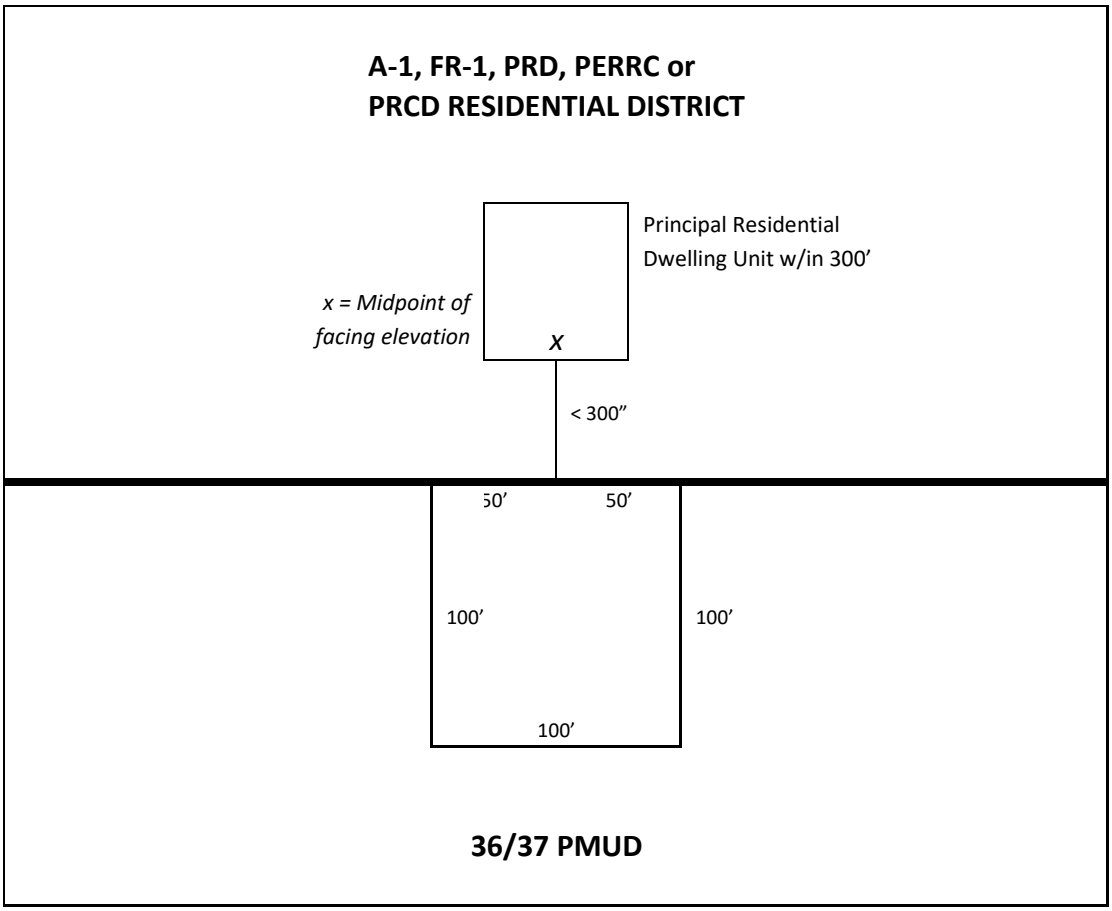
The proposed development shall be designed in accordance with generally accepted planning principles, including the design standards included in this Section, to ensure that the use of land, buildings and other structures; the building location, bulk, layout, arrangement, design, and height; the percentages of lot areas that may be occupied; the setback of buildings; and the sizes of yards and other spaces are in compliance with the purposes and standards of this Section. The Development Plan shall comply with the following design standards:

(A) Access. Any 36/37 PMUD development shall have direct access to one or more dedicated and improved public roads of sufficient capacity to accommodate traffic generated by the proposed development. Provision for future connections to other public roads as required by the Township, or other applicable governmental authorities, shall be provided. Unless otherwise provided by an approved Development Plan, emergency vehicular connectivity shall be provided.

(B) Setbacks and Yard Areas. The location and arrangements of buildings and structures within the 36/37 PMUD shall be configured in a manner to appropriately balance Open Spaces and commercial areas and to provide safe separation between buildings and uses and to ensure convenient access within the area. The development should be accomplished as a mixed use development, with the potential to provide multi-family housing to the area and associated office and accessory retail and service providers, and designed to create an integrated housing area and economic center for the Township and the surrounding area.

(C) Residential Density. The density of all proposed residential units in the 36/37 PMUD shall be subject to the requirements and limitations of **Section 17.08(C)** hereof.

(D) Perimeter Area. When located contiguous to a residential district (A-1, FR-1, PRD, PERRC, PRCD), no building or Accessory Use shall be constructed within fifty (50) feet of the perimeter property line of the contiguous property, the perimeter boundary shall be adequately landscaped to screen the development from adjacent property and no parking shall be constructed closer than fifty (50) feet to a contiguous property line. Notwithstanding the foregoing, in the event that a Multi-Family Dwelling exceeding two Stories in height is proposed to be developed and constructed within the 36/37 PMUD adjacent to a contiguous residential district as above designated and a principal residential dwelling unit is located in such contiguous residential district within three hundred (300) feet of the perimeter property line of the 36/37 PMUD, the aforementioned fifty (50) feet setback shall be increased to one hundred (100) feet for all purposes of this Section 17.07(D) for the area within the 36/37 PMUD immediately adjacent to such principal residential dwelling unit and such increased setback shall have a width of one hundred (100) feet, the midpoint thereof being the centerline of the elevation of the adjacent principal residential dwelling unit that faces the perimeter property line of the 36/37 PMUD. An illustration of the increased setback discussed in the preceding sentence is as follows:



(E) Buildings. The physical relationship of buildings and other site improvements to one another and the surrounding area, as created by building size, mass, height, shape and setback, shall result in a harmonious development within the 36/37 PMUD and with those areas adjacent to it. The bulk and height of buildings within the proposed development shall be compatible with the surrounding area and sufficiently buffered from the surrounding areas in order to mitigate any potential adverse impact. Buildings, structures and parking areas shall be designed and located within the development in ways that conserve environmentally sensitive or unique natural, historic or cultural features, and minimize environmental impacts. Buildings and structures shall be designed to enhance both areas within the development and surrounding areas, giving due regard to building footprints, building orientation, massing, roof shape, pitch and exterior materials.

(F) Building Size. Building size shall be limited in areas not conducive to absorbing the impacts associated with larger types of commercial, office or Multi-Family Dwelling establishments. Buildings may contain such area of floor space as is approved in the Development Plan.

(G) Tract Coverage. Ground coverage by buildings and paved areas shall be designed to foster compatibility both within the project area and adjacent properties.

(H) Lighting. Exterior building and parking lot lighting including the style and height shall be minimized and shall not be directed toward or impact adjacent areas.

(I) Signage. All signs and graphics within the 36/37 PMUD shall be compatible in size, location, material, height, shape, color, and illumination. A Signage Plan for the entire 36/37 PMUD shall be submitted as part of the first Development Plan Application and shall set forth the design parameters for the entire 36/37 PMUD to ensure a consistent and comprehensive character throughout the 36/37 PMUD. The Signage Plan shall include the

design, layout and dimensions of all ground, monument, window, wall and all other types of signage that may be seen from the exterior of any building, as well as distances from right of ways and the type and intensity of illumination. Signs should contribute to an overall cohesive design, reflect simplicity, and avoid visual clutter. The overall design and placement of buildings should take into account the general placement of signs so that all permanent signs and associated lighting fixtures complement the appearance and architecture of the buildings and the 36/37 PMUD and do not contribute to environmental degradation. Ground signs shall be designed to relate to and share common design elements with the building. The materials and colors of the sign, sign background and sign frame shall be compatible with the buildings' materials and colors.

(J) Landscaping. All yards (front, side and rear) and all Open Space not covered by structure, asphalt and the like shall be landscaped. All landscaping shall be maintained and kept in accordance with the Landscape Plan as submitted and approved. All vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage on adjoining land. The Landscape Plan shall show the caliper, height, quantity, name and placement of all proposed plant materials. The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape or land uses. The landscape treatment proposed to be provided shall emphasize a pedestrian environment, separate pedestrian ways from parking areas, enhance architectural features, provide shade and strengthen vistas and serve as an important axis between the development and other locations.

The Landscape Plan shall preserve and be sensitive to the natural characteristics of the site and shall provide screening from adjacent Residential Uses and districts. Where natural or existing topographic patterns positively contribute to the appearance and utility of a development, they shall be preserved. Any proposed landscape mounds shall be designed with such slope, plant and other landscape materials so as to minimize maintenance requirements and maximize the health and durability of the chosen plants and landscape materials. Overall unity of design shall be encouraged through landscape treatment. Plants that are indigenous to the area and others that are hardy, harmonious to the design, consistent with adjacent land uses, and, where applicable, of good appearance, shall be used. Landscaped parking lot islands shall be designed in accordance with these landscape principles as well as to facilitate snow removal techniques.

(K) Parking and Loading Areas. Off-street parking shall be provided prior to receipt of a Certificate of Compliance from the Township for the main structure or building, with adequate provisions for ingress and egress. Parking areas shall be designed to discourage single, large, unbroken paved lots for off-street parking and shall encourage smaller, defined parking areas within the total parking system. Such defined parking areas shall be delineated and accented by landscaped areas. Parking aisles, whenever possible, shall be oriented perpendicular to the building fronts. All service and delivery and loading areas shall be made to the rear of the structure(s) unless special design treatment or circumstances warrant an alternative. The layout of parking areas, service areas and related entrances, exits, signs, lighting, noise sources or other potentially adverse influences shall be designed, located and, in certain instances, screened to protect the character of the area as well as those areas adjacent to the development.

(L) Floodplains and Environmentally Sensitive Areas. Floodplains shall be protected from building or pavement encroachment. A riparian buffer shall be provided for stream beds along the entire length and on both sides of a river or Perennial Stream Channel. The buffer area shall have a width of not less than fifty (50) feet as measured from the river, creek or stream high water mark on both sides. The buffer area shall have a width of not less than twenty-five (25) feet as measured from any Tributary stream high water mark on both sides. This buffer area shall be restricted from development and managed to promote the growth of vegetation indigenous to the area capable of maintaining the structural integrity of the stream bank. A wetlands buffer shall be provided for all wetlands required to be retained by the U.S. Army Corps of Engineers or the Ohio Environmental Protection Agency. The buffer area shall have a width not less than twenty-five (25) feet, measured from the edge of the designated wetland. The buffer area shall not be disturbed other than as is necessary to establish a natural landscape. Existing trees should be preserved and protected to the extent practicable.

(M) Utilities. Centralized water supply and sanitary sewage disposal systems and storm water management shall be provided, subject to the Delaware County Sanitary Engineer, Delaware County Engineer, Delaware General Health District, and the Ohio Environmental Protection Agency approval. All utility service lines shall be located underground.

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

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

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

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

(R) Vibrations and Noise. No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernable without instruments at or beyond the property line of the subject premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.

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

Section 17.08 – MINIMUM DEVELOPMENT STANDARDS

The Development Plan shall comply with the following development standards:

(A) Tract Size. No minimum lot or tract size is required. However, all lots and development tracts shall be of sufficient area to comply with the required yard areas, setbacks and other design and development standards.

(B) Intensity of Use. All buildings shall be erected on permanent foundations and shall be constructed of conventional building materials of a quality equal to or better than those used in existing buildings in nearby areas or as specified herein. All office and retail activities shall be completely enclosed within buildings, except for patios and similar facilities accessory to any permitted use.

(C) Residential Density and Location. The Berkshire Township Comprehensive Plan, 2008, as well as the 2015 update, have designated the U.S. 36/S.R. 37 Corridor as an area within the Township targeted for economic growth. Parcels located along this Corridor provide the ideal location and opportunity for a mix of professional office, commercial, institutional, and Residential Uses within the Township, while allowing for the preservation of net developable acres within the 36/37 PMUD. A higher density Residential Use is permitted and included in this mix to provide the area with housing for individuals that will work at companies and businesses that locate in and around the U.S. 36/ S.R. 37 Corridor. To achieve this goal, the Township has determined that a density cap be placed on areas within the 36/37 PMUD. Residential Densities shall be as follows within the 36/37 PMUD:

(1) Multi-Family Density. The total number of new Multi-Family Dwelling Units (as defined in **Section 17.09** herein and **Article 4**) proposed to be located within the 36/37 PMUD shall not exceed a maximum of one thousand two hundred sixty seven (1,267) Dwelling Units; provided that no single Multi-Family

development shall contain in excess of five hundred (500) Multi-Family Dwelling units; and provided further that such maximum density shall be limited to one thousand (1,000) Dwelling Units unless and until such time as the development of Zone 5A is irrevocably included in and developed under the 36/37 PMUD and as opposed to the Northstar PUD, as hereinafter defined.

Notwithstanding anything to the contrary contained in this **Article 17**, if any portion of Zone 5A is developed under this **Article 17** as a part of the 36/37 PMUD, all of Zone 5A shall be considered removed from and no longer a part of the NorthStar Residential Planned Unit Development ("NorthStar PUD") zoning; provided, however, that the development standards contained in the Northstar PUD, to the extent not inconsistent with this **Article 17** shall continue to apply to Zone 5A.

Except in Zone 2B, Multi-Family Dwelling Units shall be constructed at a minimum density of six (6) Multi-Family Dwelling Units per acre of net developable area (d.u./n.d.a.) as defined in **Article 4**, and a maximum density of fifteen (15) d.u./n.d.a. In Zone 2B such density shall be reduced to a minimum of four (4) d.u./n.d.a and a maximum of ten (10) d.u./n.d.a.

Multi-Family Dwelling Units fronting on U.S. 36/S.R. 37 in Zones 4A and/or 4C must be set back at least four hundred (400) feet from the center line of U.S. 36/S.R. 37 unless they are part of a mixed-use development with no first floor Dwelling Units within such setback area.

Any Multi-Family Dwelling Unit proposal shall not only comply with these density requirements, but also shall conform to all other applicable requirements of this **Article 17** including square footage requirements listed in **Section 17.08(E)(3)** hereof.

(2) Other Densities. Other types of residential units may be built without limitations noted under **Section 17.08(C)(1)** hereof. Such units may be developed at a maximum density of four (4) d.u./n.d.a. for detached single-family units and detached patio homes and six (6) d.u./n.d.a. for attached units such as common wall attached, townhomes, patio homes, or four-unit structures. In the case of developments consisting of both attached and detached units, density shall be blended based on the number of attached and detached units.

(3) There shall be no density limitations on Nursing and Residential Care Facilities, as those are defined in **Section 17.09** hereof.

(D) Frontage, Setbacks and Yard Areas.

(1) Frontage. Lots shall front upon and/or have access to an improved, public road. Out lots may be located on an improved, public or private road. Adjacent road frontage in either case shall be no less than fifty-two (52) feet except in the case of patio homes otherwise complying with setback requirements of this **Article 17**.

(2) Minimum Side Yard. A side yard of at least twenty-five (25) feet on each side shall be provided for principal and accessory structures, processing, and servicing or loading areas, or as authorized by an approved Development Plan, except as hereinafter provided. No principal commercial or Multi-Family Dwelling structure shall be located closer than twenty-five (25) feet to another principal structure unless the adjacent walls of both structures are masonry, in which event said principal structures shall be no closer than fifteen (15) feet. No principal commercial or Multi-Family Dwelling structure shall be located closer than fifteen (15) feet to another principal structure unless otherwise authorized by an approved Development Plan. No principal single-unit Residential Use may be closer than fifteen (15) feet to another principal single-unit Residential Use except in the case of Patio Home Developments, in which case such fifteen (15) feet building separation shall be reduced to ten (10) feet.

(3) Minimum Rear Yard per Tract. A rear yard of at least twenty-five (25) feet shall be provided for principal and accessory structures, including open storage, processing, and servicing or loading areas, or as authorized by an approved Development Plan.

Right-of-Way Setback. With respect to developments having frontage on U.S. 36/S.R. 37 or Wilson Road, right-of-way, no building or structure shall be located closer than thirty five (35) feet to such right-of-way and there shall be a clear strip of land from back of curb (if any) or otherwise edge of pavement extending to a width of at least twenty (20) feet upon which no building, structure or any other improvement shall be erected. With respect to all other public street rights-of-way located within the 36/37 PMUD, there shall be a clear strip of land extending to a width of at least twenty (20) feet from back of curb (if any) or otherwise edge of pavement upon which no building, structure or any other improvement shall be erected. Notwithstanding the foregoing setback limitations, the following shall be exceptions thereto:

(a) Driveways for ingress and egress.

(b) Parking approved in accordance with the approved Off-Street Parking and Loading Plan.

(c) Signage approved in accordance with the approved Signage Plan.

(d) Signs not over four (4) square feet for direction of traffic only.

(e) Plantings no higher than three (3) feet above road grade.

(f) Trees, except that branches shall not interfere with the paved portion of the road, sidewalk or trails. Tree limbs shall be trimmed to a height of fourteen (14) feet above roads and eight (8) feet above sidewalks and trails. Maintenance of street trees shall be the responsibility of the homeowner or the Homeowners association.

(g) Utility easements for the erection of public utility poles, hydrants and similar items.

(h) Sidewalks and Bike Paths.

(i) Patios not exceeding ground level elevation, by more than eight (8) inches.

(j) Current silo signage located in Zone 4A.

(k) Public utility poles, hydrants and similar items.

(E) Lot Coverage and Building Height.

(1) Lot Coverage. The ground area occupied by all the buildings, structures, driveways, traffic circulation areas, parking areas, sidewalks and all other Impervious Surfaces shall not exceed in the aggregate eighty percent (80%) of the total area of the tract.

(2) Maximum Stories: Building Height.

(a) Multi-Family Dwellings Maximum Stories: The maximum Stories of Multi-Family buildings shall be determined by Zone, and in each Zone no building or structure having Multi-Family Dwelling Units shall exceed the following number of stories:

- Zones 4A and 4C – 4 Stories
- Zone 3A – 3 Stories
- Zones 2A, 2B, 3B and 4B – 2 Stories
- Zone 5A – 2 Stories

(b) All Structures: No building or structure shall exceed forty-five (45) feet in height, except if such building or structure is located in Zone 4A or 4C, in which event the height limit shall be increased to eighty-five (85) feet. Chimneys, flagpoles, steeples, parapets, cupolas and other similar architectural elements may exceed this height limitation by no more than ten (10) feet.

(3) Building Dimensions. Buildings may contain such floor area as is approved in the Development Plan. However, all Multi-Family Dwelling Units erected within the 36/37 PMUD shall have a minimum of seven hundred (700) square feet of residential floor area for a studio or one-bedroom unit and a minimum of nine hundred (900) square feet of residential floor area for a two-bedroom unit.

(4) The use of environmentally conscious construction standards, such as the use of Leadership in Energy & Environmental Design (LEED) standards, on structures built in the 36/37 PMUD is encouraged by the Township, but not required.

(F) Architectural Standards. Buildings shall be designed to be seen from three hundred sixty (360) degrees and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing or principal structure. The following standards shall apply to structures for:

(1) Design Elements. The architectural style and design of structures shall create harmony throughout the site. All materials used to construct buildings within the 36/37 PMUD shall be utilized in such a manner as to be architecturally and aesthetically compatible, so long as the proposal utilizes the permitted materials as specified by **Section 17.08(F)(2)** hereof. Creativity in design is encouraged; however, that creativity shall be consistent with the goals and requirements established for the 36/37 PMUD by this **Article 17.**

(2) Materials. The exterior elevations of all proposed buildings and screening structures shall only consist of any combination, or all, of the following natural materials:

(a) Wood;

(b) Red or earth tone brick;

(c) Native or cultured stone;

(d) Stucco/EIFS;

(e) Pre-cast concrete where used as an accent;

(f) Cementitious siding (such as HardiPlank® or similar) and/or composite siding (such as SmartSide® or similar);

(g) Metal and glass (except for multi-family uses).

The above material requirements shall not be applicable to vinyl soffits, facia, windows, doors, garage doors, downspouts, gutters, window glazing and reveals, as well as hardware and similar accents.

(3) Façade Appearance. A building wall that exceeds a width of fifty (50) feet shall incorporate sectioning and design elements that offset the wall plane to inhibit a large expanse of blank wall and add interest

to the façade. When multi-family uses are part of a structure, such design elements may include any combination, or all, of the following:

(a) A door measuring at least twenty (20) square feet in area but not exceeding sixty (60) square feet in area including architectural features, such as, but not limited to, an awning, window, faux window or other feature subject to approval by the Zoning Commission;

(b) A window of at least six (6) square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered one element;

(c) A gabled vent of at least four (4) square feet in area;

(d) Porches, decks, or similar structures that create the illusion of a porch, deck, or window balcony; or

(e) A similar significant permanent architectural feature consistent with the style of the building upon approval of the Zoning Commission, as applicable.

(4) Glass. The use of black, gold, green, silver, opaque, or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to approval of the Zoning Commission.

(5) Roofing. All pitched roofs shall be of dimensional shingles, standing seam metal, slate or simulated slate.

(6) Drive In/Drive Thru Features. A drive in/drive thru facility, if deemed appropriate within the 36/37 PMUD, shall be designed as an integral part of the structure it serves. Features incorporated with such a facility include, but are not limited to, canopies, awning, and support posts, which shall match or be coordinated with the materials and color scheme of the building they are serving. Drive in/drive thru features shall not have any drive-thru pickup windows, located on the front elevation of a building, but pedestrian only pickup windows shall be permitted on the front elevation.

(7) In-Line Retail Exemption. Side or rear elevations of an In-Line Retail development may be exempt from the building design standards of the 36/37 PMUD if such elevations are not visible to customer traffic, a right-of-way, or if a future phase of the In-Line Retail development is adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and be screened by landscaping, mounding, fencing, or a combination thereof, as deemed appropriate.

(G) Exterior Lighting. The Exterior Lighting Plan is subject to the following requirements:

(1) Traffic signals, where necessary, shall utilize a monopole design with mast arms extending over the intersection, in accordance with any applicable county or state regulations.

(2) Site lighting shall be required for all developments and be designed to sufficiently illuminate the site and eliminate spillover from the property onto adjacent property based on best engineering practices and a lighting plan included as a part of the Application pursuant to **Section 17.06(B)(4)** hereof.

(3) Light pole heights should be in harmony with the parcel, building, and parking lot size as well as the surrounding area. Parking lot lighting shall be of a standard light source and type. The style shall reflect a traditional design, ideally consistent throughout the corridor.

(4) Building, pedestrian and landscape lighting may be incandescent, LED, metal halide or other sustainable lighting as determined by the Zoning Commission.

(5) All parking lot areas shall have a maximum light intensity of twenty (20) foot candles and an average light intensity between one (1) foot candle and three (3) foot candles.

(6) All external lighting shall be decorative, cut-off type fixtures and downcast to reduce spillover. Outdoor lighting shall be directed, reflected, or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with a neighboring property owner's right to enjoy his, her or its property.

(7) Luminaries should have a minimum cut-off of forty-five (45) degrees, so as to provide glare control to pedestrian and vehicular traffic, as well as distinct beam cut-off on the outer perimeter of the setback areas.

(8) All Landscape Uplight Fixtures shall be screened by landscaping and cut-off in design. This type of lighting shall be equipped with automatic timing devices and shielded and focused to eliminate light pollution.

(9) No permanent colored lights or neon lights shall be used on the exterior of the buildings. Flashing lights shall be prohibited.

(10) External building lighting shall be limited to wall-mounted sconces.

(H) Signage. The Signage Plan for the 36/37 PMUD shall conform to **Section 17.07(I)** hereof and **Article 22** of the Zoning Resolution or as approved by the Zoning Commission.

(I) Landscaping. All yard areas and Open Spaces shall be landscaped in accordance with the approved landscape plan. Natural foliage shall be retained as buffers where practicable. The Landscape Plan shall comply with the following requirements:

(1) Right-of-Way. Any surface parking areas adjacent to an existing or planned right-of-way shall be screened from the respective right-of-way with shade trees having a minimum caliper of two and a half (2½) inches for every forty (40) lineal feet of road frontage, and shall be located not less than three (3) feet outside of the right-of-way. Such trees, so long as satisfying the requirements of **Section 1708(I)(2**) hereof, shall count towards the street tree requirements of such **Section 17.08(I)(6)**. This requirement does not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.

(2) Residential District Screening. Non-Residential Uses, excluding multi-family accessory uses, adjacent to Residential Uses (both within and adjacent to the 36/37 PMUD) shall install a continuous planting hedge and tree combination or fencing to provide screening from such adjacent use. The required planting hedge and tree combination or fencing shall be a minimum of six (6) feet in height at the time of installation. Mounding may be used to achieve the required height and fencing. Fencing or other screening materials shall be made of those materials listed in such **Section 17.08(F)(2)** hereof or deemed compatible with those materials. Each tree used for screening purposes shall have a minimum caliper of two and a half (2 ½) inches per forty (40) lineal feet required to be screened. Trees used for screening shall be of the evergreen or deciduous classification.

(3) Exterior Areas. Grass (seed or sod), shrubs, trees, garden planting areas or other appropriate landscape materials shall be planted in all exterior areas. Other groundcover, such as ivy, may be planted in exterior areas which are not occupied by required landscaping material or required for drainage. All

vacant areas shall be kept seeded and maintained in such a manner as to prevent erosion of the property and excess drainage.

(4) Plants. All plants shall meet or exceed the American Standard for Nursery Stock as set forth by the American Association of Nurserymen.

(5) Maintenance. All trees and landscaping shall be well maintained. All maintenance and upkeep of landscaping shall be the responsibility of the owner of such yard, space or area where the landscaping is located. Dead trees, shrubs and other landscaping material shall be promptly removed and shall be replaced within six (6) months or the next planting season, whichever is sooner.

(6) Street Trees. Trees shall be planted at a minimum distance of forty (40) feet along all internal public streets. Trees shall be of deciduous species normally attaining full-grown height in excess of fifty (50) feet and shall be two and a half inch (2 ½") caliper or greater at the time of planting.

(7) Tree Preservation. Reasonable and good faith efforts shall be made to preserve existing trees. Consideration shall be given to laying out service roads, lots, structures and parking areas to avoid the unnecessary destruction of wooded areas and individual trees. Additionally, standard tree preservation practices shall be used to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

(J) Parking and Loading. Parking shall be paved prior to receipt of a final Certificate of Compliance, with adequate provisions for ingress and egress according to the approved Development Plan, unless a phasing schedule is approved as part of the Development Plan. In preparing the Parking and Loading Plan, all parking and loading areas shall conform with **Section 21.01** of the Berkshire Township Zoning Resolution and the following provisions:

(1) Parking Bays and Minimum Parking Space Requirements. No parking bay shall contain more than twenty-four (24) total parking spaces, with a maximum of twelve (12) spaces in a single row. All parking spaces shall be not less than nine (9) feet wide and eighteen (18) feet long.

(2) Parking Lot Location. Non-Residential Uses may be permitted to locate parking spaces in front of the principal structure if authorized by the approved Development Plan, provided that such parking complies with all other criteria contained in this **Article 17**. All parking spaces for Multi-Family Dwellings shall be located such that no parking is allowed between the public right-of-way and principal or accessory structures, with no more than fifty percent (50%) of such parking spaces located to the side of a principal building. No parking lot or parking area shall be located closer than ten (10) feet to the side or rear line of the tract on which the structure is located. In no event shall the parking be located closer than twenty (20) feet to any right-of-way, unless authorized by the approved Development Plan.

(3) Parking Lot Islands. Interior tree islands shall be required within parking lots and shall be of sufficient number and size to provide for a ratio of one (1) shade tree for every twelve (12) parking spaces or fractions thereof. Each landscaped tree island in a single loaded parking stall shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. Each landscaped island in a double-loaded parking stall design shall have a minimum area of three hundred twenty- four (324) square feet, with a minimum width of nine (9) feet. Parking lot islands may be combined into one (1) or more larger parking lot islands, so long as they meet the area and landscaping requirements of this Zoning Resolution and are approved as part of the Development Plan. All landscaped tree islands shall contain at least one (1) shade tree a minimum of two (2) inches in caliper and include at least fifty (50) square feet of other plant materials. The Parking and Loading Plan or the Landscape Plan shall identify all types of trees to be used in parking lot islands.

(4) Driveways. Driveways shall be set back no less than fifteen (15) feet from the right-of-way or front property line, whichever is greater, and no less than five (5) feet from side and rear property lines. Driveways connecting the site to an improved and dedicated street or Driveways utilized to access adjacent properties shall be exempt from this requirement. Location of Driveways that connect to a public road shall be reviewed and approved by the appropriate governing agency (Delaware County Engineer, Ohio Department of Transportation, etc.).

(5) Service Parking. Parking for vehicles providing services to a building or development such as delivery, repair and maintenance vehicles (but excluding employee or visitor parking) shall be provided at a level determined appropriate for each specific use by the Zoning Commission, as applicable. All service areas shall be located behind the front elevation of the primary building.

(6) Minimum Number of Parking Spaces Required. For Multi-Family developments, a minimum of one and nine tenths (1.9) parking spaces per unit is required. In calculating such minimum parking, all surface parking, garages, shared parking and on-street parking as permitted pursuant to **Section 17.08(J)(7)** hereof shall be included. For Residential Care Developments, a minimum of one (1) parking space per 2,000 sq. ft. of building area with a minimum of not less than ten (10) parking spaces is required. Contiguous developments shall be permitted to share parking to satisfy parking requirements so long as collectively, the required number of parking spaces is not less than the sum of the requirements for each development computed separately. For Patio Home Developments, a minimum of two (2) parking spaces per Dwelling Unit is required. For all other buildings constructed in the 36/37 PMUD, a minimum of one parking space per two hundred fifty (250) square feet of building area shall be required, unless satisfactory shared parking arrangements are established to the satisfaction of the Zoning Commission. Applicants may elect to provide one (1) space per employee plus one (1) visitor space per ten (10) employees if the Development Plan shows that there is sufficient room to expand the parking lot to provide the required amount of spaces in the future should the lot be sold to a new owner or the needs of the business change.

(7) On-Street Parking in Multi-Family Developments. In Multi-Family Dwelling Developments in the 36/37 PMUD, an applicant shall be allowed to count parallel or angled On-Street Parking spaces located along private streets towards the minimum parking requirements of this 36/37 PMUD, so long as those parking spaces are within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling structure(s). Those parking spaces shall be striped and meet the minimum size requirements for off-street parking spaces, as described by this **Section 17.08(J)** hereof and the Zoning Resolution. On-Street Parking located along a public street within a three hundred (300)-foot radius of any entryway to the proposed Multi-Family Dwelling Structure(s) may, subject to the approval of the Zoning Commission, be allowed to be counted toward the minimum parking requirements of this **Section 17.08(J)** hereof and the Zoning Resolution, so long as On-Street Parking along those streets has been approved by the Board of Trustees in accordance with Section 505.17 of the Ohio Revised Code and complies with the regulations adopted in accordance with the same. Any On-Street Parking utilized to meet the minimum parking requirements of this **Section 17.08(J)** hereof or the Zoning Resolution, whether along a private street or public street, shall only be permitted in accordance with an approved Development Plan. Once a parking space has been counted toward the parking requirement for any Application or phase of a Multi-Family Dwelling proposal, it cannot be used to meet the parking requirements of subsequent phases or Applications. In all cases, On-Street Parking spaces shall not exceed twenty-five percent (25%) of the minimum number of spaces required.

(8) Loading Areas. All loading areas shall be screened from view by landscape planting (which provides seventy-five percent (75%) opacity), or walls and fences at least six (6), but not more than twelve (12), feet in height. All walls and fences used for screening shall be constructed of materials permitted by **Section 17.08(F)(2)** hereof.

(9) Big Box Retail Parking. Notwithstanding the foregoing provisions of this **Section 17.08(J)** hereof, in connection with so-called "big box" or grocery anchored developments having a principal user proposing to occupy or in fact occupying 50,000 square feet or more of building area, the following standards shall apply:

(a) A minimum of four (4) parking spaces per 1,000 square feet of gross floor area shall be provided.

(b) A minimum of (5) percent of the total paved area shall be comprised of interior landscape peninsulas or islands. A minimum of (1) one tree a minimum of two inches (2") in caliper per (5,000) square feet of paved area shall be provided.

(c) Main entrance drives providing access from a public right-of-way shall be defined with landscaping and an accessible pedestrian walkway connecting from the public right-of-way to a main entrance of the primary building.

(d) All parking bays shall be terminated with an "end cap" landscape island to define the primary circulation drive aisles, meeting the minimum dimensional requirements as defined in **Section 17.08(J)(3)** hereof.

(e) Parking bays located along the perimeter of a parking lot shall provide at least one (1) landscape "peninsula" every (15) spaces. Landscape peninsulas shall have a minimum area of one hundred thirty (130) square feet with a minimum width of eight (8) feet.

(f) Interior parking bays shall include at least one of the following approaches to providing interior parking lot islands:

(1) At least one (1) landscape island every (15) spaces, meeting the minimum dimensional requirements as defined in **Section 17.08(J)(3)** hereof, or
(2) At least one (1) landscape island every (20) spaces, oriented in an alternating pattern in one out of every (3) co-parallel parking bays, with such islands having a minimum width of (16) feet and minimum area of (600) square feet. Such islands shall contain at least two (2) shade trees a minimum of two inches (2") in caliper and include other plant materials covering at least (50) percent of the island area.

(g) The parking lot perimeter shall be landscaped with a buffer with a minimum width of (10) feet, planted with a minimum of (1) shade tree per (40) linear feet a minimum of two inches (2") in caliper, plus a minimum 3-foot average height continuous hedge, planting, earthen mound, fence, or wall. A continuous hedge shall achieve a minimum 75% opacity after two years from date of installation.

(K) Open Space. A minimum of thirty percent (30%) of the total 36/37 PMUD acreage shall remain and be utilized as Open Space. Twenty percent (20%) open space must be located on-site while the remaining 10% may be located either on-site, off-site within the Township at a location or locations approved by the Zoning Commission, or mitigated with a contribution in lieu to be utilized for public improvement. Such contribution will be at the rate of $30,000.00 per acre or fraction thereof. Such contributions will be placed in a special fund by the Township and used only for the improvement or acquisition of park areas, recreational facilities, playgrounds, trails, or wetlands.

Open Space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open Space features may include, but are not limited to bike paths, walking paths, existing bodies of water, water impoundments, forested areas and landscaped areas, in each case that are not included in yard requirements contained in

Section 17.08(D)(2), (3) and (4) hereof, and similar features. Open Space may be used for the disposal of storm water drainage. No features shall be designed which are likely to cause erosion or flooding.

To help promote the creation of a unified open space system, an open space master Development Plan may be submitted that may only include the areas within the 36/37 PMUD that will be utilized in the open space system. Once an open space master Development Plan is approved, future applicants within the 36/37 PMUD may be permitted to utilize that Open Space to meet up to half of the Open Space requirement for their proposed Development Plan. If a portion of the area included in the open space master Development Plan is utilized by an approved Development Plan to meet an open space set aside requirement, it can no longer be utilized by future applicants for that purpose.

The responsibility for the maintenance of all Open Space shall be specified by the applicant in writing within the Development Plan. Open Space may be proposed to be owned by an Association, the Township or other governmental entity, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership if appropriately restricted.

(L) Multi-Use Paths and Pedestrian/Bike Access. Interconnectivity, in the form of multi-use paths, shall be provided for pedestrians and non-motorized uses (including bicycles) and each Application for approval of a Development Plan shall indicate how it will contribute to interconnectivity for the 36/37 PMUD. Sidewalks shall be located along internal streets and roads with additional facilities through open spaces and connections at logical locations. Wider bike paths shall be provided on at least one side of larger arterial roads and where connections to regional systems are warranted.

(M) Trash and Garbage Control. All trash and garbage shall be stored in container systems which are located at the rear of the building or at the side of the building if the side is not oriented towards an existing or planned right-of-way(s) and must be enclosed on all four (4) sides with either a masonry enclosure or wood fencing at a minimum of six (6) feet in height.

(N) Utilities. All utility lines constructed to service the proposed development shall be located underground. Mechanicals, whether roof mounted or on the ground, shall be screened with architectural features and/or landscaping.

(O) Stormwater Basins. All stormwater basins shall be constructed per the requirements of the Ohio Department of Natural Resources Rainwater and Land Development Handbook and any applicable standards adopted by the Delaware County Engineer. Wet stormwater basins shall require aeration devices. Bioretention basins, or rain gardens, may be used only when approved by the Zoning Commission as part of the Development Plan. Dry detention basins are permitted on private property only with a maintenance plan and divergence approved by the Zoning Commission. In addition to the minimum design standards required by the Delaware County Engineer, dry detention basins shall meet the following layout requirements:

(1) Dry detention basins shall be designed to drain toward the outlet or micro pool so as to minimize standing water or excessively saturated soil conditions that interfere with regular maintenance and mowing. Basins shall be designed to drain within 48 hours and maintained in a condition to maximize vector control at all times.

(2) Side slopes shall not exceed 5 (H) to 1 (V) to prevent bank erosion, minimize safety hazards during peak stormwater events, and maintain an aesthetic landscape appearance. Maximum cross slope for vehicular accessways shall not exceed 10 (H) to 1 (V).

(3) The bottom of the detention basin shall be a minimum of twelve (12) feet in width to allow for maintenance vehicle access. The minimum transverse slope for the basin bottom shall be 2.0 percent,

and the bottom shall be sloped to drain in such a manner so as to avoid the development of flat spots and inadequate soil conditions.

(4) Dry detention basins shall be designed in manner that coordinates with the overall site layout and landscape design.

(5) Dry detention basins shall be finished with topsoil and seeded and mulched to prevent soil erosion. Grasses seeded within the basin shall be of a mix selected to survive forty-eight (48) hours under water. Mowing and/or trimming of vegetation shall be performed as necessary to sustain stormwater management functionality and landscape aesthetics. Mixed native planting schemes may be installed with an accepted landscape plan and maintenance schedule, as approved by the Zoning Commission.

(6) Deciduous and/or evergreen trees shall be planted around the perimeter of the basin, provided that the plantings can be adequately located so as not to interfere with the integrity or functionality of the facility. A minimum of one (1) tree per forty (40) linear feet of basin perimeter shall be provided; however, trees may be grouped together in naturalized arrangements or to provide screening, per an approved landscape plan.

(7) Soil compaction of the basin bottom shall be avoided during construction, or soils shall be amended and restored to functional condition as required by the Delaware County Engineer.

(8) Maintenance inspections shall be the responsibility of the property owner and shall occur on a regular basis to remove excessive debris and sediment accumulation, as determined in an approved maintenance plan.

(P) Supplemental Conditions and Safeguards. The Zoning Commission may impose additional conditions relating to the Development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of Open Space areas; and other development characteristics.

(Q.) Other Requirements. Unless specifically supplemented by the standards contained in **Article 17** herein or those standards approved by divergence, the General Development Standards (as defined in **Section 17.06(C)(29)**) found in this Zoning Resolution shall apply unless a divergence has been specifically requested and approved. In the event of a conflict between the General Development Standards and those contained in **Article 17** that cannot be reconciled by the Zoning Commission, those contained in **Article 17** shall prevail.

Section 17.09 – Definitions

The following definitions shall apply to terms that are used specifically in the 36/37 PMUD. Otherwise, the definitions in **Article 4** shall apply.

Floor Area:

a. **Residential** – the square foot area of a building at all finished levels, within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, and unfinished basements and attics.

b. **Non-Residential** – the square foot area of a building at all levels, whether finished or not, including open porches, breezeways, terraces, garages, exterior stairways, secondary stairways, unfinished basements, attics, and mezzanines.

Impervious Surfaces: areas that have been, or are proposed to be, paved and/or covered with buildings and materials that do not readily and freely absorb and/or allow water to penetrate, including, but not limited to, concrete, asphalt, rooftop, blacktop, brick, blocks, and pavers.

In-line Retail: a retail complex consisting of stores or restaurants in adjacent spaces in one continuous, long building or structure typically having a parking area in front of the stores that opens to a public street.

Landscape Up light Fixture: a light fixture sitting on the ground that is incorporated into landscaping that shines upward and is typically utilized to illuminate certain architectural or landscaped features.

Multi-Family Dwelling: for the purposes of **Article 17** only, Multi-Family Dwelling is defined as a residential building arranged or designed with multiple Dwelling Units for lease as separate and complete housekeeping units. Multi-Family Dwelling shall not include Patio Home Developments or Residential Care Developments.

Non-Residential Use: any use of land that is permitted by the Berkshire Township Zoning Resolution and does not include the human inhabitation of a structure or any use incidental or accessory to such inhabitation.

Nursing and Residential Care Facilities: for purposes of **Article 17** only, Nursing and Residential Care Facilities is defined as a facility designed for, marketed to and primarily serving persons 55 years and older and including one or more components of a Nursing and Residential Care Facility pursuant to NAICS Code #623, but expressly limited to facilities consisting solely of independent living, assisted living, memory care and/or skilled nursing care or any combination thereof, but not independent living only facilities.

Outlot: a lot located adjacent to a public or private street in a larger, commercial style development that is reserved for a specific use.

On-Street Parking: striped, angled, or parallel parking spaces that are permitted within a public road or along a private street.

Parking Aisle: the traveled path through an off-street parking lot or facility between one or two rows of parked vehicles.

Parking Bay: a row of parking spaces typically separated by a parking island or some other feature used to break up large expanses of asphalt used for surface parking.

Patio Home Development: for purposes of **Article 17** only, a Patio Home Development is defined as a development consisting solely of for sale attached and/or detached patio homes designed with small yards and general overall community maintenance, controlled by either a condominium association or a homeowner's association.

Perennial Stream Channel: a stream that flows in a well-defined channel throughout most of the year under normal climatic conditions.

Private Road: a road or driveway on privately-owned property, limited to the use of the owner or a group of owners who share the use and maintain the road without help from a government agency.

Public Road: any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Residential Use: any permitted use of land where a dwelling has been constructed with the intent of human inhabitation of that structure. Structures may be Detached Single Family Dwelling, Two Family Dwelling, or Multi-Family Dwelling. Residential Uses also include all uses that are incidental to or accessory to the human inhabitation of a structure.

Road or Roadway: each road is defined by its classification as those classifications are delineated in **Section 21.09** of this Zoning Resolution.

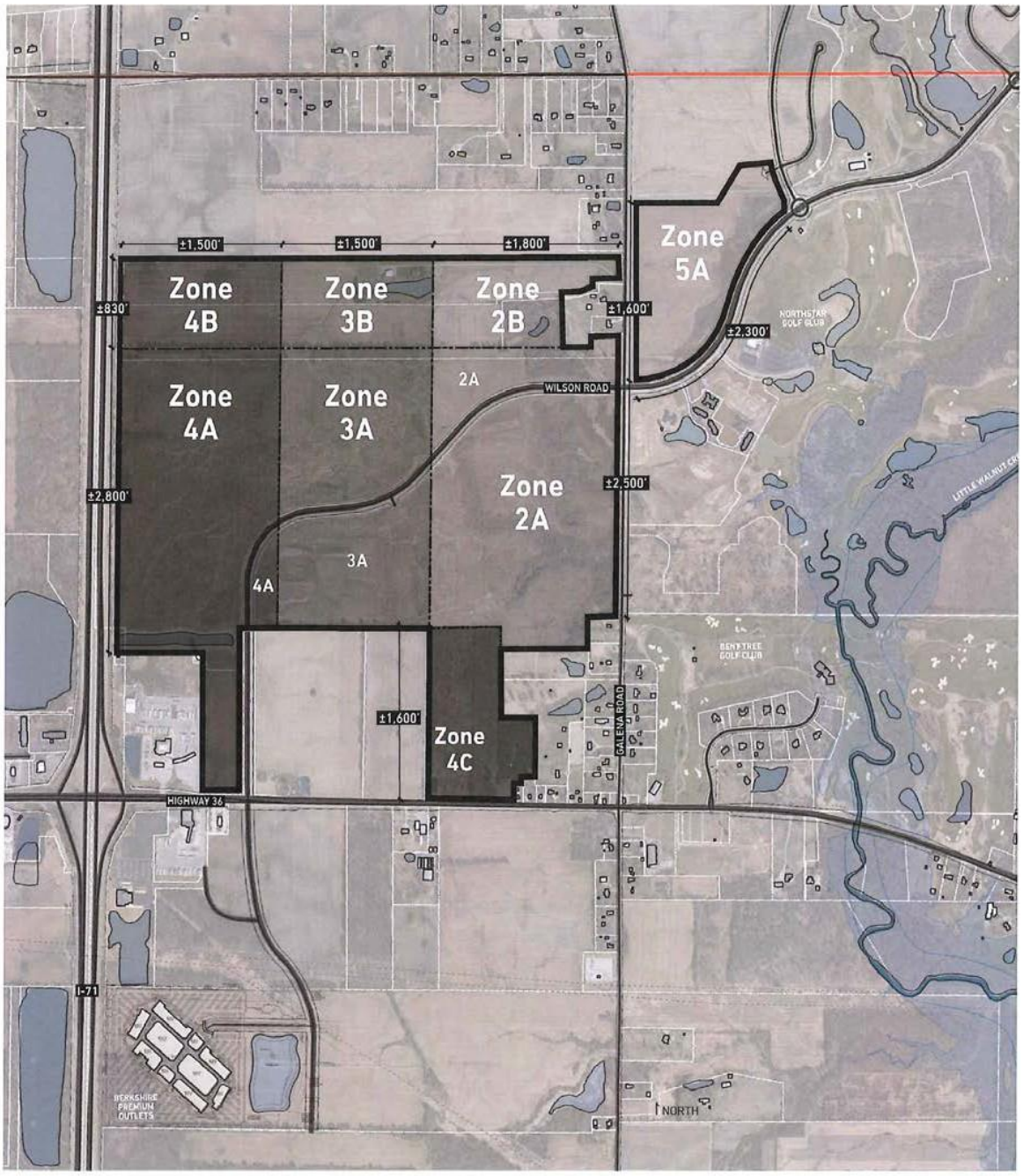
Story or Stories: each habitable living level elevation in a Multi-Family Dwelling, not to exceed fifteen (15) feet per Story.

Tributary: any stream or waterway that flows to a larger stream or other body of water.

Zone: each of the Zones depicted on the attached Zoning District Map, being Zone 2A and Zone 2B, Zone 3A and Zone 3B, Zone 4A, Zone 4B and Zone 4C, and Zone 5A.

Zoning District Map: the Zoning District Map attached hereto as Attachment 1.

Attachment 1
36/37 PMUD Overlay
Zoning District Map



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ARTICLE 18 Planned Industrial District (PID)

Section 18.01 PURPOSE

See Section 5.058

Section 18.02 PERMITTED USES

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

The full text of the listings in the NAICS 1997 or subsequent edition shall be used to define the uses permitted within the PID as set forth below and is hereby adopted as part of Article 18.

Note: The NAICS code numbers are inclusive in ascending order. All two digit sector numbers listed in the left hand column below include as permitted uses all 3-6 digit numbers beginning with those two digits. All three digit codes include all 4-6-digit codes beginning with those three digits, and so on. If a specific six-digit code is used, it refers to only one permitted use. For example, Code 42 means that any use listed in the 1997 NAICS code under Sector 42 (such as 42174, Refrigeration Equipment and Supplies and Wholesalers) is permitted.

Manufacturing and related uses, as specifically described by the 1997 NAICS Code Number below:

1997 U.S. NAICS Code #	Use
233	Building, Developing and General Contracting
3112	Grain and Oilseed milling
3113	Sugar and Confectionery Product Manufacturing
3114	Fruit and Vegetable Preserving and Specialty Food Manufacturing
3115	Dairy Product Manufacturing
3118	Bakeries and Tortilla Manufacturing
3119	Other Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
315	Apparel Manufacturing
3162	Footwear Manufacturing
321	Wood Product Manufacturing, except 321114 Wood Preservation
3212	Veneer, plywood and Engineered Wood Product Manufacturing
3219	Other Wood Product Manufacturing
32221	Paperboard Container Manufacturing
32222	Paper bag and Coated and Treated Paper Manufacturing
32223	Stationary Product Manufacturing
323	Printing and Related Support Activities
325314	Fertilizer (mixing only) manufacturing
3254	Pharmaceutical Manufacturing
325510	Paint, and Coating Manufacturing
3261	Plastics Product Manufacturing
3271	Clay, Product and Refractory Manufacturing
3272	Glass and Glass Product Manufacturing
3273	Cement and Concrete Product Manufacturing provided no hazardous wastes are burned in kilns
3323	Architectural and Structural Metals Manufacturing

3325	Hardware Manufacturing
3326	Spring and Wire Product Manufacturing
3327	Machine Shops
333	Machinery Manufacturing
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance, and Component Manufacturing
3363	Motor Vehicle Parts Manufacturing
3364	Aerospace Product and Parts Manufacturing
3366	Ship and Boat Building
33691	Motorcycle, Bicycle and Parts Manufacturing
3399	Other Miscellaneous Manufacturing
Wholesaling	
42	Wholesale Trade, except 421930, Scrap Materials or auto wrecking yards, which are prohibited;
Retail Uses	
44111	New Car Dealers
44121	Recreational Vehicle Dealers
44122	Motorcycle, Boat, and Other Motor Vehicle Dealers
4413	Automotive Parts, Accessories, and Tire Stores except 441310 Auto Used Parts sales
447	Gasoline Stations
45291	Warehouse Clubs and Superstores
45393	Manufactured Home Dealers
4541	Electronic Shopping and Mail Order Houses
45431	Fuel Dealers
484	Truck Transportation
485	Transit and Ground Passenger Transportation
487	Scenic and Sightseeing Transportation
491	Postal Service
492	Couriers and Messengers
493	Warehousing and Storage
51	Information (except those allowing adult entertainment).
532	Rental and Leasing Service
5416	Management, Scientific and Technical Consulting Services
5418	Advertising and Related Services
5419	Other Professional, Scientific, and Technical Services
561	Administrative and Support Services
562991	Septic Tank and Related Services
61	Educational Services
72	Accommodation and Food Services
722	Food Services and Drinking Places (except those allowing adult entertainment).
811	Repair and Maintenance

a.) Commercial Establishments normally associated with and designed to serve the industrial establishments or their employees and approved as part of the development plan such as financial institutions, restaurants, gasoline service stations, automobile repair establishments, recreation or other personal enrichment facilities, provided such establishments or facilities are established primarily for employees of industrial establishments or in conjunction with commercially operated recreation establishments developed as part of the approved plan for the Planned Industrial District.

b.) Temporary structures such as mobile offices and temporary buildings of a non-residential character may be used incident to construction work on the premises or on adjacent public projects or during a period while the permanent structure is being constructed. The user of said structure shall obtain a permit for such temporary use, the permit shall be valid for six (6) months and may be renewed not more than one time. Renewal of the permit shall be at the discretion of the Zoning Inspector on finding of reasonable progress toward completion of the permanent structure or project. The Zoning Inspector may require provisions for sanitary waste disposal, solid waste disposal and water supply, as he deems necessary. The fees for such permit and renewals thereof shall be established by the Board of Township Trustees. Said temporary structure shall be removed no later than ten (10) days after expiration of said permit. No unit shall be occupied as a residence without approval of the Board of Zoning Appeals as granted in compliance with the provisions of Article 28 of this Resolution.

NAICS #562212 Sanitary Land Fills, provided that all required licenses and approvals are issued by appropriate state agencies. In addition to requirements imposed by state agencies the Zoning Commission may require such screening as is necessary to protect adjacent neighborhoods.

Section 18.03 CONDITIONAL USES

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

A.) Adults Only Entertainment Establishment - provided the Board of Zoning Appeals determines that the following standards are met and the required zoning compliance is applied for:

1.) Such use shall not be permitted within 1000 feet (measured from the point of the property line of the Adults Only Establishment closest to any of the following institutions, buildings or locations):

a.) church, including its surrounding lot
b.) school, including its surrounding lot
c.) park or playground
d.) residence, including its surrounding lot
e.) residential zoning district

2.) Such use shall not be permitted within 1000 feet measured from the point of the property line of the Adults Only Establishment closest to the closest property line of another adults only entertainment establishment.

3.) No sexual activity shall take place within the premises or on the lot.

4.) No private booths for viewing adult videos, adult movies, nude dancing, or private non-therapeutic massage or modeling are permitted on the premises.

Section 18.04 PROHIBITED USES

A.) Uses not specifically authorized by the express terms of this article of the Zoning Resolution shall be prohibited.

B.) Except as approved in the development plan the outdoor storage of any inoperable, unlicensed or unused motor vehicle, including trailers detached from semi-tractors, for a period exceeding seven (7) days is prohibited.

C.) Except as provided in the plan of development no trailer of any type, no boats, motor homes nor equipment of any type shall be parked in front of the front building line on any lot within this district. If a structure is located on the tract of land or lot, the building line shall be considered to be the front wall of the structure, even if said structure is located behind the minimum building line established by this code, the restrictions in the plat or deed or the development plan.

D.) Residential uses of any kind, except for a caretaker for a permitted use.

E.) Except as specifically permitted in the approved development plan no manufactured or mobile home or mobile office structure shall be placed or occupied in this district.

F.) NAICS code #711310, Promoters of Performing Arts, Sports, and Similar Events with outdoor open air Facilities

Section 18.05 INITIAL DISCUSSIONS

The applicant is encouraged to engage in informal consultations with the Zoning Commission and the Delaware County Regional Planning Commission prior to formal submission of a development plan and application to amend the zoning map to PID.

No statement by officials of the Township or the DCRPC shall be binding upon either at the concept stage.

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

Section 18.06 REQUIRED PID DESIGN FEATURES

The development plan shall incorporate the following standards:

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

B.) Minimum tract size- 10 acres, or as approved per plan.

C.) Maximum impervious surfaces- ground coverage by buildings and paved parking areas (total impervious surfaces): 50% of net developable area.

1.) Permitted density- Not applicable.

2.) Minimum industrial floor space requirements: as approved per development plan.

3.) Open space shall be distributed throughout the development as part of a unified open space system, which shall serve to unify the development visually and functionally, and buffer surrounding land uses. Open spaces may be used for the natural disposal of storm water drainage. No features should be designed which are likely to cause erosion or flooding.

4.) Minimum Lot Width at the building line- none, per plan.

5.) Minimum Side yards-for non-residential structures shall equal one-third (1/3) the sum of the height and depth of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

6.) Minimum Rear yard- for non-residential structures shall equal one-third (1/3) the sum of the height and width of the structure, but in no case shall be less than one hundred (100) feet from any Residential Zoning District or Planned Residential District, or as approved per plan.

7.) Perimeter Area- No building or parking shall be constructed within 100 feet of the perimeter property line of the overall tract, or as approved per plan.

8.) Walkways and street trees- The Township may require walkways to connect all dwelling areas with open space and to interconnect the open spaces. Sidewalks shall be separated from the paved street surface by at least five feet (5') of landscaped or grassed green strip. Street trees shall conform to Township standards. Trees may be placed in the 5 foot green strip if permitted by the county engineer and/or Township, otherwise they shall be placed in the front lawn of the residences.

9.) Buffering- Natural foliage shall be retained where practicable. Where adequate foliage does not exist, the Township may require establishment of such tree cover or other foliage as may be necessary to achieve the purpose of the open space and the buffer of adjacent uses.

10.) Preservation areas- Wetlands, steep (over 20%) slopes, forests, 100 year floodplains, ravines and noted wildlife habitat shall be preserved to the greatest extent possible.

11.) Utilities- Centralized water supply and sanitary sewage disposal systems shall be provided, subject to Delaware County Sanitary Engineer, Board of Health and Ohio Environmental Protection Agency approval. Feasibility of water supply and wastewater disposal systems shall be indicated by the appropriate agencies at the time of the preliminary plan.

12.) Building design- The project architect shall give due regard to the footprints, building orientation, massing, roof shape, pitch and exterior materials to blend with other traditional or historic architecture in the community or with the site.

13.) Building Height Limits- 35’, or as approved per plan.

14.) Landscaping- All yards, front, side and rear, shall be landscaped, and all organized open spaces or non-residential use areas shall be landscaped and shall meet the landscaping requirements of this resolution, unless a variation from these standards is specifically approved as part of the final development plan. A landscape plan showing the caliper, height, numbers, name and placement of all material, prepared by a licensed landscape architect shall be approved as a part of the final development plan.

15.) Parking- Off-street parking shall be provided, at the time of construction of the main structure or building, with adequate provisions for ingress and egress according to the development plan. In preparing and approving the parking plan, the parking provisions of this Resolution shall be incorporated, or a divergence requested.

16.) Signs- Signs shall conform to provisions of this resolution, or request a divergence and be as approved per plan.

17.) Exterior Lighting- All exterior lighting shall be as specifically approved as part of the final development plan.

18.) Supplemental Conditions and safeguards- The Zoning Commission and/or Board of Trustees may impose additional conditions relating to the development with regard to the type and extent of the public improvements to be installed; landscaping; improvements and maintenance of open space areas; and other development characteristics.

Section 18.07 REQUIRED FINDINGS FOR PID APPROVAL

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

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

2.) That the proposed development is in conformity with the comprehensive plan or portion thereof as it may apply.

3.) That the proposed development promotes the health, safety, and general public welfare of the township and the immediate vicinity.

4.) That the proposed plan meets all of the design features required in this Resolution.

5.) That the proposed development is in keeping with the existing land use character and physical development potential of the area.

6.) That the proposed development will be compatible in appearance with surrounding land uses.

7.) That the development promotes greater efficiency in providing public utility services and encouraging innovation in the planning and building of all types of development.

Section 18.08 PROCESS FOR AMENDMENT

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

A.) The applicant, being the owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID. A preliminary development plan must be submitted with the application. If the application for the zoning amendment is approved, then the zoning map is amended to PID. (This is a legislative act and is subject to referendum.) A final development plan shall be subsequently submitted to the Zoning Commission for review and approval (this is an administrative act and not subject to referendum). This procedure may only be used if the real estate proposed to be rezoned consists of at least 10 acres.

B.) The applicant, being an owner or lessee of the subject real estate, may apply for a zoning map amendment to designate the land as a PID and simultaneously submit, along with the application for the zoning amendment, a final development plan acceptable to the Township and in accordance with the final development plan standards set forth herein. (This is a legislative act and is subject to referendum).

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

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

Section 18.09 EFFECT OF PROPERTY OWNER INITIATED PID ZONING AMENDMENT

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

Section 18.10 DEVELOPMENT PLANS

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

Ten (10) copies of the preliminary development plan shall be submitted to the Zoning Commission with the PID application. The plan shall include in text and map form, the following:

1.) The proposed size and location of the PID district, at a scale of at least 1" = 200', showing topographic contours of at least 5' intervals, wooded areas, wetlands, adjacent (within 200') structures, 100 year floodplains.

2.) Suggested architectural designs for all structures and signs.

3.) The intended general provisions for water, fire hydrants, sanitary sewer and surface drainage. Information regarding existing pipe sizes, capacities, committed flows, and potential needed upgrades must be documented.

4.) The relationship of the proposed development to existing and probable uses of surrounding areas, including easements, rights of way, proposed drainage and public utilities.

5.) A design of the open space and proposed description of its use and maintenance.

6.) Specific statements of divergence, if any, from the development standards in this Article or the general standards of this resolution such as setbacks, parking, landscaping, lighting, signage and so forth.

7.) Proposed location of all structures and uses.

8.) Preliminary Traffic Impact Analysis based upon new trip generation.

9.) All required design features.

10.) Emergency service provisions (letter from Fire and Police departments).

11.) Phasing plans, if any.

12.) Calculation of net developable acreage and proposed project density.

13.) Proposed permitted and accessory uses.

B.) Preliminary Plan Approval Period- The approval of a preliminary development plan shall be effective for a period of one (1) year in order to allow for the preparation and submission of the final development plan. No zoning amendment passed during this one (1) year period shall affect the terms under which approval of the preliminary development plan was granted. If the final development plan has not been filed within this one (1) year period, then the preliminary development plan approval shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new preliminary and final development plan has been submitted for approval to and approved by the Township. Such applications for approval shall be subject to the same procedures and conditions as an original application. These new applications shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID district.

C.) Final Development Plan – The applicant shall submit ten (10) copies of the final development plan to the Zoning Commission with the application. Except as otherwise provided in the initial rezoning of property to the PID district, the Zoning Commission shall be the reviewing authority for the final development plan.

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

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

1.) A survey plat and legal description signed by a registered Ohio surveyor showing the size and location of the proposed PID District.

2.) The plan will be to scale of at least 1" =100' and will show the proposed uses of the site, location of buildings and structures, streets and roadways, and parking areas, all required design features, and the following:

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

b.) Environmentally sensitive areas such as the 100 year floodplain, wetlands, and slopes greater than 20% shall be mapped. No structure (other than approved drainage structures) shall be constructed within the limits of the 100-year floodplain as mapped by FEMA on the Flood Insurance Rate Maps for Delaware County. To the maximum extent possible, all natural drainage courses, vegetation, and contours in excess of six (6%) percent shall be maintained.

c.) Architectural design criteria including materials, colors and renderings for all structures and criteria for proposed signs, with proposed control procedures. These shall also include specific renderings of the elevations of structures. Any modification of these structures shall require re-approval of the development plan by the Township Zoning Commission. Materials and colors shall be submitted for approval.

d.) Building heights and dimensions.

e.) Off-street parking.

f.) Signs.

g.) Exterior Lighting: All exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any adjoining property.

h.) The proposed approved provisions for water, fire hydrants, sanitary sewer and surface drainage with engineering feasibility studies or other evidence of reasonableness. Pipe sizes and locations, detention basins and drainage structures shall be drawn.

i.) A traffic impact analysis by a competent traffic engineer, showing the proposed traffic patterns, public and private streets and other transportation facilities, including their relationship to existing conditions, topographical and otherwise.

j.) The relationship of the proposed development to existing and probable uses of surrounding areas during the development timetable.

k.) Location of all uses within the site and the location of schools, parks and other public facility sites within or adjacent to the site.

l.) The proposed time schedule for development of the site including streets, buildings, utilities and other facilities.

m.) If the proposed timetable for development includes developing the land (including open space) in phases, all phases developed after the first, which in no event shall be less than five (5) acres or the whole tract (whichever is smaller), shall be fully described in textual form in a manner calculated to give Township officials definitive guidelines for approval of future phases.

n.) The ability of the applicant to carry forth this plan by control of the land and the engineering feasibility of the plan.

o.) Specific statements of divergence from the development standards in of this resolution and the justification therefore. Unless a variation from these development standards is specifically approved, the same shall be complied with. Since the Final Development Plan is an exact rendition of what is intended to be built all standards for landscaping, parking and setbacks are per plan.

p.) Evidence of the applicant's ability to post a bond or an irrevocable letter of credit if the plan is approved assuring completion of public service facilities to be constructed within the project by the developer.

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

r.) The manner and method to be utilized in order to achieve and maintain compliance with the general criteria for the Planned Industrial District.

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

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

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

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

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

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

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

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

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

D.) Final Development Plan Approval Period- The approval of a final development plan shall be effective for a period of three (3) years, or for such other period as approved per plan, in order to allow for the filing and recording of a final subdivision plat, if platting is required by applicable law, and the commencement of construction of improvements on the site. No zoning amendment passed during the established approval period shall affect the terms under which approval of the final development was granted. If the required final subdivision has not been approved and recorded, and construction commenced within the established approval period, then the final development plan shall expire unless the Zoning Commission has approved an extension of this time limit. Absent such an extension, no use shall be established or changed and no building, structure or improvement shall be constructed until a new final development has been filed with and approved by the Township, and such application for approval, shall be subject to the same procedures and conditions as an original application for preliminary and final development plan approval. This new application shall comply with the terms of the Zoning Resolution then in effect at the time of filing, including, without limitation, any zoning amendments enacted from and after the date of the initial request to include the property within the PID District.

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

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

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

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

2.) Deed restrictions, covenants, easements and encumbrances to be used to control the use, development and maintenance of the land, the improvements thereon, and the activities of occupants, including those applicable to areas within the tract to be developed for non-residential uses.

3.) In the event that any public service facilities not to be otherwise guaranteed by a public utility have not been constructed prior to the recording of the plat, the owner of the project shall post a performance bond in favor of the appropriate public officers in a satisfactory amount ensuring expeditious completion of said facilities within one (1) year after the recording of said plat. In no event, however, shall any zoning certificate be issued for any building or use until such time that the facilities for the phase in which the building or use is located are completed.

4.) A request for approval of the final subdivision plat for the entire development shall be filed for approval and the approved final plat recorded within three (3) years after the approval of the final development plan or within such other period as approved per plan.

H.) Extension of Time/ Modification of Final Development Plan

1.) An extension of the time limit for either filing the required subdivision plat, recording the approved subdivision plat, or enlarging the approval period for either a preliminary or final development plan may be granted by the Zoning Commission without public hearing provided the Commission finds that such an extension is not in conflict with the public interest, that there is a legitimate purpose and necessity for such extension, and that the applicant shows evidence of a reasonable effort toward the accomplishment of the filing and/or recordation of the plat and the completion of the development of the project. A request for extension shall be filed prior to the expiration of the established approval period.

2.) A request for minor changes to the final development plan may be approved by the Zoning Commission without being subject to the same procedures as the original application.

3.) In the case of a request for a modification or amendment to the approved final development plan that represents a substantial departure from the intent of the original proposal, as determined by the Zoning Commission, said modification or amendment shall be subject to the same procedure and conditions of preliminary and final development plan approval as the original application. The following shall be considered substantial departures from the original application:

a.) A change in the use or character of the development;
b.) An increase in overall lot coverage of structures and off-street parking;
c.) An increase in the density;
d.) An increase in the problems of traffic circulation and public utilities;
e.) A reduction in approved open space;
f.) A reduction of off street parking and loading space;
g.) A reduction in required pavement widths;
h.) A reduction of the acreage in the planned development;
i.) Any other departure from the approved development plan which is deemed substantial by the Zoning Commission.

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

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

ARTICLE 19 Floodplain Regulatory District (FPRD)

Section 19.01 ESTABLISHMENT OF REGULATORY FLOODPLAIN DISTRICT

Purpose: See Section 5.059. The Regulatory Floodplain District shall exist as an overlay to all zoning districts and shall apply concurrently with other zoning district classifications. Land uses and development allowed under Article 19 must also meet all other applicable sections of this Resolution.

19.11 - Designation of the Regulatory Floodplain District

The Regulatory Floodplain District shall be designated as those flood hazard areas which are identified in the "Flood Insurance Study for Delaware County, Ohio" and accompanying Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program (NFIP), and all revisions and amendments thereto. These maps and data shall be on file at the Delaware County Building Department.

19.12 - Floodway and Floodway Fringe

The Regulatory Floodplain District is further divided into two portions consisting of the Floodway and the Floodway Fringe. The Floodway is that portion of the Floodplain consisting of the channel and sufficient adjacent lands to convey the Base Flood discharge without increasing the Base Flood Elevation more than one- half foot. The Floodway Fringe is that portion of the Floodplain outside of the Floodway. The FEMA water surface profiles of the Base Flood shall govern the location of the Floodplain boundary. The Base Flood Elevations and Floodway boundaries shall be established as those indicated by NFIP maps and data published by FEMA, including all revisions and amendments thereto. The Floodplain District shall be illustrated on the Berkshire Township Zoning District maps. FEMA maps and data shall be used to establish the Regulatory Floodplain District. FEMA maps and data shall govern in case of omission on or in conflict with the zoning maps.

19.13 - Non-detailed Flood Hazard Areas

In designated flood hazard areas for which FEMA has not determined detailed flood elevations and Floodway boundaries, the applicant shall be required to furnish such information prepared by qualified personnel. Such studies shall be submitted to the Community NFIP Administrator and the State NFIP Coordinating Agency. Flood maps and data published by State or Federal sources such as the USDA Soil Conservation Service, U.S. Army Corps of Engineers, U.S. Geological Survey, or Ohio Department of Natural Resources shall be utilized when available. In case of differing information from two or more of these sources, the more comprehensive and recent technical data shall be used.

Section 19.02 PERMITTED USES IN THE FLOODWAY

The following uses, not including buildings, shall be permitted within the Floodway, provided they comply with all other applicable sections of this Resolution:

1.) Agricultural land uses such as general farming and cultivation, pasturing, grazing, outdoor open air nurseries, truck farming, forestry, sod farming, and similar uses.

2.) Private or public recreational land uses such as golfing, tennis, archery, picnicking, boating, swimming; parks, wildlife, or nature preserves; shooting ranges, hunting and fishing areas; hiking, biking, jogging, and horseback riding trails; and other similar uses, provided no regrading or excavation of land occurs that would increase base flood elevations, and that no such excavation or regrading occurs within the stream channel or within 50 feet of it. No excavation shall occur during times of heavy rainfall that might result in erosion, stream sedimentation.

3.) Residential open space uses such as lawns, gardens, play areas, and other similar uses.

Section 19.03 PROHIBITED USES IN THE FLOODWAY

The following structures and uses are prohibited in the Floodway unless specifically listed under Section 19.04 as a Conditional Use:

1.) Buildings and structures, including mobile homes, for residential, commercial, industrial, agricultural, or other use.

2.) Storage or processing of materials.

3.) Trash garbage, or waste disposal operations; landfills; wastewater treatment and disposal facilities.

4.) Placement of material, fill, or spoil of any type or the construction or extension of levees, dams, dikes, floodwalls, or other such moundings or embankments unless otherwise allowed under Section 19 (Floodplain Regulations).

5.) Encroachments which would cause any increase in the Base Flood Elevations.

6.) Extraction of sand, gravel, or other resources.

7.) Alteration or relocation of the channel or watercourse.

Section 19.04 CONDITIONAL USES IN THE FLOODWAY

The following uses shall be Conditional Uses within the Floodway provided they comply with all other applicable sections of this Resolution and any conditions attached by the Board in granting the Conditional Use Permit:

1.) Navigational and stream flow aids, marinas, boat rental, docks, piers, wharves, and water measuring and monitoring devices.

2.) Construction, placement, or improvement or maintenance of public or private culverts, utilities, bridges and stream crossings of any type or size, erosion control and protection measures.

Section 19.05 PERMITTED USES IN THE FLOODWAY FRINGE

1.) Uses permitted in the Floodway by Section 19.02 shall also be permitted in the Floodway Fringe.

2.) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than $1,000.00.

3.) Accessory structures, not for human occupancy and no larger than 576 square feet gross floor area provided the structure is certified by a registered professional engineer or architect; or the structure is created with a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding and ensuring that the bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other openings provided that they permit the automatic entry and exit of floodwaters. All accessory structures shall meet the applicable requirements of Section 19.07.

Section 19.06 CONDITIONAL USES IN THE FLOODWAY FRINGE

The following uses shall be Conditional Uses in the Floodway Fringe, provided they meet all applicable standards and requirements of this Resolution and any conditions attached by the Board in granting the Conditional Use Permit:

1.) All Conditional Uses in the Floodway as listed in Section 19.04.

2.) Parking and loading areas.

3.) Wastewater treatment and disposal systems, provided structures are flood proofed or elevated one foot above the base flood elevation of the 100 year flood.

4.) Flood control or mitigation structures and measures.

5.) Temporary or permanent placement of earth only as needed for a use permitted in 19.05.

Section 19.07 DEVELOPMENT STANDARDS

In addition to other applicable Development Standard provisions of this Resolution, the following standards for arrangement, development, and use of land and buildings shall be required in the Regulatory Floodplain District:

19.71 - Anchoring

All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

19.72 - Maintain Flow Characteristics

No use of the Floodplain shall unduly or adversely affect or impact the efficiency, flow characteristics, or flood heights of the main channel or other affected tributaries, ditches, drainage facilities or systems, for storm frequencies up to and including the Base Flood event. No use or encroachment within the Floodway shall increase the Base Flood Elevation.

19.73 - Minimize Flood Damage

All activities and developments shall be planned, designed, constructed, and installed consistent with the need to minimize damages in time of flooding.

19.74 - Storage or Processing of Materials

Storage or processing of materials which are buoyant, pollutants, flammable, explosive, or could be injurious to human, animal or plant life in time of flooding shall be stored one and one half (1 ½) feet above the Base Flood Elevation, or suitably flood-proofed and protected. Proposed protection measures and safeguards shall be approved by the Ohio Department of Natural Resources.

Storage of materials or equipment or placement of other obstructions, which in time of flooding may be dislodged or otherwise carried off site by floodwaters to the possible damage or detriment to life or property must be protected by suitable safety measures, approved by the Board.

19.75 - Parking and Loading Areas

Public or private parking or loading areas which would be inundated to a depth of one and one-half feet or more or subjected to flow velocities over four (4) feet per second must be provided with adequate flood warning devices and measures.

19.76 - Public or Private Utilities or Facilities

Wastewater treatment and disposal facilities must be approved by the Ohio EPA, the County Sanitary Engineer, or the County District Board of Health, whichever has jurisdiction, and must be elevated or flood-proofed to provide protection from the Base Flood.

Activities or developments such as bridges, culverts, docks, wharves, piers, water supply systems, sanitary sewer systems, storm sewers and works, or construction of other public or private utility works and appurtenances shall be planned, designed, constructed, installed, and maintained consistent with the need to minimize the potential of flood damage to them and to the community in accordance with this Resolution.

19.77 - Flood or Erosion Control Measures or Watercourse Alteration or Relocation

Dams, dikes, levees, embankments, floodwalls, rip rap, rock protection, or other flood or erosion control measures and any alteration or relocation of the channel or watercourse shall be subject to all applicable provisions of Sections 1521.06 and 1521.07 of the Ohio Revised Code and all other applicable state, federal, county and local ordinances and regulations.

1.) Such measures over three (3) feet in height or involving over one thousand (1,000) square feet of surface area may be submitted by the Community NFIP Administrator to the U.S. Army Corps of Engineers and/or the Ohio Department of Natural Resources for review, recommendations, and approval as appropriate.

2.) Flood control measures intended to remove lands from the Regulatory Floodplain District classification must be approved by FEMA. The Regulatory Floodplain District shall be changed to coincide only with effective revisions to published NFIP maps.

Section 19.08 BUILDINGS AND STRUCTURES

Temporary or permanent placement of buildings and structures, new construction and substantial improvement of residential and nonresidential buildings shall meet the following:

19.81 - Residential Construction

shall be prohibited in the floodway and floodway fringe, and no fill material may be placed to attempt to increase a base flood elevation so as to allow residential construction in the floodway fringe.

19.82 - Non-residential Construction

1.) New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated at least one foot above the Base Flood Elevation, plus floodway computation increases; or, together with attendant utility and sanitary facilities, shall:

a.) be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to at least one-foot above the Base Flood Elevation, plus floodway computation increases.

b.) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

c.) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. A floodproofing certificate, to be completed by a registered professional engineer or architect is required if floodproofing is chosen over elevation.

2.) All structural, site and/or grading plans for nonresidential development activities in the floodplain shall be prepared and sealed by a registered professional engineer and/or architect.

3.) The applicant shall obtain and furnish to the Community NFIP Administrator as-built elevations, certified by a Registered Surveyor, of the basement and first floor, to be maintained on file for public inspection.

4.) No nonresidential buildings and/or structures shall be located in the Floodway portion of the Floodplain.

Section 19.09 FLOODWAYS

19.91 - Areas with Floodways

The Flood Insurance Study identifies a segment within areas of special flood hazard known as a floodway. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:

1.) See Sections 19.081 and 19.082 for residential and nonresidential floodway development provisions.

2.) Other encroachments, including fill, and other developments are prohibited.

3.) ODNR approved flood control, drainage or highway structures may be approved if a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

4.) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon prior approval by the Federal Emergency Management Agency.

19.92 - Areas without Floodways

In all areas of special flood hazard where FEMA has provided base flood elevation data but has not delineated a floodway, the following provisions apply:

1.) Encroachments, including fill, and other development shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one-half foot at any point.

2.) Fill may not be added to allow residential uses in areas designated as floodway fringe in the FEMA studies.

Section 19.10 ADDITIONAL PLAN REQUIREMENTS

For Zoning Compliance, Conditional Use Permit, and Variance applications involving the Regulatory Floodplain District, the applicant shall furnish sufficient information to permit the Administration Officer and/or the Board to determine the Regulatory Floodplain and Floodway Boundaries and Base Flood Elevations, and to otherwise facilitate the administration and enforcement of this Resolution. Such information shall include but not be limited to the following:

A.) Plans drawn to scale showing the nature, location, dimensions, and details of the property, development activities, and land use, both existing and proposed;

B.) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;

C.) Existing and proposed topographical information;

D.) Elevation in relation to mean sea level to which any proposed structure will be floodproofed where base flood elevation data are utilized including certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria required by this resolution;

E.) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

F.) Other information as may be reasonably deemed necessary by the Community NFIP Administrator.

G.) The applicant shall submit certification of finished elevations, and/or other proofs or assurances of compliance with approved plans to the satisfaction of the Community NFIP Administrator.

H.) Permits issued on the basis of applications, plans, specifications, and other information approved by the Community NFIP Administrator shall authorize only the use, arrangement, and construction set forth therein.

Section 19.11 COMPLIANCE WITH APPROVED PLANS

Certificates of Zoning Compliance and Conditional Use Permits issued on the basis of applications, plans, specifications, and other information approved by the Administration Officer or the Board shall authorize only the use, arrangement, and construction set forth therein.

The applicant shall submit certification of finished elevations, and/or other proofs or assurances of compliance with approved plans to the satisfaction of the Administration Officer and/or the Board.

Section 19.12 COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM

The provisions of Section 19 of this Resolution have been submitted to and reviewed by the National Flood Insurance Program (NFIP) State Coordinating Agency and the Federal Emergency Management Agency (FEMA) as required by Federal Law. These agencies have determined that these provisions meet or exceed the Federal standards of Federal Law 44 CFR part 60.

19.121 - Administration

The administration of this Zoning Resolution shall in no way lower any requirement or standard of the National Flood Insurance Program, 44 CFR Part 60.3 and 60.6

19.122 - Community NFIP Administrator

The Community NFIP Administrator shall review all applications involving Conditional Uses and Variances in the Floodplain and prepare a brief report and recommendation to be submitted to the Board, prior to action by the Board.

Section 19.13 WARNING AND DISCLAIMER OF LIABILITY

This Resolution does not imply that areas outside the Regulatory Floodplain District or uses allowed or otherwise permitted or approved within the Regulatory Floodplain District in accordance with the provisions of this Resolution will be free from flooding or flood damages. This Resolution or its administration and/or enforcement shall not create liability on the part of Delaware County, or Berkshire Township, any officer or employee of Delaware County or Berkshire Township or other staff or personnel involved in its administration and/or enforcement. Additional flood protection beyond that required by this Resolution is recommended and encouraged.

ARTICLE 20 Reserved

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ARTICLE 21 General Development Standards

Section 21.00 GENERAL

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

Section 21.01 PARKING

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

A.) Dimensions: All parking spaces shall be not less than nine (9) feet wide and twenty (20) feet long. Such spaces shall be measured as a rectangle and shall be served by aisleways of sufficient width to permit easy and smooth access to all parking spaces.

B.) Paving: Except in the Agricultural District (A-1) and the Farm Residential Zoning District (FR-1) all common parking areas and adjacent aisles or driveways shall be paved with asphaltic material or concrete.

C.) Driveways: All driveways serving parking lots for five (5) or more vehicles shall be served by a driveway not less than twenty (20) feet in width but adequate in width to permit easy access to parking spaces. No driveway shall be located so that it enters a public road within one hundred (100) feet of the intersection of any two (2) public roads unless there are two (2) driveways serving the lot, one of which is more than one hundred (100) feet and the other not less than forty (40) feet from said intersection. All driveways shall be located and the adjoining lots graded so that vehicular traffic entering a public road has an unobstructed sight distance of at least three hundred (300) feet.

D.) Parking Area Location: No driveway, parking lot or parking areas shall be located nearer than six (6) feet to the side or rear line of the tract on which the structure is located, and parking in front of the main structure may be permitted only if not more than forty (40%) percent of the front set back area outside of the right-of-way is occupied by parking. All parking spaces required herein shall be located on the same lot with the building or use served unless otherwise approved as part of a development plan for a Planned District.

E.) Required Off-Street Parking Spaces: The user of any tract shall provide off-street parking for all employees, customers, visitors, and invitees. The following table shall specify the minimum parking areas to be provided.

Use	Required Parking Spaces
1) Single Family Residential (FR-1) and (A-1)	4 per dwelling unit (garages and driveways count).
2) All other residential	3 per dwelling unit (garages and driveways count).
3) Hotels, motels, lodges (without public meeting facilities)	1 per rental unit plus 1 per employee on largest shift plus 1 for each four seats in the dining room or restaurant area.
4) Hotels, motels, lodges exhibition halls, and assembly areas (except churches)	1 per rental unit plus 1 per employee on the public largest shift plus 1 per 75 sq. ft. of floor area used for exhibition or assembly purposes plus 1 per 4 seats in any restaurant therein.
5) Churches or places of public assembly.	1 for each three (3) seats or 1 for each forty-five(45) sq. ft. of assembly area, whichever is greater.
6) Hospitals on the largest shift.	1 1/2 for each bed plus 1 for each employee

7) Nursing Homes	1 for each 2 beds plus 1 for each employee on the largest shift.
8) Museums, libraries, etc	1 for each 400 sq. ft. of area open to public plus 1 for each employee on the largest shift.
9) Primary or elementary schools	4 for each classroom.
10) Secondary schools, colleges, trade schools, etc.	4 for each classroom plus 1 for each four (4) students.
11) Restaurants	1 for each two (2) seats plus1 for each employee on the largest shift. Not less than 25 parking spaces shall be provided.
12) Offices	1 for each 300 sq. ft. of floor area.
13) Funeral Homes	1 for each 25 sq. ft. of public space.
14) Retail Stores	5 per 1000 sq. ft. of gross leasable area.
15) All industrial warehousing	20 plus 1 for each (2) employees plus 1 for each vehicle maintained on the premises.
16) Industrial manufacturing	1 space for every two (2) employees on the maximum shift plus 1 per 10,000 square feet.

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

Section 21.02 HEIGHT LIMITATIONS

The building height limitations set forth in this Resolution shall not apply to church spires, domes, chimneys, cooling towers, elevator shafts, fire towers, belfries, monuments, stacks, derricks, conveyors, stage towers, tanks, water towers, or necessary mechanical appurtenances which may be erected to any safe and lawful height. Except as otherwise provided for telecommunications towers, windmills, wind turbines, aerials, antenna, or towers if otherwise permitted may be constructed to a height not greater than the distance from the center of the base thereof to the nearest property line of said tract.

Section 21.03 STRUCTURE SEPARATION

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

Section 21.04 SEWER REQUIREMENTS POLLUTION CONTROL

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

Section 21.05 WATER IMPOUNDMENTS

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

A.) Except adjacent to Class “A” and “B” Roadways no impoundment shall be located closer than twenty-five (25) feet to the right-of-way or fifty-five (55) feet of the center line of any adjacent approved road. No impoundment shall be located closer than fifty (50) feet to the right-of-way of a Class “A” or “B” Roadways.

Section 21.06 LANDSCAPING

All uses and improvements in the township should pay close attention to maintenance of proper landscaping after completion of construction of the principal structures or improvements. All landscaping must be completed within six (6) months of occupancy. Maintenance of ground cover at all times is encouraged to prevent erosion. Replacement of trees removed during

the land clearing should be accomplished as soon as possible. All requirements of Article 23 of this Zoning Resolution shall be met.

Section 21.07 DRAINAGE

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

In no event shall any person interdict or interfere with any existing tile or surface drain channel unless it is determined that such tile or channel can be removed or relocated without interfering with the drainage on adjacent properties.

Section 21.08 FLOOD PLAIN REGULATIONS

Certain limited areas of the Township lie within the flood plain of the Big Walnut and Little Walnut Creeks and their tributaries. See Section 19.

Section 21.09 SETBACK REQUIREMENTS

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

a.) CLASS A: Any public street or road with a right of way width of 100 feet or wider designated by Berkshire Township, Delaware County, Ohio as CLASS A roads and the following listed roads within the township, to-wit: S.R. 3, U.S. 36 and any other roads as later designated by the Trustees of the Township.

b.) CLASS B: Any public street or road with a right of way width of not less than 60 feet nor more than 100 feet or any other street or road designated a Class B road by the Berkshire Township Board of Trustees. The following roads or streets within the township are designated Class B: Sunbury Road; South Old 3-C Road, north of the Village of Galena; Cheshire Road; Rome Corners Road; North Galena Road; S.R. 61; Plumb Road; South Galena Road, Between Five Points and the Village of Galena; North 3Bs & K Road; Blaney Road; Carter's Corner Road and any other roads as later designated by the Trustees of the Township.

c.) CLASS C: Any other through public street or road or any private roadway approved by the County Engineer connecting two or more public roads.

d.) CLASS D: Dead end roads ending at a cul-de-sac or approved turn around when the lot configuration or approved plan precludes future extension of said roadway or any branch therefrom to create a connecting street between two or more existing or future streets or roads.

Minimum Set Back Distances

All distances are measured from the center of the existing or proposed right of way to the nearest use or improvement, except parking areas or signs which may be located within the setback area as regulated by Article 23 of this Resolution.

Class A Set Back Requirements: Shall meet the designated distance from centerline in the following chart or the setback requirement shall be (90) ninety feet from the existing nearest road right-away, whichever is greater.

Class B Set Back Requirements: Shall meet the designated distance from centerline in the following chart or the setback requirement shall be (90) ninety feet from the existing nearest road right-away, whichever is greater.

Use Classification	Road Classification			
	Class A	Class B	Class C	Class D

A-1 – Agricultural	150	130	120	120
FR-1 – Residential	150	130	120	120
PRD – Residential	150	130	**	**
PERRC – Residential	150	130	**	**
PRCD – Planned Recreational	150	130	**	**
PIND – Planned Institutional	150	130	**	**
PCD – Planned Office and Commercial	150	130	**	**
PID – Planned Industrial	150	130	**	**

** As approved in Development Plan

Section 21.10 INDUSTRIALIZED UNITS

For the purpose of this Resolution, a modular home, modular office or modular industrial unit shall be defined as an industrialized unit which has been inspected and certified to be in compliance with the Ohio Building Code. All such units shall be approved for their appropriate zoning district, the same as a site built structure. All local, state, and Federal requirements and permits shall be required.

Except for permanently sited manufactured homes, all other manufactured homes or offices shall be considered a temporary structure, trailer, or mobile home, mobile office, and shall be limited in placement by this Resolution.

Section 21.11 LIMITED HOME OCCUPATION

A limited home occupation shall be permitted as an accessory use within a Single-Family dwelling in accordance with the following provisions:

1.) It does not occupy more than twenty percent (20%) of the gross floor area of the dwelling unit or two hundred (200) square feet, whichever is larger.

2.) Requirements:

a.) The appearance of the structure shall not be altered or the occupation within the residence shall not be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or unauthorized signs. A home occupation shall be clearly incidental and secondary to the use of the unit for dwelling purposes. Other than a permitted sign, there should be no outward appearance of any business use.

b.) There are no non-resident employees.

c.) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers, computers, wireless phones or hand held wireless transmitting devices off the premises, or causes fluctuations in line voltage off the premises.

d.) Sign-One (1) sign shall be permitted, maximum area three (3) square feet on (1) side. Sign may be flatly affixed against the surface of the dwelling, or erected on a pole no more than five feet tall in the front yard. No sign illumination is permitted. A certificate of zoning compliance shall be obtained.

e.) There shall be no outside storage of any kind.

f.) Specialized instruction or tutoring shall be limited to one (1) individual at a time.

g.) No traffic shall be generated in substantially greater volumes than would be generated by a single family home.

Section 21.12 EXPANDED HOME OCCUPATION CONDITIONAL USE

It is recognized that there may be some Home Occupations which do not meet the criteria of Sections 21.11 but which may be appropriate for a residential area provided the following additional standards are addressed through the Conditional Use permit procedure. An expanded Home Occupation Conditional Use may be permitted, provided it meets the procedures and requirements of Section 28.07 and the following requirements:

1.) The home occupation shall be carried on solely within the confines of the dwelling unit and/or architecturally compatible accessory buildings, which are customarily associated with the residential use and character of the neighborhood.

2.) The Home Occupation shall be carried on by the individual(s) residing within the dwelling unit and there shall be no more than a total of one (1) non-resident employee.

3.) Sales of commodities or services produced on the premises may be permitted provided such commodities or services are specified and approved as a part of the application. Examples of possible home occupation conditional use services or commodity sales:

a.) Insurance or real estate sales, word processing, Internet web hosting.

b.) Arts, crafts or other artistic instruction with united sales of associated materials used in the instruction and preparation of artistic works.

c.) Small machinery and equipment repair such as computers, cameras, clocks or other similar small items including the limited sales of repaired or associated parts and equipment.

d.) Limited, seasonal sales of specialized items such as holiday ornaments, handicrafts, or sporting supplies.

e.) Organized instruction may be permitted provided the class size does not exceed six (6) pupils at any given time. Prior to any approval for organized instruction associated with a home occupation conditional use permit, the Board of Zoning Appeals shall determine that because of the location and orientation of the residence and lot in question, the regularly organized instruction of up to six (6) pupils at any given time will not become a detriment to the existing residential character of the lot or the general area through an increase in traffic, street parking, or any other factor resulting in an adverse impact as determined by the Board of Zoning Appeals.

f.) No outside storage of any kind associated with a home occupation conditional use shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street.

g.) Only one sign, not larger than three (3) square feet of advertising area and five (5) feet in height above grade of the surrounding yard, may be erected advertising the home occupation. The sign may be mounted flat against a building or on a five-foot pole in the front yard. The sign shall be of a design compatible with the residential character and shall not be animated or lighted.

h.) All parking demands created by the conduct of a home occupation shall be met off the street and other than in a front yard. Off-street parking may be permitted in a side yard or rear yard, but shall not be located any closer to the street than the required setback line. The required number of off-street parking spaces shall equal the spaces required for the residential use plus those required for the commercial use which constitutes the home occupation (if no parking requirement is given for a particular home occupation, the parking requirements for the most similar commercial use shall be used in order to calculate the required minimum number of spaces).

i.) No equipment, process, or storage associated with the home occupation shall create odors, noise, vibration, glare, electrical interference or other nuisance detectable to normal senses off the lot. All activities, materials and equipment associated with the business shall be totally maintained within a building. In the case of electrical interference, no equipment or process shall create visual or audible interference in any radio or television receivers, computers, hand held wireless devices or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.

j.) Waste materials, solid or liquid, shall not be created on the premises at a level greater than normal to the residential use, unless provisions for the disposition of said wastes are acceptable to the Delaware County Department of Health and do not create a burden on adjoining property.

k.) No activity shall be conducted or permitted which creates a nuisance to neighboring properties.

l.) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty percent of the total floor area of the dwelling unit shall be used in the conduct of the home occupation nor more than fifty percent of the floor space of any garage or accessory building.

m.) Unless otherwise provided by the Board of Zoning Appeals, the Expanded Home Occupation Conditional Use Permit shall cease to be valid and terminates once the premises used for the Home Occupation is no longer occupied by the applicant.

Section 21.13 FENCES

A fence intended for purposes of screening shall be a minimum of 6 feet in height, but in no case shall any fence exceed 8 feet in height.

ARTICLE 22 Sign and Billboard Regulations

Section 22.01 PURPOSE

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

Section 22.011 ZONING PERMIT REQUIRED

The erection or location of any sign within Berkshire Township shall require a permit unless otherwise specified within this Article. Each application for a permit to erect a temporary or permanent sign shall be accompanied by a drawing showing the proposed design, the size, style, and color of letters, lines and symbols, and method of illumination, if any. In addition the details and specifications for construction shall be described including the exact location of the sign in relation to the building and/or property.

Section 22.02 PERMITTED SIGNS - NO PERMIT REQUIRED

The following signs shall be permitted in the township, provided they are located in accordance with Section 22.06.

A.) **Signs for Sale, Lease or Rent of the premises on which the sign is located:** not more than two signs shall be displayed on any lot or parcel. Such signs shall not be illuminated and shall not exceed six (6) square feet of advertising area per side with not more than two (2) sides. Signs for sale or lease shall identify the lessor, builder or contractor. Maximum height of such signs shall be four (4) feet. All such signs shall be removed within thirty (30) days after a certificate of occupancy is issued by the county building department or actual human occupancy has occurred on the premises.

B.) **Signs for Home Occupations:** As provided in Sections 21.11 and 21.12.

C.) **Identification, Informational, Or Directional Signs**: On-site directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum of two (2) square feet in area and three (3) feet in height above the established approved grade and do not interfere with safe vehicular or pedestrian traffic circulation and are not located within the clear sight distance triangle. No more than two such signs are allowed per vehicular access point. Such signs may contain information such as “in”, “enter”, “entrance”, “out”, “exit”, “do not enter” or similar language as approved by the Zoning Inspector or his designee or arrows indicating desired traffic movement. Such signs may contain no advertising, including logos and must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public right-of-way.

D.) **Political Signs:** The erection of political signs shall be permitted in any district of the township provided that said signs:

1.) do not interfere with visibility of vehicular traffic entering or leaving the highway.

2.) may be posted and removed without destruction of public or private property.

3.) designate the name, address, and phone number of the person charged with removal of the sign.

4.) shall be placed outside the road right of way.

5.) shall be removed within seven days after the election date.

E.) **Temporary Signs:** announcing special public or institutional events. Such signs shall not exceed thirty-two (32) square feet in advertising area per side and shall not be permitted more than thirty (30) days prior to the planned event nor more than seven (7) days after said event. Such sign shall designate the name and address of the person charged with the duty of removing said sign.

F.) **Signs Approved in Planned Districts:** shall either conform to the standards of Article 22 or be approved according the final development plan.

G.) **Farm Signs:** denoting the name and address of the occupants, denoting produce or products for sale on the premises, and denoting membership in organizations. No more than one sign of any type may be permitted, and it shall be located outside the road right-of-way. Advertising signs may not exceed thirty-two (32) square feet of advertising area per side and all other signs shall be limited to four (4) square feet per side.

H.) **Signs Approved as Part of Conditional Use Permit:** in residential zoning districts, provided such signs are constructed in strict compliance with the imposed conditions.

I.) **Signs having not more than ten (10) square feet:** of display area on or over a show window or door of a store or business establishment, announcing only the name of the proprietor and the nature of his business.

J.) **Name(s) and Address of Occupant of Property:** Not to exceed one and one-half (1½) square feet in area and bearing only street address numbers, post office box number, and the names of the occupants of any private premises for identification purposes only.

K.) **Signs Required or Authorized for a Public Purpose:** By any law, statute or ordinance, such signs to include traffic control devices provided that such signs contain no supplementary advertising.

L.) **Flags and Insignia:** of the United States or the State of Ohio.

M.) **Integral Decoration or Architectural Details:** of buildings except letters, trademarks, moving parts or moving lights.

N.) **Signs that are in the nature of Cornerstones, Commemorative Tablets and Historical Signs:** Signs that are placed on items donated to the township or an establishment within the township are allowed providing that the information pertains to the donation, such as "In Memoriam or Donated By", also providing there is no advertising (announcement of business services) imparted by the wording other than the name(s) of the donor and or the logo or trademark for the establishment. Such signs shall be less than nine (9) square feet in size and not illuminated.

O.) **Projecting Signs Displaying the Name of the Business:** Shall have an area of two (2) square feet or less when located under a pedestrian canopy.

P.) **A Sign That Advertises the Sale of Personal Property:** Signs such as a garage, yard, porch or moving sale provided that it is limited to one sign, not greater than four square feet in size and which sign is located on the sale premises for a time period not greater than two consecutive days. Such signs shall not be located in a public right-of-way. The owner's name and number must be listed on the sign.

Q.) **Temporary Contractor Signs:** Not more than one sign shall be displayed on any lot or parcel. Such sign shall not be illuminated and shall not exceed six (6) square feet of advertising area per side with not more than two (2) sides. Sign shall be removed within fourteen (14) days after the contractor has completed work at the site.

R.) **"School Pride" Signs:** These signs are permitted at a residence, outside of the ROW, provided that their content is specific to the occupants / children and their school achievements. No sign shall contain any profanity or

other inappropriate verbiage. These signs must be maintained in good condition as determined by the Zoning Inspector and/or replaced when their condition deteriorates, becomes worn, faded or tears.

S.) **Menu Boards** (except "Drive-thru or Drive-up Menu Boards as noted in Section 22.03(f.): shall be less than ten (10) square feet of display area and must be mounted flush to the wall of the building of the store or business establishment. Said signage will be in keeping with the architecture of the building and be professionally produced.

Section 22.03 PERMITTED SIGNS - PERMIT REQUIRED

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

A.) **Outdoor Advertising or Billboards:** for a product or service not located upon the premises on which the sign is located shall be classified as a business use and shall be permitted in all commercial and industrial districts and/or lands used for agricultural purposes subject to regulations set forth herein.

1.) No billboard shall exceed one hundred (100) square feet of advertising area per side nor have more than two sides.

2.) No billboard shall exceed fifteen (15) feet in height above the average grade nor have a length in excess of four times the height of the sign face.

3.) The use shall comply with the general regulations set forth in other provisions of this Resolution and article.

4.) All billboards shall be located in compliance with all local, state and federal regulations controlling the same. Billboards shall be licensed or permitted as may be required by local, state or federal agencies.

5.) All billboards shall be located behind the building setback lines established for the district in which the sign is located and shall be at least one thousand (1,000) feet from any residence.

6.) No billboard or outdoor advertising sign shall be located nearer than twenty-five (25) feet to any side lot line.

7.) Spacing Requirements- Each billboard site location shall be separated from every other billboard site location in accordance with the following:

a.) Spacing requirements shall be measured along the curb line of the street that the billboard is oriented to and the measurement shall apply to both sides of the street.

b.) Spacing requirements shall be measured from existing billboards regardless of the political jurisdiction within which any other billboard may be located.

c.) Measurement of the spacing between billboards shall be the shortest distance between the two billboard structures.

d.) Billboards shall be located at least one thousand, two hundred and fifty (1,250) feet from other billboards.

B.) **Commercial or Industrial Display Signs:** All display signs shall be mounted on the building which houses the business establishment advertised by such signs, except as otherwise specifically authorized by this Resolution.

1.) Such signs shall be located on or along a wall of such building which faces a street, parking lot or service drive, and shall not project above the roof line or the cap of parapets of such building, whichever is higher.

2.) Signs may be erected on a wall which is an extension of a building wall which faces a street, parking lot or service drive, provided that the design and construction of such extension are architecturally compatible with the building, that such wall does not extend beyond any required building setback line, and does not exceed twelve (12) feet in height or the height of the ceiling of the first floor of the building to which such extension wall is attached, whichever is less. The display area of the sign must be located either on the wall or extension; it may not be located on both.

3.) All such signs shall be parallel to the wall on which they are installed, and shall not project more than eighteen (18) inches from such wall, intending to prohibit signs projecting outward from the wall, at right angles or otherwise, except as follows:

a.) Signs may be installed on an attached canopy, roof or marquee which projects beyond the building over a walk or yard.

b.) One sign, not more than fifteen (15) inches in height and five (5) square feet in advertising area, projecting outward from the building wall not more than three (3) feet, may be erected at each entrance to such building, and the area of such sign shall not be included in determining the aggregate sign area of such building.

c.) No part of any sign shall be less than eight (8) feet above the sidewalk or ground level, if such projects forward of the wall on which it is mounted to such an extent as to constitute a hazard or inconvenience to pedestrian or vehicular traffic. No part of any sign shall be closer to either end of the building face, including any wall extension on which it is erected, than eighteen (18) inches. Where more than one sign is erected on the same face of a building, there shall be a distance of at least three (3) feet between signs. Letters, numerals or other graphics attached directly to the building wall shall be considered a wall sign. Unlighted letter numerals or other graphics carved into the face of the building shall generally not be considered wall signs, unless they are over nineteen (19) inches high, or one inch thick, or the color contrasts with that of the building. Super-graphics (large scale painted graphic devices) and architectural detailing having a graphic or signage function which are painted upon a building, shall be subject to regulation as a wall sign.

4.) The display area of any one surface does not exceed twenty-five (25) square feet.

C.) **Free-Standing Monument Signs Identifying Commercial or Office Uses**: A monument-style, freestanding sign identifying a commercial or office complex on the property supported by finished stone or brick base having a width at least equal to that of the sign, where the main face of the sign is either flush with the base or affixed to poles less than 3’ in height so there is a maximum of 3’ clearance from the base to the bottom of the sign is permitted on the following conditions:

1.) No part of such sign is located within the clear sight triangle as defined in Article 22.06 (B.).

2.) The maximum height of such sign does not exceed eight (8) feet above the average grade of the site when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional three (3) feet setback from the street right-of-way line, an additional one (1) foot in height will be permitted up to a maximum of fifteen (15) feet high.

3.) The total advertising area of one face of the sign does not exceed thirty two (32) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional

one (1) foot setback from the street right-of-way line, an additional two (2) square feet of advertising area will be permitted up to a maximum of sixty four (64) square feet of advertising area for each face of the sign, with a maximum of two (2) sides.

Distance from R-O-W	Advertising area per side	Total advertising area	Maximum sign height
15 ft.	32 sq. ft.	64 sq. ft.	8 ft.
16 ft.	34 sq. ft.	68 sq. ft.	8 ft.
17 ft.	36 sq. ft.	72 sq. ft.	8 ft.
18 ft.	38 sq. ft.	76 sq. ft.	9 ft.
19 ft.	40 sq. ft.	80 sq. ft.	9 ft.
20 ft.	42 sq. ft.	84 sq. ft.	9 ft.
21 ft.	44 sq. ft.	88 sq. ft.	10 ft.
22 ft.	46 sq. ft.	92 sq. ft.	10 ft.
23 ft.	48 sq. ft.	96 sq. ft.	10 ft.
24 ft.	50 sq. ft.	100 sq. ft.	11 ft.
25 ft.	52 sq. ft.	104 sq. ft.	11 ft.
26 ft.	54 sq. ft.	108 sq. ft.	11 ft.
27 ft.	56 sq. ft.	112 sq. ft.	12 ft.
28 ft.	58 sq. ft.	116 sq. ft.	12 ft.
29 ft.	60 sq. ft.	120 sq. ft.	12 ft.
30 ft.	62 sq. ft.	124 sq. ft.	13 ft.
31-32 ft.	64 sq. ft.	128 sq. ft.	13 ft.
33-35 ft.	64 sq. ft.	128 sq. ft.	14 ft.
36 ft. or more	64 sq. ft.	128 sq. ft.	15 ft.

4.) No part of such sign will be closer to nearest street right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.

5.) Such sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, nor create a visual distraction for such motorists.

6.) Where more than one business establishment is located on a single tract of land, having an entrance or parking area used in common by customers of such establishments, only one free standing sign may be authorized for the entire tract. The existence and boundaries of such tract shall be determined by this provision by community of use, rather than by the ownership thereof, it being intended by this provision to limit each shopping center or similar joint operation to one (1) free standing sign.

7.) Not more than five (5) colors may be used. For the purposes of this Section, black and white shall not be considered colors.

D.) **Subdivision Sales Signs:** Signs providing information on the sale of lots within an approved and recorded subdivision may be placed upon the property. Subdivision sale signs shall contain only the name of the subdivision, the name of the owner, the name of the developer, and information regarding the price, terms, and the location and phone number of the sales office. All such signs shall be set back a minimum of twenty (20) feet from the right-of-way. The maximum sign area shall be thirty-two square feet per side with a maximum of two sides.

E.) **Model Home Signs:** Provided the following conditions are met:

1.) Maximum advertising area of sixteen (16) square feet per single side of sign, two sides only.

2.) Maximum height of four (4) feet to the top of the advertising area.

3.) Must be a ground, monument, or single pole, or braced inverted "L" pole, with suspended sign.

4.) If lit, must be externally lit from above only.

F.) **Drive-thru or Drive-up Menu Boards:** Provided all of the following conditions are fulfilled:

1.) One (1) free-standing menu board and one (1) free- standing preview menu board may be approved for each drive-thru lane of a business establishment having one (1) or more drive-thru lanes, and one (1) menu board located on the exterior of the building for each walk-up window of a business having one (1) or more walk-up windows, to advertise only those products that can be ordered, obtained, and paid for at a drive-thru window or walk-up window. Such signs may not be used to advertise services.

2.) The total display area of a menu board shall not exceed thirty-two (32) square feet for a drive-thru lane and shall not exceed sixteen (16) square feet for a menu board located on the exterior of a building for a walk-up window. Total area of a preview menu board shall not exceed twenty (20) feet.

3.) All menu boards and preview menu boards for drive-thru lanes shall be located adjacent to a drive-thru lane in such a manner that the sign face is not visible from any dedicated road, and placed so they are intended to be read only by customers using the drive-thru lane. The back and sides of such signs shall be of a finished material that matches or complements the exterior building materials of the building it serves. If the back side of any sign is visible from the dedicated road, it shall be completely screened from view from such dedicated road by use of permanent landscaping.

4.) A menu board located on the exterior of a building for a walk-up window shall be attached to the building near the walk-up window at a location where the menu board can be seen and/or read from the corresponding walk-up window.

G.) **A-Frame Signs:** Provided the following conditions are met.

1.) The sign is positioned on the property to which it refers;

2.) The construction of the sign is in keeping with the nature of the establishment, the sign itself may not illuminated, has only two (2) sides, and is made of heavy materials such that it cannot be easily displaced by the wind or be a nuisance to pedestrians and/or motorists.

3.) The sign may not be located in the ROW and must not impede any flow of traffic into or out of the property as well as maintaining the proper line of vision;

4.) The sign must be removed daily at the close of business and replaced in the morning;

5.) The sign must be kept in good repair and appearance;

6.) The sign must only be used to reflect the events, specials or goods and services of the business upon which said sign is located;

7.) The total size of the sign shall not exceed 6 square feet on either side.

H.) **Temporary Business Signs:**

1.) Temporary Business signs shall require a temporary sign permit.

2.) Banners, pennants, temporary wall signs, sixteen (16) square feet or less are permitted provided that they are attached at each corner, point and/or end so as to prevent movement. Banners may be attached to ground signs within the frame provided that they are attached at each corner, point and/or end so as to prevent movement. Only one banner is permitted per establishment. No business shall display such signs for more than ninety (90) days per calendar year or for more than thirty (30) continuous days. The area of each banner shall not count toward the minimum sign area as specified herein.

3.) All temporary business signs shall be located at the site or location of the event being promoted or of the headquarters for the sponsoring organization except as otherwise provided for community events.

4.) The date upon which a temporary business sign is first displayed and the time period for which the sign will be displayed shall be legibly marked on the sign.

5.) Normal construction requirements for permanent signs shall not be applicable to temporary business signs.

I.) **Real Estate for Sale signs in all districts:**

1.) Upon application and approval on parcels exceeding ten (10) acres, one temporary free-standing sign not to exceed thirty-two (32) square feet per side and total height of eight (8) feet on average grade may be permitted to advertise that it is for sale, rent, or lease. All such signs shall be set back a minimum of twenty (20) feet from the right of way. All such signs must be located upon real estate which is offered for sale, rent, or lease. Where a parcel has frontages on two (2) or more roads, one (1) such sign shall be permitted along each dedicated road. Said signs may remain for a period not to exceed twenty-four months from the day the permit is issued.

Section 22.04 CONDITIONALLY PERMITTED SIGNS - PERMIT REQUIRED

Within any commercial or industrial district or within any non-residential portion of a residential district the following signs may be permitted, subject to the conditions and restrictions imposed by the Board of Zoning Appeals pursuant to the provisions of Article 28 of this Resolution. Conditionally permitted uses shall be considered abandoned if said use or uses are not commenced within one (1) year from the date of Board of Zoning Appeals approval, or are discontinued for a period in excess of two (2) years. Unless the conditional use permit specifically provides that the grant shall be permanent and shall run with the land, the sale or conveyance of the land and/or structure wherein the same is located or upon which the same is granted shall void the conditional use permit, and the subsequent owner(s) or his agent shall be required to reapply for a continuation and/or modification of such use(s) to the Board of Zoning Appeals. A designation by the Board of Zoning Appeals that a permit is permanent and shall run with the land does not affect the right of authorities to revoke the permit for failure to comply with conditions imposed. No conditional use shall be implemented until a permit of compliance is issued by the Zoning Inspector.

Free-Standing Pole Signs: Existing free-standing signs, including “lollipop signs” within 3,000 feet of Interstate 71 and US 36/SR 37, heretofore lawfully erected and maintained and now in place may be maintained until such sign is destroyed, dismantled or removed according to the provisions of Section 22.08 herein.

The Board of Zoning Appeals may grant a conditional use permit for the erection or maintenance of a freestanding pole sign only upon compliance with the following requirements:

A.) The filing of a written application for such sign, together with a scale drawing of the proposed sign showing its design, color and materials, and a site and the location of the proposed sign.

B.) A determination by the Board of Zoning Appeals that a free-standing pole sign is necessary to the conduct of the business, professional or commercial activity on the site and that permitted ground or monument sign would constitute a hazard or create a hardship due to sight lines, topography, or some other unique site feature not generally shared with other similar properties in the district.

C.) A determination that the proposed pole sign meets all of the following requirements:

1.) The maximum height of such sign does not exceed eight (8) feet above the average grade of the site when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional three (3) feet setback from the street right-of-way, an additional one (1) foot in height will be permitted up to a maximum of fifteen (15) feet high.

2.) The advertising area of all surfaces does not exceed fifteen (15) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional one (1) foot setback from the street right-of-way line, an additional three (3) square feet of advertising area will be permitted up to a maximum of fifty (50) square feet with a maximum of two (2) sides.

Distance from R-O-W	Advertising area per side	Total advertising area	Sign Height
15 ft.	7.5 sq. ft.	15 sq. ft.	8 ft.
16 ft.	9 sq. ft.	18 sq. ft.	8 ft.
17 ft.	10.5 sq. ft.	21 sq. ft.	8 ft.
18 ft.	12 sq. ft.	24 sq. ft.	9 ft.
19 ft.	13.5 sq. ft.	27 sq. ft.	9 ft.
20 ft.	15 sq. ft.	30 sq. ft.	9 ft.
21 ft.	16.5 sq. ft.	33 sq. ft.	10 ft.
22 ft.	18 sq. ft.	36 sq. ft.	10 ft.
23 ft.	19.5 sq. ft.	39 sq. ft.	10 ft.
24 ft.	21 sq. ft.	42 sq. ft.	11 ft.
25 ft.	22.5 sq. ft.	45 sq. ft.	11 ft.
26-29 ft.	25 sq. ft.	50 sq. ft.	12 ft.
30-32 ft.	25 sq. ft.	50 sq. ft.	13 ft.
33-35 ft.	25 sq. ft.	50 sq. ft.	14 ft.
36 ft. or more	25 sq. ft.	50 sq. ft.	15 ft.

3.) The advertising area of any one surface does not exceed twenty-five (25) square feet.

4.) No part of such sign is located within the clear sight triangle as defined in Article 22.06 (B.).

5.) No part of such sign will be closer to any nearest street right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable building setback line, if the adjoining property is in a Residential District.

6.) The function of such sign is in keeping with the uses in the surrounding area.

7.) Such sign will be in harmony with the buildings on the site, will not detract from the appearance of the general neighborhood in which it is located nor will it adversely affect property values in such neighborhood.

8.) Such sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists.

D.) In making its determination, the Board of Zoning Appeals shall take into consideration all pertinent factors relating to the compatibility of such sign with the surrounding neighborhood, including, but not limited to its size, shape, color, brightness, design and general appearance.

E.) Not more than one (1) free standing pole sign may be authorized for any one business establishment. Where

more than one business establishment is located on a single tract of land, having an entrance or entrances or parking area or areas used in common by the customers of such establishments, only one (1) free standing pole sign may be authorized for the entire tract. The existence and boundaries of such tract shall be determined by community of use, rather than by the ownership thereof, it being intended by this provision to limit each shopping center or similar joint operation to one (1) free standing sign, except in the case of a shopping center which is contiguous to two streets which do not intersect each other at a point adjacent to such shopping center, in which case one (1) free-standing pole sign, fronting on each street, may be authorized.

Section 22.05 PROHIBITED SIGNS

The following signs and billboards shall be prohibited in Berkshire Township:

A.) All signs not specifically permitted by the express terms of the Berkshire Township Zoning Resolution.

B.) Portable signs or billboards, pennants, streamers, flashing lights, string of lights, inflatable devices, moving computer-driven LED changeable copy signs, or air-activated attraction devices, excluding signs on licensed, motorized vehicles

C.) Signs or advertising erected and maintained in trees or painted or drawn upon rocks or other natural features.

D.) Except for identification signs on agricultural buildings, no sign or billboard shall be painted directly upon the wall or roof of any building or structure.

E.) No sign shall be attached to any fence within the right-of-way of any road. No sign shall be attached to any fence regardless of location without the permission of the owner of the fence.

F.) Signs mounted upon the roof of any building or structure.

G.) Signs or advertising devices which attempt, or appear to attempt, to direct the movement of traffic, or which interfere with, imitate or resemble an official sign, signal or device.

H.) Pole signs, except as otherwise specifically permitted herein.

I.) Clear or white backgrounds on internally lit cabinet signs.

J.) Obscene Nature: No sign shall be erected that displays a sexual act.

K.) Signs on or over any public property or public right-of-way except as is specifically permitted in these regulations. Signs may be erected on public property only by an authorized representative of a public agency or a quasi-public agency, provided such sign is approved by the Zoning Inspector prior to its erection. Signs on State Road rights-of-way shall comply fully with ODOT regulations.

L.) Advertising signs on benches, trash receptacles, phone booths, bus shelters and similar structures, when visible from the public right-of-way.

M.) Off-premise signs, except for legal billboards.

N.) Billboards in residential zoning districts.

O.) Revolving signs, animated signs (includes mechanical or electronic changeable copy signs, flashing signs, moving signs and any animation of signs). For the purposes of this Resolution, a traditional barber pole at a maximum length of 2 (two) feet shall not be considered a sign. No sign shall contain or consist of banners, pennants, ribbons, streamers or similar moving devices.

P.) Arrangements of lights in rows, strings, patterns, or designs that outline or are attached to any portion of a building or structure, including windows, are prohibited. This prohibition does not apply to seasonal light

displays, or lights that are an integral part of an approved sign or those required for public safety. Flashing signs, other than time and temperature signs not exceeding twenty-five (25) square feet of total area are prohibited.

Section 22.06 GENERAL REGULATIONS

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

A.) **Location:** No sign shall be located within the right-of-way of any public or private road within the township. Said sign or signs shall be located in strict compliance with this Resolution, or in strict compliance with the approved development plan or restrictions imposed by the Board of Zoning Appeals. Ground and projecting signs shall be located no closer than five feet from any side lot line.

B.) **Clear Sight Triangle:** No sign shall be located at the intersection of a driveway and a road in such a way as to block the Clear Sight Triangle, as indicated below:

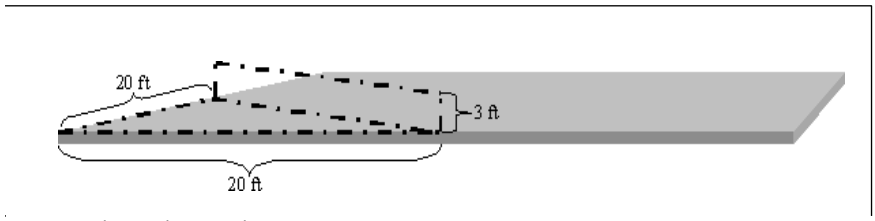

Figure 1 – Clear Sight Triangle

C.) **Lighting:**

1.) No sign shall be illuminated to a level which causes unnaturally high light levels on adjacent property.

2.) No illuminating device for any sign shall be designed which permits the direct beaming of any light onto adjacent thoroughfares thereby creating a hazard to vehicular traffic.

3.) No flashing, rotating or moving light source shall be permitted on any sign within this township.

4.) Exterior lighting shall be directed downward rather than upward and shall use fully shielded cut-off fixtures.

5.) Illumination:

a.) Near Residential Districts: Except for signs located facing or fronting the public ROW, signs that are within one hundred fifty (150) feet of a residential district or existing, conforming single-family home shall be indirectly illuminated.

b.) Internally Lit Sign Backgrounds: Clear or white backgrounds are prohibited for interior illuminated signs. Internally lit signs may use colored translucent backgrounds for the advertising area, or they may use opaque backgrounds with illuminated letters.

D.) **Height:** Unless otherwise noted herein, no signs within Berkshire Township shall be erected to a height greater than fifteen (15) feet.

E.) **Sight Interference:** No sign shall be permitted in Berkshire Township which interferes with the visibility of pedestrian or vehicular traffic entering, leaving or operating on thoroughfares.

F.) **Stability:** The structural design for wind loads shall comply with the applicable requirements of the current Ohio Building Code and the overall design must be approved by the zoning office. Display signs shall be fastened, suspended, or supported so that they will not be a menace to persons or property.

G.) **Maintenance:** All signs or billboards constructed or erected within Berkshire Township shall be maintained as

follows: All sign surfaces, supports, braces, guys and anchors shall be kept in repair and in a proper state of preservation by painting or otherwise.

H.) **Traffic Safety - Colors, Etc.:** Display signs shall not closely resemble or approximate the shape, form and color of official traffic signs, signals and devices.

I.) **Sign Area:** The aggregate sign area or display surface or advertising of all exterior signs of every nature shall not exceed three (3) square feet for each lineal foot of the street frontage of such building, if a one-story building, or four (4) square feet per foot, if more than one-story in height. Street frontage is defined as the total width of that side of the building which faces the street, excluding any extension of a building wall beyond the building itself. In the case of a corner lot or other situation where the building site abuts more than one public street, not including alleys, the applicant shall specify which is the primary frontage, and signs may be permitted on the basis of the area authorized above for each lineal foot of primary street frontage and one-half thereof for each lineal foot of other street frontage. The total sign area on any one side of a building shall not exceed the allowable area for such side computed in accordance with the foregoing rules. In the case of a building which does not front on a public street, as in shopping centers, the drives and parking areas adjacent to such building shall be considered as public streets for the purpose of this Resolution, provided that where any such drive or parking area abuts a Residential District, the frontage of the building on such drive or parking area shall not be considered as frontage for such purpose if the distance from such building to the nearest private property in said Residential District is less than one hundred fifty (150) feet. In no case shall the aggregate sign area of any single commercial use exceed twelve hundred (1,200) square feet.

J.) **Sign Area Measurement:** Sign area shall include the advertising area of the sign, not including the bracing, framing and structural supports, unless such support members are made part of the message or face of the sign or are determined by the Zoning Inspector to be intended solely to make the sign more visible rather than serving aesthetic or structural purpose. For internally illuminated signs or internally illuminated awnings, canopies or marquees, the entire lighted surface shall be considered the sign area. The lighted surface area of internally illuminated canopies, awnings, or marquees is counted as signage regardless of whether it contains graphics.

K.) Where a sign has two (2) or more display faces, the area of all faces of the sign shall be included in determining the area of the sign unless two (2) display faces join back to back, are parallel to each other and not more than twenty-four (24) inches apart, or form a V-angle of less than forty-five (45) degrees. For spherical signs, the sphere shall be dissected by an imaginary line through the center of the sphere and the surface area of the half (1/2) sphere shall be counted as the sign face. For cubical signs, the area of all display faces shall be included in determining the area of the sign.

L.) **Compliance with Other Codes:** All signs shall be erected, altered, or maintained in accordance with the county's adopted building, fire and electrical codes and all other applicable regulations.

M.) **Fire and Health Hazards:** Vegetation shall be kept trimmed in front of, behind, and underneath the base of any ground sign in an area encompassing a ten (10) foot radius around the base of the sign, and no rubbish shall be permitted to remain under or near such sign which would constitute a fire or health hazard.

N.) **Public Interference:** Signs shall not create a traffic or fire hazard, nor create conditions that adversely affect public safety.

O.) **Placement:** No sign shall be placed upon any tree, shrub, vine, or utility structure.

P.) **Information to be Provided on Sign:** All signs shall permanently display the name of the entity responsible for the sign (or "owner"), the company installing the sign, the date of erection, and the permit number in a conspicuous place thereon, in letters not less than one (1) inch in height.

Q.) **Frontage:** The term "frontage" as used in calculating ground signs shall refer to the dimension of the lot along the street. When used in calculating wall signs, the term shall refer to the building wall dimension facing the

street or parking lot. For structures and uses having no direct frontage on public roads, as within shopping centers, frontage shall be counted as the intersection of the building line onto adjacent drives or parking areas.

R.) **Maintenance**: Applications for permanent subdivision identification signs must demonstrate provisions for future maintenance and maintenance easements at the time of final platting. Written consent of the property owner of each proposed sign location shall be submitted with each permit application.

Section 22.07 ABANDONED SIGNS

If any sign or billboard shall become abandoned in the manner defined herein, such a sign or billboard is declared to be a public nuisance by reason that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and blighting influence on nearby properties. An abandoned sign or billboard is defined as any sign or billboard that meets any one of the following criteria:

A.) Any sign or billboard associated with an abandoned non-conforming use.

B.) Any sign or billboard that remains after the termination of a business. A business has ceased operations if it is closed to the public for at least one hundred and eighty (180) consecutive days. Seasonal businesses are exempted from this determination.

C.) Any sign or billboard that is not maintained in accordance with this Resolution.

When the Zoning Inspector finds, upon investigation, that a sign or billboard has been abandoned, as defined herein, he shall notify the owner of said sign, and the owner of the land on which the sign is located, by certified mail or by personal delivery, of his findings. Such notice shall advise the sign owner that the sign has been declared abandoned and must be removed within thirty (30) days from the date of mailing of said notice. The sign owner may appeal such decision to the Board of Zoning Appeals as provided in Article 28 of this Resolution.

Section 22.08 NON-CONFORMING SIGNS OR BILLBOARDS

Any sign or billboard lawfully existing within the Township prior to the effective date of this Article, or subsequent amendment, that does not conform with the provisions of this Article is considered to be non-conforming.

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

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

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

A.) The size and structural shape shall not be changed or altered.

B.) The copy may be changed, provided that the change applies to the original non-conforming use associated with the sign or billboard and that the change is made by the owner of the sign or billboard at the time the sign or billboard became non-conforming; the copy area shall not be enlarged. Any subsequent owner or user shall bring the sign or billboard into compliance.

C.) In the case where damage occurs to the sign or billboard to the extent of fifty percent (50%) or more of either the structure or the replacement value of the sign or billboard, the sign or billboard shall be brought into compliance. Where the damage to the sign or billboard is less than fifty percent (50%) of the structure or its replacement value, the sign or billboard shall be repaired within thirty (30) days, after notification of the sign owner by certified mail.

Section 22.09 PERMIT

No signs, except as provided for in Article 22.02 of this Resolution, shall be erected prior to the issuance of a permit therefor by the Township Zoning Inspector.

A.) **Fees:** The applicant for a permit herein shall pay such fee as is prescribed by the Berkshire Township Trustees. Such fees shall be prescribed annually, or more often, by the Trustees.

B.) **Term of Permit:** The zoning permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.

C.) **Application:** An applicant for a sign permit shall submit the following to the Zoning Inspector:

1.) An accurate, scaled drawing which shows the dimensions, materials, illumination and colors of the proposed sign;

2.) Construction details;

3.) Electrical plans conforming to the requirements of Section 4101:2-1-35 of the Ohio Basic Building Code;

4.) A drawing showing the location of the proposed sign on the site or building, including dimensions to property lines, rights of way, and/or buildings on the site;

5.) The location, type, and dimensions of other signs on the same site advertising the same business.

D.) **Fees:** The applicant for a permit herein shall pay such fee as is prescribed by the Berkshire Township Trustees. An application for a sign permit shall be completed at the time such plans are submitted. The permit fee is required with the application.

E.) **Term of Permit:** Unless a different time period is stated in the zoning permit, the permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Resolution or any amendment thereto.

F.) **Inspection:** Prior to erection all signs or billboards erected within this Township are subject to inspection, whether a permit is required or not.

G.) **Cancellation of Permit:** In the event that the owner of any sign or property fails to comply with the terms of this Zoning Resolution, said permit may be revoked upon compliance with the following terms:

H.) **Notice:** The Township Zoning Inspector shall notify both the owner of the sign and owner of the land upon which it is located of any deficiency or violation of this Resolution. Notice shall be served personally or by ordinary mail at the last known address of the permit holder. The permit holder may seek a hearing on said notice by complying with the provisions of Article 28 of this Resolution dealing with revocation of the Conditional Use Permit. Failure to correct deficiencies or to appeal the decision of the Zoning Inspector within thirty (30) days will result in cancellation of the permit for such sign and said sign shall then be removed as provided by this Resolution.

I.) **Removal of Signs:** The Township Zoning Inspector shall effect the removal of any sign illegally placed within the ROW of any road within this township. The Zoning Inspector shall store said sign and shall notify the owner thereof of its location. If the name and address of the owner is not listed on the sign as required by Article 22.06(P), no notice under this section shall be provided. If the owner of the sign fails to claim the same within thirty (30) days after mailing of notice by the Zoning Inspector, said sign may be destroyed or junked.

Section 22.10 PENALTY

Any person, firm, corporation, partnership, or association violating any provision of this chapter or failing to obey any lawful order issued pursuant to its terms shall be fined as established by the Township per offense. Each day during which such violation continues may be deemed a separate offense.

ARTICLE 23 Landscaping

Section 23.01 PURPOSE

The intent of this article is to improve the appearance of vehicular use areas and property abutting public rights of way; to require buffering between non-compatible land uses; and to protect, preserve, and promote the aesthetic appeal, character, and value of the surrounding neighborhoods; and to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial glare.

It is further the purpose of this article to specifically promote the preservation and replacement of trees and significant vegetation removed in the course of land development, and to promote the proper utilization of landscaping as a buffer between certain land uses to minimize the opportunities of nuisance.

Section 23.02 APPLICATION

A.) **New Sites:** No certificate of zoning compliance shall be issued hereafter for any site development plan within any planned district or the construction or improvement of any building, structure or vehicular use within any planned district except where landscaping for such development, construction has been approved as required by the provisions of this article.

B.) **Existing Sites:** No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping required by the provisions of this Article is provided to the property to the extent of its alteration or expansion and not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:

1.) In the case of a building or structure expansion which does not involve additional land, the square footage of the alteration or expansion exceeds twenty-five percent (25%) of the square footage of the existing building exclusive of the alteration or expansion, and

2.) In the case of an alteration or expansion involving both an existing building or structure and additional land, and, if applicable, additional structures or buildings, the area or square footage of the expanded or altered land or structure or building, respectively, exceeds twenty-five percent (25%) of the area or square footage of the existing land or structure or building respectively, exclusive of alteration or expansion.

3.) “Land” as used herein, includes land used for space, parking or building purposes.

Section 23.03 MINIMUM LANDSCAPING REQUIREMENTS

This section describes the minimum requirements that shall be met in regards to perimeter landscaping for non-compatible land use areas, landscaping for service areas, and interior landscaping for businesses, buildings, structures or other new developments of land.

A.) **Perimeter Landscaping Requirements:** Unless otherwise provided, landscaping material shall be installed to provide a minimum of fifty percent (50%) winter opacity and a seventy percent (70%) summer opacity, between one foot above finished grade level to the top of the required planting, hedge, fence, wall or earth mound within four years after installation. The required landscaping shall be provided either in easements in certain zones or adjacent to vehicular use area.

1.) **Property Perimeter Requirements:**

When the use below	**adjoins the following or vice-versa,**	**the minimum landscaping within a buffer zone of this average width is required** (See footnote #3),	**which will contain this material, to achieve opacity required.**
Residential use	Mobile Home Park, Office use, Commercial use, or Industrial use	20 feet adjacent to all common boundaries, including street frontage.	1 tree per 40 feet of lineal boundary and a continuous 6-foot-high planting, hedge, fence, wall or earth mound.
Office or commercial use	Industrial use	20 feet adjacent to all common boundaries except street frontage.	1 tree per 40 feet of lineal boundary and a continuous 6-foot-high planting, hedge, fence, wall or earth mound.
Any use except agricultural use	A federal or state highway	20 feet for residential zones and 10 feet for all other zones adjacent to a federal or state highway.	1 tree per 30 feet, and a continuous 6-foot-high planting, hedge, wall, fence or earth mound.
Any use except agricultural and industrial use	Railroad (except spur tracks)	20 feet for residential zones and 10 feet for all other zones adjacent to railroad.	
Any property boundary, including road or street rights of way	Utility sub-station, junk yards, landfills, sewage plants or similar uses	20 feet adjacent to all boundaries except 10 feet for utility substations measured adjacent to the enclosure	
Any property used for vehicular sales or service	Public or private street right-of-way, or service road	20 feet adjacent to Federal or State highway	1 tree per 30 feet, and 1 low shrub per 10 feet (opacity requirements do not apply).

(#1) Grass or ground cover shall be planted on all portions of the buffer not occupied by other landscape material.

(#2) All lineal measurements shall be rounded up to the nearest dimension requiring a planting. Trees do not have to be equally spaced, but may be grouped.

(#3) When determining the average buffer width, six feet shall be the least dimension for any use.

2.) **Vehicular Use (Parking and Driveway) Area Perimeter Requirements:**
A vehicular use area (VUA) is any open or unenclosed area containing more than 1,800 square feet of area and/or used by six or more of any type of vehicle, whether moving or at rest, including, but not limited to, parking lots, loading and unloading areas, mobile home parks, and sales and service areas, Driveways are considered to be vehicular use areas whenever they are adjacent to public streets or roads or other vehicular use elements described previously in this paragraph, and where intervening curbs, sidewalks, landscape strips, etc. do not eliminate adjacency.

When the use below	adjoins the use below or vice versa,	the minimum landscaping easement of this width is required,	which will contain this material, to achieve opacity required.
Any property	Any vehicular use areas on any adjacent property	5 foot minimum to all trees from edge of paving.	1 tree per 40 feet boundary of vehicular area, and a 3-foot average height continuous planting, hedge, fence, wall, or earth mound.
Any public or private street right-of-way or service road, except freeways	Any vehicular use area	Same as above, except applies to VUA portion facing public or private street or road	1 tree per 50 feet and 1 low shrub per 10 feet (opacity requirements do not apply).

(#1) Grass or ground cover shall be planted on all portions of easements not occupied by other landscape material.

(#2) All linear measurements shall be rounded up to the nearest dimension requiring a planting.

3.) **Landscape Buffer Zone:** The landscape buffer zone and material required adjacent to any street under this Article shall be provided by the property owner adjoining the street, unless the authority building the street has fully met all requirements on the street right of way. When adjacent to other common boundaries, the landscape buffer zone and materials:

a.) May be placed on either adjoining parcel, or astride the boundary, if both owned and being processed by the same owner; or

b.) Generally be placed on the Use listed under the second column of the chart above when adjoining parcels have different owners; or

c.) May be placed astride the boundary of adjoining parcels having different owners if a written agreement signed by both owners, is filed with the Township Zoning Office, as a public record; or

d.) Shall be placed on the activity or parcel being processed when adjoining property is already developed and; or

e.) Shall not be required along the common boundary if the requirements of this Article have been fully complied with on the adjoining property, in fulfillment of the requirements of this Article.

4.) **Requirements Conflicts:** Whenever a parcel or activity falls under two or more of the categories listed in the tables, the most stringent requirements shall be enforced.

5.) **Landscape, Buffer Zone Conflicts:** The required landscape buffer zone may be combined with a utility or other easement as long as all of the landscape requirements can be provided in addition to, and separate from, any other easement. Cars or other objects shall not overhang or otherwise intrude upon the required landscape buffer zone more than two and one-half feet, and wheel stops or curbs shall be required.

6.) **Existing Landscape Material:** Existing landscape material shall be shown on the required plan, and any material in satisfactory condition may be used to satisfy these requirements in whole or in part when, in the opinion of the public approval authority, such material meets the requirements and achieves the objectives of this Article.

7.) **Landscaping at Driveway and Street Intersections:** To insure that landscape materials do not constitute a driving hazard, a sight triangle shall be observed at all street intersections or intersections of driveways with streets. Within this sight triangle, no landscape material or parked vehicles, except for required grass or ground cover, shall be permitted. Within this sight triangle, trees shall be permitted as long as, except during the early growth stages, only the tree trunk is visible between the ground and eight feet above the ground, or otherwise does not present a traffic hazard. The sight triangle is defined in the following sections.

a.) Driveway Intersections Triangle: At intersection of driveways with streets, the Clear Sight Triangle shall be established by locating the intersection of the street curb or edge with the driveway edge, and by measuring from this point and a distance of ten feet along the driveway to a point and a distance of twenty feet along the street curb to a point and connecting these points.

b.) Street Intersection Sight Triangles: At the street intersections, the sight triangle shall be formed by measuring at least thirty-five (35) feet along curb lines or edge of pavement and connecting these points.

B.) **Interior Landscaping for Vehicular Use Areas:** Any open vehicular use area, excluding loading, and unloading and storage areas in an industrial zone or business zone, containing more than six-thousand (6,000) square feet of area, or twenty or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping may be peninsular or island types.

1.) **Landscape Area:** For each 100 square feet or fraction thereof, of vehicular use area, a minimum total of five square feet of landscaped area shall be provided.

a.) **Minimum Area:** The minimum landscape area permitted shall be 64 square feet with a four-foot minimum dimension to all trees from edge of pavement where vehicles overhang.

b.) **Contiguous Area:** In order to encourage the required landscaped areas to be properly dispersed, no individual areas shall be larger than 350 square feet in size, and no individual area shall be larger than 1,500 square feet in vehicular use areas over 30,000 square feet. In both cases, the least dimension of any required area shall be four feet minimum dimension to all trees from edge of pavement where vehicles overhang. Individual landscape areas larger than above are permitted as long as the additional area is in excess of the required minimum total.

2.) **Minimum Trees:** The following minimums are required, based upon total ground coverage of structures and vehicular uses areas:

a.) Up to 20,000 square feet: A minimum of one tree per 5,000 square feet of ground coverage and, a total tree planting equal to one inch in tree trunk size for every 2,000 square feet of ground coverage.

b.) Between 20,000 and 50,000 square feet: A minimum of one tree for every 5,000 square feet of ground coverage and, a total tree planting equal to ten inches plus one-half inch in tree trunk size for every 2,000 square feet over 20,000 square feet in ground coverage.

c.) Over 50,000 square feet: A minimum of one tree for every 5,000 square feet of ground coverage and, a total tree planting equal to twenty-five inches plus one-half inch in tree trunk size for every 4,000 square feet over 50,000 square feet in ground coverage.

d.) Trees shall have a clear trunk of at least five feet above the ground, and the remaining area shall be landscaped with shrubs, or ground cover, not to exceed two feet in height.

3.) **Vehicular Overhang:** Parked vehicles may hang over the interior landscaping area no more than two and one-half feet, as long as concrete or other wheel stops are provided to insure no greater overhang or penetration of the landscape area.

C.) **Landscaping for Service Structures:** Any service structure, accessory use, shall be screened whenever located in any residential zone, commercial zone, or when located on property abutting any residential zone) freeway or arterial street prohibiting driveway access. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures.

1.) **Location of Screening:** A continuous (having one hundred percent (100%) opacity) planting hedge, fence, wall of earth, which would enclose any service structure on all sides unless such structure must be frequently moved, in which case screening on all but one side is required. The average height of the screening material shall be one foot more than the height of the enclosed structure, but shall not be required to exceed ten feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirements for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures.

2.) **Curbs to Protect Screening Material:** Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regular occurring basis, a curb to contain the placement of the container shall be provided within the screening material on those sides where there is such material. The curbing shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved.

D.) **Interior Landscaping for All New Developments:** All new developments regardless of type and all alterations or expansions to existing developments shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall consist primarily of new tree planting or the preservation of existing trees or hedges within the development site.

1.) **Preservation of Existing Landscape Materials:** All trees having a trunk diameter of six inches or greater as measured twenty-four inches from ground level shall be preserved unless such trees are exempted as follows:

a.) Trees within public rights of way or utility easements, or a temporary construction easement approved by the County Engineer.

b.) Trees within the ground coverage of proposed structures or within twelve feet of the perimeter of such structure.

c.) Trees within the driveway access to parking or service areas or proposed areas to service a single family-home.

d.) Trees that in the judgment of the Township Authority are damaged, diseased, over mature, which interfere with utility lines, or are an inappropriate or undesirable species for that specific location.

It is encouraged that exempted trees subject to destruction be preserved by relocating and replanting of such trees.

Preservation of wooded areas: It is encouraged that efforts be made to preserve natural vegetation areas. Consideration shall be given to laying out streets, lots, structures and parking areas to avoid unnecessary destruction of heavily wooded areas or outstanding tree specimens. It is further encouraged that whenever possible, heavily wooded areas be designated as park reserves.

2.) **Tree Planting Requirements:**

a.) For all new development the following landscape requirements shall apply:

Use	**Requirements**
PRD and PERRC districts	There shall be tree plantings equal to one-half inch in tree trunk size for every 150 square feet in ground coverage by a single-family structure. Such plantings shall be required within the property lot lines of each structure.
Business and Community Shopping Uses per Lot	In addition to the requirements of section 23.03(B) herein for vehicular use areas, the following shall apply: there shall be landscaped areas equal to 20 square feet for every 1,000 square feet of building ground coverage area, or fraction thereof. Such landscaping areas shall contain trees, planting beds, hedges, fences, walls, earth mounds, benches or other material designed and located in a manner complimentary to the overall architecture to the surrounding buildings.
Office – Institutional Uses	In addition to the requirements of subsection 23.03(B) herein, for vehicular use areas, the following shall apply, there shall be tree plantings equal to one inch in tree size for every 1,500 square feet of building ground coverage, or fraction thereof.
Industrial Uses	In addition to the requirements of subsection 23.03(B) herein, for vehicular use areas, the following shall apply: there shall be tree plantings equal to one inch in tree size for every 2,000 square feet of building ground coverage, or fraction thereof.

b.) **Parking Lots:** see Section 23.03(B) herein.

c.) No new tree planting shall be required if existing trees and the aggregate trunk sizes of such trees meet or exceed the requirements as set forth in this Article and providing that such trees are evenly distributed throughout the developed area and not confined either to out-of-the-way dense clusters or to the perimeter of the developed area. The minimum tree size for such tree plantings shall be no less than one and one-half inch in trunk diameter.

d.) For new development or construction, if new tree plantings are required for conformance to the landscaping requirements of this Article, the applicant or owner shall indicate on the landscape plan the location and size of such tree plantings. If such trees landscape plan is approved, the applicant or owner shall plant such trees as may be required within one year or the next planting season after issuance of a zoning permit.

Section 23.04 STREET TREE PLANTING REQUIREMENTS

The following are street tree planting requirements for all zoning districts:

A.) **Requirements:** It shall be required that all sub-dividers or developers plant trees along public streets of their developments in such a manner, type, quantity and location as approved by the Zoning Commission and as defined by the following conditions, and that any undeveloped street or existing street with undeveloped frontage shall conform to these requirements at the time of development.

1.) The tree to be planted is not an undesirable tree species, as listed on the Township's Tree Policy, if applicable.

2.) The minimum spacing between this and other trees is forty-five feet for large tree, thirty-five (35) feet for medium tree and twenty-five (25) feet for a small tree. See definitions below.

3.) The tree location is to be at least twenty (20) feet from street intersections and ten (10) feet from fire hydrants or utility poles.

4.) A small tree is to be used when planting within ten (10) lateral feet of overhead utility wires. A small or medium tree is to be used when planting from ten (10) or twenty (20) lateral feet to overhead utility wires.

5.) The developer shall be required to maintain the trees for one year after the trees are planted and to replace any tree which dies within such one year guarantee period. Upon completion of a tree planting, the landscape contractor shall contact the Township Zoning Department for a preliminary inspection. The guarantee period shall begin after approval of the Zoning Department. A final inspection shall be made at the end of the guarantee period. All trees not exhibiting a healthy, vigorous growing condition, as determined by the Township Inspector, shall be promptly replaced at the expense of the developer.

6.) The trees should be of one and the same genus and species planted continuously down each street as per this Article.

7.) The minimum trunk caliper measured at six (6) inches above the ground for all street trees shall be no less than one and one-half inches.

8.) The maximum spacing for large trees shall be fifty (50) feet, for medium trees, forty (40) feet and thirty (30) feet for small trees.

B.) **Tree Topping:** No person shall, as a normal practice, top any tree within the public right of way. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or trees under utility wires or other obstructions where other pruning practices are impractical are hereby exempted from this Subsection.

C.) **Height of Limbs over Sidewalks and Streets:** Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than eight (8) feet above sidewalks and trails. Tree limbs extending over streets shall be trimmed to no less than fourteen (14) feet above ground. Maintenance of street trees shall be the responsibility of the homeowner or the Homeowners association.

D.) **Reducing Tree-Lawn:** No person shall by any type of construction reduce the size of the tree-lawn without first obtaining permission from the Zoning Commission.

E.) **Violations:** A person who removes, damages or causes to be removed a public tree from the tree-lawn or other public place shall be required to replace the tree at his expense, with a tree having a minimum diameter of two and one-half (2 ½) inches.

F.) **Definitions:**

1.) **Large Tree:** means any tree species which normally attains a full grown height in excess of fifty (50) feet.

2.) **Medium Tree:** means any tree species which normally attains a full growth height of between twenty-five (25) and fifty (50) feet.

3.) **Small Tree:** means tree species which normally attains a full-growth height of under twenty-five (25) feet.

Section 23.05 PLAN SUBMISSION AND APPROVAL

Whenever any property is affected by these landscaping requirements, the property owner or developer shall prepare a landscape plan. Where such plans are part of an application for rezoning, variance , conditional use or other matters which must be approved by the Township Zoning Commission or Township Board of Zoning Appeals, such plans shall be submitted as part of the required application and other required plans. All other landscape plans shall be approved by the Township Zoning Department.

A.) **Plan Content:** The contents of the plan shall include the following:

1.) Plot plan, drawn to an easily readable scale no smaller than one inch equal twenty feet; showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings and other structures, vehicular use areas including parking stalls, driveways, service areas square footage, etc., location of structures on adjoining parcels, water outlets and landscape materials, including botanical names and common names, installation sizes, on center planting dimensions where applicable, and qualities for all plants used and all existing trees:

2.) Typical elevations and/or cross sections as may be required.

3.) Title block with the pertinent names and addresses, property owner, person drawing plan, scale, date, north arrow, general orient plan so that north is to top of plan and zoning district.

B.) **Zoning Permit and Certificate of Occupancy:** Where landscaping is required, no zoning permit shall be issued until the required landscaping plan has been submitted and approved and no certificate of occupancy shall be issued until landscaping is completed as certified by an on-site inspection by the Zoning Department, unless a performance bond, or irrevocable letter of credit from a banking institution, has been posted. If the required landscaping has not been completed and a temporary certificate of occupancy is issued, a performance bond or irrevocable letter of credit from a banking institution shall be posted at that time.

C.) **Posting of Bond or Irrevocable Letter of Credit:** After an irrevocable letter of credit has been posted, the landscaping material required in the approved landscaping plan shall be installed within six months after the date of posting the bond or irrevocable letter of credit. A one month extension of the planting period may be granted by the Zoning Department upon a demonstration by the property owner or developer that such an extension is warranted because of adverse weather conditions or unavailability of required plant material. No more than three such one month extensions may be granted. Proceedings shall be brought against the performance bond or irrevocable letter of credit if the required landscaping plans have not been complied with by the end of the approved planting period.

ARTICLE 24 Non-Conforming Uses

Section 24.01 CONTINUANCE

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

Section 24.02 RESTORATION

When a structure, the use of which does not conform to the provisions of this Zoning Resolution, is damaged by fire, explosion, flood, wind, earthquake or other calamity outside the control of the owner or occupant, to the extent that the cost of restoration is more than sixty (60%) percent of its value, it shall not be restored unless in conformity with the provisions set forth in this Zoning Resolution, as amended, for the district in which it is located, or unless a conditional use permit is issued by the Board of Zoning Appeals pursuant to Article 28; provided, however, such restoration shall be commenced within ninety (90) days of such calamity and diligently continued until completed. For the purposes of this section "value" shall be defined as the replacement cost of the structure prior to the calamity depreciated in accordance with applicable Internal Revenue Guidelines or the structure.

Section 24.03 ENLARGEMENT

No non-conforming building or use may be completed, restored, reconstructed, extended or substituted except upon the granting of a conditional use permit issued by the Board of Zoning Appeals pursuant to Article 28 and this section.

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

a.) A non-conforming use of less objectionable nature may be substituted for an existing non-conforming use.

b.) An existing, legal non-conforming use which occupies only a portion of an existing structure or premises may be extended to additional portions of such structure or premises.

c.) The alteration or reconstruction of a non-conforming use, structure, sign or building provided that such will make the non-conforming use substantially more in character with its surroundings.

d.) The extension of a non-conforming use when such extension will substantially make the non-conforming use more in character with its surroundings.

e.) Any extension shall not be more than fifty (50%) percent greater in size than the non-conforming use that existed at the time of passage of this Zoning Resolution.

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

Section 24.04 NON-CONFORMING LOTS

The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record at the time of the enactment of this resolution, which has an area and/or lot width less than that required for such structure or permitted use in the Zoning District in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Board of Zoning Appeals in accordance with the provisions of Article 28. Such non-conforming lots must be in separate ownership and not have continuous frontage with other land in the same ownership on the effective date of the applicable amendment to the Zoning Resolution. Otherwise, development shall be permitted only in accordance with the development standards of the Zoning District in which such ownership is located.

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

ARTICLE 25 Zoning Inspector – Zoning Certificates and Applications

Section 25.01 TOWNSHIP ZONING INSPECTOR

The Board of Township Trustees shall appoint a Township Zoning Inspector, together with such assistants as may be necessary. It shall be the duty of the Township Zoning Inspector to compare each zoning certificate application with the then existing zoning map. The Township Zoning Inspector, before entering upon the duties of his office, shall give bond signed by a bonding or surety company authorized to do business in this state, or, at his option, signed by two (2) or more freeholders having real estate in the value of double the amount of the bond, over and above all encumbrances to the state, in the sum of not less than one thousand dollars ($1,000.00) or more than five thousand dollars ($5,000.00) as fixed by the Board of Township Trustees. Such surety company or real estate bond shall be approved by the Board of Township Trustees, and the bond shall be conditioned upon the faithful performance of such Zoning Inspector's official duties. Such bond shall be deposited with the Township Clerk. The compensation for such Zoning Inspector shall be set and paid by the Board of Township Trustees.

Section 25.02 ZONING CERTIFICATE REQUIRED

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

Section 25.03 PROCEDURES FOR OBTAINING A ZONING CERTIFICATE

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

Section 25.04 CONDITIONS OF CERTIFICATE

No zoning certificate shall be effective for more than one (1) year unless the use specified in the permit is implemented in accordance with the approved plans within said period or timetable attached to said plans.

Section 25.05 CERTIFICATE OF COMPLIANCE

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

Section 25.06 TEMPORARY CERTIFICATE OF COMPLIANCE

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

Section 25.07 ZONING CERTIFICATE (CHANGE OF USE)

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

with the provisions of this Zoning Resolution, or unless a variance or special permit has been granted by the Board of Zoning Appeals.

Section 25.08 NON-CONFORMING USES

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

Section 25.09 RECORDS

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

Section 25.10 COMPLAINTS

The Zoning Inspector shall investigate all complaints received from residents alleging illegal activity and shall report findings to the Township Trustees. The Inspector may require that all such complaints be submitted in writing.

ARTICLE 26 Zoning Commission

Section 26.01 TOWNSHIP ZONING COMMISSION

The Board of Township Trustees hereby creates and establishes a Township Zoning Commission. The Commission shall be composed of five (5) members who reside in the unincorporated area of the township, to be appointed by the Board, and the terms of the members shall be five (5) years and so arranged that the term of one member will expire each year. Each member shall serve until his successor is appointed and qualified. Members of the Zoning Commission shall be removable for nonperformance of duty, misconduct in office, or other cause by the Board upon written charges being filed with the Board, after a public hearing has been held regarding such charges, and after a copy of the charges has been served upon the member so charged at least ten (10) days prior to the hearing, either personally, by registered mail or by leaving such copy at his usual place of residence. The member shall be given an opportunity to be heard and answer such charges. Vacancies shall be filled by the Board of Trustees and shall be for the unexpired term.

Section 26.02 COMPENSATION AND EXPENSES

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

Section 26.03 FUNCTIONS OF THE TOWNSHIP ZONING COMMISSION

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

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

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

No Township Trustee shall be employed by the Township Zoning Commission.

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

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

Section 26.04 ZONING SECRETARY

To assist in the administration of this Zoning Resolution, the Township Trustees may appoint a Zoning Secretary whose duty it shall be to maintain township zoning records, confirm information in applications, process all notices required under this Zoning Resolution, record the minutes of the Zoning Commission and the Board of Zoning Appeals, assist the Zoning Inspector, and perform such other duties relating to this Zoning Resolution as the Township Trustees may from time to time direct. The Zoning Secretary shall be compensated at rates set from time to time by the Township Trustees. The Township Clerk may be named to this position and may receive compensation for such services in addition to other compensation allowed by law.

Section 26.05 MEETINGS AND AGENDA OF TOWNSHIP ZONING COMMISSION

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

Section 26.06 MINUTES

The minutes of each meeting of the Zoning Commission shall be kept by the Zoning Secretary on file in the township hall with the other zoning records.

Section 26.07 ALTERNATES

The Board of Trustees may appoint two (2) alternate members to the Zoning Commission for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.

ARTICLE 27 Amendments (Zoning Changes)

Section 27.01 AMENDMENTS

This article is intended to be a restatement of Section 519.12 of the Ohio Revised Code and is adopted herein for the convenience of the citizens of Berkshire Township. Any amendments to Section 519.12 adopted by the Ohio Legislature shall be considered adopted herein. Amendments to the Zoning Resolution may be initiated by motion of the Township Zoning Commission, by the passage of a resolution therefor by the Board of Township Trustees or by filing of an application therefor by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment with the Township Zoning Commission. The Board of Township Trustees may require that the owner or lessee of the property filing an application to amend the Zoning Resolution to pay a fee therefor to defray the cost of advertising, mailing, and other expenses. If the Township Trustees require such a fee, it shall be required generally, for each application. The Board of Township Trustees shall upon the passage of such resolution certify it to the Township Zoning Commission.

Upon the adoption of such motion, or the certification of such resolution or the filing of such application, the Township Zoning Commission shall set a date for a public hearing thereon, which date shall not be less than twenty (20) nor more than forty (40) days from the date of the certification of such resolution, or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the Township Zoning Commission by one publication in one or more newspapers of general circulation in the township at least ten (10) days before the date of such hearing. The published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

If the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land, as listed on the County Auditor's current tax list, written notice of the hearing shall be mailed by the Zoning Commission, by first class mail, at least ten (10) days before the date of the public hearing to all owners of property within, contiguous to, directly across the street from, and within 200 feet of the perimeter boundaries of the area proposed to be rezoned or redistricted to the addresses of such owners as appearing on the County Auditor's current tax list. The failure of delivery of such notice shall not invalidate any such amendment. The mailed notices shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

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

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

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

The Board of Township Trustees shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment, which date shall not be more than thirty (30) days from the date of the receipt of such recommendation from the Township Zoning Commission. Notice of such public hearing shall be given by the Board of Township Trustees by one publication in one or more newspapers of general circulation in the Township, at least ten (10) days before the date of such hearing.

The published notice shall contain such information as may be required under the provisions of Section 519.12 of the Ohio Revised Code.

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

Such amendment adopted by the Board of Township Trustees shall become effective in thirty (30) days after the date of such adoption unless within thirty (30) days after the adoption of the amendment there is presented to the Board of Township Trustees a petition, signed by a number of registered electors residing in the unincorporated area of the township equal to not less than eight (8%) percent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the Board of Township Trustees to submit the amendment to the electors of such area for approval or rejection at the next primary or general election. The petition shall comply with the requirements of Sections 519.12 and 3501.38 of the Ohio Revised Code.

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

Within five (5) working days after an amendment's effective date, the Board of Township Trustees shall file the text and maps of the amendment in the office of the Court Recorder and with the Regional Planning Commission.

The Board shall file all amendments, including text and maps, in the office of the County Recorder within thirty (30) working days after each amendment's effective date. The Board shall also file a duplicate of the same documents with the Regional Planning Commission, within the same period.

The failure to file any amendment, or any text and maps, or duplicates of any of these documents, with the office of the County Recorder or the Regional Planning Commission as required by the section does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals.

Section 27.02 FORM OF APPLICATION

All applications to amend this Resolution and/or the zoning map shall be submitted on such forms as designated and approved by the Township Trustees. No application will be considered unless the same is fully completed and accompanied by all required information listed on said application. In addition to any other criteria or requirement, an application for any proposed amendment shall also contain the following:

1.) Name, address and telephone number of the owner(s) and, if different, the applicant.

2.) Legal description of the property and, if available, the street address.

3.) Present use and zoning district.

4.) Proposed use and zoning district.

5.) A vicinity map at a scale approved by either the Zoning Commission or Board of Trustees showing property lines, streets, existing and proposed zoning and such other matters as either the Commission or Board may require.

6.) For applications involving six (6) or more acres, a sketch plan at a scale approved by either the Zoning Commission or Board of Trustees, showing the following:

    a.) The approximate number of lots intended to be created as well as the approximate lot dimensions and acreages if property is to be subdivided;

    b.) The anticipated layout of the lots, as well as existing and anticipated streets;

c.) The location of existing natural features such as drainage courses, woods and waterways;

d.) Method for proposed provision of water and sewer services.

e.) A list of the names and addresses of all of property owners, as appearing on the county auditor's current tax list, who are within, contiguous to, directly across the street from, and within 200 feet of the perimeter boundaries of the area proposed to be rezoned.

f.) A fee as established by the Board of Trustees.

g.) Such other information as the Zoning Commission or Board of Trustees may request.

Section 27.03 RECORD

On any application for an amendment or supplement to the Zoning Resolution of which the applicant desires a record to be made, the applicant shall give notice to the Secretary of the Zoning Commission or the Clerk of the Board of Township Trustees, as the case may be, requesting that a court reporter be retained to make such record. The applicant shall make such request not less than ten (10) days prior to the scheduled hearing and shall, deposit with his request cash in the amount established by the Trustees to be used to defray the expenses incurred in making the record. All expenses of transcribing the record shall be borne by the person requesting the preparation of the transcript. In all hearings wherein no timely request has been made for a record, or where a party does not request and pay for an official stenographic transcript, the notes of the Zoning Secretary of the Township Zoning Commission or of the Clerk of the Board of Township Trustees, as the case may be, shall serve as the sole transcript of such hearing.

Section 27.04 FEES

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

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ARTICLE 28 Board of Zoning Appeals

Section 28.01 BOARD OF ZONING APPEALS

A Township Board of Zoning Appeals is hereby created. Said Board of Zoning Appeals shall be composed of five (5) members who shall be appointed by the Board of Township Trustees and who shall be residents of the unincorporated territory of the Township included in the area zoned by this Zoning Resolution. The terms of all members shall be five (5) years and so arranged that the term of one member will expire each year. Each member of the Board of Zoning Appeals shall serve until his successor is appointed and qualified. Members of the Board of Zoning Appeals shall be removable for the reason specified and in compliance with the procedure established in Chapter 519 of the Ohio Revised Code. Vacancies shall be filled by the Board of Township Trustees and shall be for the unexpired term.

Section 28.02 ORGANIZATION

The Board of Zoning Appeals shall organize, electing a chairman and vice-chairman, and adopt rules in accordance with the provisions of this Zoning Resolution. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such other times as the Board of Zoning Appeals may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and the Board of Zoning Appeals may compel attendance of witnesses. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Township Trustees at the Township Hall, and shall be public record. The concurring vote of three (3) members of the Board of Zoning Appeals shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Inspector or to decide in favor of an applicant on any matter which the Board is required to hear under the Berkshire Township Zoning Resolution. The failure of an applicant to secure at least three (3) concurring votes shall constitute a decision for disapproval of the application and, in the case of an appeal, shall be deemed a confirmation and affirmation of the decision of the Zoning Inspector. The Board of Township Trustees, the Township Clerk and the Zoning Inspector shall be notified in advance of all meetings conducted by the Board.

Section 28.03 COMPENSATION AND EXPENSES

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

Section 28.04 POWERS OF THE BOARD

The Township Board of Zoning Appeals may:

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

B.) The Board of Zoning Appeals shall have the power to authorize, in specific cases, variances that relate solely to area requirements from the provisions of this resolution as will not be contrary to the public interest. Under no circumstance shall the Board of Zoning appeals grant a variance to allow a use not permissible under the terms of this resolution in the district involved, or any use expressly or by implication prohibited by the terms of this resolution in said district.

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

applicant has encountered practical difficulties and that a strict application of an area zoning requirement, e.g. frontage, setback is inequitable.

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

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

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

D.) Revoke an authorized conditional zoning certificate granted for the extraction of minerals, if any condition of the certificate is violated.

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

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

Section 28.05 PROCEDURE ON HEARING APPEALS

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the township affected by any decision of the Zoning Inspector. Such appeal shall be taken within twenty (20) days after the decision by filing with the Zoning Inspector from whom the appeal is taken and with the Board of Zoning Appeals a notice of appeal specifying the grounds thereof. The Zoning Inspector from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give ten (10) days written notice by ordinary mail to the applicant and any abutting property owners within 200 feet of the property at question, give notice of such public hearing by one publication in a newspaper of general circulation within the township at least ten (10) days prior to the date of such hearing, and decide the same within a reasonable time after it is submitted. At the hearing, any party may appear in person or by attorney.

Section 28.06 PROCEDURE ON APPLICATION FOR VARIANCE

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

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

A.) **Public Notice:** Written application for a variance shall be made to the Township Zoning Inspector who shall transmit said application to the Board of Zoning Appeals. The Board of Zoning Appeals shall give written notice by ordinary mail to the applicant and all owners of land within two hundred (200) feet of the exterior boundaries of the land for which a variance is requested. An application for a variance shall be advertised at least once, ten (10) days in advance of the time set for the public hearing, in newspapers of general circulation within the township. The notice shall state the time and place of the public hearing, and the nature of the proposed appeal or variance.

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

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

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

In granting any variance under the provisions of this section, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions as deemed necessary to secure the objectives of the standards set forth in this Article and to carry out the general purpose and intent of this Resolution. Violation of the conditions, safeguards and restrictions when made party to the terms under which the request for the variance is granted, shall be deemed a violation of this resolution.

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

Section 28.07 PROCEDURE ON APPLICATION FOR CONDITIONAL USE PERMIT

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

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

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

Notice: Notice of the application for a Conditional Use permit and the hearing thereon shall be given to the applicant and all property owners within two hundred (200) feet of the premises on which the use is planned. Notice shall be given by ordinary mail. In addition thereto one notice of said meeting shall be published in a newspaper

of general circulation within the township not less than ten (10) days prior to the scheduled hearing. The notice shall set out the time place of the meeting, as well as the general nature of the conditional use.

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

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

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

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

Section 28.08 DECISION OF BOARD

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

Section 28.09 RECORD

For any hearing at which the applicant desires a record to be made, the applicant shall give notice not less than ten (10) days prior to the date scheduled for said hearing to the Zoning Secretary requesting that a court reporter be retained to make such record) and the applicant shall deposit with his request cash in the amount established by the Trustees to be used to defray the expenses of making a record.

Section 28.10 FEES TO ACCOMPANY NOTICE OF APPEAL OR APPLICATION FOR VARIANCE OR CONDITIONAL USE

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

Section 28.11 ALTERNATES

The Board of Trustees may appoint two (2) alternate members to the Board of Zoning Appeals for such terms as determined by the Board of Trustees. An alternate member shall take the place of an absent regular member according to such procedures as may be prescribed, from time to time, by resolution adopted by the Board of Trustees. An alternate member shall meet the same appointment criteria as a regular member.

When attending a meeting on behalf of an absent member, the alternate member may vote on any matter on which the absent member is authorized to vote. Alternate members shall be removable upon the same grounds and under the same procedures as regular members.

ARTICLE 29 Enforcement

Section 29.01 VIOLATIONS

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

Section 29.02 REMEDIES

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

Section 29.03 PENALTY

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

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ARTICLE 30 Severability and Repeal

Section 30.01 SEVERABILITY

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

Section 30.02 REPEAL

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

Section 30.03 REPEAL OF CONFLICTING RESOLUTION

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

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